

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1242
Tuesday, January 14, 2020, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Bond, Vice Chair Ross, Secretary Radney Shelton		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 January 9, 2020, at 4:04 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **APPROVE** the **Minutes** of the November 12, 2019 Board of Adjustment meeting (No. 1240).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today; Ms. Radney is on her way. If the Board gets to your item on the agenda before Ms. Radney arrives and the applicant prefers to wait until there is a full five member Board, at that point the item can be moved farther down the agenda. Mr. Van De Wiele announced that Item #8 on the agenda has been withdrawn and the Board will not be taking any action on that item.

NEW APPLICATIONS

22823—Sirgio Wells

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: 6135 East 21st Street South, Suite E (CD 5)

Presentation:

The application was withdrawn by staff.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

**BEG 30W & 50N SECR SW SE SE TH W151 N125 E151 S125 POB SEC 10 19 13
.433AC, City of Tulsa, Tulsa County, State of Oklahoma**

22830—A-Max Sign Company

Action Requested:

Variance to allow two roof signs to be located on a building outside of the Downtown Entertainment District (Sections 60.020 & 60.080-B.5).

LOCATION: 110 South Hartford Avenue East (CD 4)

Presentation:

The Staff has requested a continuance to January 28, 2020 due to incorrect notice.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a **Variance** to allow two roof signs to be located on a building outside of the Downtown Entertainment District (Sections 60.020 & 60.080-B.5) to the January 28, 2020 Board of Adjustment meeting; for the following property:

PRT BLK 83 & PRT VAC ST & ALLEY BEG 22NE NEC LT 1 TH SE301.20 SW242.81 NW313.68 NE157.31 SE.60 POB BLK 83, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22839—Whistler Sign Company

Action Requested:

Variance of the 1,200-foot spacing requirement for an Outdoor Advertising Sign with Dynamic Display from another Outdoor Advertising Sign with Dynamic Display (Section 60.100-K). **LOCATION:** 9810 East 42nd Street South (**CD 7**)

Presentation:

The applicant has requested a continuance to February 25, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Variance of the 1,200-foot spacing requirement for an Outdoor Advertising Sign with Dynamic Display from another Outdoor Advertising Sign with Dynamic Display (Section 60.100-K) to the February 25, 2020 Board of Adjustment meeting; for the following property:

PRT LT 1 BEG NWC LT 1 TH SE138.46 TH ON CRV LF 124.94 SELY83.05 SE244.93 SWLY67.98 SW57 NW485 NE265 POB BLK 2, KOGER EXECUTIVE CENTER RESUB PRT FORTY FIRST & MINGO CTR, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele announced that today's agenda is a full agenda and there is a large audience in attendance. In those situations, the Board will limit the applicant to five

minutes, interested parties to three minutes, and the applicant will be allowed a three-minute rebuttal at the end. If the Board is asking questions or interrupting for issues that time will not count against the time. In order to get the meeting over, hopefully, by 5:00 the meeting needs to keep moving.

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UNFINISHED BUSINESS

22801—Terrance 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: 4735 South Memorial Drive. East, Suite C (CD 7)

Presentation:

Tammy Bailey, 6813 East 15th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board has a copy of the applicant's license and a copy of the spacing exhibit on page 2.11 of the agenda packet.

Mr. Van De Wiele asked Ms. Bailey if she was aware of any other dispensaries within the 1,000-foot radius. Ms. Bailey answered no.

Mr. Van De Wiele asked Ms. Bailey where the nearest dispensary to her location is located. Ms. Bailey stated the nearest dispensary is located at 4135 South Memorial Drive.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) 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:

N150 LT 4 BLK 2, JONES TRUCKING CTR, SECOND RESEARCH & DEVELOPMENT CTR RESUB, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Radney entered the meeting at 1:15 P.M.

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NEW APPLICATIONS

22818—Eric Moritz

Action Requested:

Special Exception to permit a carport in the street yard and street setback with modifications to increase to permitted height of a carport and reduce the required 5-foot side yard setback for a carport in a RS-3 District (Section 90.090-C.1).

LOCATION: 2929 South Boston Court East (CD 4)

Presentation:

Eric Moritz, 6731 East 124th Street South, Tulsa, OK; stated the homeowner would like to have a carport to protect vehicles from the weather and the mature trees dropping sap, pinecones, and acorns.

