

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1252
Tuesday, June 9, 2020, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Bond, Vice Chair Ross, Secretary Radney Shelton		S. Miller Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on June 3, 2020, at 4:37 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Chair Van De Wiele 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 City Board of Adjustment was held by videoconferencing and teleconferencing via **GoToMeeting**, an online meeting and web conferencing tool. Board of Adjustment members and 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/COT5/board-of-adjustment-june-9th>

The staff members attending remotely are as follows:

- Ms. Burlinda Radney
- Mr. Dwayne Wilkerson, Tulsa Planning Office
- Ms. Audrey Blank, City Legal

The staff members attending in person are as follows:

Mr. Stuart Van De Wiele, Chair
Mr. Austin Bond, Vice Chair
Ms. Briana Ross, Secretary
Ms. Jessica Shelton, Board Member
Mr. Austin Chapman, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

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MINUTES

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the April 28, 2020 Board of Adjustment meeting (No. 1249).

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Mr. Bond entered the meeting at 1:08 P.M.

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UNFINISHED BUSINESS

22864—Charles Okyere

Action Requested:

Special Exception to increase the maximum driveway width within the right-of-way and on the lot in an RS-2 District (Section 55.090-F.3). **LOCATION:** 2518 East 26th Street South (**CD 4**)

Presentation:

The applicant has withdrawn the application, the relief is no longer needed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

PRT LT 6 BEG 90.2E NWC TH SLY115.8 E105 NLY113.6 W105 POB BLK 1, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

22894—Jorge Fernandez

Action Requested:

Special Exception to increase the maximum driveway width, within the right-of-way and inside the street setback (Section 55.090-F.3). **LOCATION:** 3747 South 152nd Avenue East (**CD 6**)

Presentation:

The applicant has requested a continuance to June 23, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Special Exception to increase the maximum driveway width, within the right-of-way and inside the street setback (Section 55.090-F.3) to the June 23, 2020 Board of Adjustment meeting; for the following property:

LOT 1 BLOCK 10, CROSSING AT BATTLE CREEK PHASE II BLOCKS 7-13, City of Tulsa, Tulsa County, State of Oklahoma

22895—Israel Sanchez

Action Requested:

Variance to reduce the required 25-foot street setback in an RM-1 District (Section 5.030, Table 5-3). **LOCATION:** 119 North Wheeling Avenue East (**CD 3**)

Presentation:

The applicant has requested a continuance to June 23, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Variance to reduce the required 25-foot street setback in an RM-1 District (Section 5.030, Table 5-3) to the June 23, 2020 Board of Adjustment meeting; for the following property:

LT 13 BLK 19, CHEROKEE HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22884—Brandon Ledezma

Action Requested:

Variance of required 5-foot side yard setback in an RS-3 District (Section 5.030, Table 5-3). **LOCATION:** 4408 North Delaware Avenue East (**CD 1**)

Presentation:

The application has requested a continuance to June 23, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Variance of required 5-foot side yard setback in an RS-3 District (Section 5.030, Table 5-3) to the June 23, 2020 Board of Adjustment meeting; for the following property:

BEG 30W & 123.3N SECR N/2 NE SE NW TH N126.7 W144.24 S122 E144.32 POB SEC 17 20 13 .412AC, YAHOLA HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22885—Susie Woody

Action Requested:

Variance to reduce the required 5-foot side yard setback in an RS-3 District (Section 5.030, Table 5-3); Variance to reduce the 20-foot side setback for a street facing garage on a corner lot (Section 80.020-B). **LOCATION** 1575 East 35th Place South (**CD 9**)

Presentation:

The applicant has requested a continuance to June 23, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a **Variance** to reduce the required 5-foot side yard setback in an RS-3 District (Section 5.030, Table 5-3); **Variance** to reduce the 20-foot side setback for a street facing garage on a corner lot (Section 80.020-B) to the June 23, 2020 Board of Adjustment meeting; for the following property:

LT-13-BLK-2, PARRAMORE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22886—J. R. Donelson

Action Requested:

Variance of the Parking Area Design Standards to permit an existing gravel parking lot (Section 55.090). **LOCATION:** 5628 & 5630 South 107th East Avenue **(CD 3)**

Presentation:

The applicant has requested a continuance to June 23, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a **Variance** of the Parking Area Design Standards to permit an existing gravel parking lot (Section 55.090) to the June 23, 2020 Board of Adjustment meeting; for the following property:

LTS 3 & 4 LESS N60 E200 LT 3 & LESS BEG NWC LT 3 TH E314.89 SW162.53 S161.47 W296.76 N322.92 POB FOR HWY BLK 2; N60 E200 LT 3 BLK 2, GOLDEN VALLEY, City of Tulsa, Tulsa County, State of Oklahoma

22922—A-Max Sign Company

Action Requested:

Variance to permit a projecting sign on a major street to exceed its maximum permitted height of 32 feet (Section 60.080-D). **LOCATION:** 405 North Main Street East (CD 4)

Presentation:

The applicant has requested a continuance to June 23, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Variance to permit a projecting sign on a major street to exceed its maximum permitted height of 32 feet (Section 60.080-D) to the June 23, 2020 Board of Adjustment meeting; for the following property:

**PRT LT 4 & PRT N/2 VACATED FOURTH ST & PRT W/2 VACATED ALLEY ADJ THERETO
BEG SWC LT 4 TH NW90 NE150 SE120 SW150 NW30 POB BLK 7, TULSA-ORIGINAL
TOWN, City of Tulsa, Tulsa County, State of Oklahoma**

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today; Ms. Radney has been delayed for business reasons but she will be in attendance soon. If an applicant's case comes up before the Board before Ms. Radney's arrival the applicant may request to have the case moved to the end of the agenda until all five members can be present. Most motions the Board makes will require an affirmative vote of three of the remaining four members. When there is less than a full Board, the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board may be present. Mr. Van De Wiele asked if there were any applicants or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. The audience nodded their understanding and no one came forward to request a continuance.

Mr. Van De Wiele stated that today's agenda is an unusually large agenda because there has not been a meeting in little over a month, so there are about two meetings worth of agenda items to be heard today. He stated the Board will try to get through the cases as quickly as possible, and to that end he place a time limit on speakers. The Board will ask the applicants to keep their presentation to five minutes or less, and the

interested parties keep their comments to three minutes or less. Please do not repeat comments that others have said. The applicant will also have three minutes for a rebuttal. Time limits are flexible, if the Board is asking questions the case can go beyond that time limit, but again the Board is trying to get everyone through today. If the meeting reaches 5:00 P.M. any application items that are left at that point of the meeting the meeting will stand in a recess until tomorrow at 1:00 P.M. in this same room.

Mr. Van De Wiele stated there are about 14 spacing verification items, most of which are medical marijuana dispensaries. The Board also space billboards in Tulsa, and the one most people are interested in today, plasma centers, liquor stores and all of the things that many have been reading about. The Board is certainly interested in and willing and wants everyone to be able to say their piece that wishes to speak, but he does want people to understand that this Board in respect to the spacing verifications has one job and one job only, that is to verify the distance between one billboard and a proposed billboard, or a liquor store and a liquor store, or a medical marijuana dispensary and another one, or a plasma center and another one. He certainly understands that people can have issues and disagreements with what ought to be built where or what ought to go into a lease space and where, but those spacing applications are not a subjective item for the Board members to decide what types of businesses ought to go in in a particular location. Mr. Van De Wiele stated that he knows there are several people that are here, both present and online and on the telephone, to deal with agenda item #15, so the Board will hear that item first so the Board can get as many people through the process and heard as quickly as possible.

22919—JCW Development, LLC

Action Requested:

Verification of the 300-foot spacing requirement for a plasma center from other plasma centers, day labor hiring centers, bail bond offices, pawn shops, and package stores (Section 40.300-A&B). **LOCATION:** 5130 South Harvard Avenue East (**CD 9**)

Presentation:

Jeff Tarris, 100 Tower Drive, Beaver Dam, WI; stated he represents JCW Development on behalf of his client BioLife Plasma Services. He knows there are concerns and he has spoken with one of the residents in the adjacent apartment complex, so he just here to answer any questions there might be and provide some reassurance as to what kind of neighbor BioLife is going to be.

Mr. Van De Wiele stated that typically that is not an issue for a spacing verification but since Mr. Tarris is here, and he certainly has seen most if not all of the communications that the Board has seen, Mr. Van De Wiele asked Mr. Tarris to speak to what the business the does, who it serves, and maybe address briefly those concerns that have been seen from nearby residents.

Mr. Tarris stated that BioLife operates 123 locations around the United States as of a couple of weeks ago. They are a subsidiary of a larger biomedical firm called Takeda Pharmaceutical. What is different about BioLife is that 100% of the plasma collected at the facility is sent to the parent company's pharmaceutical plants; completely in house. They do not sell plasma on the open market, they're not trying to get their hands-on whatever plasma they can, they try to get a high-quality plasma because it is for their own use. BioLife's therapies include hemophilia treatment, immune deficiency treatment, burn victim treatments; so, it is good life saving and life changing therapies. BioLife is very involved on trying to work for a cure for the Corona Virus as well using plasma as a possible treatment. BioLife will bring jobs, 50 to 80 full and part time jobs. The jobs will be in the biomedical field; nurses, phlebotomists, etc., full and part time. These are not just retail jobs making minimum wages with no benefits, they are going to have benefits upon starting. BioLife is going to spend approximately \$3 million dollars to renovate their piece of the Hobby Lobby space. BioLife is focused on safety and being a good neighbor. BioLife does not compensate the donors in the form of cash; there is no cash kept on site, it is all done through pre-loaded debit cards. They only take appointments so there is no loitering or waiting. All donors are required to show verification of a permanent residence; transients will not be allowed to donate plasma.

Mr. Van De Wiele asked Mr. Tarris if he was aware of another plasma center or blood bank, liquor store within 300 feet of the subject location. Mr. Tarris stated that he is not aware of any.

Mr. Van De Wiele stated to Mr. Tarris that he believes the volume of e-mails is that this is a neighborhood that cares about their neighborhood, and they will be watching the firm like hawks; a lot of whom are probably retirees so they may have more time to watch BioLife than others so it is incumbent upon BioLife to be a good neighbor.

Interested Parties:

Hannah Otey, 2710 East 56th Place, Tulsa, OK; stated she concedes that the Variance does seem to be within 300 feet, and she would question why 300 feet has been deemed appropriate. When Hobby Lobby was open, and you walked out the front door the first thing you would see is Good Spirits right across the street in huge letters. An extra 100 feet is not going to prevent somebody from going across the street and getting booze right after they have donated plasma which seems like a safety issue to her. The BioLife website states that a person should wait four hours after donating plasma before drinking alcohol. Four hundred feet versus three hundred feet is going to be anywhere near a substantial enough barrier to keep people from doing that. Ms. Otey asked to know what the point of the three hundred feet Variance is.

