

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1270
Tuesday, April 13, 2021, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bond, Chair VanDeWiele, V. Chair Radney, Secretary Brown Shelton		Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on April 8, 2020, at 8:48 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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

<https://www.gotomeet.me/COT4/boa-gotomeeting-in-council-chambers-april-13th>

The staff members attending remotely are as follows:

Ms. Audrey Blank, City Legal

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

Mr. Austin Bond, Chair
Mr. Stuart Van De Wiele, Vice Chair
Ms. Burlinda Radney, Secretary
Mr. Steve Brown, Board Member
Ms. Jessica Shelton, Board Member
Mr. Austin Chapman, Tulsa Planning Office
Mr. Dwayne Wilkerson, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

MINUTES

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the March 23, 2021 Board of Adjustment meeting No. 1269 with one date change correction.

UNFINISHED BUSINESS

None.

NEW APPLICATIONS

23097—Pete Webb

Action Requested:

Variance to allow more than one sign per street frontage in an Office District (Section 60.060-B1); Variance to allow dynamic display signs in an Office District on a lot not occupied by a public, civic or institutional use, to allow more than one dynamic display per street frontage, to allow dynamic display signs to operate 24 hours and to exceed 32 square feet in display area (Section 60.060-E, Section 60.060-E1 and Section 60.060-E3); Variance to allow the area of a wall sign to exceed the maximum allowable display area of 150 square feet in an Office District (Section 60.060-C). **LOCATION:** 2408 East 81st Street South (**CD 2**)

Presentation:

Pete Webb, 1225 North Lansing Avenue, Tulsa, OK; this request is to allow channel lettering and dynamic display signage on a parking garage. The address 2408, the parking garage has its own address, which is 2406, but it was not available on the documentation at the time of submission; it is on the same lot.

Mr. Brown asked Mr. Webb if the parking garage is new. Mr. Webb answered affirmatively.

Mr. Van De Wiele asked Mr. Webb to explain his exhibits for the placement of the signage on the garage. Mr. Webb stated the digital display will be placed on the north elevation of the parking garage, which sits back from 81st Street by 1,117 feet. The channel letter sign will be placed on the west elevation which are 586 feet from Lewis.

Mr. Van De Wiele asked Mr. Webb if the dynamic display signs were 6'-0" x 12'-0". Mr. Webb answered affirmatively. Mr. Van De Wiele asked Mr. Webb what messages would be displayed on those signs. Mr. Webb stated that all the signage is intended for direction.

Mr. Bond asked Mr. Webb if the sign would be used for 24 hours. Mr. Webb answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he has had a family member use this medical facility, and it is a big campus that is difficult to navigate. These signs are probably needed and there have been this same kind of issues at other hospitals and medical providers. In comparison to the land massing involved seems to make this request supportable.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow more than one sign per street frontage in an Office District (Section 60.060-B1); Variance to allow dynamic display signs in an Office District on a lot not occupied by a public, civic or institutional use, to allow more than one dynamic display per street frontage, to allow dynamic display signs to operate 24 hours and to exceed 32 square feet in display area (Section 60.060-E, Section 60.060-E1 and Section 60.060-E3); Variance to allow the area of a wall sign to exceed the maximum allowable display area of 150 square feet in an Office District (Section 60.060-C), subject to conceptual plans 2.24, 2.25, 2.32, 2.33 of the agenda packet and the plan submitted at today's meeting showing the location of the signs on the parking garage. The dynamic display signs are to be used for directional way-finding and informational use relevant to the medical uses contained on the subject property. The Board has found the hardship to be that the property is rather substantial in size and the signs are a substantial distance from the adjoining streets and the uses that would be potentially impacted by the signs. 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:

