

**BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1314
Regularly Scheduled Meeting
Tulsa City Council Chambers
175 East 2nd Street, 2nd Level, One Technology Center Tuesday,
April 11, 2023, 1:00 P.M.**

Meeting No. 1314

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS
Barrientos Radney, Vice Chair Wallace	Bond, Chair	A. Chapman K. Sawyer D. Wilkerson	A. Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on, 2023, at 10:22 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

Ms. Radney called the meeting to order at 1:04 p.m. Mr. Bond was not able to attend, and she was acting in his stead. As Chair, in order to be able to approve a request before the Board, we are required to have a majority of votes of three that are in the affirmative to support such a motion, which would mean that today you would have to have a unanimous decision in order to for your request to be approved. If at this time, if you would prefer to have your application considered by a full board, we will liberally consider those Continuances and you would need to just speak with City Staff over here where you check in to be able to have that request for a Continuance. That having been said we are going to have some Continuances that we will process, but first we will have some remarks from the City.

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

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MINUTES

On **MOTION** of **Barrientos**, the Board voted 3-0-0 (Barrientos, Radney, Wallace “ayes”, no “nays”; no “abstentions”) to **APPROVE** the **Minutes** of February 28, 2023 (Meeting No. 1311).

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NEW APPLICATIONS

23509 - Edgar Lopez

Action Requested:

Special Exception to permit the expansion of a structure with a non-conforming street setback in the RS-1 District (Section 80.030-D) **Location:** 3313 S. Birmingham Ave. E. **(CD-9)**

Presentation:

Edgar Lopez, P.O. Box 472121, Tulsa, Oklahoma, 74147, stated that his application is to expand the square footage of the garage. The new site plan is the footprint of the area he is trying to expand. The house has a 1,697 square feet footprint as it is and only has two bathrooms, so we are trying to turn that existing garage into a new master suite. He wanted to do the garage on the side like the drawing shows. So, if you go up on the screen, it is going to give you a layout of what we are trying to accomplish right there. That is the new layout. So, the existing garage is at twenty by twenty, which is four hundred square feet. The new footprint that we are going to be tied into that building is around 723 square feet, which can include the new garage, the master suite, bathroom, and closet. On the exterior, we are going to match the existing style house and everything.

Ms. Radney asked if it would not be coming any closer to the street than the existing house.

Mr. Lopez stated that was correct. On the new site plan, you can see it. The Code states that it must be thirty-five feet away, but the house is twenty-five feet.

Mr. Barrientos asked how many feet are you within the building line.

Mr. Lopez stated that the house was built around 1950. It is twenty-five feet.

Mr. Chapman stated that Staff could provide a little bit of context to clarify his point that the 25-foot building line was the original platted subdivision, and the zoning came in later as RS-1.

Ms. Radney asked if on the west side the fact that the new structure is encroaching past the 10-foot building line that is not before us, Mr. Chapman. They do not need relief there also.

Mr. Chapman stated he would not need it from this Board. It would be a private covenant at this point.

Ms. Radney stated that there is 5.5 feet.

Mr. Lopez stated that they only require it on that side. He only needs to be five feet from the property line.

Mr. Barrientos asked if he had talked to the neighbors.

Mr. Lopez stated that he had, and he had brought one person who is his neighbor and they sent a letter. He did talk to everybody that he knew, and they did not have any problems because the house had been abandoned for 10 years. He bought it and it is going to be his property and they are trying to improve it from 1,697 square feet to 2,400 square feet of living space and he is making it one level.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Wallace stated that he did not have any objections to what he was seeing. He was struggling to get past the 10-foot building line, but that was not our deal. There is an existing non-conforming structure that works. He did not have any issues.

Ms. Radney stated that they had done a good job of making sure that the new addition would conform with what would have been the old the previous platting, so she was inclined to support it as well.

Board Action:

On **MOTION** of **Barrientos** the Board voted 3-0-0 (Barrientos, Radney, Wallace “ayes”, no “nays”; no “abstentions”) to **APPROVE** a Special Exception to permit the expansion of a structure with a non-conforming street setback in the RS-1 District (Section 80.030-D), per the Conceptual Plans show on page 2.9 on 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-13-BLK-1, TIMBERLAND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23510- WAGONER - August Wakat

Action Requested:

Appeal of the Administrative Decision by a Neighborhood Inspector in Case 69279-2023 that the subject property is in violation of sections 60.020-A, 70.080-A, 80.040-B.2, and 80.040-F of the City of Tulsa Zoning Code, in accordance with Section 70.140. **Location:** 23780 E. Admiral Pl. **(CD 6)**

Ms. Radney stated that she had been advised the applicant agrees to **Continue** this matter to the April 25, 2023, with the City Board of Adjustment.

Presentation:

The applicants left the meeting.

Interested Parties:

No interested parties were present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 3-0-0 (Barrientos, Radney, Wallace “ayes”, no “nays”; no “abstentions”) to **CONTINUE** this Appeal of the Administrative Decision by a Neighborhood Inspector in Case 69279-2023 that the subject property is in violation of sections 60.020-A, 70.080-A, 80.040-B.2, and 80.040-F of the City of Tulsa Zoning Code, in accordance with Section 70.140, until the April 25, 2023 Board of Adjustment meeting.