Ms. Ross asked Mr. Moritz if the house has a garage. Mr. Moritz answered no because what would have been the former garage was converted; he is not sure it was ever used as a garage.

Mr. Van De Wiele asked Mr. Moritz where the carport will sit. Mr. Moritz stated that it will sit where the add-on is located, connecting directly to it.

Mr. Van De Wiele asked Mr. Moritz how far out from the front line of the house will the carport come out? Mr. Moritz stated that it will be 13 feet from the house structure.

Mr. Moritz stated the carport will be constructed of stained rough cedar with a pitched roof and it will be an open structure.

Interested Parties:

John Stevenson, 2929 South Boston Court, Tulsa, OK; stated he is the owner of the subject house. He would like to have the carport for protection and what would be called the garage was never built because the side door and the steps for that door are right where a car would be driving to enter the garage. Mr. Stevenson thinks that portion was added on as part of a business because it has a small office in the rear. Mr. Stevenson stated there are a number of houses on the street that have a similar structure as he has chosen. He spoke with his neighbor to the north and they have no problems with the request.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for an **Special Exception** to permit a carport in the street yard and street setback with modifications to increase to permitted height of a carport and reduce the required 5-foot side yard setback for a carport in a RS-3 District (Section 90.090-C.1), subject to conceptual plan 3.6 of the agenda packet, the conceptual picture and layout submitted today. 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:

ALL LT 11 & PT LT 12 BEG SWC LT 12 TH N 25 ELY TO EL S 31.36 TO SE COR W TO PT BEG BLK 3, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22819—Bill Powers

Action Requested:

Variance to increase the allowable square footage for detached accessory buildings in the RS-2 District (Section 45.030-B). **LOCATION:** 1828 East 32nd Place South (**CD 9**)

Presentation:

Bill Powers, 6220 East 89th Street, Tulsa, OK; stated he would like to add living quarters to an existing detached garage on the rear of the property. The homeowner has a need for additional living space for family needs. Mr. Powers stated the hardship for this request is that the previous owner built the garage on the east side of the property behind the house and the driveway is paved right up to the back of the house. There is no way to accommodate an addition for additional living space because of that. Additionally, from the rear of the lot to the street side there is about a 30-foot drop; the lot is quite pitched. Because of this placing the living quarters over the existing garage is a suitable location for the homeowner.

Mr. Van De Wiele asked Mr. Powers if he would be using the entire footprint of the existing structure. Mr. Powers stated the proposed living quarters will be about 20 feet smaller than the garage.

Mr. Van De Wiele asked Mr. Powers if the portion that was not covered was on the front of the garage. Mr. Powers answered affirmatively.

Mr. Van De Wiele asked Mr. Powers if the proposed living quarters is intended for family. Mr. Powers answered affirmatively.

Mr. Van De Wiele asked Mr. Powers if the proposed addition was going to be used as a rental property. Mr. Powers answered no.

Interested Parties:

Robert Farr, 1927 East 33rd Place, Tulsa, OK; stated he lives in the rear of the subject property. With the construction has definitely changed his view of his back yard, and the new addition is a lot closer to his fence than it was before. He thinks this is an unnecessary addition and it encroaches upon the setbacks that are in place for a reason. Mr. Farr requests the Board to not grant the Variance.

Mr. Van De Wiele stated there is nothing in the application requesting the addition be closer than otherwise would be allowed to the rear lot line. This is a request to have an addition of more square footage; the addition is going up rather than going back.

Mr. Farr stated that does not change his thoughts. This addition changes the neighborhood and the setting of the houses.

Rebuttal:

Bill Powers came forward.

Mr. Van De Wiele asked Mr. Powers how much is the proposed roof line compared to the finished roof line? Mr. Powers stated that it is about seven or eight feet.

Ms. Radney asked Mr. Powers if there would be any windows facing south. Mr. Powers stated there will be; the south view is facing a fence.

Ms. Shelton asked Mr. Powers if anyone has spoken with the neighbor to the east. Mr. Powers stated the homeowner sent a letter to the neighbors and there was no contact from any of the neighbors.

Ms. Radney asked Mr. Powers how much farther from the edge of the stairwell will the edge of the building be. Mr. Powers stated that it will be about 40 feet from the deck to the fence.