PRTL1BEG939.90ENWCTHE558.08S30.29CRVRT 71.12CRVLF128.44CRVLF31.77E50.01S254.33W41.82CRVLF33.26CRVLF704.16E656.38S598 .22W1701.03N64.5W58S64.5W779.12CRVRT.10N602.32E546.16CRVLF704.16CRVLF33.26W41. 82N254.33E50.01CRVLF31.77CRVLF128.44CRVRT171.12N2,ORAL ROBERTS UNIVERSITY HGTS 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23098—Tom Neal

Action Requested:

Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Variance to allow the floor area of a detached accessory dwelling unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2 and Section 45.031-D6.a); Variance to allow a detached accessory dwelling unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate (Section 90.090-C); Variance to allow more than 30% coverage by a detached accessory dwelling unit in the rear setback in an RS-3 District (Section 90.090-C, Table 90-2). **LOCATION:** 1240 South Gary Avenue East **(CD 4)**

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated this is a project is similar to other projects that has been presented to the Board in the past, a garage apartment in a historic neighborhood that has quite a few existing. This is also his neighborhood, so he does have an interest in the well-being of the neighborhood. Currently there is a small Model-T sized garage that is not large enough for today's vehicles or the needs of the homeowner. The original intention was to add an ADU for possible future use by family members or as a possible rental. Due to the extreme cost of lumber the project will be scaled back and the garage only will be built. The height has been reduced and the second floor is currently going to be used for storage with a drop-down ladder, but he

would like to ask for the Special Exception with the hope of adding the living quarters in a couple of years.

Ms. Shelton recused at 1:24 P.M.

Mr. Bond asked Mr. Neal if he had spoken with any of the neighbors. Mr. Neal answered affirmatively, and his client has reached out to several neighbors by letter, and he has been involved in conversation of the neighborhood Facebook page addressing concerns. Most of the responses have been supportive and positive.

Mr. Van De Wiele asked Mr. Neal if the garage is going to be used just for storage will it have the impact of putting cars on the street, off the street or is it a net no change. Mr. Neal stated that he thinks it is a net no change. The homeowner and his wife each have a vehicle and there is a driving age child, and the second floor will have a drop-down ladder, no insulation, no water, no gas to the addition though in the future that could change. At this point there will be electricity and HVAC for the garage because there will be a workshop.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Bond, Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; none absent) to **APPROVE** the request for a Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Variance to allow the floor area of a detached accessory dwelling unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2 and Section 45.031-D6.a); Variance to allow a detached accessory dwelling unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate (Section 90.090-C); Variance to allow more than 30% coverage by a detached accessory dwelling unit in the rear setback in an RS-3 District (Section 90.090-C, Table 90-2), subject to conceptual plans 3.17, 3.18, 3.19, 3.20, and 3.21 of the agenda packet and the plan submitted at today's meeting for the height. The structure may be built smaller but is not to be built any larger as shown in the conceptual plan. The Board finds the hardship to be that the lot is a smaller than normal sized residential lot in the area and there are numerous properties in the area that have similar sized accessory buildings. 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. 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 10 BLK 7, PILCHER SUMMIT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 1:29 P.M.

23099—Sandra Doctor

Action Requested:

Special Exception to permit a carport in the street yard and street setback with modifications to size, height, and setbacks (Section 90.090-C.1). **LOCATION:** 1567 North Oswego Avenue East (**CD 3**)

Presentation:

Sandra Doctor, 1567 North Oswego Avenue, Tulsa, OK; stated she would like to build a carport.

Mr. Bond asked Ms. Doctor if the RV shown in the photos of her property is hers. Ms. Doctor answered affirmatively. Mr. Bond asked Ms. Doctor if the carport was going to be built to cover the RV or will be placed over the other driveway on the property. Ms. Doctor stated there is a pad for the carport.

Mr. Van De Wiele asked Ms. Doctor if she has two driveways. Ms. Doctor answered affirmatively. Mr. Van De Wiele asked Ms. Doctor if she wanted to place the carport over the south driveway or over the north driveway. Ms. Doctor stated that the carport would be for the south driveway.