Mr. Van De Wiele stated this request is not a Variance; a Variance is when someone comes to the Board asking for a smaller measurement than otherwise allowed. The 300 feet obviously comes from the Zoning Code; very specifically 300 feet for this type of measurement, 1,000 feet for medical marijuana dispensaries, 1,200 feet for billboards. Why those particular numbers were chosen years and years ago he could not say, but

they have been in existence since the 1970s when the Code was drafted. Predominately those are designed to prevent a clustering of those types of businesses, and that is what the drafters of the Zoning Code deemed to be the appropriate minimum distance to separate those types of businesses.

Ms. Radney entered the meeting at 1:30 P.M.

Ms. Otey asked if there was any avenue to have that re-examined. Mr. Van De Wiele informed Ms. Otey that she could visit with her City Councilor.

Richard Gallman, 2609 East 58th Street, Tulsa, OK; stated he is a member of the Board of Directors of the neighborhood association, but he is not before the Board on their behalf, he is here as an individual homeowner. He thinks this is an extremely poor use of the facility, and the use of the remainder of the facility would be an important factor to know. Mr. Gallman stated that he assumes the clientele that makes appointments is not the type of clientele they would like to have the neighborhood nor have in the neighborhood. He thinks this will cause an encroachment of different kinds of people within the neighborhood, and there are investments being made in the neighborhood. He thinks this will bring in the type of people he is afraid of, this causing the value of the houses to deteriorate. He does not think this is anything but a detriment to the neighborhood.

Greg Roberson, P. O. Box 702796, Tulsa, OK; stated he is a partner in the 46-unit apartment complex immediately adjacent to the south of the subject property. He has very carefully cultivated a wonderful clientele in the complex; somewhat older residents and they are all very concerned. Mr. Roberson asked what name will be posted on the front of the building and what type of security will there be? He would like to know how to fight this request, he would like to know where to go and how to do it.

Mr. Bond stated the City Council makes the Zoning Code and that is something this body respects. It is not the Board's job to make those laws, it is the Board's job to interpret. If there is an issue that is in the grey that is what the Board is here for. The public does not want the Board of Adjustment making rules. The Board has to be very careful in what they do. He is sympathetic and it is great to see a new generation coming into the neighborhood. The City is concerned with the residents' concerns because they put this type request into a special classification; there are only certain requests that have to have spacing verifications. A resident can talk to the City Council about this request because this is something the Board of Adjustment can help the public with; all the Board can do is make a determination of the 300-foot spacing requirement.

Mr. Chapman stated that he will volunteer to help; he will leave business cards. If a resident is just wanting to get their comments in the record, they can send an e-mail to

him and he will place it in the case file, and he will forward any comments to the City Councilor.

Mr. Van De Wiele stated that every e-mail that is received by any Board member is forwarded to INCOG and they are part of the record.

Mary Putnam, 5236 South Columbia Place, Tulsa, OK; stated she moved into the neighborhood in 1963 with her parents and she was very young. She subsequently bought a house in the neighborhood and have been involved in the neighborhood her entire life. What she has noticed in the neighborhood is that it has a transient population already. The residents have no assurances that the plasma center is not going to encourage transient populations to have a home in the neighborhood with an income. She has watched as crimes have been committed on Harvard, and people have used the park systems to run from the Police. She thinks INCOG needs to be aware of this, what is the intention of the City Council and INCOG for a south Tulsa neighborhood that is trying to bring itself up? Ms. Putnam would like to ask the person representing the plasma center, will they be performing drug testing? What drugs will the people be tested for? Will they perform alcohol testing? What is the intent of the 300-foot distance; Harvard is probably 300 feet across by itself.

Suzanne Schreiber, 3111 East 58th Place, Tulsa, OK; stated she is on the Tulsa Public School Board and represents the neighborhood, though she is not here to speak for the whole Board in her comments; it is important to make a record for the future. She wants to make sure there is a consideration given to all of the children passing through the neighborhood, not just from Eisenhower but also around Carnegie. There are a lot of children that walk back and forth between Edison Junior High School or they ride a bike; these are safety concerns. There is also a highly utilized park and tennis courts. To the concerns regarding to how the building is going to be otherwise used, this leaves the neighborhood in a tough spot. There are two major retail centers located there that are half used and they don't really think about the long-term health of the city. It is getting more and more difficult to use the retail centers and going forward it seems like the City and the City Councilors would want to think about they can make vibrant walkable neighborhoods with green space and not placing non-aligned interests in the neighborhood. These places are important, but it is not neighborhood use.

Shana Ramirez, 5235 South Columbia Place, Tulsa, OK; asked if this agenda item is approved today and the City Council listens to the residents and something is changed in the future, will the business have some recourse to sue the City for making a change? Is it possible the residents could make a change in the law so this business could not come into the neighborhood?

Mr. Van De Wiele stated he does not sit on the Board as a lawyer, he sits on the Board as a citizen. He has an opinion as to whether the residents could get a change in the law done, but that is not an opinion that is appropriate for him to give to the public. Mr. Van De Wiele asked Ms. Blank for an opinion.

Ms. Blank stated that it would depend on how the change was voted on by the City Council. Generally, a change is prospective. The interested party is asking if changing the Ordinance language would affect this request's business; in general, it does not but sometimes changes are made with a sunset clause. There are possibilities but it would depend on the action taken by City Council.

Ms. Ramirez asked if change language is only possibly going to make an impact on this business coming into the neighborhood is there anything the residents can do to change this business coming into the neighborhood at all? There is really a lot of push back from the neighbors, we really do not want this business here and seems that there is nothing the neighbors can do about it, based on what she is hearing.

Mr. Van De Wiele stated that this part of this type of application is a small part in the permitting process. The Zoning Code, by its design, tells citizens what uses can have by right in particular zoning categories. There are some things that are Special Exception uses that have to come to the Board of Adjustment. There are subjective criteria the Board can review, that asks is it a good fit for that neighborhood. At the end of the day from a property right standpoint, the owner of the facility built a commercial building on a commercially zoned piece of property, and the Zoning Code states that this is a use by right as long as it is spaced appropriately from other conflicting uses. There is an exhibit in the agenda packet that shows the closest plasma donation center is about five miles away. He would be surprised if the City had an appetite to space something at five miles apart. This is a step in the applicant's permitting cycle that he guesses would place the applicant farther in the permitting cycle than in a resident getting an Ordinance changed.

Laura Freeman, 2727 East 57th Street, Tulsa, OK; stated she knows the Board cannot do anything about this, but as people exit the plasma center there is the liquor store and the bus station. Ms. Freeman stated she is an R.N. and has worked in every hospital. She knows the people that go to the plasma center, she knows what is going to happen. There are a lot of children in the neighborhood and the neighborhood does not have good bus access. A lot of these people do not have cars so they will be wandering around waiting on a bus in the neighborhood. There are quite a few empty spots at 41st and Yale with none of the problems. Also, for the Chamber the City is trying to get a lot of golf people to come in to see Southern Hills; you come in through 61st and Peoria which pretty scary, and you come down Harvard there is a plasma center which what the residents want people to see in Tulsa. This is one more thing to consider. The area does not have good bus access and the residents do not want it. The people that are going to donate plasma do not live there.

Trey Mulkey, 5238 South Delaware Place, Tulsa, OK; stated his grandfather built the house and he used to run all over the area. The used to be quite a nice area and people did not have to worry about crime. He has seen the area change quite a bit over the years; K-Mart, Hobby Lobby, Safeway, Albertson's, Reasor's nothing can stay in the area. It seems like there was a push to get something in there, and he does not see why the Code and the Permits were changed. He is not over saving lives; he has given a lot

of plasma over the years. He has ridden on the bus system and seen what these facilities bring in. Not all the people are bad people that go these places, the people go there to help save lives. The fact of the matter is that there are a lot people that go to these places because they have nowhere else to go to get money. It will bring a lot of riffraff into the neighborhood and the neighborhood is on its way back up. Mr. Mulkey stated that his concern is that this will bring it back down and the residents do not want this. There are people living under I-44 and people living in the parks and the residents can't get anything done about that. The neighbors call their City Councilors and talk to this Board to get service, the neighbors need help to get something taken care of. The residents would like to see a grocery store or something that is going to succeed be in there.

Mr. Bond left the meeting at 1:48 P.M.

Rebuttal:

Jeff Tarris came forward and stated the sign on the building will say BioLife Plasma Services. Security will be contracted with a security monitoring firm as well as having a camera system around the property.

Mr. Van De Wiele asked Mr. Tarris if the camera security is for all hours or just the off hours. Mr. Tarris stated that it is all hours.

Mr. Bond re-entered the meeting at 1:51 P.M.

Mr. Van De Wiele asked Mr. Tarris what type of alcohol and drug testing would be done. Mr. Tarris stated that every donor that comes in has to be given a physical by either a physician or nurse on staff. Mr. Van De Wiele asked Mr. Tarris if this done each the person donates. Mr. Tarris answered affirmatively. Mr. Van De Wiele asked Mr. Tarris if a person failed the physical does it preclude that person for a period of time? Mr. Tarris stated that it would depend on what the person failed the physical for, but yes and it could potentially be permanently.

Comments and Questions:

Ms. Ross stated she is sympathetic to the people and have heard their comments, but there is really not a lot the Board can do to help the residents. This is something that they will need to take to the City Council and discuss the situation with them to possibly get a zoning law changed. As for the spacing, this appears to meet the requirements for a spacing verification, so she would vote to approve the request.

Mr. Bond encouraged the interested parties to speak with their City Councilor. The City Council members will listen and exercise government. They are public servants and

they care about the City of Tulsa. Mr. Bond stated that he has thoroughly reviewed this request and the applicant is entitled to this based on the law as it stands. It is 300 feet from any of the specified businesses and would not be right for him to vote against approving this spacing verification.

Mr. Van De Wiele stated City Councilors do listen to their constituents, and their job very often is a thankless job. He does not necessarily know that the interested parties will get the relief they are seeking, but certainly they are always willing to listen from that lawmaking standpoint. Mr. Van De Wiele stated he grew up in this area and he is familiar with the area. He is sympathetic for the residents, but volunteering on this Board puts the members in the position of doing what they have the authority to do and the task they are charged with. To do less or different from that is something the Board members cannot do.

Ms. Shelton stated agreed with the other Board members. She has read every e-mail that was given to her, so the residents were heard.

Ms. Radney concurred with everything that the other Board members have said, and she has certainly spent a fair amount of time on the other side of the lectern petitioning the government at varying levels over things she felt equally impassioned about. She is truly sympathetic, unfortunately she concurs with what everyone else has said, specifically the Chair, that the Board members are bound to the Ordinances as they currently are read. As such, she will support the motion to approve this request.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit the plasma center subject to the action of the Board being void should another plasma center or other conflicting use be established prior to the establishment of this plasma center; for the following property:

S41.33 E211 LT 1 & ALL LT 2 LESS N15 W230.30 THEREOF & LESS BEG NEC LT 1 TH S118.38 W2.96 NW119.23 E17.16 POB FOR RD BLK 1, SOUTHEAST CENTER RESUB L1 AVERY WOODLAND ACRES, City of Tulsa, Tulsa County, State of Oklahoma

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UNFINISHED BUSINESS

22873—Carina Garcia

Action Requested:

Special Exception to allow a manufactured housing unit in an RS-3 District (Section 5.020, Table 5-2); Special Exception to extend the time limit permanently (Section 40.210). **LOCATION:** 3811 South 27th West Avenue (**CD 2**)

Presentation:

Carina Garcia, 3638 South 29th West Avenue, Tulsa, OK; stated she would like to have a manufactured house placed on the subject property. There was a house on the property, but it burned down, and she just wants to be able to replace that house so she can have a place to live with her three daughters.