For the following property:

04-19-15 A TRACT OF LAND BEING A PORTION OF THE W 10.14 AC OF L-1 DES C COMM FROM THE NW CORNER OF SD TRACT ON A BEARING OF S 01 DEG 35'25" E A DIST OF 283.13' TO POB - N 88 DEG 45'34" E A DIST OF 660.91' TO A PT ON THE EAST LINE OF TH EW 10.14 AC OF SAID L-1 -S-01 DEG 32'28" EA DIST OF 385 64' TO PT ON THE S LINE OF SD L 1 - S 88 DEG 40'38" W A DIST OF 660.57' TO PT BEING THE SW COR OF L-1 - N 01 DEG 35'25" W DIS OF 386.59' TO POB CONT 5.86 AC (W2 OF L-1 CONT 10.14 AC) CITY OF TULSA, COUNTY OF WAGONER, STATE OF OKLAHOMA

23511 - Blake Boswell

Action Requested:

Special Exception to allow a Small (Less than 250 person-capacity) Commercial Assembly & Entertainment Use in the IM District (Sec.15.020, Table 15-2)

Location: 1217 E. Admiral Boulevard **(CD 1)**

Presentation:

Blake Boswell, 10217 South Granite Avenue, Tulsa, Oklahoma 74137, stated that he was there to represent the property owner of this project. He represented them as an Architect. This location is an existing building at about Admiral and Peoria. It is about a block down from a Topeca coffee shop and then it is about a block away from the new BMX USA headquarters. The existing facility has been there for quite a while. The building owner wants to reuse the spaces there. They are not really planning to do a whole lot with the building, keep it in its existing condition. They are trying to reuse what is already there without tearing down and doing new construction. The existing facility does have two restrooms within it and based on the size of the space itself. It is a small event space. They have done a full code analysis and review of it, and it meets the current building code, and the occupancy will be limited to about sixty-three occupants. The event space itself is going to be small for more intimate smaller venues and they are primarily going to be used for indoor live music and entertainment.

Ms. Radney asked if this property was within the Downtown Business District overlay.

Mr. Chapman answered that it is not, and it is not at the Central Business District (CBD) that is its zoned IM.

Ms. Radney asked if he could tell them a little bit about the occupancy that you are looking at and your strategy for parking.

Mr. Boswell stated that there is currently not any parking on the property. But they are allowed to have on street parking on Admiral. They have done the calculations so we can fit the required parking. They can only get sixty-three occupants for the space. We can get the parking on the street. There is an exhibit with a site plan where we designate the park areas. They have designated the striped areas is what has been calculated for parking that we would be required to have.

Ms. Radney asked if that parking has shared use with the other building owners and occupants on that street.

Mr. Boswell stated that he believed that would be shared with the other property owners.

Ms. Radney asked if they had any facility for on-site parking at all.

Mr. Boswell stated that there is an existing gravel lot just to the east of the property which is indicated on the site plan that he believed was on the same property. There was an access drive to it, but the owner is not currently using the car park. Their desire is to use street parking only.

Mr. Barrientos asked what kind of use they have in this building. Is it an event center?

Mr. Boswell stated that it is a small concert venue.

Mr. Barrientos asked if he had talked to any of the neighbors.

Mr. Boswell stated that his client has been in contact with all the property owners and there have not been any objections. He believed the owner owns a bunch of these properties in this same area.

Ms. Radney asked Mr. Chapman if a parking study would be required for the use that they are requesting.

Mr. Chapman stated that given the size of the use, he thought that the Permit Center has already reviewed it and you are allowed to utilize parking spaces on street. He thought it was twenty feet if you are adjacent to the street. For each twenty feet of on-street parking that is allowed out there. You can count that one against your parking requirement. He believed Permitting has reviewed that so it would meet code.

Mr. Wallace stated that it was 1,694 square feet.

Ms. Radney asked what he anticipated as the hours of operation.

Mr. Boswell stated that it was primarily in the evenings.

Mr. Chapman stated that they are required to have seven spaces in the frontage out there is wide enough they could have more than that.

Mr. Wallace stated that they showed that they have fourteen.

Ms. Radney stated that it would be for evening uses. What do you envision please? The existing businesses that are adjacent to you are primarily daytime use.

Mr. Wallace stated he did not know if this complicates things or not, but the Board did approve this property parking not a year ago, and he did not recall if it was the same property or the neighbor.

Mr. Chapman stated that he thought it was the same lot. It was a different building. They did alternative compliance for dispensary right off the top of my head he thought they were only required to have two or three spaces and they were able to use on-street parking as well.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Wallace stated that he did not have any issues. He liked seeing these facilities get used. He mentioned the other project because he did not know how that plays into all of this and if that facility still has two spots. Does that alter what they the fourteen or whatever, but Admiral is a wide boulevard that makes sense to me to have some off-street parking.

Ms. Radney asked if there is a legal parking that extends further to the west on Admiral Boulevard beyond Owasso.

Mr. Chapman stated when that dispensary case went in front of the Board, he reached out to City Streets and Stormwater asking about that and he did not really have any. He thought on occasion that the folks that Topeka parked across the street in some time over the curb. They did not want to encourage that. He did not think they had any objections along those lots that are fronting Admiral immediately outside the buildings.