Ms. Doctor stated she has visited with the neighbors and there have been no objections.

Mr. Brown asked Ms. Doctor how tall the carport would be. Ms. Doctor stated that it will be 12 feet tall.

Mr. Van De Wiele asked Ms. Doctor how long the carport would be. Ms. Doctor stated that it will be 35 feet long.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Wilkerson stated that in looking at the survey that was provided it appears there is 31 feet between the front of the house and the lot line, so the 35-foot-long carport would actually extend into the right-of-way which will not be allowed, clarification on that would be helpful.

The Board asked the applicant to come back to the podium and asked about the discrepancy.

Herman Doctor, 1567 North Oswego Avenue, Tulsa, OK; stated there is a porch on the front of the house and he thinks the 31.2 feet measurement is from the porch.

Mr. Wilkerson stated that if the carport is built then the City has the right to dismantle the end of the carport if needed, so the applicant needs to be very careful about where their lot line is located and not cross that line.

Mr. Chapman stated that a second site plan does make reference on where the right-of-way is located and shows 40 feet from the center, which seems to be accurate, and it would put the carport out of the right-of-way.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a carport in the street yard and street setback with modifications to size, height, and setbacks (Section 90.090-C.1), with a modification to allow the carport to exceed 20'-0" x 20'-0" and subject to conceptual plans 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17 and 4.18 of the agenda packet. The applicant is aware that the carport needs to be constructed outside of the City's right-of-way. 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 9 BLK 28, LOUISVILLE HGTS ADDN B9-30, City of Tulsa, Tulsa County, State of Oklahoma

23101—Tom Neal

Action Requested:

Variance to allow the floor area of a detached accessory dwelling unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A and Section 45.031-D). **LOCATION:** 1111 East 5th Place South (CD 4)

Mr. Chapman stated that staff thinks there may be more relief needed than what was requested. Particularly in the supplemental regulations for an accessory dwelling unit, it speaks to the fact that only one ADU is allowed per lot in Section 45.030-D. Mr. Chapman stated that he thinks there was some confusion in the Permit Center on accommodating units; it appears to be two units on the property.

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated the property is zoned Residential Multi-Family 2, and it is his understanding that up to three dwelling units are allowed on RM-2 property. He believes that the ADU requirement does not apply in this case. This application is in compliance to allow up to three units, but where the help is needed is in the fact that the lot is being covered up more; the request is not in the required rear yard at all. There is relief needed on the plate and some relief needed relative to the size of the house. This application is to create a garage/workshop for the young family, a supplemental garage for one of the tenants on the second floor and two small studio apartments.

Mr. Van De Wiele asked staff why this would be an accessory dwelling unit if the property is zoned multi-family and not just two or three apartment buildings. Mr. Chapman stated that there is one unit that is a single family detached home which has its own minimum lot area requirements, the other unit would be considered a duplex over an apartment. Either way, if there is a duplex and a single-family home there would not be the lot area requirements; an apartment building with three units could be built.

Mr. Van De Wiele asked Mr. Chapman if there could not be two buildings with one having one apartment and one having two apartments on a multi-family zoned lot. Mr. Chapman stated that an apartment would be a building with three or more units.

Mr. Neal stated that this application was reviewed by Jeff Taylor at the City, so he has gone through the process of requesting a zoning clearance letter, and then made the application at INCOG. Mr. Neal stated that as he understands this, the City is the ultimate decision maker and the City told him this was the way to proceed.

Mr. Bond asked Ms. Blank if the Board could proceed on this request today. Ms. Blank stated that she agreed with Mr. Chapman, that there is a request for increased footprint

coverage. She thinks that it is presented that there is one ADU on the site plan, but the neighbor's letter states there is going to be two units. The rules regarding the ADUs, an additional regulation say that no more than one accessory dwelling unit is allowed per lot and that it applies to all ADUs.