Mr. Van De Wiele asked Ms. Garcia if the house that burned was a stick-built house or if it was a manufactured house. Ms. Garcia stated that it was stick-built house.

Mr. Van De Wiele asked Ms. Garcia the age of the manufactured house she is wanting to place on the property. Ms. Garcia stated that it is nine years old.

Mr. Van De Wiele asked Ms. Garcia if the picture that is on page 3.14 in the agenda packet is the manufactured house in discussion or is it just a representative of the manufactured house. Ms. Garcia stated that it is subject manufactured house.

Interested Parties:

Jeannie Cue, City Councilor, 175 East 2nd Street, Tulsa, OK; stated she would request a two-week continuance in this case because of issues of what is going on she has not been able to find the location. It has been the Councils policy to try to get neighbors together. If they are going to live by each other they need to learn what each other is about. Ms. Cue stated she would like to have the opportunity in two weeks to actually get that done. Things have just opened last week because of COVID-19 so it was difficult to find anyone that would allow her to bring a group together. When people get together and understand each other a lot of things work out and people are able to compromise.

Mr. Van De Wiele asked Ms. Garcia if she would be willing to come back on June 23rd and have a meeting. Ms. Garcia answered affirmatively.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to allow a manufactured housing unit in an RS-3 District (Section 5.020, Table 5-2); **Special Exception** to extend the time limit permanently (Section 40.210) to the June 23, 2020 Board of Adjustment meeting; for the following property:

S 1/2 LT 4 BLK 30, RED FORK, City of Tulsa, Tulsa County, State of Oklahoma

22877—Stephen Pedmia

Action Requested:

Special Exception to allow a small (< 250-person capacity) Indoor Commercial Assembly & Entertainment use to serve or sell alcoholic beverages within 150 feet of a residential district (Section 15.020, Table 15-2 & Section 15.020-G, Table Note 2). **LOCATION:** 6622 South Lewis Avenue East **(CD 2)**

Presentation:

Stephen Doh, 4606 East 143rd Street South, Bixby, OK; stated he would like to have a venue to have corporate meetings, anniversaries, weddings, and birthdays; this is not going to be a night club. When he purchased the subject building, he thought it would be nice to allow his customers to serve alcoholic beverages at their events. The zoning allows for an event center to be opened at that location. If he is permitted to do this, he would have his customer bring in people to serve the alcohol.

Mr. Van De Wiele asked Mr. Doh what the hours of operation would be for the event center. Mr. Doh stated he would not stay open past 1:00 A.M. Mr. Van De Wiele asked Mr. Doh if those hours would be seven days a week. Mr. Doh answered no and stated that it would be mostly weekends.

Ms. Radney asked Mr. Doh if all the food and all the alcohol would be catered. Mr. Doh stated there is no kitchen in the building, people would need to have their food or alcohol catered.

Interested Parties:

Cecilia Gable, 6603 South Zunis Avenue, Unit 2407, Tulsa, OK; stated she serves as a Board officer on the Board of Directors of the Royal Oaks Townhomes Homeowner's Association; she has lived there for over 25 years as an owner and as a renter. She is also in the resort industry where there is an entertainment center; she coordinates the reservations for weddings, receptions, corporate retreats and so forth, which is similar to what the applicant is requesting. Ms. Gable stated that she represents herself and has had homeowners e-mail and text their concerns regarding the proposed event center. The building is only a few feet from two-bedroom townhomes where families reside, and 1:00 A.M. for any event with music, with or without alcohol, is not conducive to the environment. Out investors who lease out their units are very concerned that the units they own will be even harder to rent having that kind of problem in the area. She uses the word problem, with all due respect, because alcohol does tend to bring issues no matter how well it is policed. There have been multiple problems with the subject property about people not keeping it up on the applicant's side; the fence separating the properties. The area is very congested; her community is over 300 homes, and there is crime, homeless, and vagrants. The area does not need any more notoriety and she fears that is going to bring more into the area, and that is the consensus of homeowners. This is not the place for an event center to go in, that section of Tulsa with all the multi-family units and housing makes it not conducive. There are other areas in south Tulsa the applicant can put an event center in. Ms. Gable stated the area does

not need the issue of more traffic or the fear that this will bring more problems in the area. The residents would like to maintain a quiet neighborhood that they pay good dues for.

Ms. Shelton asked Ms. Gable how many of residents of the condominium complex has she been in contact with regarding this request. Ms. Gable stated she sent out a mass e-mail to every owner which is about 220 owners, and they vehemently wrote back saying no to the request.

Ms. Radney asked Ms. Gable if there was an existing fence between the properties and if so, could she describe it. Ms. Gable stated there is an existing ten-foot wooden fence that the complex had to replace because the owner of the subject property did not maintain his side along the alley; the overgrowth grew into the condominium fence causing the fence to almost collapse; the City asked the condominium to replace the fence, and when the condominium asked the subject property owner to split the cost because it was his over growth to cause the destruction we were told it was not his problem.

Ms. Radney asked Ms. Gable if the fence she described belongs to the homeowner's association for the condominium community. Ms. Gable answered affirmatively.

Ms. Radney asked Ms. Gable about the parking. Ms. Gable stated the condominiums have a parking lot that borders the two properties, and the parking lot extends from 66th Street to 67th Street. That parking lot serves six buildings of twelve units each, so it does tend to fill up. In the past there have been problems with people from the center parking in the condominiums lots; that has stopped since the strip center has been empty. There is not a lot of parking in the subject property parking lot and that overflow will come into the condo parking lot causing a hardship for people that live in the condo community and have a permit to park there. The street parking is highly congested for guests that come to visit the condo residents because there is no visitor parking in the lots.

Mr. Van De Wiele asked Mr. Doh how he could have a potential of 249 people parking in 60 parking spaces because his request is for less than a 250 person capacity facility for the event center that is about 5,000 square feet and the building is about 15,000 square feet. Mr. Doh stated that he did contact the City, and this event center does not mean that there will be 250 people. The front section of the event area will be for people that just want to have meetings, so there will be no one time that there will be more than 20 people in the hall; people can also carpool.

Ms. Radney asked Mr. Doh if the event center is currently in use or is this a proposed use? Mr. Doh stated it is a proposed use because he just purchased the building.

Ms. Radney asked Mr. Doh if he had said that it will not be just one big 5,200 square foot space but that there will be smaller spaces in the building. Mr. Doh answered

affirmatively. Mr. Doh stated that he will partition the building so there can be corporate meetings.

Ms. Radney asked Mr. Doh if he would have any issues with limiting the hours in which alcohol is served not going all the way to 1:00 A.M. in the morning. Mr. Doh stated during the week he can make sure that during the week he can limit that, but he plans to only have events on the weekends.

Comments and Questions:

Mr. Bond stated parking is a concern. He is not inclined right now to support this request. What he suggests is to give the applicant and Ms. Gable a chance to talk this over.

Mr. Van De Wiele stated that even though he may have the right to do this, 250 people is still a large gathering space. The reason the use or the sale or the serving of alcohol kicks this request to this Board is because that tends to drive the crowd sizes larger, potential for more noise, potential for later in the evening, and parking is an issue. Mr. Van De Wiele stated his concern is that at midnight, 1:00 A.M. during the week is a problem. That doesn't necessarily just speak to the alcohol part of it but the alcohol part of it drives those types of events to go later and louder. When that is right next door to a residential area that gives him concern.

Ms. Ross stated that she thinks 250 people might be excessive for this space and the parking available and being on a crowded commercial street. If there is no other alternative for parking the customers will go behind the building and into the neighborhood.

Ms. Radney stated that she too shares concerns about noise and boisterous customers. She is not that concerned about the parking because she thinks this is in a new business paradigm especially for events. Ride Share is becoming more of the norm so she is not as concerned about the parking, but she would feel better about limited hours of operation.

Ms. Shelton stated she is sitting at a no on this request. She already has heartburn about the event center being so close to multi-family. The allowance of alcohol will drive more frequency and certain types of events that will run later and louder. That puts a burden on the homeowners on the enforcement side to make sure the applicant does his part. The only thing that could get her off a no is a very limited hours.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a small (< 250-person capacity) Indoor Commercial Assembly & Entertainment use to serve or sell alcoholic beverages within 150 feet of a residential district (Section 15.020, Table 15-2 & Section 15.020-G, Table Note 2), subject to conceptual plan 4.10, 4.11 and 4.12 of the agenda packet. The hours of

operation are to be Sunday through Thursday evenings are to end by 10:00 P.M. and on Friday and Saturday the event center must close at 12:00 midnight. Security is to be provided for all events where alcohol is served, and there are to be two guards per 100 attendees. The approval has a two-year time limitation to June 2022. 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:

PRT NE SE BEG 250S & 50W SECR SE TH S292 W190 S98 W10 N390 E200 TO POB LESS BEG 2385.91N & 50W SECR SE TH W10 SE14.14 N10 TO POB SEC 6 18 14 .001AC, City of Tulsa, Tulsa County, State of Oklahoma

22879—J. R. Donelson

Action Requested:

Variance of the parking area design standards to permit an existing gravel parking lot (Section 55.090). **LOCATION:** 5866 South 107th East Avenue (**CD 7**)

Presentation:

J. R. Donelson, 12820 South Memorial Drive, Bixby, OK; stated he represents Hitch and Trailers, and this is an existing business on the property. This property is zoned IL along with other properties on 107th East Avenue. The business and building have been in existence since 1998, and the area under discussion today has been a gravel surface for over 22 years. This surface and building existed prior to the City of Tulsa resurfacing 107th East Avenue a few years ago. The property is used to sell and rent trailers, but the parking area under discussion is used for the parking of equipment, trailers that hook up on the back of pickup trucks. The business has a dust abatement program in place and the owner, or the City of Tulsa has never received any complaints with regards to dust to the best of his knowledge. The business currently parks their clients on a concrete surface, but the trailers are situated on gravel. This property and a number of other properties in the City of Tulsa do have parking or storage areas for everything from trailers, heat exchangers, pressure vessels, large equipment, etc. All of these were in place prior to the present Zoning Code. Mr. Donelson believes that approval of this Variance will not adversely affect the surrounding properties on 107th. He believes the Variance will not be detriment to the public or the public welfare. He believes that approving this will not impair the present Zoning Code nor the property values or any of the other uses along 107th. Mr. Donelson requests the Board to approve the application for a Variance.

Mr. Van De Wiele asked Mr. Donelson if the entire area inside the fence is gravel? Mr. Donelson answered affirmatively. Mr. Van De Wiele asked Mr. Donelson if there were areas outside of the fence that are gravel. Mr. Donelson stated that it is his understanding that it is either right-of-way or it is grass. Mr. Van De Wiele asked Mr. Donelson if the area just north of the building at the east end of the building was customer parking. Mr. Donelson stated that it is employee parking. Mr. Van De Wiele asked Mr. Donelson if that area was gravel. Mr. Donelson answered affirmatively.