Ms. Shelton asked Mr. Powers about the topography of the lot. Mr. Powers stated that 32nd Place is the low point and it is a continual rise to the back of the property, about 30 feet. Ms. Shelton asked Mr. Powers if the neighbor to the south sits higher. Mr. Powers answered affirmatively and stated they are quite a bit higher.

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 increase the allowable square footage for detached accessory buildings in the RS-2 District (Section 45.030-B), subject to conceptual plans 4.9, 4.10, 4.11, 4.12 and 4.13 of the agenda packet. The Board has found the hardship to be the topographical lay out and composition of the lot, and pre-existing structures on the lot. There is to be no commercial gain from the addition. 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 12 LESS PRT LT 12 BEG 7W SECR LT 12 TH NE TO NEC S TO SECR W POB
BLK 8, BREN-ROSE ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

22820—1 Architecture, LLC – Nick Denison

Action Requested:

Special Exception to allow a High-Impact Manufacturing and Industry Use to permit a High-Impact Medical Marijuana Processing Facility in the IM District (Section 15.020). **LOCATION:** 3313 West Charles Page Boulevard South **(CD 1)**

Presentation:

Nick Denison, 1319 East 6th Street, Tulsa, OK; stated there is medical marijuana grows going on, which took two phases, and this is phase III to have an annex building. The building would be 8'-0" x 40'-0" processing and extraction mobile unit. Currently the property is approved for moderate impact and he would like to perform butane processing or high impact processing.

Mr. Van De Wiele asked Mr. Denison if all the other medical marijuana uses going on are permitted for the subject property. Mr. Denison answered affirmatively.

Mr. Van De Wiele asked Mr. Denison if there were two separate buildings on the property or if they were connected. Mr. Denison stated that buildings are connected. Mr. Denison stated the building to the west is a full grow and the building in the middle has been permitted with the City of Tulsa and is also a grow as well.

Mr. Van De Wiele asked Mr. Denison if the mobile processing facility would go to the west. Mr. Denison answered affirmatively.

Mr. Van De Wiele asked Mr. Denison if he knew what took place in the building west of the subject property. Mr. Denison stated that he is not sure.

Interested Parties:

Luke Jenger, 3311 Charles Page Boulevard, Tulsa, OK; stated the usage of the building to the west of the subject property is unclear, but he believes an individual stores his RV. The building to the north, across the railroad tracks, is an abandoned industrial complex. The building to the east, to the best of his knowledge, is empty but the lot is being cleared out.

Mr. Van De Wiele asked Mr. Jenger if the mobile unit was specifically designed for the type of processing that is being requested. Mr. Jenger deferred to Trevor Newburn.

Trevor Newburn, 3301 Coors Boulevard N. W., Albuquerque, NM; stated the mobile unit they will be using is designed for the type of use that is being requested.

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 **Special Exception** to allow a High-Impact Manufacturing and Industry Use to permit a High-Impact Medical Marijuana Processing Facility in the IM District (Section 15.020), subject to conceptual plan 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:

COMM MEANDER COR GOV LT 5 TH N216.5 SW54 TO INTERSEC WLY R/W CHAS PAGE BLVD & S R/W SSRR & POB TH SW ALG RR R/W 387.80 SE120.90 TO N R/W CHAS PAGE BLVD TH ELY ALG R/W ON RT CRV 120.59 NE83.47 NELY CRV LT 249.99 POB SEC 4 19 12 1.03ACS, City of Tulsa, Tulsa County, State of Oklahoma

22821—Katy Anderson

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: 1711 East Skelly Drive South (CD 9)

Presentation:

Katy Anderson, 1711 East Skelly Drive, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board is in receipt of the applicant's permit on page 6.7 of the agenda packet. Mr. Van De Wiele asked Ms. Anderson if this was for a renewal. Ms. Anderson stated the application is for a spacing verification and the license was issued in August.

Mr. Van De Wiele stated the Board is in receipt of the applicant's spacing exhibit on page 6.10 of the agenda packet.

Mr. Van De Wiele asked Ms. Anderson if she was aware of any other dispensaries or permit holders within the 1,000-foot radius. Ms. Anderson 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:

N230 LT 10 LESS BEG NL HWY 44 & WL LT 10 TH E110 N25.10 SW110.46 S15 POB FOR RD, PERRY'S 27207 SUB, City of Tulsa, Tulsa County, State of Oklahoma

22822—Joe Puckett

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:**

1630 West 51st Street South – **Tenant Space:** 1618 West 51st Street South (CD 2)

Presentation:

The applicant was not present.