Ms. Radney asked Ms. Blank if it is referring to structures or is it referring to doors? This would still be just one structure. Mr. Chapman stated that this speaking about dwelling units, so it would be units arranged to serve a single family. Mr. Chapman stated that he understands there would be two separate units with separate kitchens, bathrooms, entrances. Ms. Radney stated she understands what is being said, but what she is asking about, as it relates to the Code around an accessory dwelling unit, that the unit is specified in the Code as a single-family unit. Does the Code say that explicitly? Because if the discussion is about just the number of buildings when loosely referring to an ADU, and there can be three doors by right, she agrees with Mr. Van De Wiele that this can be the owner's by right. She thinks this could be creating a precedent.

Mr. Neal stated that his understanding is that one ADU is restricted to RS, he does not think it applies to RM.

Mr. Van De Wiele asked Ms. Blank, Mr. Wilkerson, and Mr. Chapman if that statement is something they would take exception to? Mr. Chapman stated that he does because in Section 45.030-D specifically references where ADUs are allowed, one of which is referenced as allowed by right in the RM District but there are further supplemental regulations stating that one is allowed per lot. To Ms. Radney's point, a dwelling unit is defined in the Code as a room or a group of rooms arranged, intended, or designed as a habitable unit containing kitchen, bath, or sleeping facilities for not more than one household living independently of any other household. The other issue, it is possible that permitting could make a different determination that this could be a different type of building that may not need relief, but to the best of his knowledge if the applicant is before the Board for the 40% rule it would be called two accessory dwelling units.

Mr. Van De Wiele asked Mr. Chapman if the thing that Mr. Neal is trying to build, if that was the principal structure if there needs to be more than two to be a multi-family. Mr. Chapman stated that three is a tri-plex and beyond that it can be an apartment. Mr. Van De Wiele asked if the thing Mr. Neal wants to build be the principal use and the thing that exists be the accessory dwelling unit? Mr. Chapman stated an ADU is accessory to a single-family home as defined in Section 45, that would be accessory to a duplex.

Ms. Radney asked if the key is that the structure that is existing, its current use is a single-family home, but if it were a duplex the owner could add another unit by right. This needs to be clarified and the Board needs to understand.

Mr. Van De Wiele stated that there has to be some way of navigating through this situation or maybe have another requested relief, so he suggested a continuance to April 27th.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to allow the floor area of a detached accessory dwelling unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A and Section 45.031-D) to the April 27th Board of Adjustment meeting; for the following property:

LT 9 BLK 7, CENTRAL PARK PLACE, City of Tulsa, Tulsa County, State of Oklahoma

23102—Matt Emmons

Action Requested:

Special Exception to increase the permitted driveway width in an RS-2 District. (Section 55.090-F.3). **LOCATION:** 4112 East 62nd Street South (**CD 8**)

Presentation:

Matt Emmons, 8446 South Peoria, Suite B, Tulsa, OK; stated his client would like to expand the existing driveway to include a circular drive, similar to several neighbors, for ease of access to the front door.

Mr. Bond asked Mr. Emmons if the circular drive had already been installed. Mr. Emmons answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Wilkerson stated that if the Board recommends approval for this request there should be a requirement to have a permit for construction of a driveway in the right-of-way, because this does not appear to meet the City standards for driveway construction in the right-of-way.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to increase the permitted driveway width in an RS-2

District. (Section 55.090-F.3), subject to conceptual plans 6.6 and 6.7 of the agenda packet. The driveway is to meet City specifications and the applicant/homeowner is to obtain a construction permit for the driveway improvements and the driveway, as constructed as well as any additional steps to be taken in compliance with the permit occur in accordance with the permitting regulations. 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 4 BLK 2, LIVINGSTON PARK SOUTH RESUB PRT LIVINGSTON PARK B1, City of Tulsa, Tulsa County, State of Oklahoma

23104—Kyle Gibson

Action Requested:

Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Special Exception to permit the alteration, expansion, or enlargement of a non-conforming structure (Section 80.030-D). **LOCATION:** 1504 East 20th Street South (**CD 4**)

Ms. Shelton recused at 2:00 P.M.