Mr. Van De Wiele asked Mr. Donelson if it were made a condition that the areas outside the fence were to be asphalt or concrete would it be something the client could live with? Mr. Donelson answered affirmatively.

Ms. Shelton asked Mr. Donelson if he had said the trailers on the property were there for storage. Mr. Donelson stated the trailers are there to be rented. Ms. Shelton asked Mr. Donelson if he knew how often trailers came into and leave the gravel area. Mr. Donelson deferred to the owner.

David McIntosh, 5866 South 107th East Avenue, Tulsa, OK; stated the company sells new trailers, there are no used trailers sold. The company gets an order for a truckload of trailers about every two or three weeks, and they are off loaded on the concrete and placed in the designated location.

Ms. Shelton asked the lot was compactible gravel or was it the loose gravel? Mr. McIntosh stated that it is loose gravel.

Mr. Donelson came forward and stated the gravel is loose gravel, but it has been compacted and driven on for a number of years.

Mr. Van De Wiele asked if a trailer, when it leaves the site that it does not come back. Mr. Donelson answered affirmatively.

Ms. Radney asked if the property to the north of the subject site was also gravel? Mr. Donelson answered affirmatively. Mr. Donelson stated there are a number of properties to the north of the subject site that are also gravel. Initially all of the properties along 107th were gravel and some new construction resulted in some paving, but there are still a number of properties that are still gravel.

Ms. Ross asked Mr. Donelson if his client received a Letter of Deficiency that prompted this action. Mr. Donelson answered affirmatively. Mr. Donelson stated that it is his client's understanding that an employee of the City of Tulsa drove down 107th and noticed there were many businesses that were not compliant with the City's Zoning Code.

Ms. Shelton asked Mr. Donelson if he was aware of a number of other business owners that received the same notice. Mr. Donelson stated he had been contacted by a number of business owners, specifically, because they had all been issued a similar fine; it was a \$1,000.00 fine daily.

Ms. Radney asked Mr. Donelson if his client had ever been cited with a violation of this nature before? Mr. Donelson stated that he has not, and it is his understanding that there had been no businesses cited on 107th East Avenue until this action took place; a number of the businesses had cited within two or three days of each other.

Ms. Ross asked Mr. Donelson how long the subject business had been in the subject site. Mr. Donelson stated that it has been six years, and the building itself has been in place for over 22 years.

Ms. Shelton stated that she had looked at historical aerials and the street looked like it had been paved, or was it a gravel type surface? Mr. Donelson stated the street was an asphalt unmaintained road until the City came in and now it is a concrete street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the parking area design standards to permit an existing gravel parking lot (Section 55.090), subject to conceptual plan 5.18 of the agenda packet. The Board has found the hardship to be the long-standing use of the area and how long the business has been in existence on the subject site. The approval has a ten-year time limit, June 2030, and the applicant will then need to come back before the Board of Adjustment. There is to be an all-weather surface laid down in the employee parking area outside of the fence as shown page 5.18. The applicant is to implement a dust and debris mitigation program. 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:

N320 LT 13 & E26.39 N320 LT 14 LESS BEG 320.93 N SECR LT 14 TH NW81.04 S76.58 E26.39 POB BLK 2, GOLDEN VALLEY, City of Tulsa, Tulsa County, State of Oklahoma

22902—Lamar Outdoor Advertising

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign with a dynamic display (Section 60.100-K). **LOCATION:** 10025 East 44th Place South (CD 7)

Presentation:

The applicant was not present. Mr. Van De Wiele moved this item to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

22904—Sierra Russell

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 6373 East 31st Street South, Suite J (CD 5)

Presentation:

Sierra Russell, 2542 South Yale Avenue, Tulsa, OK; asked if she could continue her case to June 23, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) to the June 23, 2020 Board of Adjustment meeting; for the following property:

BEG 330W & 50N SECR SE TH W108 N147 E108 S147 POB SEC 15 19 13, City of Tulsa, Tulsa County, State of Oklahoma

22908—Jonathan Bradley

Action Requested:

Special Exception to permit a High-Impact Medical Marijuana Processing Facility in the IM District (Section 15.020, Table 15-2). **LOCATION:** 3329 West 5th Street South (**CD 1**)

Presentation:

Nonso Okolonwamu, 3329 West 5th Street, Tulsa, OK; stated he would to be able to use butane in the building for the processing. There is a grow area attached to the processing building.

Mr. Van De Wiele asked Mr. Okolonwamu to tell the Board about the processing procedure. Mr. Okolonwamu stated that it will be a closed loop system so that will prevent the butane from leaking and the system will recover any butane automatically. The system also prevents any leaks.

Mr. Van De Wiele asked Mr. Okolonwamu how much traffic would be coming in and out of the building on a daily or weekly basis. Mr. Okolonwamu stated that currently there are two employees and one employee does not work full time.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a High-Impact Medical Marijuana Processing Facility in the IM District (Section 15.020, Table 15-2), subject to conceptual plan 10.9 in 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:

PRT GOV LT 5 BEG 313.38S & 50W & 247.7SW NEC GOV LT 5 TH N163.5 SWLY107.2 S124.1 NE100 POB SEC 4 19 12 0.33ACS, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Mr. Van De Wiele stated that at this point the agenda has a run of spacing verifications and the Board is just here to space, and he has not seen the volume of opposition to those, but the Board does hear those from time to time, and the Board is happy to hear from the public. Again, this is an administrative measure of measuring distances from point A to point B.

22914—Token Wellness

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 504 East 11th Street South (CD 4)

Presentation:

Kathy Hartwell, 1831 East 71st Street South, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated that the Board is in receipt of the applicant's application on page 11.4 in the agenda packet. Mr. Van De Wiele asked Ms. Hartwell if she was aware of any other dispensary or license for dispensary within a 1,000 feet of the subject location. Ms. Hartwell answered no.

Mr. Van De Wiele asked Ms. Hartwell if the Flower Shop was the closest dispensary to her location, 1,600+ feet away. Ms. Hartwell answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

S45.31 LT 1, BLK 2, ELM PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22916—Jackie Berryhill

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 4538 North Martin Luther King, Jr. Boulevard (**CD 1**)

Presentation:

Jackie Berryhill, 4538 North Martin Luther King, Jr. Boulevard, Suite D, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Berryhill if he was aware of any other dispensary or dispensary license holder within 1,000 feet of the subject location. Mr. Berryhill answered no.

Mr. Van De Wiele asked Mr. Berryhill if the closest dispensary was about two miles away. Mr. Berryhill answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LOTS 1 & 2, BLK-26, VALLEY VIEW ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22917—Katina Walker

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 2005 South 129th East Avenue, Suite A (**CD 6**)

Presentation:

Katina Walker, 2005 South 129th East Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board is in receipt of the applicant's spacing verification documents. Mr. Van De Wiele asked Ms. Walker if she was aware of any other dispensary or dispensary license holder within 1,000 feet of the subject site. Ms. Walker answered no.

Mr. Van De Wiele asked Ms. Walker where the nearest dispensary is located to the subject location. Ms. Walker stated that it is at 21st and Garnett.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 1 BLK 1, PLAZA HILLS CENTER, City of Tulsa, Tulsa County, State of Oklahoma

22918—M. D. Al-Amin

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 1004 North Utica Avenue, Unit B (CD 1)

Presentation:

M. D. Al-Amin, 13105 East 29th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Al-Amin if he was aware of any other dispensary or dispensary license holder within 1,000 feet of the subject location. Mr. Al-Amin answered no.

Mr. Van De Wiele stated the information in the agenda packet shows that the nearest dispensary is over 2,400 feet away, as shown on page 14.5 in the agenda packet. Mr. Al-Amin answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

E 80' LT 12 & E 80' LT 13 BLK 1, INGRAM-LEWIS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22923—Corey Avington

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 5529 East 15th Street South (CD 5)

Presentation:

Corey Avington, 5529 East 15th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Avington if he was aware of any other dispensary or dispensary license holder within 1,000 feet of the subject location. Mr. Avington answered no.

Mr. Van De Wiele asked Mr. Chapman to explain what the Board sees on page 16.2. Mr. Chapman stated there is a case, BOA-22933, to be heard after this case that is within 1,000 feet that has not received the spacing verification.

Mr. Van De Wiele asked Mr. Chapman if, other than upcoming application, was aware of anything within 1,000 feet of the current subject location. Mr. Chapman answered no.

Mr. Van De Wiele stated the Board has had situations like this come up before and he asked Mr. Avington to explain to the Board about his timeline, when he made his application, and if he had a permit from OMMA.

Mr. Avington stated he does not have a permit from OMMA because this request is needed to obtain his OMMA permit. Mr. Avington stated he paid \$14,000.00 in February 2020 to secure the subject building. Mr. Van De Wiele asked Mr. Avington if that was for a lease or for purchase. Mr. Avington stated that it is a lease.

Mr. Van De Wiele asked Mr. Avington when he submitted his licensing application. Mr. Avington stated that it was May 4, 2020.

Ms. Ross asked Mr. Avington if he meant he submitted his licensing application to OMMA in May. Mr. Avington answered no and stated that that license cannot be obtained until he receives all compliances.

Mr. Van De Wiele asked Mr. Avington if the May 4th date was for the application to INCOG. Mr. Avington answered affirmatively.

Mr. Van De Wiele asked Mr. Avington if he had submitted anything to OMMA or if this meeting was his first hurdle in the process. Mr. Avington stated this is hurdle one.

Interested Parties:

Nathan McPherson, 5805 East 15th Street, Tulsa, OK; stated he is the building owner. He believes that he and Mr. Avington essentially submitted applications at the same time. Mr. McPherson stated his building has an empty lot next door and he has been there for two years. Prior to that there were about 80 buses and unusable vehicles that have been on the lot for years. The previous owner had called the City multiple times to have the vehicles removed the lot and luckily before he took ownership the City came in and spent four days removing the vehicles. The space that Mr. Avington wants to release is currently covered unusable vehicles; it is for all intent and purposes a dump. If this is a question whether the Board is to chose one over the other, he has spent time and money remodeling 5805 but the space that Mr. Avington wants to lease is breaking Code by having unusable vehicles all the way to the street. He currently has multiple tenants in the building, and they are high quality tenants. Mr. McPherson stated he has a medical testing lab; he has medical document storage and he also owns and operates his own jewelry manufacturing facility in the building. Mr. McPherson stated that he has installed perimeter fencing around the entire structure, has a 24-camera system and 24/7 on site security. He wants his property value to be better, and there is zero doubt that the space to the east is absolutely not doing that on the street. This is an industrial area and if ultimately if this decision comes down to the fact that Mr. Avington did it two days before he did it would be heart breaking for him considering how much time and energy he has spent to make the building what it is and increase its value.

Mr. Van De Wiele asked Mr. McPherson which building he owned. Mr. McPherson stated he owns the building that Mr. Joe Puckett wants to lease, and he will come up next.

Joseph Puckett, 1903 West Haskell Place, Tulsa, OK; stated he was before the Board in January and he was shut down at that meeting. He has been looking for a place to reopen his dispensary, and he still has his license. Mr. Puckett stated he does not care if the Board grants the request to both he and Mr. Avington.