Ms. Radney asked if the parking is limited to the north side of Admiral Boulevard.

Mr. Chapman stated that was correct.

Ms. Radney stated that it feels a little bit like double counting to me, but she would acknowledge that she remembered advocating for this voting in the affirmative. She did like to be internally consistent. This is a different use and whereas the argument before was that there would not be much traffic and limited to the to the existing staff of just a few people and one or two people at a time. This is not exactly bad. It was hard to persuade herself with it about the same outcome using exactly the opposite logic. She would defer to the other Board members to advocate for this. She could be persuaded.

Mr. Wallace stated that what is challenging too, is that the way that code reads it is 250 persons or more. It is not a large facility. And even if it is used during the day, he was thinking of downtown where you have event spaces and people just find parking and they walk, or like Brookside. From an urban planning standpoint, tying parking to a facility in an urban setting becomes challenging. These facilities will never get turned over and functioning for what they have the infrastructure. He is advocating for it from

that perspective. He thought there were not a bunch of residential around and it is fronted by I-244. They are trying to make what has been an undesirable area desirable again, and Topeka has been one of the first in the corner. It is nice to see that progress.

Mr. Barrientos stated that he also agreed with what Mr. Wallace was saying. Like Brookside, people just park on the street. This is an area that needs this kind of improvement, and he was also inclined himself to support it.

Ms. Radney stated that they had arguments that this is a useful activation of what would otherwise be a very dark and unused area in the evening time when they are proposing to do business. We are advocating that the street parking should be adequate for people who are engaged in a downtown venue that where they are accustomed to having to walk to their wherever their destination is, and we do also have the advent of Lyft and Uber effect, or many people would not drive into their destiny downtown. This is her day for disclosures because it just struck her as she was really looking at the map that she was actively involved in some business that is within this sort of Crutchfield catchment area. She disclosed that she was aware of some other sites that are adjacent to this, but again, she had absolutely no engagement with this application that was in front of them, and thusly she was willing to agree with her fellow Board members and be inclined to support it. What about a time limit? Where are we in terms of that?

Mr. Wallace asked about the usual 10 years. That would be fine with him.

Board Action:

On **MOTION** of **Wallace**, the Board voted 3-0-0 (Barrientos, Radney, Wallace all “ayes”, no “nays”; no “abstentions”) to **APPROVE** a Special Exception to allow a Small (Less than 250 person-capacity) Commercial Assembly & Entertainment Use in the IM District (Sec.15.020, Table 15-2) per the Conceptual Plan 4.9 of the Agenda packet. Subject to the following conditions, this **APPROVAL** will expire in 10 years’ time.

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 25 THRU 30 BLK 4, BERRY ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23512 - John Anderson, Experian LED Signs

Action Requested:

Variance to permit a dynamic display sign within 200-feet of a Residential District
(Sec.60.100-F) **Location:** 10032 S. Sheridan Rd. **(CD 8)**

Presentation:

WITHDRAWN BY APPLICANT.

23513 - Cathy Craig

Action Requested:

Special Exception to increase the permitted driveway width in a Residential District (Section 55.090-F.3) **Location:** 1936 E. 36th St. **(CD 9)**

Presentation:

Cathy Craig, 1936 East 36th Street, Tulsa, Oklahoma, 74105, stated that this is our personal residence we are wanting to put in a circle drive. There is a circle drive on the lot next door which is now an empty lot. The reason for the circle drive or the continuation of our drivers 36th Street is extraordinarily busy and has gotten busier. It is difficult at times to get out onto the street. We have elderly parents, and late teens, early twenty drivers and she has had to stand out there and watch. The purpose is to be able to get on and off 36th street without hurting ourselves or somebody else.

Ms. Radney asked if she had an opportunity to speak with the City Engineer about how this driveway would be constructed and or about the City about a right-of-way agreement.

Ms. Craig stated that she had not. They hired somebody to build the driveway, somebody who does a lot of driveways in the City. He did not think there would be an issue with getting permits. He started and then we found out we could not get a permit. So, we halted everything and went back and forth. And Mr. Chapman was helpful in making sure that they had everything correct.

Ms. Radney asked Mr. Chapman if he could help with a little insight into the right-of-way issue as it is.

Mr. Chapman stated that they put that standard language that they need to get a right-of-way work permit whenever there is something with a driveway. That is also a courtesy that a lot of contractors fail to go through the process of getting that permit but to his understanding, he thought your contractor and you were already in that process and so it is just following through with the department application.

Ms. Craig stated that they were stopped in the permit application department. So whatever else we must do, we are willing to do what is needed but we were told this was our next stop.

Mr. Chapman stated that the biggest thing is just when they pour concrete there are engineering standards on what that is supposed to look like.

Ms. Craig stated that what they have currently done is what we see pictured on 6.6.

Ms. Radney stated that the plan would be with the appropriate City approval to build it in this location as we see here.

Mr. Wallace asked if Mr. Chapman would show page 6.9. So, the existing is 15.8 feet and then the proposed is eighteen feet, but then it shrinks down to eleven feet.

Ms. Craig stated that the driveway is narrow as it gets up into the yard. They can certainly make it bigger, but we were trying to adhere to what she understood to be the amount of concrete for our lot. So, the Variance she was told was to get a Variance on how much concrete we can have on the lot which was not very much.

