

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1240
Tuesday, November 12, 2019, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

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

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on November 6, 2019, at 9:06 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the October 8, 2019 Board of Adjustment meeting (No. 1238).

UNFINISHED BUSINESS

22763—Eller & Detrich – Lou Reynolds

Action Requested:

Appeal of the Administrative Decision issued in Zoning Code Interpretation #2019-01 that a Major Amendment is required to PUD-230 in order to permit a school use (Section 70.140). **LOCATION:** 3810 & 3840 South 103rd East Avenue **(CD 7)**

Presentation:

The case was withdrawn by the applicant.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No action required by the Board; for the following property:

LOT ONE (1), BLOCK ONE (1), BISHOP ACRES, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO RECORDED PLAT NO. 3947., City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele stated that today's agenda is very long, there are 26 items on the agenda which is twice as long as it normally is. The Board is going to limit the application presentation to five minutes, comments to three minutes per speaker, and the applicant will have three minutes for rebuttal. He would encourage interested parties to limit their comments to items that are new so everyone will have the opportunity to speak.

22757—Michael Sager

Action Requested:

Variance to reduce the required 10-foot street setback in an IM District (Section 15.030, Table 15-3). **LOCATION:** 302 South Peoria Avenue East **(CD 4)**

Presentation:

Robert Sartin, Attorney, Barrow and Grimm, 110 West 7th Street, Suite 900, Tulsa, OK; stated he is before the Board on behalf of the applicant and on behalf of the developer.

Mr. Van De Wiele stated that at the last meeting there was conversation about what the development would ultimately look like, and he asked Mr. Sartin if he had those diagrams. Mr. Sartin stated that the design has been changed somewhat and he did bring architectural drawings of the facility. There were two issues before the Board last

time; the first one dealt with parking and that has been changed. The parking is now underneath the building and it will have 17 parking spaces. This is an off shaped lot and is fronted on the east side by Peoria, the north side by 3rd Street, the west side by 4th Street, and the south side by the railroad. The City of Tulsa has a 20-foot right-of-way that would be in addition to the required 10-foot setback on the east, north and west. If the applicant were forced to comply with the Code as written would be a 30-foot setback. With the 20-foot City of Tulsa right-of-way and the waiver of the 10-foot setback there will still be a 20-foot setback on the north and on the east side. Mr. Sartin stated he claims this is an irregular shaped lot that creates a hardship. The lot is zoned industrial moderate; storages are allowed by right and the lot is surrounded by industrial light and commercial high intensity which all allow storages by right thus the Variance request. Mr. Sartin stated the developer builds these storage units across the country and he presented a drone video of what the facility will look like.

Mr. Van De Wiele asked Mr. Sartin if he would have the ability to drive across the property owned by the railroad and if he would be building on that property. Mr. Sartin stated the applicant is not comfortable building on the property owned by the railroad and will not be utilizing the railroad right-of-way. The redesign was to eliminate the need to utilize that property.

Mr. Van De Wiele asked Mr. Sartin to explain the elevations of the proposed building. Mr. Sartin deferred to the developer.

Carl Thompson, 14207 East Coyote Road, Scottsdale, AZ; stated the building structure will start with the parking garage and will most likely be a concrete structure to support the parking. It will have a separate elevation of approximately 22 feet. The other two floors will be primarily masonry with the exterior of a split face block painted finish. On the corner of 3rd and 4th will have glass on two sides and the elevation looking south on 3rd Street will have an office on the first floor where the glass is located; each floor will have a glass window from there up. The building will be five stories tall and the rest of the building exterior is a metal finish.

Interested Parties:

Eric Gomez, 4120 East 62nd Street, Tulsa, OK; stated he is the former City Councilor for District 4, and he has zero financial interest in relation to this project nor does he have any financial interest in anything within several hundred feet, but he has financial interests all over the City of Tulsa and this type of development that needs to be looked at for interested pieces of property. This area, specifically the Pearl District, was originally considered the work horse of Tulsa. It was developed over 100 years ago and it was a corridor of industrial buildings built along the railroad to get the goods and services to market. The southern area of 6th Street is where the workers in this area would live; it was walkable and very friendly. With the zoning and based on the rail, which will be there for everyone's lifetime, residential is not a good fit. He would urge the Board to approve the Variance request. This particular area was always contemplated to have zero lot lines, zero setbacks, everything built up to the property line and as close to the street infrastructure as possible. This proposal is in complete

concert with that vision and that dialogue that has been going on for several decades. Mr. Gomez urges the Board to support this project.

Rebuttal:

Robert Sartin stated that he had no rebuttal unless the Board has questions.

Comments and Questions:

Ms. Ross stated that she thinks the parking issue has been eliminated. This is not what she personally would like to see be built on that corner, but she cannot vote against this proposal because of the shape of the lot.

Mr. Bond stated that he agrees with Ms. Ross. The question he has is the self-imposed hardship, but the nature of the lot does make it difficult to develop.

Mr. Van De Wiele stated that from a use standpoint the request does not bother him. He believes there is a hardship there for the overall Variance. He would have liked to see the east elevation be a little more visually appealing, the north elevation is fine. He would encourage the developer to look at breaking up the east elevation because the tall monolithic brown is going to be quite imposing on Peoria.

Ms. Shelton stated that she thinks the hardship is valid. She is happy with the changes to the elevation and she appreciates that the developer tried to break down the scale because it is a huge façade on the first floor. Ms. Shelton agrees with Mr. Van De Wiele's statement about the Peoria side of the building; maybe there could be some street vegetation on that side.

Ms. Radney stated she is sympathetic to the citizens concerns that have opposed this project. She agrees with everything that has been said about the changes that have been made in the plans; it does overcome the valid concerns about parking. She still has concerns about ingress and egress.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-1 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; Radney "abstaining"; none absent) to **APPROVE** the request for a Variance to reduce the required 10-foot street setback in an IM District (Section 15.030, Table 15-3), subject to the conceptual site plan and the elevations submitted today. The Board has found the hardship to be the odd shape of the lot and its location near the railroad. The applicant must meet the City of Tulsa landscaping plans. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

PRT LTS 1 THRU 10 & LT 16 & PRT VAC ALLEY BETWEEN SL OF LTS 1 THRU 5 & NL LT 16 BEG 20S & 20W NEC LT 1 TH W154.30 SW99.61 SE241.50 N172.36 POB BLK 18, BERRY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22770—Headquarters 66 – Charles Lewis

Action Requested:

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

LOCATION: 9306 East 11th Street South (CD 5)

Presentation:

Charles Lewis, 7302 East 12th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele asked Mr. Lewis if he had received his license yet. Mr. Lewis stated that he has not. Mr. Van De Wiele asked Mr. Lewis if he fell under the new set of rules where he must receive verification before being issued his license. Mr. Lewis answered affirmatively; he is working toward his certificate of compliance.

Mr. Van De Wiele stated the Board has the applicant's spacing exhibit on pages 4.6, 4.9 and 4.10 in the agenda packet. Mr. Van De Wiele asked Mr. Lewis if he was aware of any other dispensary or any other license for a dispensary within the 1,000-foot radius. Mr. Lewis stated that he was not aware of any.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

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

BEG 50S & 25E NEC NW NE TH S280 E140 N280 W140 POB LESS N15 FOR ST SEC 12 19 13 .851AC, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22771—Brent Barnes

Action Requested:

Special Exception to allow a Large Commercial Assembly & Entertainment Use (more than 250) in the CS District in order to permit a Comedy Club (Section 15.020, Table 15-2). **LOCATION:** 5970 & 5974 East 31st Street South (**CD 5**)

Presentation:

Brent Barnes, 7030 South Yale, Tulsa, OK; stated he will be a tenant in what was formerly Mall 31 Cinema. He plans to open a comedy club and keep one screen up to date and fully functioning to maintain the spirit of the space. The space has an occupancy load of 824 and there will be a few multi-purpose rooms available for parties or events for a source of revenue. The hours of operation will be Wednesday through Sunday, 6:00 P.M. to 2:00 A.M. with a staff of eight to ten. There will be a full-service bar in the lobby area, and in the future maybe a full-service kitchen in one of the rooms.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for an Special Exception to allow a Large Commercial Assembly & Entertainment Use (more than 250) in the CS District in order to permit a Comedy Club (Section 15.020, Table 15-2), subject to conceptual plans 5.8 and 5.9 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the

Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

PRT LTS 2 - 4 BLK 1 SHERIDAN CIRCLE & PRT LTS 1 - 3 & 21 -22 BLK 1 & PRT LT BLK 7 LORRAINE HEIGHTS & PRT VAC EAST 32ND ST BEG 10W NEC LT 3 TH E225 S405 W225 N405 POB BLK 1, LORRAINE HGTS, SHERIDAN CIRCLE RESUB PRT B1 & B7 LORRAINE HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22772—Cannabis Galleria, Inc.