Mr. Van De Wiele asked Mr. Puckett if he had signed a lease for the space being discussed. Mr. Puckett answered no; the landlord wanted to give him time to go through this process before signing a lease.

Mr. Van De Wiele asked Mr. Puckett when he submitted his application to INCOG. Mr. Puckett stated that he is not sure. Mr. Chapman interjected that it was May 7th for the spacing verification.

Mr. Van De Wiele asked Mr. Puckett if he was aware of any other dispensary within 1,000 feet. Mr. Puckett answered no.

Mr. Van De Wiele asked Mr. Puckett if he currently had a license from OMMA. Mr. Puckett answered affirmatively. Mr. Van De Wiele asked Mr. Puckett if his license was for a different address. Mr. Puckett answered affirmatively. Mr. Van De Wiele asked Mr. Puckett if that license had been transferred to the address he is interested in leasing. Mr. Puckett stated he is waiting to get approval from the Board of Adjustment so he can then transfer the license.

Rebuttal:

Corey Avington came forward and stated that he did his homework and the nearest dispensary that he found was the Red-Eye 420 which is 3,200 feet away from his building. It has been almost seven months since he started this process and now, he is still going through the process; his application was submitted three days before Mr. Puckett. Mr. Avington stated that the current eye-sore that Mr. McPherson brought to the Board's attention is a current U-Haul building, and everything has been cleaned up.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

BEG 40N & 128.19W SECR SE NW TH W207.39 NE47.69 NE81.05 NE30.60 NE57.09 NE51.18 NE13.47 S TO POB SEC 10 19 13 0.468 AC, City of Tulsa, Tulsa County, State of Oklahoma

22925—Blazing B's – Brent Barnes

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 7839 East Admiral Place South (CD 3)

Presentation:

Brent Barnes, 7030 South Yale Avenue, Tulsa, OK; stated he and his father own the subject building, and there was a had a medical marijuana dispensary in the building for a year until the tenant vacated their lease early; the dispensary was there from April 2019 to April 2020. The building is wrapped with the previous tenant's logo and name. Now that the lease has been vacated, he has found another dispensary to take over the building. He has a signed lease agreement with the new tenant, and he was told by Adam Murray at City Permitting that since the dispensary is under a new name he has to apply to the Board of Adjustment for a spacing verification. Mr. Barnes stated that if he does not get another medical marijuana dispensary in the building, he will have to give back the two-month advance payment plus the deposit to this tenant. It could take ten to twelve months to get a new tenant into the building for a different use; he would need to vacate all his dispensary lease holds in the subject space if this does not go through.

Mr. Van De Wiele asked Mr. Barnes about his statement of "all of his dispensary lease holds", is he saying there is more than one dispensary in the building. Mr. Barnes answered no; there is just the lease holds that are in there because the building is set up for a dispensary.

Mr. Van De Wiele asked Mr. Barnes if the previous tenant at 7839 had received their spacing verification. Mr. Barnes stated that they did not because they were grandfathered in because they received their license prior to December 1, 2018.

Ms. Ross left the meeting at 3:52 P.M.

Mr. Van De Wiele stated that Mr. Barnes had provided information about the nearest dispensary being The House of Bud located about 3,100 feet away. Mr. Van De Wiele asked Mr. Barnes to tell the Board about the dispensary located at 7948 East Admiral. Mr. Barnes stated he did research on that dispensary; they go by the name of Herbal Junction Market. According to their documentation they are grandfathered in as well, prior to December 1, 2018. Mr. Barnes stated he has submitted an open records request to OMMA to get the documentation but has not received a response from them. The protest from Ms. Cornett did not include a copy of the opposition's OMMA license either so he cannot verify whether they are licensed. About two weeks ago the dispensary located at 7948 displayed signage and that signage was for Kind Love which has another dispensary in downtown Tulsa. The name of Herbal Junction Market does

not match Kind Love. Regardless of having an OMMA license and regardless of everything else they are not yet operational; they have not sold product and they have had a dead license for presumably two years. Mr. Barnes stated that the opposition has not yet been before the Board to receive a spacing verification nor has the downtown location received a spacing verification.

Ms. Ross re-entered the meeting at 3:55 P.M.

Interested Parties:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated she has submitted a letter of objection to this request. Ms. Cornett stated that in a brief update, her client has passed their final inspection yesterday and a Certificate of Occupancy should already be issued. The original license for her client was issued in October 2018 and was renewed in 2019.

Mr. Van De Wiele asked Ms. Cornett what her clients had been doing in respect to their business at their location since October 2018 and secured their initial license. Ms. Cornett stated that her clients have been doing significant improvements. They submitted building plans in April 2019 and resubmitted building plans with a new design in the beginning of 2020.

Mr. Van De Wiele asked Ms. Cornett if it was her clients plans to open and operate a dispensary at 7948 East Admiral Place. Ms. Cornett answered affirmatively.

Rebuttal:

Mr. Barnes stated he had nothing more.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **REJECT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 5 LESS S30 & LESS BEG NWC LT 5 TH S408 ELY126.68 N419 W126 POB FOR STS, BLOOMFIELD HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22926—Crown Rx – Brent Barnes

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 7435 East Admiral Place South (CD 3)

Mr. Van De Wiele asked Mr. Chapman if he was aware of anything within 1,000 feet. Mr. Chapman answered no, stating that this case is similar to the previous item. Mr. Chapman stated that the same proposed dispensary is causing a conflict in this item.

Presentation:

Brent Barnes, 7030 South Yale Avenue, Tulsa, OK; stated the owner of this dispensary is Nick Ramirez and he also owns Crown Liquor and Wine store there. Mr. Ramirez has owned this liquor store for about two years, and he has always intended to put a dispensary in to take up the other half of his building. The building is a former Block Buster and Mr. Ramirez is paying dead rent on the half of the building not being utilized by the liquor store. Mr. Barnes stated that Mr. Ramirez has cultivation site in the City of Tulsa, and he would like to have his product in a dispensary that he can operate. Mr. Ramirez has already had correspondence with the landlord, there is a signed lease, and the landlord is in favor of the multi-use at the subject location. The landlord is prepared to do parking lot improvements as well as place a security fence around the property and lighting in the rear. As far as the proximity to Herbal Junction there is about 865 feet between the two.

Mr. Van De Wiele asked Mr. Barnes how close this dispensary is to the last one he brought before the Board. Mr. Barnes stated there 1,350 feet. Mr. Van De Wiele asked Mr. Barnes if this dispensary was within 1,000 feet of Herbal Junction. Mr. Barnes answered affirmatively, stating there is 855 feet.

Mr. Van De Wiele asked Mr. Barnes if the location at 7435 was a previous dispensary. Mr. Barnes answered no, it is a liquor store.

Interested Parties:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated she has the same comments in this case as the previous matter.

Ms. Radney stated that what concerns her now is that Herbal Junction is actually blocking two applicants that are actually trying to comply with 2020 regulations and yet Herbal Junction has a Certificate of Occupancy or a transaction and is in fact grandfathered in. In this case Herbal Junction is keeping a new entity from being able to open.

Ms. Cornett stated that as far as Herbal Junction goes, Herbal Junction was issued a Certificate of Compliance from the City of Tulsa. If Herbal Junction did not obtain their Certificate of Occupancy within one year, then the City would not issue a Certificate of Compliance for Herbal Junction to renew its state license.

Mr. Van De Wiele asked Ms. Cornett if that time frame was imposed as a part of the building permit process? Ms. Cornett answered affirmatively.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **REJECT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

PRT LT 13 BLOOMFIELD HGTS & A TRACT OF LAND BEG 30N & 30.5E SWC LT 13 BLOOMFIELD HGTS TH W126.5 N225.77 TO S R/W EXPY TH NE ALG R/W 126.53 TO PT 30.5E WL LT 13 TH S229.26 POB SEC 2 19 13 .50AC, BLOOMFIELD HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22928—Virginia Davis

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 2611 East 11th Street South (CD 4)

Presentation:

Virginia Davis, 2611 East 11th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Ms. Davis if she was aware of any other dispensary or licensed dispensary located within 1,000 feet. Ms. Davis answered no.

Mr. Bond left the meeting at 4:49 P.M.

Mr. Van De Wiele asked Ms. Davis if the nearest dispensary to her location was Nirvana located over 3,200 feet away? Ms. Davis answered affirmatively.

Mr. Van De Wiele asked Mr. Chapman if he had anything in his records that would indicate anything of concern within 1,000 feet. Mr. Chapman answered not that would deny them spacing, but he did send an e-mail to the Board that they look closely to a school that is located within 1,000 feet. For the record that is not a concern for the Board at this point, but to notify the Board as a courtesy.

Ms. Davis stated that she did receive a copy of that e-mail and she has a meeting with her attorney this week.

Mr. Bond reentered the meeting at 4:51 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

W/2 LT 9 LESS S11 TO CITY & ALL OF LTS 10 THRU 12 BLK 12, HIGHLANDS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22930—Jennifer Fralick

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 1135 East 61st Street South **(CD 9)**

Presentation:

Jennifer Fralick, 1919 East 132nd Place South, Bixby, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Ms. Fralick if she was aware of any other dispensary or licensed dispensary within 1,000 feet. Ms. Fralick answered no.

Mr. Van De Wiele stated the nearest dispensary as seen on page 20.8 of the agenda packet is over 1,400 feet away. Ms. Fralick answered affirmatively.

Mr. Chapman stated there is the current Top Shelf that is located within 1,000 feet of the subject location. Ms. Fralick stated that is her dispensary and she is moving locations.

Mr. Van De Wiele asked Ms. Fralick if she had anything else she would like to say before the interested party comes forward. Ms. Fralick stated the interested party does not have a dispensary there, they purchased the building while she was currently under a lease. She has other legal litigation going on with that particular issue. As soon as she found out that the building, she was renting was purchased while she was under a lease, she purchased a building next door to be able to transfer her current dispensary to somewhere that is in the same neighborhood. As soon as she found out the building was sold out from underneath her she secured a new location, she has applied for her new location, she did a transfer of license which has been approved, her renewal license is in the process to be approved as soon as she receives her zoning and building Certificate of Occupancy is approved for her new location.

Mr. Van De Wiele asked Ms. Fralick if she was aware of another dispensary other than her current existing dispensary. Ms. Fralick stated there is not another one.

Interested Parties:

Aaron Bruner, 6440 South Lewis Avenue, Suite 100, Tulsa, OK; stated he represents Mr. Elton Fernandez.

Mr. Van De Wiele asked Mr. Bruner if he was aware of another dispensary within a 1,000 feet of the subject dispensary other than the location from which the applicant is moving. Mr. Bruner answered no.

Mr. Van De Wiele asked Mr. Bruner if there was anything else, he would like to add the Board would be inclined to hear it if it is not related to any sort of ongoing rent or building disputes. Mr. Bruner stated that his client owns the property that the applicant has been using as a dispensary, however, his client has been refrained from using the building. There is an ongoing litigation that has been filed and his client has applied for all distancing and licenses because his client intends to operate a dispensary at the subject location, and that is the basis for this objection.