Mr. Van De Wiele moved the case to the end of the agenda to allow the applicant time to arrive.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action at this time; for the following property:

PRT LT 5 BEG NWC LT 5 TH S83 SE215 E74.2 N151.17 W278.48 POB LESS BEG NWC LT 5 TH E22 SW31.02 N21.93 POB, CAMERON CLINE ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22824—M. J. Carr Company

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: 1222 South Lewis Avenue East – **Tenant Space:** 2311 East 12th Place South (CD 4)

Presentation:

Michael Carr, 4533 East 85th Street, Tulsa, OK; stated he owns the entire subject property. He has an apothecary currently at the location.

Mr. Van De Wiele asked Mr. Chapman about the different addresses. Mr. Chapman stated the entire parcel is 1222 South Lewis and the notice was sent with 2311 East 12th Place as the business because that address is listed on the license.

Mr. Van De Wiele asked Mr. Carr if the interior building will house the dispensary. Mr. Carr answered affirmatively.

Mr. Van De Wiele stated the Board is in receipt of the applicant's license on page 9.5, and the spacing exhibits on pages 9.7 and 9.8 of the agenda packet.

Mr. Van De Wiele asked Mr. Carr if he was aware of any other dispensaries or permitted dispensaries within the 1,000-foot radius. Mr. Carr answered no.

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:

LTS 3 & 4 BLK 7 & PRT VAC RR R/W BEG 86.51SE MOST NLY NEC LT 4 BLK 7 TERRACE DRIVE ADDN TH SE53.61 N23 W12.75 NW15.89 NW12.52 POB SEC 7 19 13 .005AC, TERRACE DRIVE ADDN AMD SUB B2-3&7, City of Tulsa, Tulsa County, State of Oklahoma

22825—Austin Hahn

Action Requested:

Variance to allow restaurant drive-through facilities to be located on the street facing side of the property (Section 55.100-C2); Variance to reduce the required number of stacking spaces for a restaurant drive-through (Section 55.100-A, Table 55-6). **LOCATION:** 1209 East Pine Street North (**CD 1**)

Presentation:

Austin Hahn, 4322 North Lincoln Avenue, Chicago, IL; stated presented a prepared Powerpoint presentation for the Board's review. Mr. Hahn stated there is a Popeye's kitchen next door to the subject location, residential to the north, a McDonald's facility to the south and a QuikTrip across the street. There are high power lines on Peoria Avenue, a number of civic installations along Pine Street, there is signage and a corner that must remain. The building orientation is to make sense for the residential to the north and for the traffic pattern on both Pine and Peoria. The drive-up service would be located on the south side of the building. The vehicle stacking distance is three 18'-0" spaces, or 54'-0", is required and the proposal is for 43'-0" based on the geometrics of the property being much wider in the east-west direction than the north-south direction. The driving surface location is required to be behind the building, and it is proposed to be on one of the two frontages; this is a double fronted lot. The west side which is not a frontage does not have enough space to stack vehicles. Topographical conditions do not pose practical difficulties there are a number of easements on the property, civic

installations, overhead lines and an existing wall on the northwest corner. In addition, the property is located on a hard corner. Overlaying all these conditions on top of each other shows there is a significantly constrained lot. The green easement through the middle of the lot is a PSC of Oklahoma easement and it has been successfully vacated in July, however, the vacation for the orange easement that takes up real estate on three sides of the property has been rejected by the City of Tulsa in October. Mr. Hahn stated that an application to permit construction in that easement for the drive-up service will be filed. Mr. Hahn stated that strict enforcement of the zoning provisions is not necessary to achieve the purpose; the purpose of the provision is to use a building to visually block and possibly audibly block what happens in a drive-up service. By putting the drive-up service on the same side of the street, the street noise will certainly exceed the noise generated from the drive-up service. Additionally, there are other options to visually screen the drive-up that may be more affective. The City has already used a masonry wall to soften the corner.

Mr. Van De Wiele asked Mr. Hahn if the curved wall and the landscaping was going to stay. Mr. Hahn answered affirmatively and stated the signage will also stay.