Action Requested:

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

LOCATION: 6130 South Union Avenue West (**CD 2**)

Presentation:

Mohammed Rashid, 5211 South Delaware Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 6.5 in the agenda packet, and the spacing exhibit on page 6.4.

Mr. Van De Wiele asked Mr. Rashid if he was aware of any other licensed dispensary or any operating dispensary within the 1,000-foot radius. Mr. Rashid answered no.

Interested Parties:

Mondo Jenkins, 17786 South Santa Fe Street, Mounds, OK; stated there is a church within a 1,000 feet of the subject site and there is an active school within the church.

Mr. Van De Wiele asked staff to address these two issues. Ms. Blank stated the applicant is seeking a verification of distance, and what the Board looks for is a separation distance from another dispensary. State law has separation requirements but that is a matter between the applicant and the state.

Mr. Chapman stated any interested party can file a complaint with the OMMA if the interested party feels there is a violation.

Comments and Questions:

None.

Board Action:

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

should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

Lot 1, Block 1, WEST HIGHLANDS CENTER, City of Tulsa, Tulsa County, State of Oklahoma

22773—Greg Sandella

Action Requested:

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

LOCATION: 6519 East 46th Street South **(CD 5)**

Presentation:

James Justin Greer, Attorney, 418 West 4th Street, Claremore, OK; no formal presentation was made but the applicant's representative was available for any questions.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 7.10 and the spacing exhibit on page 7.11 of the agenda packet.

Mr. Van De Wiele asked Mr. Greer if he was aware of any other dispensary or licensed dispensary within 1,000 feet. Mr. Greer stated that he was not aware of any; the closest are the two that were listed on the exhibit.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

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

S200 LTS 10 11 & S200 W3 LT 12 BLK 1, KATY FREEWAY INDUSTRIAL PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22774—Tulsa Gathering Place, LLC

Action Requested:

Special Exception to allow a Parks and Recreation Use and a Cultural Exhibit to permit the expansion of The Gathering Place and construction of the Children's Museum in a RM-1, RM-2, and RS-3 Districts (Section 5.020). **LOCATION:** 131 East 31st Place South and 3137 South Boston Court East **(CD 4)**

Presentation:

Jeff Stava, 7030 South Yale Avenue, Tulsa, OK; stated this is for a cultural exhibit for the children's museum of Phase II of the Gathering Place. There has been a lot of active community and neighborhood engagement through this process. Letters, maps and drawings of the children's museum were taken door-to-door to the adjacent property owners. There was a public meeting held at the Gathering Place for all the neighbors. The information was posted on the adjacent neighborhood Facebook pages and answered questions on those Facebook pages. There were also a lot of questions answered via e-mail and telephone. Mr. Stava stated community engagement is very important and it is a high priority. During the public engagement he learned two very important things that were a concern for the neighborhood. Number one was continuing to monitor the temporary parking spaces on the southeast corner of 31st and on the south side of Crow Creek; these temporary lots have been used very heavily. The last year has been spent actively looking at solutions for mid and long-term parking. The other concern the neighborhoods had was the pedestrian congestion at 31st and Riverside. Mr. Stava had drawings placed on the overhead projector showing the site and how the parking would be adjusted. There have been many conversations over the last five years and intensely over the last six months with MTTA. MTTA had a downtown circulator program that was really going to just run downtown, and one of the early ideas was to allow the Gathering Place to be on the southern leg of that circulator. Throughout all the conversations it was determined that it would be better to have a dedicated shuttle that runs between downtown and the Gathering Place. Mr. Stava stated he has worked with TCC and Boston Avenue United Methodist Church to have 1,500 parking spaces between the church and TCC that are unused on the weekends; there will be a downtown circulator that goes between the downtown MTTA bus station to those parking spaces and drops everyone at the door of the lodge; these will run every 15 minutes. The buses will run Friday through Sunday, September through May then everyday from June through August. The circulator frequency will be every 15 minutes. It will be the responsibility of the Gathering Place to do the promotion; there is about a \$40,000 budget allocated for marketing to the community. In addition, there has been 600 parking spaces constructed at 23rd Street and east of Jackson with a dedicated shuttle. That shuttle started running this fall and will continue to run as long as there is access to the 23rd and Jackson lot; eventually this lot will be converted to lay down for the dam and bridge project at the end of next summer. All in all, the parking spaces have been increased about 2,000 spaces. There will be access created underneath Riverside Drive for pedestrians; there will be sidewalk built from the south parking lot to allow pedestrians to walk underneath Riverside Drive and connect to the main trail. The Special Exception requested today is to allow the Parks and Recreation

and Children's Museum, and next month there will a Special Exception requested for the building height for the museum and signs.

Mr. Van De Wiele asked Mr. Stava if the drop offs for the circulator buses were at the main park or if there were at children's museum. Mr. Stava stated the drop offs are at the lodge.

Mr. Van De Wiele asked Mr. Stava if the lodge would still be the drop off location after the children's museum is complete. Mr. Stava stated the children's museum will open in the summer of 2021, and that has not been visited with MTTA on the shuttle stops.

Mr. Van De Wiele asked Mr. Stava if the 1,000-space parking lot was going to remain gravel. Mr. Stava answered affirmatively; the Board permitted the temporary use through the end of December 2020.

Ms. Shelton asked Mr. Stava what is planned for pedestrian connectivity to the south. Mr. Stava stated as part of the City infrastructure improvements that were made around the site, the Crow Creek bridge was actually demolished and now the bridge is raised about 14 feet. There has been enough space created underneath to allow pedestrians underneath the bridge.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; "abstaining"; none absent) to **APPROVE** the request for a **Special Exception** to allow a Parks and Recreation Use and a Cultural Exhibit to permit the expansion of The Gathering Place and construction of the Children's Museum in a RM-1, RM-2, and RS-3 Districts (Section 5.020), subject to conceptual plan 8.29 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

A Tract of Land that is part of the vacated plat of RIVER ACRES, an addition to the City of Tulsa filed as

Plat #1416; AND a part of the vacated plat of RIVERDALE, an addition to the City of Tulsa filed as Plat #2626; AND a part of Lot 1 of Block 1 of 3200 RIVERSIDE DRIVE ADDITION, an addition to the City of Tulsa filed as Plat #2917; AND Lot 7, of the AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION, an addition to the City of Tulsa, filed as Plat #1387, said plats filed at the office of the Tulsa County Clerk; AND a part of an unplatted tract lying adjacent thereto in the East Half (E/2) of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of the Northeast

Quarter (NE/4) of Section 24, Township 19 North, Range 12 East of the Indian Base and Meridian in the City and County of Tulsa, State of Oklahoma, according to the U.S. Government Survey thereof, all of which being more particularly described by metes and bounds as follows :

Commencing at the Northeast corner of said NW/4 of the NW/4 of the NE/4 of Section 24; thence due West along the North section line of said Section 24 a distance of 247.50 feet to a point; thence South $0^{\circ}09'37''$ West a distance of 40.00 feet to the Point of Beginning, said point of beginning being the point of intersection of the Southerly right of way line of East 31st Street South and the East boundary line of said vacated plat of RIVER ACRES; thence due West along the said Southerly right of way line of East 31st Street South a distance of 478.15 feet to a point on the Easterly right of way line of South Riverside Drive, said point also being the Northwest corner of Block 1 of said vacated plat of RIVER ACRES; thence South $12^{\circ}37'00''$ East along said Easterly right of way line of South Riverside Drive a distance of 288.29 feet to a point of curve; thence continuing along said Easterly right of way line of South Riverside Drive, along a curve to the right having a radius of 1519.39 feet and a central angle of $8^{\circ}55'59''$ a distance of 236.89 feet to a point of tangency; thence continuing along said Easterly right of way line of South Riverside Drive, South $3^{\circ}41'00''$ East, a distance of 75.00 feet; thence on a curve to the right having a length of 156.95 feet, a radius of 432.00 feet, a central angle of $20^{\circ}48'58''$, a chord bearing of South $83^{\circ}16'31''$ East, and a chord length of 156.09 feet to a point of tangency; thence South $72^{\circ}52'02''$ East a distance of 487.75 feet to a point on the East line of line of Block 1, of said 3200 RIVERSIDE DRIVE ADDITION; thence North $00^{\circ}16'26''$ East a distance of 221.35 feet to the Southeast corner of Lot 7, of said AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION; thence North $00^{\circ}16'26''$ East a distance of 50.00 feet to the Northeast corner of said Lot 7; thence North $56^{\circ}59'58''$ West a distance of 88.26 feet to the North corner of said Lot 7; thence along a curve to the right having a length of 56.82 feet, a radius of 40.00 feet, a central angle of $81^{\circ}23'19''$, a chord bearing of South $72^{\circ}06'00''$ West, and a chord length of 52.16 feet to the Northwest corner of said Lot 7; thence North $26^{\circ}42'52''$ West a distance of 54.02 feet to the Southeast corner of of Lot 8, of said AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION; thence North $89^{\circ}56'52''$ West a distance of 98.78 feet to the Southwest corner of said Lot 8; thence along the East boundary line of said vacated RIVER ACRES being the same as the West boundary line of said AMENDED PLAT OF PRISCILLA HEIGHTS ADDITION, North $0^{\circ}09'37''$ East a distance of 400.66 feet to the Point of Beginning., City of Tulsa, Tulsa County, State of Oklahoma

22775—Stephanie Dunn

Action Requested:

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

LOCATION: 9402 East 55th Place South, Suite B (**CD 7**)

Presentation:

Justin Dunn, 9402 East 55th Place, Suite B, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 9.11 and the spacing exhibits on pages 9.9 and 9.10 of the agenda packet.