Presentation:

Kyle Gibson, 551 South Quaker 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. Gibson if there was an existing garage on the subject property. Mr. Gibson answered affirmatively. Mr. Gibson stated there is an existing accessory dwelling unit and it will not be increased; the footprint nor the overall site will be increased.

Mr. Van De Wiele asked Mr. Gibson if this project was a tear down and rebuild. Mr. Gibson answered no stating that it is an addition of a second story.

Jason Gibson, 551 South Quaker Avenue, Tulsa, OK; stated the second floor is being added with a new roof being added to the existing roof, as shown in drawing #1. In drawing #2 there is new gable above the dorm window on the first floor. In drawing #3 both gables shown are new gables. In drawing #4, that is it looks today.

Mr. Bond asked Mr. Gibson if he had any discussion with the neighbors. Mr. Gibson stated that he did discuss the project with the neighbor to the south and there were no issues.

Mr. Wilkerson asked the Board to obtain confirmation about the stairs on the side of the ADU, are they new, are they existing? Mr. Gibson stated the stairs are existing.

Ms. Radney asked Mr. Gibson if there was any dwelling space being added to the first floor or is all the dwelling space contained on the second floor? Mr. Gibson the dwelling space will be contained on the second floor, everything on the first floor is existing and it is not being extended. Ms. Radney asked Mr. Gibson what the first floor is being used for now. Mr. Gibson stated the ground level where the windows are located as shown in drawing #1 is existing enclosed patio. Ms. Radney asked if that was the storage for the garage. Mr. Gibson answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Bond, Brown, Radney, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; none absent) to **APPROVE** the request for a Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Special Exception to permit the alteration, expansion, or enlargement of a non-conforming structure (Section 80.030-D), subject to conceptual plans 7.13 and 7.14 of the agenda packet. There is a limitation of a single accessory dwelling unit on the subject property. 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-3, BURNS SUB L5-6 B28 PARK PLACE, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 2:13 P.M.

23105—Eller & Detrich – Nathalie Cornett

Action Requested:

Variance to permit a fence to be located within the right-of-way of South Columbia Place (Section 90.090-A); Special Exception to permit a fence that exceeds 4-feet in height in the street setback (Section 45.080-A). **LOCATION:** 2738 East 51st Street South (**CD 9**)

Presentation:

Nathalie Cornett, 2727 East 21st Street, Suite 200, Tulsa, OK; stated the Variance request is to allow an existing fence to be located in the right-of-way and the Special Exception request is to allow the existing fence to exceed four feet in height. The property is the Rich and Cartmill building. A 6-foot-tall wrought iron fence was installed on the west property boundary after complaints from the building tenants of unsavory activity in the parking lot, vehicle theft, trash accumulation and unlawful transactions. The fence was installed to provide a full perimeter around the parking lot for the tenants.

Mr. Van De Wiele asked Ms. Cornett if the fence was gated off on 51st Street. Ms. Cornett answered no, stating that the fence does cross over the sidewalk and connect to the trash enclosure.

Mr. Van De Wiele asked Ms. Cornett why the sidewalk was cut off. Ms. Cornett stated the sidewalk was cut off because the new fence was connected to the existing fence that was setback. After the fence was installed, it was discovered that the property line ran through the middle of the sidewalk, the property line actually sits at the curb. The fence could not be installed at the property line or inside of the property line because of how the parking lot is arranged and the length of the parking stalls. The sidewalk itself is a sidewalk to nowhere, there are no sidewalks going into the neighborhood and the sidewalk stops at the southern property boundary and it does connect to the sidewalk along 51st Street. Long before Rich & Cartmill there were very large bushes that acted as a barrier, so the sidewalk was not accessible at that time either; the sidewalk is really an extended curb. The location of the property line running through the sidewalk is what results in the hardship. The material of the fence does not affect any visibility along Columbia, it does not affect any connectivity, there are no other sidewalks that it connects to, and there are no sidewalks in the neighborhood. Since the installation of the fence there have been no more reports of the former unwanted activity happening in the lot.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated he is in favor of the Special Exception request but is struggling with the hardship for the Variance request.