Rebuttal:

Jennifer Fralick stated that Mr. Fernandez just purchased the building about eight weeks ago and prior to that she was to be purchasing the building, but there are other legal scenarios with that. At the end of the day she purchased a building very close and moved so she could maintain her business that she has.

Ms. Ross asked Mr. Bruner if his client had applied for a spacing verification. Mr. Bruner stated that his client has applied. Mr. Chapman stated that unless that has happened

this afternoon, he might have applied for his building permit but not the actual spacing verification at the INCOG office. Mr. Bruner stated he has applied for the zoning plan review. Mr. Van De Wiele stated that is not a spacing verification.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary. The currently operating dispensary located at 6030 South Peoria cease operation prior to the subject dispensary opening for business; for the following property:

E100 W120 LTS 13 14 15 LESS S10 OF E100 OF W120 LT 13 FOR ST BLK 8; W20 LTS 13 14 15 & PT VAC OWASSO AVE ADJ ON W LESS S10 OF W20 LT 13 FOR ST BLK 8, BROADVIEW HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele announced this meeting will be losing the GoToMeeting connection, and apologies for not being able to get through the balance of the agenda. At 5:00 P.M. this meeting will stand in recess until 1:00 P.M., June 10, 2020, at which point this meeting will be reconvened and will continue with the items that were not heard today.

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1252
Wednesday, June 10, 2020, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Bond, Vice Chair Ross, Secretary Radney Shelton		S. Miller Wilkerson Chapman Sparger	Blank, Legal

The City Board of Adjustment was held by videoconferencing and teleconferencing via **GoToMeeting**, an online meeting and web conferencing tool. Board of Adjustment members and 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/COT5/board-of-adjustment-june-10th>

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

Mr. Van De Wiele stated that all five Board members are present; Ms. Ross is participating virtually today.

UNFINISHED BUSINESS

22902—Lamar Outdoor Advertising

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign with a dynamic display (Section 60.100-K). **LOCATION:** 10025 East 44th Place South (CD 7)

Presentation:

The applicant was not present. Mr. Van De Wiele moved this item to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

* * * * *

NEW APPLICATIONS

22933—Joe Puckett

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary **OR** in the alternative a Variance of 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 5805 East 15th Street South (CD 5)

Presentation:

Joe Puckett, 1903 West Haskell Place, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Puckett if he knew of any other dispensary or license holder within a 1,000 feet other than Mr. Avington's location. Mr. Puckett answered no.

Mr. Van De Wiele asked Mr. Puckett if the next dispensary was about 2,370 feet away. Mr. Puckett answered affirmatively.

Mr. Van De Wiele asked Mr. Chapman if he was aware of any other dispensary other than the dispensary in case BOA-22923. Mr. Chapman answered no.

Mr. Van De Wiele stated that the Board will probably dispense with the Verification relatively quickly, and he asked Mr. Puckett to stated what his hardship would be for the Variance.

Mr. Puckett stated that he was under the impression that it was who started the Certificate of Occupancy process first, who actually filed for a certificate with the City first, he did not know it was who came to the Board of Adjustment first as far as the spacing verification. Mr. Puckett stated he applied for his Certificate of Occupancy on March 30, 2019 and received his Letter of Deficiency. With the Corona Virus he was not sure of the process to get to this point and when he finally did, he contacted Mr. Chapman and was told he could be placed on this agenda, and apparently the other applicant was in the INCOG office three days before he did. Mr. Puckett stated that for the hardship, the Board shut him down in January because he did not know about the Certificate of Occupancy process and he accepted that denial. He has been looking for a location and finally found one, and now he is before the Board and at the Board's mercy at this point.

Mr. Van De Wiele asked Mr. Puckett or Mr. Chapman if he knew when Mr. Avington commenced his Certificate of Occupancy process. Mr. Chapman stated he does not know when Mr. Avington actually filed his application, but his Letter of Deficiency is dated April 27th and Mr. Puckett's Letter of Deficiency is dated April 15th, so it can be deduced that Mr. Puckett applied for a permit before Mr. Avington.

Interested Parties:

Nathan McPherson, 5805 East 15th Street, Tulsa, OK; stated he is the building owner and yesterday he was able to contest another applicant, and it was asked of that applicant whether he had a lease which made it seem important to the Board. Mr. Puckett stated at yesterday's meeting that he signed his lease in February and he has been very selective in deciding who will go into his building. He owns two fine jewelry stores and is very aware of high security type businesses and he wants the right person to lease from him as he has multiple tenants. Mr. McPherson stated he has also sold a building to a marijuana processing company, so he knows a few things, and he has been told horror stories of all the illegal things that are going on in dispensaries now. So, it was a very specific search to make sure he found the right person to lease the space he found that in Mr. Puckett. Mr. McPherson stated the other applicant had stated that he had signed his lease in February, but his space did not go up on the market until March 11th and that was the same day he posted his space. Mr. McPherson asked the Board if they were actually able to make sure people are telling them the truth; how does an applicant prove they have a lease even though they don't have to show it. Mr. McPherson stated that he heard Mr. Van De Wiele state at yesterday's meeting that he did not want to see dispensaries popping up that were card table dispensaries, and he cannot imagine that there will be any other dispensary in town that visibly looks as bad as the other applicant's does. Mr. McPherson stated that he is highly concerned about where the applicant's dispensary is going because he does not know as a successful retailer how the other applicant is going to be successful legally.

Mr. Van De Wiele and Mr. McPherson discussed pictures depicting a questionable piece of property located next to the other dispensary. Mr. Van De Wiele stated that from a spacing standpoint it does not necessarily matter if it is the nicest place or the worst of the worst, his point on the card table comment was from what the Board looks at, and the Board members have differing viewpoints of where on the timeline a person goes from a concept to having every license and every permit and selling product; at what point from the beginning to the end something becomes a dispensary, the Board has a little difference of opinion. Mr. Van De Wiele stated his personal opinion is that he does not want to incentivize someone to do the least amount required and it result in something that is bad for the public or the City. Mr. Van De Wiele stated the Board occasionally asks for copies of documents but by in large the Board relies on the truthfulness of testimony.

Comments and Questions:

Ms. Ross stated that she would vote to approve the Variance relying on the fact that Mr. Puckett's Letter of Deficiency is dated before the competitor's letter. The fact that the competitor was also on this agenda, the timing was so close on these applications. There is no way the Board could have known that the competitor was looking at a space close by.

Ms. Radney stated that her continuing concerns about what defines the timing for when a business has become established is very opaque. This is just one of what could be many examples of capacity of that, and if anything from the standpoint of the public both parties really couldn't have known at the conception of their pursuit that the other was going to be this close. Ms. Radney believes the hardship is that there is a hardship in terms of the ability for them to be able to make planning decisions for their business based on the quality of information available to them. Ms. Radney stated she will support the Variance.

Ms. Shelton thinks it is fair the applicant has a Variance, but she is going to vote against this for consistency. She thinks a hardship entails something physically unique about the property and she does not see anything physically unique about this.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Radney, Ross, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **DENY** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary and to **APPROVE** the request for a Variance of 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) located at 5529 East 15th Street, as stated previously in case #BOA-22923. The Board has found the hardship to be the timing of application as well as the inability of the applicant to rely on notice. 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:

PRT SW NE BEG 527.60E & 40N SWC NE TH W100 NW315.97 E195.72 S108.98 SE41.17 S150 POB SEC 10 19 13 1.02ACS, City of Tulsa, Tulsa County, State of Oklahoma 22883—Rita Garcia

Action Requested:

Special Exception to allow a fence or wall to exceed 8 feet in height and 4 feet in height in the street setback (Section 45.080-A); Variance to allow a fence or wall to be located inside the City of Tulsa planned right-of-way along East 11th Street South (Section 90.090-A). **LOCATION:** 13401 East 11th Street South (**CD 6**)

Mr. Chapman stated there was previously some confusion about where the fence started and it was determined that it is not located in the right-of-way, therefore, the Variance is not required, and the Variance will be withdrawn.

Presentation:

Rita Garcia, 13401 East 11th Street, Tulsa, OK; stated when she purchased the property it was like a dump and she wanted to make it a small farm. She has animals; horses, sheep, chickens, etc. One time when she came home from work, she discovered that one of the horses had jumped the four-foot fence, so she needs to have a higher and stronger fence to protect her horses and the drivers on 11th Street. She has no neighbors close by and she is far back from 11th Street.

Mr. Van De Wiele asked Ms. Garcia if the pictures in the agenda packet of the wrought iron fence with the brick columns depicts the actual fence. Ms. Garcia answered

affirmatively. Mr. Van De Wiele asked Ms. Garcia if she plans to leave the fence the way she built it because it is a beautiful fence. Ms. Garcia answered affirmatively.

Ms. Radney asked Ms. Garcia what area of the fence exceeds eight feet, is it the area that holds the sign? Mr. Van De Wiele stated that it would be the archway, the gate, and a little bit of the curved entryway. Ms. Radney asked Ms. Garcia why the archway is so high. Ms. Garcia stated the arch is that way so she can get her horse trailer beneath it.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a fence or wall to exceed 8 feet in height and 4 feet in height in the street setback (Section 45.080-A), subject to the amended site plan and as constructed as shown on pages 22.5 and 22.6 of the agenda packet. The existing structure is both in design and in materials is what the Board approves. The request for a Variance has been withdrawn and will not be acted upon. 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:

E/2 W/2 SE SW SEC 4 19 14 10ACS, City of Tulsa, Tulsa County, State of Oklahoma

22889—Brenda Lara

Action Requested:

Special Exception to permit a carport in the street yard and street setback with modifications to increase to permitted height and length of a carport and to increase the allowed obstructions of the sides of the carport in a RS-3 District (Section 90.090-C.1). **LOCATION:** 1553 South 74th Avenue East (**CD 5**)

Presentation:

Mario Durand, 1553 South 74th East Avenue, Tulsa, OK; stated he and his wife have lived in the neighborhood for ten years and his children were very little. When they moved in the neighbors to his right smoked marijuana in the front yard and he did not want his children to see that so he decided to erect a carport with sides to his children would not be able to see the neighbor's activities. When he started building the carport, he did not know he needed a permit. The only neighbor that has a problem with the carport is the neighbor to his left. Mr. Durand stated there is another house across the street that has a carport.

Mr. Van De Wiele asked Mr. Durand when he built the carport. Mr. Durand stated that he built it in 2016.

Mr. Van De Wiele asked Mr. Durand how easily can the panel on the side of the carport be removed? Mr. Durand stated it can be removed; he has already removed one piece of the panel.