Mr. Van De Wiele asked Mr. Dunn if he was aware of any other licensed holder for a dispensary or any other operating dispensary within 1,000 feet? Mr. Dunn answered no.

Mr. Van De Wiele asked Mr. Dunn where the nearest dispensary is located to his location. Mr. Dunn stated that it is on Mingo.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

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

LT 23 BLK 1, 5300 COMMERCE PARK, City of Tulsa, Tulsa County, State of Oklahoma

22776—Donnie Volk

Action Requested:

Variance of the allowable square footage for detached accessory buildings in the RS-3 District (Section 45.030); Variance to allow a detached accessory building to exceed one story or 18 feet in height (Section 90.090-C.2). **LOCATION:** 2626 West 79th Street South (**CD 2**)

Presentation:

Tyler Volkl, 2626 West 79th Street, Tulsa, OK; stated this is a request for an extra storage building for his father to store an RV. The building will be 40'-0" x 40'-0" and about 18 feet tall.

Mr. Van De Wiele asked Mr. Volkl if the building was going to be one story. Mr. Volkl answered affirmatively.

Ms. Shelton asked Mr. Volkl what else would be stored in the building besides an RV because the plan shows three bays. Mr. Volkl stated there will be a guttering trailer, an RV and other equipment.

Mr. Van De Wiele asked Mr. Volkl if there were similar accessory buildings in the neighborhood. Mr. Volkl answered affirmatively.

Mr. Van De Wiele asked Mr. Volkl how large his tract land is. Mr. Volkl stated that it is close to two acres.

Ms. Radney asked Mr. Volkl if the barn shown the site plan is going to remain on the property. Mr. Volkl answered affirmatively; it will be extra storage though it is in poor condition.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Radney, Ross, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the allowable square footage for detached accessory buildings in the RS-3 District (Section 45.030); Variance to allow a detached accessory building to exceed one story or 18 feet in height (Section 90.090-C.2), subject to conceptual plans 10.11, 10.17, 10.18, 10.19, 10.20, 10.21, 10.22, 10.23, 10.24 and 10.25 of the agenda packet. The Board has found the hardship to be that the land is in an agricultural area that was likely unincorporated prior to the City's Comprehensive Zoning Code. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

SE NW SE SW LESS N25 & W25 THEREOF FOR RD SEC 10 18 12 2.14ACS, City of Tulsa, Tulsa County, State of Oklahoma

22777—Todd Shust

Action Requested:

Variance of the 35-foot front street setback in an RS-1 District (Section 5-030).

LOCATION: 4424 South Gary Avenue East (CD 9)

Presentation:

Todd Shust, 407 North Emerson, Jenks, OK; stated he is the builder on the project and the homeowner would like to add an extension onto the garage. The hardship for this request is that the back half of the lot is in a flood plain and the property is on a hill; the house sits on top of the hill so the only area that the garage can be extended in is shown on the site plan as a darker shaded area. The south lot next door came to the Board and that homeowner was granted an extension which is what is exactly what is being requested in this case. Mr. Shust showed the Board where the extension would be on the site plan.

Mr. Bond stated that he knows the subject house has been added on to a couple of times and he asked Mr. Shust if the existing garage is original. Mr. Shust stated that he did not think the garage was original to the house, but he does not know that to be exact.

Ms. Shelton asked Mr. Shust if there were other three car garages in the area. Mr. Shust stated that almost every house has a three-car garage, and new three car garage was just built across the street.

Ms. Radney asked Mr. Shust how large the house is. Mr. Shust stated that it is 3,000 square feet.

Interested Parties:

Mike Thedford, 6726 East 100th Place, Tulsa, OK; stated the case the applicant spoke about in his presentation was only for a five-foot Variance. Mr. Thedford this application is more for an RS-3 zoning; all other three-car garages are in compliance. Alternatively, there are other areas on the south side of the lot for expansion and based on previous cases does not mean that every request should be approved. This starts to set a precedent, and this changes the neighborhood which is an RS-1 zoned neighborhood. These are large lots with plenty of real estate to work with. There are some physical constraints but everyone else has had to deal with that as well. Mr. Thedford believes there is no hardship based on what is being represented today.

Ms. Ross asked Mr. Thedford where the applicant would place the proposed garage if not next to the existing garage. Mr. Thedford stated there is space on the south side of the structure where a separate garage could be added. The projection that this garage has is on the setback line already, so this would push it even closer to the street. This would be setting a trend for a RS-1 subdivision which is more of a RS-3 application.

Lee Wallace, 4424 South Gary Avenue, Tulsa, OK; stated he is the homeowner and wants to let people know that he is not trying to create a problem in the community. He purchased the house last February and is doing quite a bit of work on the house. Mr. Wallace stated that he does not think the granting of this Variance will be injurious to the neighborhood or create a hardship for other homeowners; it will make the neighborhood better. The addition will not even go out as far as the existing fence that has been in place for a long time. Mr. Wallace stated he is not trying to set a precedent; he does not think the way other houses are built in the neighborhood that everyone will be adding a third or fourth garage just because he is adding a garage.

Mr. Van De Wiele asked Mr. Wallace if Ms. Marlow was currently one of the homeowners. Mr. Wallace stated that is his wife.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Radney, Ross, Shelton "aye"; Van De Wiele "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the 35-foot front street setback in an RS-1 District (Section 5-030) to allow the structure as proposed, subject to conceptual plans 11.12, 11.13, and 11.14 of the agenda packet. This approval is limited to the garage expansion only. The Board has found the hardship to be an existing construction that predates the Comprehensive Code, in addition to the unique topographical layout of the subject property including the adjacent flood plain. 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:

PT LT 1 BEG 150S NEC LT 1 TH S76.49 CRV RT59.28 W183.38 N135 E191.20 BLK 5, VILLA GROVE PARK, City of Tulsa, Tulsa County, State of Oklahoma

22778—GH2 Architects – Jameson Shaffer

Action Requested:

Variance to allow structures to project into the street right-of-way to permit construction of canopies (Section 90-090). **LOCATION:** 410 South Main Street (CD 4)

Presentation:

Jameson Shaffer, GH2 Architects, 320 South Boston Avenue, Suite 100, Tulsa, OK; stated this request is for the replacement of awnings on a parking garage in downtown.

Mr. Van De Wiele asked Mr. Shaffer if there had been awnings on the building previously. Mr. Shaffer answered affirmatively and stated the old red awnings were removed at the beginning of the year in order to paint the building. The new awnings on the north façade will extend 3'-6" and on Boulder the awnings will extend 5'-6".

Ms. Shelton asked Mr. Shaffer if new signage is being proposed. Mr. Shaffer answered affirmatively; it will be an attachment that hangs beneath the canopy and they will be removable.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to allow structures to project into the street right-of-way to permit construction of canopies (Section 90-090), subject to conceptual plans 12.7, 12.8, 12.9, 12.10, 12.11, 12.12 and 12.13 of the agenda packet. The Board has found the hardship to be the unique pedestrian nature of the subject property as well as the replacement of existing awning structures. 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:

Lots 1 & 2 & N 50' Lot 3, Lots 7 & 8 & N 50' Lot 6 All in Block 135 & N 200' Vacated Alley in Block 135, Tulsa-Original Town, City of Tulsa, Tulsa County, State of Oklahoma

22779—M D Haq

Action Requested:

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

LOCATION: 6322 South Peoria Avenue East (**CD 2**)

Presentation:

M. D. Haq, 6322 South Peoria Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 13.7 and the spacing exhibit on page 13.4 of the agenda packet.