Mr. Hahn stated that if the Board were to take what is zoned CS, what are the hard corners within the CS zoning, what are drive-up uses along with properties that have easements on them, and the subject property is the only one. There is no other property that has the same use on a hard corner, is encumbered by easements except for the subject property. Mr. Hahn stated that he thinks this meets exceptional circumstances because what is there cannot be replicated in neighboring lots. The Variance, if granted, is the minimum that will afford relief and no other Variance is being sought. The Variance will not alter the character of the neighborhood because there are other drive-up lanes that face Pine with no screening, so this has clearly been approved in the past. Mr. Hahn stated the drive-up is being moved away from the residential in the rear by moving it up to the front and it will be screened visually. In addition, the company is prepared to dedicate a significant amount of right-of-way back to the City for their use. This request will not impair the spirit of the Zoning Code because this Board will retain the power to review these requests for drive-ups on street side on a case by case basis.

Ms. Shelton asked Mr. Hahn what the exact plans were for screening the drive thru. Mr. Hahn stated construction documents have not been started so there are no plans for anything, but the Board does have the power to condition what the landscaping would be. The City will have to approve whatever is proposed because of the utility easement.

Mr. Van De Wiele asked Mr. Wilkerson what the Code states for landscaping standards. Mr. Wilkerson stated the landscape chapter in the Zoning Code requires a continuous vegetative buffer along vehicular use areas that abut arterial streets. In addition to that, there are trees required about every 30 feet. There is a lot more landscaping required than what has been done in the past. Mr. Wilkerson stated the Code is a lot more robust than what has been seen in the past.

Mr. Van De Wiele asked Mr. Wilkerson what would be required between the property and the neighborhood to the north. Mr. Wilkerson stated there would be a screening fence required and maybe landscaping.

Ms. Shelton asked Mr. Wilkerson if there would be a requirement for landscaping along the lot line on the east side as well. Mr. Wilkerson answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he would rather see this given the amount of foot traffic coming from the north and from the west. Having pedestrian cross as little of the drive thru facility as possible is a good idea, and he thinks this accomplishes that.

Ms. Ross stated she has no issues with the request.

Ms. Radney stated her concerns are the new BRT stop that is on the corner and it already has a fair amount of pedestrian traffic. She would like to have more verification on the type of screening to be used on the Peoria side and the Pine side. The BRT will have potential pedestrian traffic day and night so her concern is that this will be a lot closer to the street and bright lights will potentially be shining into the intersection.

Ms. Shelton stated that she has the same concerns as Ms. Radney, not just for the lighting reasons but to prevent traffic from cutting the corner. She thinks it would be a good use of a condition to go above the Code requirements on this particular corner.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-2-0 (Radney, Shelton, Van De Wiele "aye"; Bond, Ross "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow restaurant drive-through facilities to be located on the street facing side of the property (Section 55.100-C2); Variance to reduce the required number of stacking spaces for a restaurant drive-through (Section 55.100-A, Table 55-6), subject to conceptual plan 10.12 of the agenda packet. The Board has found the hardship to be the odd shape of the lot as well as the restrictions of the existing easements. The minimum planting height at the time of planting be 4'-0" to serve as a vehicular buffer along the turning edge of the drive-thru that is bounded both by Pine and Peoria. 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:

LTS 2 & 3 LESS BEG SWC LT 3 TH N20 E72 NE39.60 S48 W100 POB BLK 1; LTS 4 THRU 6 LESS S5 W/2 LT 5 & LESS S5 LT 6 BLK 1, BOOKER WASHINGTON ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22826—Gary Davis

Action Requested:

Variance of the minimum 75-foot lot width in an RS-2 District to permit a lot line adjustment (Section 5.030, Table 5-3). **LOCATION:** 409 and 413 South Zurich Avenue East (**CD 5**)

Presentation:

Gary Davis, 413 South Zurich Avenue, Tulsa, OK; stated his neighbor and he have come to an agreement to have her sell him 6'-0" from her property. Currently the lot width for 413 is 61'-0" and the neighbor's lot width is 73'-0". Mr. Davis stated that what he is attempting to do is put the lot line back where the City originally platted it. Mr. Davis stated that he has been told that when the neighborhood was originally platted these two properties were owned by the same person, the same family. Ultimately, it ended up being a brother and a sister. The brother lived in 413 and the sister lived in 409. In between the properties was a garden; the sister was an avid gardener. The brother became ill and he gave the sister the 6'-0" so she would not have to move her garden.