Mr. Chapman stated that there is a limit of twenty-seven feet in the right-of-way. So, here, and then a width of thirty feet once you get on the lot.

Mr. Wallace stated that it looks like about thirty-three feet, or a little less. So, we are looking for six feet. So, do you have eleven and then what is the wider drive-in front of the house? There is an arrow but there is no dimension.

Ms. Craig stated that she thought it was eleven feet all the way around and then eighteen feet or the entrance.

Mr. Chapman stated that he thought he ballparked it and that was why he put approximately forty-two.

Ms. Craig stated that is a one-car garage in the front and then the driveway goes around the back to the two-car garage.

Ms. Radney asked Mr. Chapman if they need to specify what relief we are giving and all the varying points that are relevant, for their permit.

Mr. Chapman stated that he thought it is easiest for permitting if you are going to approve it to just read it as increase the permitted driveway width per the conceptual plans subject to all right-of-way and permits at the City. Unless you want them to shrink it or something.

Mr. Wallace stated that they were looking for six additional feet to the right-of-way and twelve additional feet within the setback.

Ms. Radney stated that to make sure that she understood this correctly, if this measure is approved, then everything that is constructed here that we would be permitting inside the right-of-way would also attach if we did it in perpetuity. It is going to be attached to

the abstract of this property. So, at no point in the future should there be a title issue because it is built in the right-of-way.

Mr. Chapman stated that he was not a title examiner. But typically, you must call our office. It is not going to follow on that on an abstract. Every driveway connects to the right-of-way.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Radney stated that she thought that it looked like reasonable accommodation given that this is a major arterial street and that she could not imagine that it would not be a greater hazard to be backing out or trying to turn around. Especially where this is located. This seems like worthwhile accommodation for both the public and the property owner.

Mr. Barrientos stated that this will help to get out of this property, being 36th Street or the traffic.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 3-0-0 (Barrientos, Radney, Wallace all “ayes”, no “nays”; no “abstentions”) to **APPROVE** a Special Exception to increase the permitted driveway width in a Residential District (Section 55.090-F.3) per the Conceptual Plans shown on page 6.9 of the Agenda packet. Subject to the condition that they obtain a right-of-way permit from the City of Tulsa.

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 3, HIGHLAND PARK EST AMD B1-3 & 11-12, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23514 - Mike Thedford, Wallace Design Collective

Action Requested:

Special Exception to permit an existing Group Living/ Emergency Protective Shelter Use in the RS-3 and CS Districts (Sec. 15.020, Table 15-2) **Location:** 7318 E. Pine St. **(CD 3)**

Presentation:

Mike Thedford, with Wallace Design Collective, 123 North Martin Luther King Jr. Boulevard, Tulsa, Oklahoma, 74103 stated that part of this application is a continuance of an existing non-compliant use that was built about 14 years ago. As far as scope goes for the current project, it is the addition of a storage warehouse facility on the southern end of the property. It has access from Reading Street. So, what you have is a site plan that the concept really tries to lay out what is existing the majority of which will remain. It will connect to the existing property. They will comply with all the engineering standards of the City of Tulsa as far as drainage, detention, etc. We could get a LOD just prior to the meeting here and we do meet the dispersal standards. It really a conceptual LOD, but it gives you an idea of what Section 40.130 was the need to provide proof of dispersal standards and we can provide that but the primary applications for the use of the emergency protective shelter.

Ms. Radney asked if he had any engagement with the adjacent property owners or the neighborhood.

Mr. Thedford stated that he had an initial engagement with a property owner to the west. He owns a vacant lot that is adjacent to the dead end on 73rd, which is across the street at the dead end. His primary concerns were related to, and we provided some clarification as to the orientation, the proximity of this project versus what his concerns were, and his concerns are more related to property owners to this to the north of them and directly adjacent. He had further complaints about the public throwing trash and dumping in that area. But his assessment was unrelated to this project of this application. We had some more engagement with a property owner on the east side of the property which along Reading the second house to the north. They built the house in 1950. There were some issues with there have been historical issues with drainage and the area before, but they worsened when they built the facility. They have a garage along that western boundary of their property in between the next property and the water tends to pool in that area. We visited the site prior to a couple of hours ago. And there might be easy for many to fix some other flooding issues. It is not necessarily flooding their house, but it has caused issues with their garage facility that was built in the seventies. But the owner's representative from the owner, Mark Lee with DHS, is here. When he spoke to him, he stated that he feels like there might be a quick remedy that we can work out outside of the meeting. It is similarly unrelated to the application but obviously it is an opportunity to address some issues. Separately the storage facility

will meet all the requirements and it will divert some of the water away from that area. And the retention will go out along Reading. So, the detention is just to the south.

Interested Parties:

Jim Mefford, 7529 South Braden, Tulsa, Oklahoma, 74135, **and Stacy Mefford**, 1336 North 75th East Avenue, Tulsa, Oklahoma, 74115. Ms. Mefford stated that her property backs up to this property. We have a two and a half car garage. We have a shop back there and since they built the facility, that garage now floods every time we have significant rain, and it never was flooded before. My parents bought this house in 1955. My family was born and raised there. She knows the history of it.