Mr. Van De Wiele asked Mr. Haq if he was aware of any other dispensaries or dispensary licenses being issued to properties within a 1,000 feet of the subject location. Mr. Haq answered no.

Mr. Van De Wiele asked Mr. Haq where the closest dispensary is in relation to his proposed dispensary. Mr. Haq stated that it would be Crown Dispensary located at 6610 South Peoria.

Ms. Radney stated that on the spacing exhibit provided the pin located on the map designating the applicant's dispensary is not centered in the circle, so she is concerned about the location of the Crown Dispensary in relation to the applicant's location. Mr. Haq stated the Crown Dispensary is located across from the Dollar General and at 66th or 67th Street on Peoria.

Mr. Chapman stated that he had sent an e-mail to the applicant and to the property owner requesting more information. He does not feel that there is sufficient evidence per this exhibit for the Board to be able to accept this spacing verification unless the applicant brought more information to the meeting today. The other issue is that these are both tenant spaces and it is not clear where those locations are.

Mr. Haq stated he is in a shopping complex near the gas station, and he measured the distance to be 1,090 feet away from the closest dispensary.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) to the December 10, 2019 Board of Adjustment meeting; for the following property:

LT 1 BLK 2, SOUTH PEORIA GARDENS RESUB PRT TOWNE PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22780—Tulsa Habitat for Humanity

Action Requested:

Variance to reduce the building setback on a corner lot from 40 feet to 30 feet from the centerline of an abutting street in an RM-1 District (Section 90.090-A, Table 5-3); Variance to reduce the building setback from 50 feet to 40 feet from the centerline of an abutting street in an RM-1 District (Section 90.090-A, Table 5-3).

LOCATION: 1235 North Trenton Avenue East (CD 1)

Ms. Shelton recused and left the meeting at 3:00 P.M.

Presentation:

Vicki Jordan, Tulsa Habitat for Humanity, 6235 East 13th Street, Tulsa, OK; stated this is a request to be able to build a new single-family owner-occupied home. This addition was platted prior to the adoption of the Zoning Code and the building setback lines from the centerline of the street reduces the buildable area on the lot, as a result the house would not be able to be built. The requested Variance is to reduce the building setback on Newton from 40 feet to 30 feet and on Trenton from 50 feet to 40 feet. The old house has been razed. The new house will be a little larger than the former house, but the new house will sit deeper into the lot. The new house will not alter the characteristics of the neighborhood or negatively impact any of the adjacent properties.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-1 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; Shelton "abstaining"; none absent) to **APPROVE** the request for a Variance to reduce the building setback on a corner lot from 40 feet to 30 feet from the centerline of an abutting street in an RM-1 District (Section 90.090-A, Table 5-3); Variance to reduce the building setback from 50 feet to 40 feet from the centerline of an abutting street in an RM-1 District (Section 90.090-A, Table 5-3), subject to conceptual plan 14.8 of the agenda packet. The Board has found the hardship to be the size and shape of the lot. 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 10 Block 2, Utica Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 3:06 P.M.

22782—Magdaleno Jaimes

Action Requested:

Special Exception to permit a carport in the street setback and street yard with modifications to the allowable height, width, length and setback requirements (Section 90.090-C.1). **LOCATION:** 6851 East King Place East (**CD 3**)

Presentation:

Brenda Jaimes, 1964 Northwest Morris, McAlester, OK; stated the homeowner would like to have a carport extending the height so that the carport comes off the house and allow the length to cover two cars.

Mr. Van De Wiele asked Ms. Jaimes if she was saying the carport would be two cars deep. Ms. Jaimes answered affirmatively. Mr. Van De Wiele asked Ms. Jaimes if two cars or four cars would fit under the carport. Ms. Jaimes stated that it would be four cars.

Mr. Van De Wiele asked Ms. Jaimes if there were other carports of that size in the neighborhood. Ms. Jaimes stated she knows there are metal carports, but she is not sure of the size.

Mr. Van De Wiele asked Ms. Jaimes if the carport would be attached to the house. Ms. Jaimes answered affirmatively.

Interested Parties:

There were no interested parties present.

Questions and Comments:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a carport in the street setback and street yard with modifications to exceed the allowable height, width, length and setback requirements (Section 90.090-C.1), subject to conceptual plans 15.7 and 15.8 of the agenda packet using plan 15.7 for the dimensions. The carport roof pitch is to match the roof pitch of the existing house. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 2 BLK 5, VAL-CHARLES ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22783—Tony Jordan

Action Requested:

Variance to reduce the required 25-foot rear setback in an RS-1/RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 2407 East 26th Place South (**CD 4**)

Presentation:

Tony Jordan, Jordan and Sons Building Company, 10139 Bonnie Bridge Road Clearbrook, Owasso, OK; stated this request is for a patio cover about 16 feet wide by 8 feet deep.

Ms. Ross left the meeting at 3:14 P.M.

Mr. Jordan stated the cover would project into the setback about 8.2 feet.

Mr. Bond asked Mr. Jordan how tall the patio cover will be. Mr. Jordan stated that it will be about an 8-foot plate line. The patio cover will come off the main roof.

Mr. Jordan stated there will be plants and trees planted all the way around the patio area to screen the patio from the house behind the property. Mr. Jordan stated there is an 8'-0" temporary fence in the rear now and it will be replaced with a permanent fence after construction.

Mr. Ross re-entered the meeting at 3:17 P.M.

Ms. Shelton asked Mr. Jordan why they are adding a canopy now, because if it had been planned for it before the entire building would have shifted to the north. Mr. Jordan stated the owners have three employees and the house manager will office in this maintenance barn. The patio will be their area, and this will allow them a place to go and not be in the elements.

Mr. Van De Wiele asked Mr. Jordan to state the hardship for the request. Mr. Jordan stated the hardship is to allow the workers will be out of the elements at different times of the year.

Interested Parties:

Robert Blankenship, 2447 East 26th Place, Tulsa, OK; stated he owns the property immediately south and he has a concern about a dormitory for the neighbor's servants. He thinks the building could have been built away from the property line in accordance with the 25-foot setback. The building will be heated and air conditioned, so he is not sure about the need to have a porch on the rear of a business. He also does not think the property is properly landscaped for a business.

Mr. Van De Wiele asked Mr. Blankenship if his property fronted on 26th Place. Mr. Blankenship answered affirmatively.

Mr. Bond asked Mr. Blankenship the building was all new construction. Mr. Blankenship stated the house has been there for years, but on the subject lot there is new construction.

Mr. Van De Wiele asked Mr. Blankenship if the fact that the building would sit down lower and would be landscaped if there were a height of fence or a height of tree or vegetation does that help mitigate his concerns. Mr. Blankenship answered no because he can see the top of the first-floor framing when looking out his window. Mr. Blankenship believes there is to be another story on the building. There will basically be no privacy in his backyard after the building is complete. He was initially told the building was going to be for out of town guests; he did not know that it was going to be an office building for the homeowner's employees. Mr. Blankenship believes this will destroy his property value.

Linda Smith, 2844 East 26th Street, Tulsa, OK; stated she has a lot of concerns about this project. She and the neighbors have been told multiple things about what the house will be. Ms. Smith stated that her major concern is that it is an office, a three-car garage and that there are living quarters in the building. That is multiple uses for a single building in an RS-1 neighborhood. Ms. Smith thinks the property should be rezoned. There are twelve speed bumps on 26th Street to keep the traffic speed down, and it is a very difficult neighborhood to get in and out of; there is a lot of construction going on and the height concerns are real. The use of this space and how many people that will be in it is a concern, and the amount of traffic that will be coming and going.

Ms. Smith does not think there is a hardship for this covered patio to be built; there are plenty spaces on this estate for anyone to go sit.

Rebuttal:

Tony Jordan came forward and stated this is a maintenance barn, and the people that will be there are there now. This is just a place for the personnel to go so the owners can have privacy in their house. The parking will be in front of the maintenance barn and it will be off the street. The traffic will become better because now there are three or four vehicles that park on 26th Place, and those vehicles will be inside the new maintenance barn area, which is behind a fence, and will also have an automatic gate. This is a \$6 million dollar house with a maintenance barn, and the owners also own the lot to the west of their structure so property values should not be harmed. There is no other place to erect the maintenance barn.

Mr. Van De Wiele asked Mr. Jordan how many square feet will be under the patio cover. Mr. Jordan stated it would be about 136 square feet.

Mr. Jordan stated the living quarters will be for guests, it is not for the staff because they do not live there 24/7. Staff works four days a week, Tuesday through Friday.

Robert Blankenship came forward and stated that he has lived in his house a long time and he has never seen a security guard on the subject property. He is not worried about the property value of the \$6 million dollar house he is worried about his property value.

Comments and Questions:

Ms. Ross stated that she does not think she heard a hardship for this request.