Mr. Van De Wiele asked Mr. Davis if the entire property line would be shifting 6'-0" to the north. Mr. Davis answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** of the minimum 75-foot lot width in an RS-2 District to permit a lot line adjustment (Section 5.030, Table 5-3), subject to conceptual plans 11.6 and 11.7 of the agenda packet. The Board has found the hardship to be the incongruous nature of the original lot line adjustment as well as modern safety concerns. 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:

S61 W/2 LT 2 & S61 LT 3 BLK 10; N73 S134 W/2 LT 2 & N73 S134 LT 3 BLK 10, WHITE CITY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22827—Sisemore, Weisz & Associates – Joseph Watt

Action Requested:

Special Exception to permit a Campground and RV Park use in a CS District (Section 15.020, Table 15-2). **LOCATION:** 19011 East Admiral Place North (**CD 6**)

Presentation:

Joseph Watt, 6111 East 32nd Place, Tulsa, OK; stated his client would like to develop an upscale RV campground with 63 spaces. The campground will be developed in two phases. In the first phase the 63 lots will be created. The lot is currently covered in asphalt and the plans are to take that out and regrade the area and install new asphalt but decrease the impervious surface area and increase the green area. Much of the green area will be in phase II and that will be for pet walking. He would also like to have

a 10'-0" landscaping easement along the south portion of the property so there would be a buffered entryway. There are existing utility easements on the west and the north side of the subject property. The owner would also like to have a 10'-0" utility easement behind the landscape easement and still have ample room for Tulsa to a place for their utilities. The property was granted a waiver for planting in 1983. The owner has also developed covenants for the RV campground to ensure that it will not be a "fly by night" situation. Mr. Watt read the covenants to the Board.

Mr. Van De Wiele asked Mr. Watt to explain what had been held on the subject property historically. Mr. Watt stated the existing building served as a night club and the space in front of the building was a large parking lot.

Ms. Ross asked Mr. Watt if the subject property was close to the Hard Rock. Mr. Watt answered affirmatively.

Mr. Van De Wiele asked Mr. Watt to explain what was on the east and west sides of the subject property. Mr. Watt stated that to the west is the Kuykendall Industrial Park, which is heavy equipment sales, and to the east is Therma Addition which is a large motorsports distributor and sales.

Ms. Shelton asked Mr. Watt to explain the plan for the landscape buffer. Mr. Watt stated the landscape buffer will be sodded, have hedges and trees.

Interested Parties:

Debra Martin, 8005 South Guthrie Avenue, Tulsa, OK; stated she owns the property located at 19014 East Admiral Place, which directly across the street from the subject property. Her property has about a 75,000 square foot building, and her tenant is concerned about the request. Her tenant's business is flexographic printing and they have international customers that come in. The employees work two shifts. Her tenant is concerned about the RV traffic being right across the street. Ms. Martin asked what would the minimum requirement be for a RV camper? Ms. Martin does not want to see the proposed RV park become a mobile home park because she thinks it would depreciate property values. Ms. Martin is concerned about pet safety because there has only been mention of hedges this would allow pets to run across the street. There are numerous trucks coming in and going out with product. Ms. Martin stated she would like to have a better understanding of what is going to happen on the subject property to protect her property, the client and the area.

Ms. Radney asked Ms. Martin if the property due south of her property is a mobile home park. Ms. Martin answered affirmatively.

Rebuttal:

Joseph Watt came forward.

Mr. Van De Wiele asked Mr. Watt how the covenant stating no alcoholic beverages is going to be enforced. Mr. Watt stated the owner of the subject property is an RV owner

and he takes pride in going to parks where that is enforced outside of the RV. By having the rule in place at least gives the owner an enforceable rule. That rule is more for outside of the RV.

Comments and Questions:

Ms. Ross does not like the fact that the RV campground would be right off the highway. That is a busy, busy, busy exit. That area has seen a lot of development growth and she does not think this fits in with what is going on in that area.

Ms. Shelton stated she does not have a problem with the use, but she is concerned about landscape enforcement.