Mr. Mefford stated that when the facility was built during construction, they did quite a bit of dirt work and changing the grade. Before it was ever finished, we had rain and we ended up with about probably three inches of standing water in the garage. We contacted the developer that was putting it in. He came over to look at it. We finally worked on a deal where he changed some of the sheet rock and tried to help the cost of what was damaged. The problem was he said he would take care of it for the future, and we would not have that issue. And we have been having that issue. The rain may not be as deep in their standing water or may not be as deep but what our concern is if they go in there and they just add more concrete or whatever they are going to do is that we are still going to continue with the flooding. And the flooding is bad enough that it rots our wood fence. She has had to replace it a few times already. There has been black mold in the garage from being flooded. It has just been a mess and that is our concern that if they do not fix the drainage or add to the drainage, it will just make it worse.

Ms. Mefford stated that she would like to add that this is a residential area on all three sides of this. We do not need additional traffic going through there and it is not Reading, it is on Newton where they are wanting to put a driveway.

Ms. Radney asked if in your conversations with the representatives that are here today, do you feel like you have reached a sufficient mutual understanding in terms of being able to work together as good neighbors going forward. Do you feel like there is additional dialogue that you need to have or a decent result?

Mr. Theford stated that they had just heard about this. We feel like we have based on the information we have; we sent an email to the prior engineer for the project, and we went to the site a couple of hours ago we feel like there might be a solution. We checked the engineering drawings from the original facility and the berm was added to divert water during construction. Our interpretation of what happened is that the berm was never taken down to allow the area to drain away from there. But the owner representative from DHS is here. He is committed to a resolution.

Mike Lee, Supervisor for the State of Oklahoma for DHS stated that this is one of my properties. He apologized. It is the first time he had heard of this, or he would have fixed it. He gave his word it will be fixed. The facility is going to be used for maintenance. The facilities are going to have very low traffic. We had a large maintenance facility at the Skyline Building here in Tulsa that was sold and we have no maintenance shop now. He will take this up with our people. We have the equipment and workforce to do this. Again, apologize to Ms. Mefford and this will be addressed.

Ms. Radney asked when you encounter these kinds of situations and she is saying this completely from a position of no knowledge, but when the state encounters these sorts of situations what is usually your standard practice for being a good neighbor and addressing these concerns and address adjacent property owners. Is there a process that they would have other that they should have known about?

Mr. Lee stated that he was unaware of any process, but when we do have this problem, we immediately address it and try to make complainants comfortable with what we do.

Ms. Radney stated that her only concern is we were also going to read into a Motion that this decision is not injurious to the neighborhood, or otherwise detrimental to the public welfare and actual flooding is detrimental.

Mr. Wallace stated on a personal note, he has a property that the City built some streets on and was flooding our business. It is not anywhere around here but we found the right people to speak with and that is hard to navigate for citizens that do not understand where to go. As soon as we got the right people connected, things happened. They are different entities, but he did feel like there is good faith here. But as far as how we make sure that everybody is being accounted for, that is the next portion of our discussion.

Ms. Radney stated that the Board does not have any jurisdiction over water runoff. However, what we are is a place where the public can come and express their concerns. And we hear them. To the extent that you have had an open conversation with the adjacent property owners, she takes your word.

Mr. Lee stated that there would be a phone call as soon as he left, and we will get on this immediately. He gave his word.

Mr. Mefford stated that he wanted to say that they did approach the state. We did approach the state and the City when this was happening, and they were supposed to try to take care of it, but it seems like no one in the state wanted to talk to you about it. So, we did try.

Mr. Theford stated that in response, when we have these applications here, trying to respond as quickly as hearing this morning of concerns was not ideal. But we did go out

to the site with his engineering principle for his firm, and he feels like there is a solution. Instead of acting hastily to try to address it, let us try to address it for the long term.

Ms. Radney stated that this is the most optimal time for this issue to come up again and you to be able to take the most efficient way to address their concerns and get what you need done.

Comments and Questions:

Mr. Wallace stated that he had full faith in Mike, Scott, and the state. That is the top people that will get it done. A civil engineer of all people does not want to be pushing water off on other private property. Now we need to get back to the Special Exception that part and it seems straightforward there.

Mr. Chapman stated that it was up to the Board if you want to do it per plan or just approve the use.

Mr. Wallace stated that his opinion would be approved of the use because the plan may have some just a little more zoomed in on the situation. Collaborating with the civil engineer in the state to resolve that other issue. That is not anything that we are going to solve today.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 3-0-0 (Barrientos, Radney, Wallace all “ayes”, no “nays”; no “abstentions”) to **APPROVE** a Special Exception to permit an existing Group Living/ Emergency Protective Shelter Use in the RS-3 and CS Districts (Sec. 15.020, Table 15-2).

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, for the following property:

W/2 NW NE SEC 35 20 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23515 - Kyle Gibson

Action Requested:

Special Exception to permit a Junk or Salvage Yard Use in the IM Zoning District (Sec. 15.020, Table 15-2) **Location:** 2471 E. Independence St. N. **(CD 3)**

Presentation:

Kyle Gibson, 551 South Quaker Avenue Tulsa, Oklahoma 74120, stated he wanted to construct a junk or salvage yard on the address stated on the application. The main concern is the school that is directly to the south. So, we want to make sure that we get all the screening and landscaping requirements buttoned up, and then the Special Exception so it is permittable per the zoning code through Special Exceptions.