Mr. Van De Wiele asked Mr. Durand how large the carport is. Mr. Durand stated that it is 20'-0" x 20'-0" and 9'-6" tall.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a carport in the street yard and street setback and **DENY** the modifications to increase to permitted height and length of a carport and **DENY** to increase the allowed obstructions of the sides of the carport in a RS-3 District (Section 90.090-C.1) as shown on page 26.6 of the agenda packet. The side panels on the carport are to be removed. 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 13 BK 3, MOELLER HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22890—Kathy Wilson

Action Requested:

Special Exception to permit a Type-2 Home Occupation (Piano Studio) in an RS-3 District (Sections 45.100-G & 70.120). **LOCATION:** 1440 East 36th Place South **(CD 9)**

Presentation:

Kathy Wilson, 1440 East 36th Place, Tulsa, OK; stated she would like to continue teaching piano lessons in her home as she has done since 1980, and her teacher did the same in this house for 35 years before that. She has never had a problem with teaching piano in her home, so the complaint was quite a shock. Ms. Wilson stated she has a degree in piano performance, she is a national certified teacher of music, and she holds positions on the Boards of local and state professional organizations and have dedicated thousands of hours toward providing musical opportunities for students in the Tulsa area and the State of Oklahoma. Ms. Wilson stated she is currently teaching ten

students a week. Due to COVID-19 she has been teaching online since March, and she will continue to do so until the start of the new school year. Ms. Wilson stated her studio is on the southeast side of the house, and there is a large building north of her house which is Elliott Elementary School. The school personnel usually park on the street because of their small parking lot, and there is a lot of traffic on the street when school lets out. Generally, the parents of her students just drop them off and pick them up at the end of the lesson. If a parent does park it is in the front of her studio door that faces Rockford and it is usually only for an hour. She does not allow the siblings of students to play in her yard while waiting and she does not allow parents to honk for their children to come out. Ms. Wilson stated she does support her daughter who is a single parent as she lives with her and her six-year-old son.

Interested Parties:

Kylee Huerta, 1503 East 37th Place, Tulsa, OK; stated she lives down the street from the piano studio. Ms. Huerta stated that a lot of Ms. Wilson's students are students at Elliott, and they walk. People would hardly know the studio is even there because it has a very small and modest tucked away sign. Ms. Wilson brings a lot of love and flavor to the community. Ms. Wilson's students love her, and she would like to have her own children go to Ms. Wilson. Ms. Huerta stated that she supports Ms. Wilson and she hopes the Board approves her request.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a Type-2 Home Occupation (Piano Studio) in an RS-3 District (Sections 45.100-G & 70.120). 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 5 BLK 2, LEOKI PLACE, City of Tulsa, Tulsa County, State of Oklahoma

22892—Dale Bennett

Action Requested:

Variance to permit additional dynamic display signage on a single lot (Section 60.080-E). **LOCATION:** 200 South Denver Avenue West (**CD 4**)

Presentation:

The applicant was not present. Mr. Van De Wiele moved this item to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

22907—Tony Jordan

Action Requested:

Variance of the required 35-foot setback from South Lewis Avenue in an RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 2258 East 32nd Place South (**CD 9**)

Presentation:

Tony Jordan, Jordan and Sons Building Company, 10139 Bonnie Bridge Road, Owasso, OK; stated this request is for a patio cover which will be attached to the house. The roofline will be extended on the same plane with a soffit overhang.

Mr. Van De Wiele asked Mr. Jordan if the patio cover will be the same footprint as the existing patio. Mr. Jordan answered affirmatively.

Mr. Van De Wiele asked Mr. Jordan if he had discussed the patio with his neighbor to the west or the neighbor to the south. Mr. Jordan stated he does not have any knowledge of any concerns.

Mr. Van De Wiele asked Mr. Jordan to state his hardship. Mr. Jordan stated there is no shade whatsoever and he has a dog that he leaves outside a lot of times. Mr. Van De Wiele asked Mr. Jordan if there were any challenges with this being adjacent to Lewis that contribute to a hardship? Mr. Jordan answered no.

Mr. Bond asked Mr. Jordan if the reason for no shade in the backyard is because of its location to a major arterial street and a utility easement? Mr. Jordan answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the required 35-foot setback from South Lewis Avenue in an RS-2 District (Section 5.030, Table 5-3), subject to conceptual plans 29.10, 29.11 and 29.14 of the agenda packet. The materials and the roofline of the new patio are to match the existing house. The Board has found the hardship to be the Lewis Avenue setback, and a house that predates the Zoning Code and is presently non-conforming. 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 4, OAKNOLL, City of Tulsa, Tulsa County, State of Oklahoma
22915—John Cannon**

Action Requested:

Special Exception to allow a Public, Civic & Institutional/Governmental Service Use (Headquarters for Meals on Wheels) in an OM District (Section 15.020, Table 15-2). **LOCATION:** 5151 East 51st Street South (**CD 5**)

Presentation:

James Weger, Jones Gotcher, 15 East 5th Street, Suite 3800, Tulsa, OK; stated he represents Meals on Wheels. Meals on Wheels is building a new corporate headquarters located at 51st and Darlington. In the building there will be offices and a large commercial kitchen. Meals will be prepared at this site and then delivered to various pick-up sites around the city. There will be some truck traffic bringing food in and out; these are mostly panel trucks. Mr. Weger stated that he has reached out to the neighbors and the neighbors are in favor of this request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that one of his law partners is on the capital campaign for Meals on Wheels, and for that reason he will abstain from the vote. Mr. Van De Wiele stated that it would not have impacted his decision but in an abundance of caution he will abstain from voting.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-1 (Bond, Radney, Ross, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Special Exception to allow a Public, Civic & Institutional/Governmental Service Use (Headquarters for Meals on Wheels) in an OM District (Section 15.020, Table 15-2), subject to the conceptual plans 30.10 through 30.24 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:

LT 1 BLK 1, LINCOLN CTR RESUB L1 B1 SE YMCA & L16 CANFIELD SUB, CANFIELD SUB, L7-10 & E/2 L11-12 CANFIELD SUB, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele announced that Ms. Ross will be leaving the meeting for a prior business engagement in about five minutes. Likewise, Ms. Shelton will be leaving the meeting at 3:00 P.M. for other business purposes. There will still be a quorum with three Board members present, but if issues arise an applicant can request a continuance at that point.

22920—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a self-service storage facility in a CS District (Section 15.020, Table 15-2). **LOCATION:** 1535 South Memorial Drive East (**CD 5**)

Presentation:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated this request is for a self-service storage facility. The property was previously zoned OL with a dilapidated office building on it. The property has been rezoned and the building has been razed.

Mr. Van De Wiele asked Ms. Cornett what will be built on the north third of the property. Ms. Cornett stated that portion of the property is not buildable.

Mr. Van De Wiele asked Ms. Cornett if the buildings themselves are acting as screening. Ms. Cornett answered affirmatively.

Mr. Van De Wiele asked Ms. Cornett if there would be fencing in the gaps. Ms. Cornett answered affirmatively.

Ms. Shelton asked Ms. Cornett about the site lighting. Ms. Cornett stated the lighting will comply with the lighting requirements of the Code.

Ms. Shelton asked Ms. Cornett if the dumpster was going to be screened since it is placed on the residential side. Ms. Cornett answered affirmatively.

Ms. Shelton asked Ms. Cornett about the setback that had been approved administratively. Ms. Cornett stated that setback is five feet.

Ms. Radney asked Ms. Cornett if the proposed egress is in the same place as the current curb cut is located. Ms. Cornett answered affirmatively.

Ms. Radney asked Ms. Cornett if the building across from that curb cut is commercial. Ms. Cornett answered affirmatively.

Mr. Van De Wiele asked Mr. Chapman what would be an acceptable screening for this proposed site? Ms. Cornett interjected that the Code requires an opaque screening. Mr. Chapman stated that it would be an F1 screening fence or wall which would be a masonry wall or some type of screening fence that will not have a gap between fences and the posts.

Ms. Radney asked if there is requirement for aesthetic features like fake windows? Is that something that is handled at the permitting level? She is concerned that this building could look like a giant monolith from the street because there are no plantings in front of the wall. Mr. Chapman stated there will be no design requirements in terms of a fake window or anything to make the wall interesting; it is really more about can the public see the use and the building itself, depending on the building materials, that could serve as the screening. Mr. Van De Wiele asked Mr. Chapman if the building is the typical paneled corrugated metal buildings could there be hundreds and hundreds of feet of attractive tan metal paneled siding building along 16th Street and Memorial, and the side of the building serving as the screening wall or would the exterior of those buildings be some sort of masonry? Mr. Chapman stated that under the supplemental regulations required screening fences or walls must be at least eight feet in height; if buildings are masonry the building wall can serve as the screening wall provided that any open spaces between perimeter buildings are screened with a masonry screening wall at least eight feet in height. The screening fence/wall requirements of this section do not apply to climate controlled self-storage buildings in which self-storage spaces are accessed only from within the building. So, if the buildings are the standard metal buildings, they would have to have screening and that is just for the portion that abuts the residential zoning.

Ms. Radney stated that she is not adherently opposed to this request, but she personally would like to see more in terms of the building plans before she would agree to approve. Elevations would be helpful; 153+ feet is an awfully long span on a major arterial street. The buildings potentially will look like a metal compound not knowing what the applicant plans. Ms. Radney stated this site previously had an office building on it, and there are other office uses and a church nearby so to her it could be creating a giant metal compound making something that looks industrial.

Mr. Bond stated that he would defer to City Code in this request.

Mr. Van De Wiele stated that he tries to leave the landscaping issues to the experts, but it is what the Code provides for. The Board could require landscaping, but he does not know that he is inclined to do that.

Ms. Cornett offered to contact her client to see if there are elevation drawings available.

Mr. Van De Wiele stated that he thinks the Board members would agree to moving this request temporarily to the end of the agenda if Ms. Cornett agrees.

Mr. Van De Wiele moved this item to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

Ms. Ross left the meeting at 2:52 P.M.

22921—Jose Socorro

Action Requested:

Special Exception to increase the maximum driveway width within the right-of-way (Section 55.090-F.3). **LOCATION:** 4003 South 148th East Avenue **(CD 6)**

Mr. Chapman stated that Ms. Paulina Baeza with INCOG is on the line; Mr. Socorro is a native Spanish speaker so Ms. Baeza will translate.

Presentation:

Jose Socorro, 4003 South 148th East Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Chapman to tell the Board how wide a driveway can be, how wide the driveway is or being asked for. Mr. Chapman stated the applicant would be limited to 26 feet and he is asking for 28 feet.

Mr. Van De Wiele asked if the driveway shown on page 32.4 is as wide as Mr. Soccorro wants the driveway to be or is there additional concrete he is wanting to add. Mr. Soccorro stated that he is asking for 28 feet because he needs to facilitate for three cars. Mr. Soccorro stated the driveway shown on that page is exactly as it is now, and he wants to pour concrete to make it 28 feet wide for three cars.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to increase the maximum driveway width within the right-of-way (Section 55.090-F.3), subject to conceptual plan 32.8 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:

LOT 5 BLOCK 4, BATTLE CREEK PARK BLKS 1-4, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton left the meeting at 2:59 P.M.

22924—Kayla Lee

Action Requested:

Special Exception to permit an Assembly and Entertainment/Other Outdoor Use and Business or Professional Office Use in an IM District (Section 15.020, Table 15-3). **LOCATION:** 1215 & 1217 East 3rd Street South **(CD 4)**

Presentation:

Kayla Lee, 3536 East Admiral Court, Tulsa, OK; stated her client has wedding functions and would like to create an outdoor wedding experience on two lots that they currently own. The space would effectively be a yard with two auxiliary buildings; the yard would serve as the ceremonial site and the auxiliary buildings are storage, an office, and restrooms. This idea is to create a self-supported space so that an urban garden wedding experience can be offered.