Ms. Radney stated she is a hard no vote for this request. She is extremely familiar with South Columbia Place and would not be surprised if in the future that there is a development south of the subject location that will in fact connect the subject sidewalk to a real sidewalk system. To her this is delaying the inevitable. She understands the need for a fence, but she thinks the parking lot needs to be relined.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-1-0 (Bond, Brown, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to permit a fence to be located within the right-of-way of South Columbia

Place (Section 90.090-A); Special Exception to permit a fence that exceeds 4-feet in height in the street setback (Section 45.080-A), subject to the fence being of the materials and location “as constructed” and the photos shown today. There is to be a license or removal agreement as required by Code. The Board has found the hardship to be the location of the existing sidewalk that does not provide connectivity to any adjoining property or any sidewalk on any adjoining property. The fence is partially constructed on the applicant’s property and partially on the City’s right-of-way making the location of the fence problematic from a location on the property line standpoint. 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. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

LT 1 BLK 1, ELMCREST PARK RESUB PRT L3&4 BETHEL UNION HGTS, BETHEL UNION HGTS, City of Tulsa, Tulsa County, State of Oklahoma

23106—Mike Foshee

Action Requested:

Variance to allow the floor area of a detached accessory building to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A). **LOCATION:** 4936 South 24th Place West (**CD 2**)

Presentation:

Mike Foshee and Melissa Marx, 4936 South 24th West Place, Tulsa, OK; stated he would like to have a storage building in the back yard. He had two storage buildings and

has since removed them and now he would like to replace them with one metal storage building.

Mr. Bond asked Mr. Foshee if the storage building would have a garage door. Mr. Foshee stated that there will be one garage door and one walk through door.

Ms. Radney asked Mr. Foshee if he would be parking any vehicles in the storage building. Mr. Foshee answered no, but he will be parking lawn equipment inside.

Mr. Van De Wiele left the meeting at 2:38 P.M.

Mr. Bond asked Mr. Foshee if he had spoke to any of his neighbors. Mr. Foshee stated that he has spoken with several neighbors and there is no opposition to his request.

Ms. Shelton asked Mr. Foshee about the height of the structure. Mr. Foshee stated that the height will be 13 feet at the peak of the roof.

Mr. Brown asked Mr. Foshee if the building would be insulated. Mr. Foshee answered no.

Ms. Radney asked Mr. Foshee if he had an attached garage. Mr. Foshee answered affirmatively stating that it is a single car garage.

Mr. Van De Wiele re-entered the meeting at 2:40 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Brown stated the Board's documents state the applicant is requesting 840 square feet but a 36'-0" x 24'-0" is 864 square feet. Mr. Brown stated he does not object to the size, but the number needs to be correct.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow the floor area of a detached accessory building to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A), subject to conceptual plans 9.10 and 9.11 of the agenda packet. The accessory structure is not to be built inside the street setback. The structure shall not exceed 864 square feet in size. The Board has found the hardship to be that the proposed structure is to replace previously existing buildings that were not built to

shelter today's vehicular equipment. 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:

LOT-1-BLK-14, HILL HAVEN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Ms. Radney stated she appreciates that today's applicants for reaching out to their neighbors, particularly the case located on South Oswego.

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There being no further business, the meeting adjourned at 2:40 p.m.

Date approved: 4-27-~~2020~~²⁰²¹

Arthur J. Baul
Chair