Ms. Radney asked if he had an opportunity to talk to the neighbors about your application?

Mr. Gibson stated that they have not reached out to Tulsa Public Schools. The neighbors to the east and the west are other industrial uses. They have had no issues. They have not reached back out after the notice was served.

Ms. Radney stated that she saw in the comments that you are looking to have it as private consumers drop off materials from construction sites and then it says close to the public. Can you explain that just a little bit more?

Mr. Gibson stated that this is A to Z Hauling. They operate job site dumpsters, so they deliver the empty dumpster to the driveway or job site. Once it is filled, they come and collect it. What they want is the opportunity to not have to sift through it at the landfill or the Tulsa Indoor Dump, rather than bring it on to their site where they currently store their empty dumpsters and be able to pull recyclable material from it and separate it from the waste and then take that waste to the landfill and the recyclable material to recycling centers. They currently operate out of this site. This is their current office and storage for their empty dumpsters.

Ms. Radney asked if there was another office or agency where you would be talking about poisons and other toxic things that could happen in.

Mr. Gibson stated that they have reached out to them to discuss the current drainage situation, but it was to be clear that they are not interested in storing waste on site is just a processing point. And then, taking that immediately, no, overnight storage of waste on site.

Ms. Radney asked if these are going to be like inorganic materials so it is not like tree waste and other like trash that would be degradable. This is construction.

Mr. Gibson stated that this is drywall, shingles, and whatever demolition is going on at a current residential project, most of his jobs are through residential construction. So, typical waste from construction of the home. Currently no dumpsters arrive full on site. This is just for storage. As soon as a dumpster is full, they take it straight to the landfill, and then back to the site for overnight storage. But yes, he would like a transfer station is what is typically called in the industry. There is not really a use category for that and the zoning code, but he wants to be able to process on site and then move to landfills from there. It is permitted by right if you were to be strictly doing recycling on site that is permitted by right, but this is more geared toward a junk or salvage yard definition for the zoning code. Which takes us into special exception, but his main goal is to extract recyclable materials from the waste. But since we are dealing with waste, it is considered junk or salvage yard.

Ms. Radney asked what materials are being handled there that trigger that difference between recycling and what you are talking about doing.

Mr. Gibson stated that it is typical household waste, not specifically aluminum or a certain number on plastic. Anything that you have seen the dumpsters, he was sure in your neighborhoods where people just throw couches in there, things like that. But they are looking to you know if there is any wiring that was pulled from the house, they want to be able to collect that before then taking all the waste to the landfill. This would be an indoor facility with proper ventilation. This is not just processing in the yard. This is an 80 by 80 building which is what they are proposing. That may change. And that would be handled through Development Services, but this would be a pull-in door shut process, transferred to a larger dumpster, and then taken out.

Mr. Barrientos asked about the screening and landscaping.

Mr. Gibson stated that he has not gone all the way through Development Services with that. But he had been dealing with zoning code and the six foot is maximum height. If it is within the street setback, it is four feet, so he is looking for guidance from Development Services on exactly the screening requirements. The goal is to be at the front of the south end of the property nearest the road nears Independence. There is an existing fence directly against the sidewalk on the property line. Currently they are looking to move that fence back approximately eleven feet to get beyond the front setback. And then remove all the concrete within those 10 to 11 feet from the property line to the new fence line. And in that instance, they would then have room to meet the screening requirements by planting the trees and then building the fence. He did have a fence detail on sheet A101 that details the type of fence they are wanting to install a one-foot curb basically and then on top of that, an opaque fence whether that is wood or full masonry. There are different standards for varied materials. This will provide a nice buffer that is currently needed. Now existing is just a chain link fence and the school yard is right across. There is no large waste on site, but they are just empty dumpsters.

Bit of an eyesore and the client realizes that, and he wants to make this marketable to investors. He is fully committed to providing nice fencing for the site. Also, it doubles as security for his operations. Pushing that fence back to beyond the setback allows us to build a taller fence and make room for trees and bushes to be planted. Operations would be 8 a.m. to 5 p.m. He discussed with the owner if you have any concerns about traffic in a school zone. We are looking at minimal impact, twenty dumpsters absolute maximum per week coming in and out because most dumpsters sit on job sites for quite a while. Very rarely does he handle all of them at once in one day, he is not going to have maximum capacity going in and out of the site.

Ms. Radney stated that currently the business model is to provide the dumpsters and to provide the haul off and then take them to the dump, so this is just introducing an additional step between the landfill and the pickup.

Mr. Gibson stated that the goal being to extract recyclable materials instead of wasting potential profit. Currently he is only running about five times. He did say he has had his busier weeks are up to fifteen dumpsters coming in and out a week. He has thirty-five current existing dumpsters. He wants to increase that to fifty. He expects that would increase his traffic to potentially twenty per week.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Radney stated that they heard a lot of comment about what type of operations would be occurring here. But we do not actually have anything in writing necessarily what that would be. Is that something that we should take into consideration, she was asking this of Staff, or is that something that would be handled through permitting of those sorts of environmental materials someplace else?