Ms. Radney asked Ms. Lee how many designated parking spaces are available. Ms. Lee stated the site is required to have seven and currently there are eight which includes a handicap van access space.

Ms. Radney asked Ms. Lee what the occupancy load for the building is. Ms. Lee stated the occupancy load is under 15.

Mr. Bond left the meeting at 3:10 P.M.

Mr. Van De Wiele asked Ms. Lee if there is an outdoor wedding where will all the attendees park? Ms. Lee stated the site is also allowed off-site parking, so guests will be able to park on the street, but a lot of people use Uber today.

Ms. Radney asked Ms. Lee if she had investigated any parking arrangements with the adjoining properties? Ms. Lee stated she knows her client has looked into using some of the lots after hours, but those people were not willing to do that, so she is just making sure there are enough parking spaces for what the City requires.

Mr. Bond reentered the meeting at 3:12 P.M.

Ms. Radney stated that is where her hesitation lies on voting yes today, because what the Board has seen in the past is in these districts that parking tends to be something that the more industrial land owners and tenants take a great umbrage with in terms of having event centers or gathering places that are in their area. At this moment she would not be able to support this request without more information on the parking, though she is sensitive to the fact that a lot more people are using ride share type options.

Ms. Radney asked Ms. Lee about the total capacity of the square footage of the building. Ms. Lee stated the square footage of the office and restroom is 746 square feet and the storage building is 296 square feet, for a total of 1,042 square feet.

Mr. Van De Wiele asked Ms. Lee what the typical size of wedding would be held at this site? Ms. Lee stated that it would be under 250 people, but they don't want to have more than a 100 people, and with the COVID-19 spacing that number would probably be cut in half.

Ms. Radney stated that in the future if applicants are relying on street/surface parking she would like to see that count on the site plan.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-0 (Bond, Radney, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit an Assembly and Entertainment/Other Outdoor Use and Business or Professional Office Use in an IM District (Section 15.020, Table 15-3), subject to conceptual plan 34.15 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 26 27 BLK 17; LTS 24-25 BLK 17, BERRY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22931—Bill Powers

Action Requested:

Variance to permit the aggregate floor area of accessory buildings on a lot in an RS-3 District to exceed 40% the floor area of the primary residential structure (Section 45.030-B); Variance to permit a detached accessory building to exceed 18 feet in height and 10 feet in height to the top of the top plate (Section 90.090.C). **LOCATION:** 1539 South Detroit Avenue East (**CD 4**)

Presentation:

Bill Powers, 8810 South Yale Avenue, Tulsa, OK; stated he is working for the owners of the subject property, and their house is on Lot 13. The owners have purchased lots 14, 15 and 16 and it is their request to build a new two-story garage with a mother-in-law suite. The existing garage is small and not built to modern standards for modern automobiles; they are using it for storage at this time. The owners are proposing to build something that is completely historically preservation correct. Mr. Powers stated he spoke with the Historic Preservation Committee and they do not have a jurisdiction in this instance.

Mr. Van De Wiele asked Mr. Powers if the new structure would have the same type of roofline, materials, etc. as the principle structure? Mr. Powers answered affirmatively and stated that would even the wood lap siding will be matched.

Mr. Van De Wiele asked staff if this was all one lot or is the principle structure on the lot outside the dotted line on the map; is the main house on the corner? Mr. Powers stated the house is not on the corner. Mr. Powers stated the homeowners purchased the additional lots and had them consolidated into one address. Mr. Van De Wiele asked Mr. Powers if there had been a lot combination or a lot line adjustment. Mr. Powers answered affirmatively. Mr. Chapman stated the County identifies this as one parcel.

Mr. Powers stated there was a previous garage in the subject are because there are remnants of a foundation and a sewer line is still visible.

Mr. Van De Wiele asked Mr. Powers how large the primary house is and how large is the detached garage desired to be? Mr. Powers stated the City calculated it to be 200 square feet long.

Ms. Radney asked if there was information about the height of the existing structure. Mr. Powers stated the proposed building is a little lower than the existing house; the existing house is on a foundation that is about three feet above grade; the existing house will be about 3'-6" taller than the new garage.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-0 (Bond, Radney, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to permit the aggregate floor area of accessory buildings on a lot in an RS-3 District to exceed 40% the floor area of the primary residential structure (Section 45.030-B); Variance to permit a detached accessory building to exceed 18 feet in height and 10 feet in height to the top of the top plate (Section 90.090.C), subject to conceptual plans 35.8 and 35.9 of the agenda packet. The design and all the materials used for the proposed structure are to match the existing house. The Board has found the hardship to be the existing structure predated the Comprehensive Zoning Plan as well as the uniqueness of the lots due to previous City expansion condemnation. 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:

ALL LT 13 & PRT LTS 14 THRU 17 BEG SWC LT 14 TH N25 NE203.19 S171.78 SW140 POB BLK 1, MAPLE PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22932—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to allow a Commercial/Assembly & Entertainment/Large (>250) in the CBD District (Section 15.020, Table 15-2). **LOCATION:** 1227 South Detroit Avenue East (**CD 4**)

Presentation:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated the building is an existing Drug Warehouse built in 1925. The building is currently under renovation and the building previously was an event center. There will be civil events, fund raisers, weddings, receptions, banquets, etc. The building is built to the lot line and it is a brick building. Ms. Cornett stated she is not aware of any issues with events in the past.

Mr. Van De Wiele asked Ms. Cornett where would 299 guests park since the building is built lot line to lot line? Ms. Cornett stated there is ample free parking on Detroit and there is a lot to the north on the southeast corner of 13th and Detroit. Mr. Van De Wiele asked Ms. Cornett that this is not pursuant to a written agreement that she is aware of. Ms. Cornett answered affirmatively.

Interested Parties:

Kimberly Maker, 1228 South Elgin Avenue, Tulsa, OK; stated she has parking concerns and the noise element.

Mr. Van De Wiele stated that what the Board has heard is that there have been events, for some period of time, at this location and he asked Ms. Maker if she had experienced issues of the type she is concerned about? Ms. Maker stated her mother-in-law died two years ago and all of this is given her experience because she has not had to live on the property; the periodic noise level and the parking situation overflow onto South Elgin. Mr. Van De Wiele asked how often because he is trying to get a little description for the Board's education and for the record. Ms. Maker stated she does not know specifics.

Mr. Bond asked Ms. Maker how long her mother-in-law lived in the house and how long her son has lived there. Ms. Maker stated her mother-in-law lived there for 30 years and the property has been in her possession for two years.

Mr. Van De Wiele asked Ms. Cornett to stipulate the hours of operation for the proposed business. Ms. Cornett stated the events will end at 1:00 A.M. Mr. Van De Wiele asked Ms. Cornett is that a Sunday to Sunday operation? Ms. Cornett stated that she thinks the majority of the events will be happening on the weekend.

Ms. Radney asked Ms. Cornett if there would be alcohol served at the events. Ms. Cornett answered affirmatively. Mr. Van De Wiele asked Ms. Cornett if that is an allowance by right or is that by a prior approval? Ms. Cornett believes it is permitted by right because the location is not near a neighborhood.

Ms. Radney stated she is concerned about the size of the operation because there isn't really a good area for ingress and egress for ride shares to queue up; that is actually a busy street in the way that it is one-way coming off the freeway. She would like to have an understanding of what the parking plan might be and/or where it could be in terms of street parking, because if it is street parking in the residential neighborhood she thinks there needs to be more concern paid to the concerns of the actual residents.

Ms. Cornett stated that traditionally downtown at night, the northern part of downtown has seen great strides in bars and entertainment; this section of downtown is fairly silent. There are plenty of nearby parking lots on South Detroit so she thinks the parking will be addressed without any further encroachment into the residential area.

Mr. Bond stated there was an article in the Tulsa World last week about this is just a parking lot ocean. There are tens of thousands of square feet of parking and a lot of it is paid for parking. This is a concrete ocean with all kinds of parking within a few blocks.

Mr. Bond stated he has been to events in the area and has never had a problem parking; there are sidewalks there and they are abnormally large. If a person has to walk more than a block, then they didn't look hard enough for a parking space. The Rucker Warehouse has been used for things like this for decades; he would liken this to someone moving next to Cain's Ballroom and having issues with a lot of music. This has been here for a very long time and it serves a variety of community interests as well, given the amount of parking in the Central Business District and what it has been doing legally and historically for decades he does not have an issue with this request.

Mr. Van De Wiele suggested the Board continue this request until the 23rd. In the meantime, Ms. Cornett might look at addressing the parking concerns.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-0 (Bond, Radney, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to allow a Commercial/Assembly & Entertainment/Large (>250) in the CBD

District (Section 15.020, Table 15-2) to the June 23, 2020 Board of Adjustment meeting; for the following property:

S20 LT 7 BLK 206 & 60 VAC ST ADJ ON S & N11 LT 9 BLK 209 & W10 VAC ALLEY ADJ ON E THEREOF BLKS 206 & 209, WOODLAWN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22920—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a self-service storage facility in a CS District (Section 15.020, Table 15-2). **LOCATION:** 1535 South Memorial Drive East (**CD 5**)

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; no presentation.

Mr. Van De Wiele asked Ms. Cornett if she was able to contact her client regarding the storage facility. Ms. Cornett stated she was able to speak with and she would request a continuance in this case.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-0 (Bond, Radney, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to permit a self-service storage facility in a CS District (Section 15.020, Table 15-2) to the June 23, 2020 Board of Adjustment meeting; for the following property:

BLK 1, BROOKCREST SQUARE ADDN RESUB PRT L4 B3 O'CONNOR PARK SUB, City of Tulsa, Tulsa County, State of Oklahoma

22902—Lamar Outdoor Advertising

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign with a dynamic display (Section 60.100-K). **LOCATION:** 10025 East 44th Place South (CD 7)

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-0 (Bond, Radney, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Verification of the spacing requirement for an outdoor advertising sign with a dynamic display (Section 60.100-K) to the June 23, 2020 Board of Adjustment meeting; for the following property:

PRT TR IN SE NW ADJ LT 1 & PRT LT 1 BEG 200N SWC LT 1 TH N APR 142.37 E18 N160 W18 N142.33 SE217.90 SE90.74 S303.33 W275.03 POB BLK 1 SEC 30 19 14 .33AC, IDEAL BRICK INDUSTRIAL TRACTS, City of Tulsa, Tulsa County, State of Oklahoma

22892—Dale Bennett

Action Requested:

Variance to permit additional dynamic display signage on a single lot (Section 60.080-E). **LOCATION:** 200 South Denver Avenue West (CD 4)

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-0 (Bond, Radney, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to permit additional dynamic display signage on a single lot (Section 60.080-E) to the June 23, 2020 Board of Adjustment meeting; for the following property:

**LT 1 BLK 1, TULSA REGIONAL CONVENTION AND EVENTS CENTER RESUB PRT OT
TULSA, City of Tulsa, Tulsa County, State of Oklahoma**

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:47 p.m.

Date approved: 7/28/2020



Chair