Mr. Bond stated that he thinks the hardship is self-imposed.

Mr. Van De Wiele stated the hardship of wanting one's domestic help to have a place to come in out of the elements is likely self-imposed.

Ms. Shelton stated that she would be a no vote because of lack of hardship.

Ms. Radney stated the Board holds people to the hardship standard rigorously. Even the shape of the lot is self-imposed.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Variance** to reduce the required 25-foot rear setback in an RS-1/RS-2 District (Section 5.030, Table 5-3) to the December 10, 2019 Board of Adjustment meeting; for the following property:

PRT LTS 7 & 8 BEG 54.66W & 5S NWC LT 7 TH E280.72 S126.81 SW78.21 W78.21 S200 TO PT ON SL LT 7 CRVLF 26.65 SW125 TO SWC LT 7 CRVRT 41.15 NLY367.75 POB BLK 1, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

22784—Anthony Smith

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 814 South Sheridan Road East (**CD 5**)

Presentation:

Brad Fuller, Attorney at Law, 20 East 5th Street, Suite 200, Tulsa, OK; stated he represents the applicant, Mr. Anthony Smith. Mr. Fuller stated he is the owner of the subject property and has personal knowledge of the property. Mr. Fuller presented a petition of the neighbors that do not object to the request and presented photographs. Mr. Fuller stated the subject property is located at 814 South Sheridan, and the Route 66 Dispensary is 735 feet away and is located on 11th Street. To access the property by bird's eye you would have to go through the apartment building, their privacy fence, through the trees, across the creek and across another fence that has barbed wire on the top. To drive to the property, you must drive down Sheridan and that route makes the distance 1,538 feet and the second driving route makes it 2,856 feet. This is very similar to a Variance the Board granted at 6702 South Lewis, BOA-22736. Mr. Fuller thinks this case is better for a hardship and the uniqueness to the topography. Mr. Fuller stated the Board granted another case, BOA-22741, but he thinks there were licensing issues in that case. There was 600 feet and 400 feet distance between dispensaries in the two cases. Mr. Fuller stated this project will improve the neighborhood; the area is under distress. Mr. Fuller believes there is a topographical hardship. Mr. Fuller stated that City Councilor Cass Fahler called in support of this project. This is also an area of growth designation and this will increase economic development. Based on prior precedents and based on the hardship he asks the Board to grant the Variance request.

Interested Parties:

Anthony Smith, 7121 East Latimer Place, Tulsa, OK; stated the proposed project will definitely upgrade the area, because there is a heavy homeless presence in the area. He would like to give back to the community and improve the area. Mr. Smith stated that if he is given the chance to get into the building, he can upgrade it and there will not be homeless sleeping behind the building.

Comments and Questions:

Mr. Van De Wiele stated that the couple of cases that were cited in downtown, one was a licensing confusion and another Variance was granted downtown but it was very early in the process and the City nor this Board had fully worked through the nuances of the

regulations. The business on Lewis is probably closer to this case, but it was over 900 feet in distance, and this is only a little over 700 feet.

Ms. Ross stated that she is not necessarily opposed to this request, but she does not want to set a precedent of whether the walking or driving distance makes it a 1,000 feet, because that reasoning will be heard in future cases.

Board Action:

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

W165 E180 OF TR 59 LESS N200 THEREOF, GLENHAVEN, City of Tulsa, Tulsa County, State of Oklahoma

22785—Cindy Davis

Action Requested:

Verification of the 300-foot spacing requirement for a family home daycare from another family home daycare (Section 45.070). **LOCATION:** 7415 East 83rd Street South (**CD 8**)

Presentation:

Cindy Davis, 7415 East 83rd Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board members.

Mr. Van De Wiele asked Ms. Davis if she was a licensed daycare facility through the state. Ms. Davis answered affirmatively.

Mr. Van De Wiele asked Ms. Davis if she was aware of any other day care facility within 300 feet her subject site. Ms. Davis stated the closest day care facility is 4,000 feet away.

Mr. Van De Wiele asked Ms. Davis if she was not taking care of more than seven children. Ms. Davis answered affirmatively.

Mr. Van De Wiele asked Ms. Davis if she was the only employee. Ms. Davis stated that her retired mother volunteers to help her. Mr. Van De Wiele asked Ms. Davis if her mother lived with her. Ms. Davis answered no.

Mr. Van De Wiele asked Ms. Davis if she had any signs advertising her day care. Ms. Davis answered no.

Mr. Van De Wiele asked Ms. Davis if she was remodeling her house. Ms. Davis stated absolutely not.

Interested Parties:

Mel Martin, 8206 South 75th East Avenue, Tulsa, OK; stated he lives in the house directly north of the subject property and has been there for 41 years. Mr. Martin stated there is no need for a day care in the neighborhood because there is too much traffic on that street. He has been stopped on that street due to people parking on both sides of the street. Loading babies and young children takes time so it will be a problem to have a day care there. Mr. Martin stated that he disputes Ms. Davis' statement of only seven children in her day care. He also thinks the City has been out to the day care several times and he thought the City closed her down a month ago. Mr. Martin stated that he is definitely against having a day care in the subject house.

Mr. Van De Wiele stated that whether the neighborhood needs a day care or not is not before the Board. The applicant is not asking the Board's permission to run a day care, the Board just verifies that there is not another one within 300 feet.

Mr. Van De Wiele asked Mr. Martin how many children he thinks are being taken care of in the subject day care. Mr. Martin stated that he saw 12 to 15 children lined up at the mailbox one day.

Paula Bevilacqua, 7507 East 81st Place, Tulsa, OK; stated that Southfield Estates is a filed PUD 215 and no business are allowed within incoming traffic. If a person wants an office in their house and there is no incoming traffic, then it can be done. This neighborhood is all PUD single family residential.

Mr. Van De Wiele asked Mr. Chapman if he had paperwork regarding PUD 215. Mr. Chapman stated that in the case review the PUD calls for residential uses and customary accessory uses. Per the Zoning Code this request is an accessory use for a single-family house, and that was the determination through permitting and through the Planning Office that it be allowed. With respect to that he is willing to follow up with the interested parties, but that is not what is before the Board.

Mel Martin came forward and asked if the City would know if there was another day care within the 300-foot radius of the subject property? Mr. Van De Wiele stated that it is on the applicant to verify that information and it is part of the application process with the Oklahoma Department of Human Services.

David Wiles, 8304 South 75th East Avenue, Tulsa, OK; stated he lives directly south of the subject property, across the street. Mr. Wiles stated that he has traffic concerns. Cars parking on the street impedes his getting out of his driveway and getting back into his driveway. Mr. Wiles has asked people not to park in his driveway access, but it continues. Mr. Wiles stated that within 300 feet of the proposed day care there is a rehab house.

Rebuttal:

Cindy Davis came forward.

Mr. Van De Wiele asked Ms. Davis if she was aware of any other day care within 300 feet on her location on her street. Ms. Davis answered no.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we accept the applicant's verification of spacing shown on the attached exhibit, indicating that there are no existing Family Child Care Homes operating within the required spacing radius of the subject lot; for the following property:

LT 12 BLK 3, SOUTHFIELD ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

22786—Tanner Consulting, LLC

Action Requested:

Variance of the dustless, all-weather surfacing requirement to permit a gravel driveway in the AG District (Section 55.090-F). **LOCATION:** 7323 South Elwood Avenue West (**CD 2**)

Presentation:

Eric Enyart, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, OK; stated this property is a flag lot that has been in existence at least since the year 2000. The length of the flag panhandle dictates the length of the driveway. The driveway will be approximately 900 feet. The typical city lot has a driveway of 25 or 30 feet with the apron off the right-of-way and the parking pad in front of the garage. According to the architects plan there will be a three-car garage with a parking pad in front of that. Additionally, there will be a paved apron right off Elwood to make sure that gravel will not get dragged onto the paved surface of Elwood Street.

Mr. Bond asked Mr. Enyart if he was aware of other properties that have gravel driveways. Mr. Enyart answered affirmatively and stated that all of them from 71st Street down.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele asked Mr. Enyart if he measured from the driving surface of Elwood to the east how many feet is being proposed to be hard surface? Mr. Enyart stated that it would be 50 feet of the centerline.

Ms. Radney asked Mr. Enyart what he is proposing for the area adjacent to the residence. Mr. Enyart stated the parking pad would be paved according to the building permit.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-1 (Bond, Radney, Ross, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Variance of the dustless, all-weather surfacing requirement to permit a gravel driveway in the AG District (Section 55.090-F), subject to conceptual plan 19.6 of the agenda packet. The Board has found the hardship to be the uniqueness of the flag shaped lot and the surrounding adjacent lots of the area. The Variance for the dustless all-weather surface requirement be extended only to the gravel driveway, not the parking pad or any area of the driveway within the right-of-way. 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:

**S235 NW NW LESS N200 W550 & LESS W50 S35 THEREOF SEC 12 18 12
4.430ACS, City of Tulsa, Tulsa County, State of Oklahoma**

Ms. Ross left the meeting at 4:33 P.M.