Mr. Chapman stated that he thought the site plan has references to being what he is called the transfer site and being indoors, but some language on there that it not to be an auto salvage or something like that. just to make that clear. The site plan has enough detail on that, that it is understood what this is supposed to be but if you want to get into certain materials is not to be processed like a typically it is going to be in holes that might be helpful.

Mr. Wallace asked if her concern was health, safety, welfare, or aesthetics.

Ms. Radney stated that since it is a Special Exception, it could be permitted to run with the property in perpetuity in long pass this owner or operators use it. The only reason it gave her pause is that it is immediately adjacent to not only a school but a residential area. One of the things that always gives me pause in the City of Tulsa is how we have

large population areas that are just proposed, right literally right up against industrial sites and in this case, we are talking about the salvage yard. She stated that she was new to this, and this is the first request for anything of this type of use that she had encountered since she had been on the Board.

Mr. Wallace stated that he had not studied this in depth but from a health safety welfare perspective, if they have any hazardous materials or anything that is a whole other request and things that they must take up with Building Services Department so forth, so he was not too concerned with that. It is a transfer station. It is this kind of area where it is challenging to him is the City has kind of been like this for a long time. This is an IM district along the railroad. There has been a school there forever and that railroads been there forever in those neighborhoods had been there, so he is not saying harmony is here, but it has been harmonious for that area.

Ms. Radney stated that she did not have a good sense of how much more intensity is involved with this use. It is a permitted use with a Special Exception, but it is also a junk and salvage yard. It is across the street from the school. We do not see this zoning in other parts of town.

Mr. Wilkerson stated that from his perspective on this the idea of just any salvage yard at this location has a lot of questions. But since this is all indoors, what the applicant is submitting is that it is an indoor Waste Management Facility. We do not really have something in the code that is specific to that. But he thought part of your motion could include statements that said that that the management of that waste stream had to happen inside. He thought that says a lot for what this site ought to be 10 years from now. He would take some of the things that are super objectionable in these kinds of areas or when there is a pile of rubbish or metal scraps and over the tops of screaming fence and by keeping all of that inside you remove a lot of that objection.

Ms. Radney stated that all kinds of things are in buildings that get demolished. They just scoop it up and put it in the dumpster.

Mr. Wilkerson stated that the way he has understood this is the really the only thing that would be stored outside are empty containers. So, there would if you wanted to say something about outdoor storage being limited to empty containers and waste transfer inside a building he did not know if that helps or not, but those kinds of ideas I think are important to this Motion.

Ms. Radney stated that she thought they should have the freedom to operate between 6:00 a.m. and 8 p.m. and this should expire in 10 years. Is it out of the question for us to say that we absolutely bar the processing of hazardous materials?

Mr. Wilkerson stated that he thought it is more of an enforcement issue of just having someone out there and how do we do that? So, then what is hazardous material? To him that sounds beyond something that is enforceable and manageable here. There are plenty of regulations about handling hazardous materials from construction sites and recycling and all that stuff. It is not to say that you cannot do it and he just did not know that it adds any value.

Ms. Radney asked if the Board was in favor of no automobile salvage.

Mr. Gibson stated that they would store their operational trucks that do haul these dumpsters. He wanted to make sure that that would not create an issue.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 3-0-0 (Barrientos, Radney, Wallace all “ayes”, no “nays”; no “abstentions”) to **APPROVE** a Special Exception to permit a Junk or Salvage Yard Use in the IM Zoning District (Sec. 15.020, Table 15-2) per the Conceptual Plans shown on page 8.10 and 8.11 of the Agenda packet. Subject to the following conditions that there will be no automobile salvage, waste processing to be done indoors; empty dumpsters can be stored outdoors; the operation can be between 6:00 a.m. through 8:00 p.m.; and a 10-year expiration.

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, for the following property:

**BEG 831.25E SWC NW SW TH E220 N325 W220 S325 POB SEC 32 20 13,
FLEETWOOD INDUSTRIAL ADDN NO 2 INCL B15 MCLANE ADDN, City of Tulsa,
Tulsa County, State of Oklahoma**

23516 - Cody Fussell

Action Requested:

Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6) **Location:** 1227 S. Pittsburgh Ave. **(CD 4)**

Presentation:

Cody Fussell, 1227 South Pittsburgh Avenue, Tulsa, Oklahoma, 74112, stated that he and his wife want to convert a portion of our garage to an Accessory Dwelling Unit. They want to take one bay of the garage and convert it to an apartment. There are also existing quarters apartment that are on the backside of the garage. It will be incorporated and expanded along with the apartment. The project also includes the expansion of a sunroom to the south wall of that south wall of the garage. It is about a 160-square foot expansion with the footprint of the garage. They also learned through the process of initial coordination with Mr. Chapman and with the utilities department, that the garage and house were constructed in 1937. The quarters apartment was constructed a portion of it in the utility easement at the rear of the property. So through coordination we decided that probably to just avoid any problems with the easement any future issues, primarily with the sewer easement that was existing that we would need to probably shift the footprint of the garage out of that easement to the west so it's about a 10 foot shift to that building footprint to the to the west to reposition it. The square footage assessment that we went through, using the 40% rule the square footage, it is about 104 foot of extra square footage that we are requesting for the exception.

Mr. Wallace asked what hardship he had.