Ms. Radney agrees with the landscaping concerns. She does not have a problem with the use because she thinks this is becoming a hospitality corridor with the construction of all the new hotels.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-1-0 (Bond, Radney, Shelton, Van De Wiele "aye"; Ross "nay"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a Campground and RV Park use in a CS District (Section 15.020, Table 15-2), subject to conceptual plan 12.6 and the plan submitted today. The governing covenants presented are to be attached to the Special Exception as follows:

1. All RVs must register with the operator.
2. All RVs shall be in sound mechanical condition.
3. No mechanical work shall be performed on the RV except in emergency conditions whereby the owner of the RV shall contact the property owners and shall report the type and duration of the work that has to be performed.
4. No washing of the RVs shall take place in the park.
5. No outside tents shall be allowed in the park, however, canopies above the tables will be allowed.
6. All noise from the RV, i.e., radios, TVs, and any other device shall be kept to a normal voice decibel level between 50 and 65 decibels.
7. Alcoholic beverages shall be restricted to the interior of the RV and there shall be no open containers on the premises or in the proposed future family center or dog park grounds; no illegal drugs shall be allowed in the park or RV.
8. Long term stays in the park, more than a week, has to have prior written approval of the park operator.
9. All trash and debris shall be picked up daily at each RV stall and disposed of properly.
10. All animal excrement shall be removed from any area by the animal's owner.
11. All pet animals shall be leashed at all times when they are outside of the RV.
12. The quiet time for each day shall be from 10:00 P.M. to 7:00 A.M.
13. Check out for each rented stall shall be no later than 11:00 A.M. on the day that ends the rental period.
14. All speed shall be limited to 5 M.P.H. through the park for any vehicle.

15. All of the above covenants shall be enforceable throughout the life of the RV park.

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

E 5ACS W10.66ACS GOV LOT 1 LESS BEG 350.70E NWC LOT 1 TH S127.31 E307.81 N152 W309.80 POB AND LESS S50 FOR RD SEC 1 19 14 3.649ACS, City of Tulsa, Tulsa County, State of Oklahoma

22828—King K Collective

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: 205 East Mohawk Boulevard North – **Tenant Space:** 207 Mohawk Boulevard North (CD 1)

Presentation:

Gloria Young, 1310 North Main, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board has a copy of the applicant's license on page 13.8 and the spacing exhibits on pages 13.10, 13.11 and 13.12 of the agenda packet.

Mr. Van De Wiele asked Ms. Young if she was aware of any other licensed or permitted dispensary within the 1,000-foot radius. Ms. Young answered no.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) 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 SWC LT 20 BLK 3 DEVONSHIRE PL 4TH TH E150 S133.7 W150 N133.7 TO BEG SEC 24 20 12, DEVONSHIRE PLACE FOURTH RESUB BOULEVARD ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22829—Kyle Gibson

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: 2821 West Charles Page Boulevard South (**CD 1**)

Presentation:

Kyle Gibson, 551 South Quaker Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Gibson if he had his license for the dispensary or is this a required step to obtain the license. Mr. Gibson stated there is no OMMA license because this is one of the requirements to obtain a license.

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

Interested Parties:

There were no interested parties present.

Questions and Comments:

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 applicant submitting their OMMA license to INCOG within the next seven days, and 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 27 LESS N85 W35 & LESS S50 W20 & LTS 28 THRU 32 BLK 12, HALE SUB,
City of Tulsa, Tulsa County, State of Oklahoma**

22831—James 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: 7747 East 21st Street South – **Tenant Space:** 7727 East 21st Street South (**CD 5**)

Presentation:

James Xiong, 7070 South 4240 Road, Chelsea, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele asked Mr. Xiong if he had his license or is he needing this spacing to obtain his license. Mr. Xiong needed a certificate of compliance to obtain his license; this is a new license. Mr. Xiong stated the structure was a former dispensary, Healthy Buds.

Mr. Van De Wiele asked Mr. Chapman if the Board had spaced a dispensary at the subject location. Mr. Chapman stated he was not aware of any spacing verification given by the Board for the subject location.

Mr. Van De Wiele state the Board is in receipt of the applicant's spacing exhibits on pages 16.7, 16.8 and 16.9 of the agenda packet.