22787—Chong Xiong

Action Requested:

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

LOCATION: 4701 East 11th Street South – ***TENANT SPACE: 4713 East 11th Street South (CD 4)***

Ms. Ross re-entered the meeting at 4:36 P.M.

Presentation:

Chong Xiong, 18115 East 112th Street North, Owasso, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board does not have a copy of the applicant's license, and he asked Mr. Xiong if he was in the process of getting a license. Mr. Xiong answered affirmatively. Mr. Xiong stated he is in the process of receiving his Certificate of Compliance, and this is the first step in the process.

Mr. Van De Wiele stated the Board has the applicant's spacing exhibit on page 20.6 and 20.7. Mr. Van De Wiele asked Mr. Xiong if he was aware of any other dispensary or another license holder within the 1,000-foot radius. Mr. Xiong stated there is not one.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

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

LT-10-BLK-1, WINSTON HGTS, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Radney left the meeting at 4:40 P.M.

22788—Wallace Engineering

Action Requested:

Variance to reduce the required Transparency Percentages for a building façade in a MX-1-U District (Section 10.030-C, Table 10-5); Variance of the required minimum parking ratios for an Apartment/Condo in an MX-1-U District (Section 55.020, Table 55-1). **LOCATION:** North of West 23rd Street South and South of West 21st Street South between Southwest Boulevard and South Jackson Avenue West (**CD 2**)

Ms. Radney re-entered the meeting at 4:43 P.M.

Presentation:

Mark Capron, Wallace Engineering, 200 East Mathew Brady Street, Tulsa, OK; stated the property has been rezoned to MX-1-Urban. This project is unique in the fact that it is not a typical suburban apartment complex. What is being addressed today is only the residential units. What is being presented today is Phase I of this project, there are several other phases and other aspects of the project which include these residential units but also some other uses as well. This project is a very urban development and is not far from downtown, and a lot of the residents use public transportation to get to and from work. The streets in the development will be designated as public streets. Many of the residents do not need or have a vehicle therefore parking is not needed. Mr. Capron stated the other aspect that is being dealt with is transparency, and this particular MX-1 use is listed under “other”; he does not think that garden level apartments were being classified as the “other” but were thinking of other commercial uses that was not residential. The building that has the least number of windows has calculated at 11%. These are attractive residential buildings and if there were more windows there are safety concerns, energy efficiency concerns, and privacy concerns. Typically, in transparency there is an attempt to get an attractive building and more of a street scape, and these are very residential attractive buildings, but they do not technically meet the transparency that has been introduced with the MX zoning.

Mr. Van De Wiele asked Mr. Capron if the Board were inclined on the transparency percentages, are the plans conceptual and would they be appropriate to provide for an illustration to the permitting office if the transparency requirements are reduced to allow for building the types of building being seen in the exhibits. Mr. Capron stated that the firm is committed to doing those buildings; the project is far enough along with the CDs to where he is comfortable with that. The drawings are not technical drawings, but they would be appropriate. For everyone of the buildings that has been seen he has a construction document for that exact same building.

Interested Parties:

Jeff Hall, Tulsa Housing Authority, 201 West 5th Street, Tulsa, OK; stated this project went through a public planning process in 2010 and the plans did alter slightly. The

Housing Authority came on board in 2017 and expanded the master plan but the principles have stayed the same. It was clear in the public meetings that this zoning made the most sense to get to the principles that were asked for.

Mr. Wilkerson stated there was a Small Area Plan done specifically for this site. The renderings that were shown in the Small Area Plan looked different but if the scale and the number of windows were compared it would not be radically different than six years ago.

Mr. Van De Wiele asked Mr. Capron what the transparency was being reduced to. Mr. Capron stated that it would go from 20% to 10%. Some of the buildings have 17% but the building with the lowest amount of transparency is 10%.

Mr. Van De Wiele asked Mr. Capron what the parking ratio was being reduced to. Mr. Capron stated the parking is a little more complicated because what is being asked for is one parking space per unit on site. The zoning requirement has different requirements for different bedroom amounts. The public parking is not being included in the ratio of one parking space per unit.

Mr. Van De Wiele asked Mr. Capron when does the project kick off and finish? Mr. Hall stated the project is being built over six phases; Phase I will break ground in March and the entire project must be complete by September 2024.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the required Transparency Percentages for a building façade in a MX-1-U District (Section 10.030-C, Table 10-5); Variance of the required minimum parking ratios for an Apartment/Condo in an MX-1-U District (Section 55.020, Table 55-1), subject to conceptual plans 21.8, 21.9, 21.10, 21.11, 21.12, 21.13 and 21.14 of the agenda packet. The Board has found the hardship to be the uniqueness of the property as well as the intended for residential use. The reduction in transparency from 20% to 10% be only applicable to residential buildings. The parking be based on one off street parking space per unit. 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:

A TRACT OF LAND LYING IN BLOCK FOUR (4) AND BLOCK SIX (6) OF RIVERVIEW PARK ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK FOUR (4); THENCE N89°24'57"E AND ALONG THE NORTH LINE OF SAID BLOCK FOUR (4) FOR A DISTANCE OF 645.00 FEET TO THE EAST LINE OF SAID BLOCK FOUR (4); THENCE S00°40'03"E AND ALONG THE EAST LINE OF SAID BLOCK FOUR (4) FOR A DISTANCE OF 433.00 FEET TO THE NORTH LINE OF BLOCK FIVE (5) RIVERVIEW PARK ADDITION; THENCE S89°24'57"W AND ALONG THE NORTH LINE OF SAID BLOCK FIVE (5) FOR A DISTANCE OF 335.00 FEET TO THE WEST LINE OF SAID BLOCK FIVE (5); THENCE S00°40'03"E AND ALONG THE WEST LINE OF SAID BLOCK FIVE (5) FOR A DISTANCE OF 167.00 FEET; THENCE S89°24'57"W FOR A DISTANCE OF 35.00 FEET TO THE EAST LINE OF BLOCK FOUR (4); THENCE S00°40'03"E AND ALONG THE EAST LINE OF BLOCKS FOUR (4) AND SIX (6) FOR A DISTANCE OF 510.00 FEET TO THE SOUTH LINE OF SAID BLOCK SIX (6); THENCE S89°24'57"W AND ALONG THE SOUTH LINE OF SAID BLOCK SIX (6) FOR A DISTANCE OF 275.00 FEET TO THE WEST LINE OF SAID BLOCK SIX (6); THENCE N00°40'03"W AND ALONG THE WEST LINES OF BLOCKS SIX (6) AND FOUR (4) FOR A DISTANCE OF 1110.00 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 10.82 ACRES MORE OR LESS. AND A TRACT OF LAND LYING IN BLOCK THIRTY- THREE (33) AMENDED WEST TULSA ADDITION AND BLOCK THREE (3) RIVERVIEW PARK ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT THEREOF, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK THIRTY-THREE (33) AMENDED WEST TULSA ADDITION; THENCE N89°24'57"E AND ALONG THE NORTH LINE OF SAID BLOCK THIRTY-THREE (33) AMENDED WEST TULSA ADDITION AND BLOCK THREE (3) RIVERVIEW PARK ADDITION FOR A DISTANCE OF 466.01 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE; SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 156°55'18"; HAVING A RADIUS OF 50.00 FEET; A DISTANCE OF 136.94 FEET AND WHOSE LONG CHORD BEARS N89°24'57"E FOR A DISTANCE OF 97.98 FEET TO A POINT