Mr. Fussell stated that it is the apartment conversion. We thought we had an existing on our garage that already existed. We thought we could just read reconstruct in place. The discovery of easement issue really created a hardship. It is an oversized lot already. It is a small house square footage wise, but we all run two lots plus twenty feet in size. The additional footage seemed to be reasonable given our size block width project. The hardship is really going to be having to shift the entire garage and project out of the easement. It will be a more costly construction project because of that reason. There were some options when speaking with Mr. Kovac back with the utilities department, there were some options to pursue, a vacation of that easement was a possibility or some special the development agreement to allow us to go ahead and build in place, but with the exposure any easement work in the future there's always the exposure there for having to dismantle portion of the garage for the project to accommodate that. So that seemed like the most reasonable thing which is to shift entirely out of the easement and improve that to a more standard condition.

Ms. Radney asked if they would no longer be parking any vehicles in the garage.

Mr. Fussell stated that they are going to retain the north bay of the garage. As you can see on the west elevation there, that is the garage door existing on that elevation view.

Ms. Radney stated that she was assuming that the extra square footage that you are requesting is to be able to still meaningfully accommodate the living space that was already there, and the garage is a place just to park the vehicle.

Mr. Fussell stated that there was also the sunroom expansion. It gives us a slightly larger room instead of having to live in just one parking bay side of that living space made it more functional use of the apartment.

Ms. Radney asked if it was like a three-season sunroom or is it like more of a four-season sunroom.

Mr. Fussell stated it would be a four- season sunroom.

Mr. Barrientos asked if they plan to use this as a short-term rental.

Mr. Fussell stated that was not the current plans. It is really geared for aging parents to have an apartment that they can move into in the in the short term. And the other component of this is we are going to develop this as ADA accessible so that we can our house currently does not accommodate that as far as porches and steps and things will make this available for handicap access for elderly parents. It was important for us to be able to make those grades work with the ramps that have access to the field. The west entrance through the greenhouse will be on grade there will be a little porch there at that location with the step through the main door. The apartment did not show up on any of the City drawings of which we were aware. That was part of the issue we ran into is the garage portion was the only thing that was officially on record with the City. Assume that apartment was an add on. Late in the project when they were building the house.

Ms. Radney asked if they would be adding a bathroom facility or water.

Mr. Fussell stated that they have it in place currently. Okay, but they are going to have to reconstruct a portion of that. There will be some replumbing and so forth. We have sewer access. There is an existing bathroom, and they will be adding a small kitchen sink and stove.

Ms. Radney asked Mr. Chapman if the absence of there being a kitchen there makes a difference in terms of the way the City would have looked at that building.

Mr. Chapman stated that it is not really considered a separate unit if there is not one. That would be part of the living quarters would be a kitchen, bathroom, and bedroom.

Ms. Radney stated that this is not a non-existing nonconformity. This really allows them to have a legal accessory dwelling unit that includes things like a kitchen in it.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Barrientos asked if they were saying that there was no there was not any existing non-conformity.

Mr. Wallace stated that it was in the utility easement.

Mr. Chapman stated that there is another non-conformity. It is a little over two feet from the northern property lines. We are not really dealing with that but just as a point, they might if they are moving that already out of the easement, they might want to put some space in between there, but it is not anything the Board has to deal with. If that ever got destroyed, they would have to build it to the current setback.

Ms. Radney stated that it made sense to go ahead and put a stamp on that if that is within our purview to do on that northern edge that it is an existing non-conformity that is encroaching. In terms of their requested future use of this site, they are taking affirmative steps to correct some of the concerns and encroachments on the easement with this with this project plan. By so doing then they are also asking for accommodation that would allow some universal design and handicap and additional handicap accessibility by giving them a bit more space to be able to do it. In that regard, their attempt to correct those other encroachments is not self-imposed.

Mr. Wallace stated that he had a problem with the hardship.

Mr. Chapman stated that they did write a detailed one that references the things they oversized a lot and the size of the house compared about lot.

Ms. Radney stated that they agreed on the special exception to allow the accessory dwelling unit and in so doing, that will be the place to acknowledge it as an existing non-conformity. She thought that was at least the most innocuous place that they could state that. All these concerns about where that existing building is currently sitting, it makes sense to at least acknowledge that what they want to do is reconstruct it to the south. But if anything were to ever happen to that they would want to be able to use the footprint for the rehabilitated building to put it back. Somewhere they should have the

recognition that we saw this plan and acknowledge that it was not conforming with the current building code.

Board Action:

On **MOTION** of **Wallace**, the Board voted 3-0-0 (Barrientos, Radney, Wallace all “ayes”, no “nays”; no “abstentions”) to **APPROVE** a Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6) per the Conceptual Plan shown on page 9.12 of the Agenda packet.

In granting the **Variance** the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;*
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;*
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable 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.”*

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 6 & 7 & N20 OF LT 8 BLK 8, BEVERLY HILL ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

None

NEW BUSINESS

None

BOARD MEMBER COMMENTS

There being no further business, the meeting adjourned at 2:54 p.m.

Date approved: 5-9-23

Art Boul
Chair

TULSA CITY BOARD OF ADJUSTMENT
CASE NO. _____
OFFICIAL RECORD EXHIBIT
ENTERED IN THE 5/9/2023
MINUTES OF THE TULSA CITY BOARD
OF ADJUSTMENT