OF INTERSECTION WITH A NON- TANGENTIAL LINE; SAID LINE BEING ON THE NORTH LINE OF SAID BLOCK THREE (3); THENCE N89°24'57"E AND ALONG THE NORTH LINE OF SAID BLOCK THREE (3) FOR A DISTANCE OF 411.40 FEET; THENCE N00°35'03"W FOR A DISTANCE OF 10.25 FEET; THENCE N89°24'57"E AND ALONG THE NORTH LINE OF SAID BLOCK THREE(3) FOR A DISTANCE OF 123.86 FEET TO THE EAST LINE OF SAID BLOCK THREE (3); THENCE S21°54'03"E AND ALONG THE EAST LINE OF SAID BLOCK THREE (3) FOR A DISTANCE OF 212.36 FEET; THENCE S23°44'44"E AND ALONG THE EAST LINE OF SAID BLOCK THREE (3) FOR A DISTANCE OF 169.37 FEET; THENCE S38°16'37"E AND ALONG THE EAST LINE OF SAID BLOCK THREE (3) FOR A DISTANCE OF 176.82 FEET TO THE SOUTH LINE OF SAID BLOCK THREE (3); THENCE S89°58'50"W AND ALONG THE SOUTH LINE OF SAID BLOCK THREE (3) FOR A DISTANCE OF 574.62 FEET; THENCE S00°34'57"E FOR A DISTANCE OF 142.43 FEET TO THE SOUTH LINE OF SAID BLOCK THREE (3); THENCE S89°25'04"W AND ALONG THE SOUTH LINE OF SAID BLOCK THREE (3) FOR A DISTANCE OF 210.35 FEET; THENCE N00°35'01"W FOR A DISTANCE OF 19.97 FEET TO THE SOUTH LINE OF SAID BLOCK THREE (3); THENCE S89°24'57"W AND ALONG THE SOUTH LINE OF SAID BLOCK THREE (3) RIVERVIEW PARK ADDITION AND THE SOUTH LINE OF BLOCK THIRTY-THREE (33) AMENDED WEST TULSA ADDITION FOR A DISTANCE OF 565.36 FEET TO THE WEST LINE OF SAID BLOCK THIRTY THREE (33); THENCE N00°40'03"W AND ALONG THE WEST LINE OF SAID BLOCK THIRTY-THREE (33) FOR A DISTANCE OF 600.00 FEET TO THE POINT OF BEGINNING; SAID TRACT CONTAINING 15.50 ACRES MORE OR LESS AND BLOCK ONE (1) OF RIVERVIEW PARK ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, City of Tulsa, Tulsa County, State of Oklahoma

22789—Jay Hubbell

Action Requested:

Variance to reduce the 35-foot side setback from an arterial street in a RS-3 District (Section 5.030, Table 5-3). **LOCATION:** 1948 South Florence Avenue East (CD 4)

Presentation:

Jay Hubbell, 1948 South Florence Avenue, Tulsa, OK; stated he would like to add on a master bathroom to his residence. The house is on the corner of Florence Avenue and 21st Street. The actual add on will be farther away from 21st Street than the house is. The house was built in 1930 and the garage is right next to the street, and the addition will not be viewed by anyone except the neighbor directly behind his house. Mr. Hubbell stated he did speak to that neighbor and he has no problem with the addition.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to reduce the 35-foot side setback from an arterial street in a RS-3 District (Section 5.030, Table 5-3), subject to conceptual plan 22.5 of the agenda packet. The Board has found the hardship to be the age of the house and the proximity to the street. 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 2, HICKORY MANOR 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22790—Jesse Strickler

Action Requested:

Variance to reduce the 25-foot rear setback in an RS-1 District (Section 5.030-A, Table 5-3). **LOCATION:** 4728 South Lewis Court East (**CD 9**)

Presentation:

Jesse Strickler, 2532 East 46th Place, Tulsa, OK; stated his client would like to add a master addition to the rear of their house. The hardship for this request is that the house was built far back on the lot. By adding the master addition, it would make the house similar in square footage with the neighbors.

Mr. Van De Wiele asked Mr. Strickler if there has been any contact with the neighbor to the west. Mr. Strickler believes mailers were sent out and his client did speak with some of the neighbors, but he does not know the client spoke to the neighbor directly behind the house. Mr. Strickler stated he has not heard any complaints about the project.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the 25-foot rear setback in an RS-1 District (Section 5.030-A, Table 5-3), subject to conceptual plans 23.5, 23.6, 23.7, 23.8, 23.9, 23.10, 23.11, 23.12, 23.13 of the agenda packet. The Board has found the hardship to be the placement of the house on the lot and the shape of the lot. 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 5 BK 1, REGENCY MANOR ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Radney left the meeting at 5:16 P.M.

22791—Amber Hager

Action Requested:

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

LOCATION: 503 North Peoria Avenue East (CD 1)

Presentation:

Amber Hager, 503 North Peoria Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Ms. Radney re-entered the meeting at 5:18 P.M.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 24.7, and a copy of the spacing exhibit on page 24.8.

Mr. Van De Wiele asked Ms. Hager if she was aware of any other dispensary or license holder within the 300-foot radius. Ms. Hager answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

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

LTS 17 THRU 22 BLK 13, CAPITOL HILL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22792—Josh Kunkel

Action Requested:

Special Exception to permit a Large Commercial Assembly and Entertainment use (more than 250-person capacity) in an IL District to permit expansion of an existing gymnastics facility (Section 15.020-C). **LOCATION:** 7020 East 38th Street South (CD 5)

Presentation:

Josh Kunkel, Method Architecture, 2417 East Admiral Boulevard, Tulsa, OK; stated Incline Gymnastics has operated in the facility for the last two years and prior to that it was World of Gymnastics which had operated in the facility for decades. His client would like to add a safe room for the children; the building was hit by a tornado several years ago.

Mr. Van De Wiele asked Mr. Kunkel if it was going to continue to be a gymnastics facility. Mr. Kunkel answered affirmatively.

Mr. Van De Wiele asked Mr. Kunkel what two north/south streets is the facility located between? Mr. Kunkel stated that it is located between Memorial and Sheridan, east of Sheridan. Mr. Kunkel stated the facility is located in a largely industrial area.

Mr. Van De Wiele asked Mr. Kunkel if the overall footprint of the building was being expanded. Mr. Kunkel stated that the building would be expanded.

Mr. Kunkel stated the building will be expanded with the safe room which will have rest rooms located in it, and there will be an expansion to the Ninja program. Mr. Van De Wiele asked Mr. Kunkel if he was planning on building out the area north and south of the existing truck dock. Mr. Kunkel answered affirmatively.

Interested Parties:

Mike Phillips, 7002 East 38th Street, Tulsa, OK; stated he owns the building directly west of the subject site. He built the building and occupied for over 20 years with an electronics company. The gymnastics building should never have been zoned in an industrial area. The real problem with the gymnastics is the parking; if this building is going to be expanded then there will be less parking. The original building was built for PennWell Publishing and they later moved. During the height of the gymnastics with the students many, many times he would have to block his parking lot because his parking lot would become full of cars of the parents going to events. Mr. Phillips stated that when he had his electronics business, he operated 24 hours, and many times he would have to go to the gymnastics facility to announce to the parents to move their cars that were blocking his gate. Right now, the building is occupied by Belford Property Restoration and they also operate 24/7 service, and they have to be able to get their trucks in and out of their fenced area. The gymnastics is proposed for 250 attendees and there are not 250 parking spaces for their buildings. SAIA Trucking is located there, and they shuttle their semis on 38th Street backing them into their warehouse area. The ABC Roofing Supply Company has tremendous amount of trucks and they are located there. There is also a car parts facility located there that has a tremendous amount of trucks daily. There is no parking on 38th Street.

Mr. Bond left the meeting at 5:42 P.M.

Mr. Van De Wiele stated the Board has not been asked to provide a Variance of parking space requirements. This proposal would go through the building permit process part of which they will assess the building parking space requirements. Parking should be addressed through the building permit process. The Board is not being asked for nor are they granting any relief from parking spaces.

Mr. Phillips asked how he was supposed to keep cars out of his parking lot. Mr. Van De Wiele stated he could certainly gate his lot. Ms. Ross stated he could place signage restricting his lot to his customers only. Mr. Van De Wiele stated that he could warn the offender and then could also have cars towed.

Mr. Bond re-entered the meeting at 5:44 P.M.

Mr. Van De Wiele asked Mr. Kunkel to come forward and asked him if part of the build out had been addressing the parking load requirements. Mr. Kunkel answered affirmatively and stated that the parking load requirements have been reviewed. Mr. Kunkel stated that Wallace Engineering is the Civil Engineer for this client and there was a thorough review of the project. It was discerned that there was bleacher seating in the facility and under that the parking is based on the bleacher seating. Using bleacher seating the parking spaces met the parking requirements.

Mr. Van De Wiele asked Mr. Kunkel if that considered the losing of the space occupied by the proposed building. Mr. Kunkel answered affirmatively.

Ms. Radney asked Mr. Kunkel if he was familiar with the circulation pattern of how people came and went from the subject property. Mr. Kunkel answered affirmatively. Mr. Kunkel stated that the traffic is mostly drop off. The large parking lot is only used in their special events, it is not really in the day-to-day use of the facility.

Mr. Van De Wiele asked Mr. Kunkel if he knew where people parked during the special events. Mr. Kunkel stated the people park wherever they can find a space.

Mr. Chapman stated that he has spoken to the proprietor and he believes the business across the street has a shared parking agreement. To speak to the applicant, this might be just a matter of notifying parents that is where they are supposed to be parking. He believes that is how they are meeting their minimum parking requirement by utilizing shared parking with the neighbor across the street.

Mr. Kunkel stated that is not the case; it was part of the original discussion with Mr. Chapman, but Helmerich and Payne own the property across the street, and they lease it. In part of their lease agreement they lease a certain number of spaces so the gymnastics facility would have to work with the individual tenants. There is a handshake agreement to allow the gymnastics facility to allow them to use parking

there. Mr. Kunkel stated the gymnastics facility is not required to have a parking agreement.

Mr. Van De Wiele asked Mr. Kunkel why he was not required to have a parking agreement and by whom. Mr. Kunkel stated by the City because the gymnastics facility has the required number of spaces for the use and occupancy on site.

Ms. Ross stated the gymnastics facility needs to be better neighbors in directing parents, because they know when they have tournaments there are not going to be enough parking spaces. To just say there are the required spaces provided even though it is known that people are parking in other businesses.

Mr. Kunkel stated that to this point the gymnastics facility has had a verbal agreement with Helmerich and Payne, which owns the property to the north and multiple properties in the area. Whenever they were approached about formalizing the agreement, the response they gave was that when they lease out to tenants, they lease the number of spaces needed by those tenants and they technically do not have spaces to formally give.

Mr. Van De Wiele asked Mr. Kunkel why would there be a parking agreement for spaces across the street if there is a sufficient number of parking spaces on site? Mr. Kunkel stated the facility is within the required number of parking spaces and parking is not being discussed today the use is being discussed.

Comments and Questions:

Mr. Van De Wiele stated the Board is going to table this item until the end of the agenda and the Board will hear Item #26.

Board Action:

No Board action required at this time.

22793—Tracey Diehl

Action Requested:

Special Exception to permit signage in the Right-of-Way (Section 60.020-E); Special Exception to allow directional and way-finding signage for business establishments in an IMX District (Section 60.090-3); Variance to permit directional and way-finding signage to be permitted in the right-of-way and not on the lot containing the use (Section 60.090-3). **LOCATION:** Pedestrian Bridges connecting St. John's Hospital above Wheeling Avenue between East 19th Street South and East 21st Street South (**CD 4**)

Presentation:

Tracey Diehl, 6487 Hilliard Drive, Canal Winchester, OH; stated this project is for Ascension Health and they are in the process of rebranding the hospital. There is a foot

bridge that goes over the right-of-way which has a right-of-way license agreement and it has an existing clearance sign. In the process of rebranding the hospital it has been brought to the facility's attention that people that travel through this way think there is not adequate way-finding signage. The hospital is attempting to mediate that problem and illuminate the need for people to navigate their way with signs that are low by placing a sign on the existing foot bridge. Through the permit process there was a discrepancy issued and through that process several conversations were started with several people. One of the nicest people she met through this process was Mr. Chapman, and she is not just saying that, because by the time she was directed to Mr. Chapman she was extremely flustered. The signs are necessary, and they are necessary for people on the campus to be able to identify their destination. The signs will provide for safe travel and they will be in harmony with the neighborhood because the entire surrounding area is the hospital campus.

Mr. Van De Wiele asked Ms. Diehl if all the signs she wants to put up are on the foot bridge. Ms. Diehl answered no. Ms. Diehl stated all the other signs were approved. The only signs being discussed today are N13 and N14, and they are on either side of the foot bridge; adjacent to where the original clearance sign is located. The signs are flat panel and they are bolted into the fascia of the building and they are not illuminated.

Mr. Chapman stated that he believes there are two separate bridges. Ms. Diehl stated that is correct.

Mr. Van De Wiele asked Ms. Diehl if there were removal agreements on the foot bridges. Ms. Diehl answered affirmatively. Ms. Diehl stated there are right-of-way license agreements for the foot bridges and the signage will have to go through the right-of-way license agreement as well.

Interested Parties:

Brian Guenther, 1814 East 27th Street, Tulsa, OK; stated he has worked for St. John's for almost 15 years and part of the way finding strategy is to try to get people to the right exterior destination and get them into the correct entrance.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for an Special Exception to permit signage in the Right-of-Way (Section 60.020-E); Special Exception to allow directional and way-finding signage for business establishments in an IMX District (Section 60.090-3); Variance to permit directional and way-finding signage to be permitted in the right-of-way and not on the lot containing the use (Section 60.090-3), subject to conceptual plans 26.9 and 26.10 of the agenda packet. The Board finds the hardship to be the lack of directional signs and unique topographical make out of the building and the surrounding area. 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 2 BLK 2; LTS 1 & 3 THRU 5 & 7 LESS BEG NWC LT 1 TH E10 SW22.29 N20 POB FOR RD BLK 2 & LTS 1 THRU 4 LESS S34.26 LT 4 BLK 3; LT 6 BLK 2; LTS 9 & 10 BLK 2; LT 8 BLK 2; LTS 1 THRU 10 BLK 1; LTS 11 THRU 15 LESS PRT LT 15 BEG SECR LT 15 TH W12 NE16.91 S12 POB BLK 1; LTS 11 & 12 BLK 2 & LTS 5 THRU 12 & S34.26 LT 4 BLK 3 & TR BEG SECR LT 12 BLK 3 TH W159 S137.66 E139 NE16.86 N48 NE11.31 N69.66 POB, REDDIN THIRD ADDN: AND INCLUDING THE S WHEELING AVE RIGHT-OF-WAY BEWEEN E 21 ST S AND E 19TH ST S, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Diehl came forward and stated that she travels all over the country and has been to Board meetings after Board meetings. She has never seen a group of people that is nicer to its citizens than this Board. She has watched this Board help people through hardship after hardship after hardship today, and she has never seen a Board that was willing to entertain citizens or serve them like the Board has. Her hat is off to this Board.

22792—Josh Kunkel

Action Requested:

Special Exception to permit a Large Commercial Assembly and Entertainment use (more than 250-person capacity) in an IL District to permit expansion of an existing

gymnastics facility (Section 15.020-C). **LOCATION:** 7020 East 38th Street South (CD 5)

Presentation:

Josh Kunkel, Method Architecture, 2417 East Admiral Boulevard, Tulsa, OK; stated that under the gymnasium use there is 131 bleacher seats provided. The required parking for that amount of seating is .2 parking spaces per seat because it is assumed that people will be in a carpool. Using that figure there are 26 required spaces and the lot has 61 parking spaces.

Ms. Radney stated since the applicant is making the change in the facility it is triggering the requirement to come before the Board for a Special Exception. Even though this is a continued use of the same use that has persisted, while she is sympathetic with the neighboring property owner, the problem probably isn't parking, but the problem is queuing. The problem is that when classes are dismissing, classes that are coming in, and there is more than one set at a time there might be as many as 75 parents who need to make a through put within a 30 to 40-minute span. That problem is real. It goes to the use, that is not about parking but is actually about how this facility will be used. She would personally like to see more about the parking and the ingress and egress; it is important.

Interested Parties:

Mike Phillips, 7002 East 38th Street, Tulsa, OK; stated after spending 30 years watching this place, he thinks it was probably a school originally. Parents do drop students off and pick students up. If you go inside the building, there are gigantic bleachers. They have events that are competitions, and that is when all the parents are in attendance. That is when there is a problem with people parking everywhere. If this Board approves this the problem is simply being kicked down the road, and the applicant will have more validity to what they are doing there whether it is right, wrong or indifferent.

Ms. Radney suggested the Board continue this case until the applicant can come back with firmer plans for handling events.

Mr. Van De Wiele suggested to Mr. Kunkel to bring his client to the next meeting and somebody that is keenly aware of the operations of the business and special events. The flip side of that is, that it makes him nervous to delay the construction of safety facilities for children, but Oklahoma is not in that part of the year yet. The Board has seen issues and had a two-month battle with the school system. The Board is mindful of the programs that go on in the facility; part of the language the Board has to vote on is this non-injurious to the neighborhood. The fact the applicant has to provide a number of parking spaces is one thing, but how they are used is another. At a minimum, the owner/operator needs to understand how his or her business is impacting his or her neighbors. Mr. Van De Wiele stated he will support a continuance to December 10th.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-1 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; Bond "abstaining"; none absent) to **CONTINUE** the request for an **Special Exception** to permit a Large Commercial Assembly and Entertainment use (more than 250-person capacity) in an IL District to permit expansion of an existing gymnastics facility (Section 15.020-C) to the December 10, 2019 Board of Adjustment meeting; for the following property:

BEG 30S & 147.59W NEC SE SW TH W267.50 S215 E255.5 S215 E11.97 N430 POB SEC 23 19 13 1.3794ACS, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 6:01 p.m.

Date approved: _____

Chair