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

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) 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:

S/2 SE SW SE SE & S25 W300 N/2 SE SW SE SE LESS E30 S165 & S50 W300 FOR STS SEC 11 19 13 .964AC, City of Tulsa, Tulsa County, State of Oklahoma

22832—Femi Fasesin

Action Requested:

Special Exception to permit a duplex in an RS-3 District (Table 5.020, Table 5-2); Variance to reduce the 25-foot street setback in an RS-3 District; Variance to reduce the required 25-foot rear setback for a Special Exception Use from an R-zoned Lot (Section 5.030, Table 5-3). **LOCATION:** 310 South Louisville Avenue East (**CD 4**)

Presentation:

Femi Fasesin, Architect, 421 South Olympia Avenue, Tulsa, OK; stated his client purchased the subject property and would like to construct family-oriented housing. There are duplexes in the neighborhood and an apartment complex nearby. Mr. Fasesin stated he has two site plans; the second plan is an alternate plan if the five-foot rear yard Variance approved. The Variance for the front street setback is so the duplex can have a porch like the houses in the neighborhood.

Mr. Van De Wiele asked Mr. Fasesin if the only area he is requesting be allowed in the 25-foot rear setback would be the additional five feet bump out for the kitchen. Mr. Fasesin answered affirmatively. Mr. Van De Wiele asked Mr. Fasesin if he would like to have that on both sides of the duplex. Mr. Fasesin answered affirmatively.

Mr. Van De Wiele asked Mr. Fasesin if the only area he is requesting 25-foot street setback the only portion of the building would be outside of the 25-foot setback would be the two porch areas. Mr. Fasesin answered affirmatively.

Ms. Ross asked Mr. Fasesin to state his hardship for the Variances. Mr. Fasesin stated that in RS-3 zoning the rear setback is 20 feet and it was realized later that the rear setback had been changed to 25 foot.

Ms. Ross asked Mr. Fasesin if this is going to be an investment property for the owner. Mr. Fasesin answered affirmatively.

Interested Parties:

Graham Chadd, 3433 South Atlanta Place, Tulsa, OK; stated he is the owner of the property that is immediately to the south of the subject property. He totally supports new development in the area, and he thinks this is a great concept for the area. This request would be changing the use of the subject property; everything around the property is single family dwellings. There are duplexes in the surrounding blocks but that block only contains single family dwellings and he thinks that should be respected. The same goes for the variation from the street. He has always understood that it is 25 feet, and that would be in line with his property. If the structure comes forward to 20 feet it would not look as good aesthetically. Mr. Chadd stated he has no objection to the Variance to go back on the lot. The RS-2 area has a large busy apartment complex and there are a lot of pedestrian and vehicle traffic on the street, this will increase that footprint which he objects to.

Mr. Van De Wiele asked Mr. Chadd about the street side setback, the only areas that are outside of the 26-foot setback would be about 60% of the two porch areas and as drawn the homes set back a couple farther from the 25-foot setback than the probably could, does that change his view at all? Mr. Chadd stated it does not change his opinion because 25 feet of his property would not line up with the porch. He has a porch so he sees no reason why it cannot be pushed back on the subject property or pushed laterally.

Ms. Radney asked Mr. Chadd his opinion would be if the developer elected to remove the porches because it seems as though the applicant was lobbying for the porches to conform with the aesthetics of the neighborhood. Mr. Chadd stated that in keeping with the neighborhood porches are a good concept, because it would match the other porches. But this is a new construction and it is different in that it is two-story. He does not believe there are any other two-story properties in the whole neighborhood.

Rebuttal:

Femi Fasesin came forward and stated if there is no objection to the rear setback being 20 feet, he may be able to move everything back so the porch would not protrude into the 25-foot setback.

Ms. Radney asked Mr. Fasesin how far to the north would he shift the structure. Mr. Fasesin stated he would shift it five feet.

Comments and Questions:

Ms. Radney she would be inclined to support the Special Exception. There are duplexes as well as ancillary buildings that are residences in the back of some of the houses as well; many of the houses are set back and built within three to five feet of the property line and have two structures.

Ms. Shelton stated that she would shift everything back thus having only one Variance request. In considering the hardship, if the developer would orient the house to face Louisville to keep with the development patterns, and in doing so it further restricts the buildable area on the lot.

Mr. Bond stated that the fact the developer has designed the project to have two driveways is a good thing and is in the spirit of the neighborhood though the development does seem self-imposed.

Mr. Van De Wiele asked Mr. Wilkerson how is a structure dealt with that is on a corner lot and is a duplex? Mr. Wilkerson stated the Zoning Code talks about street yards so there is not a real front yard issue. Mr. Van De Wiele asked if it is the same setback on Louisville and on 3rd Street? Mr. Wilkerson answered affirmatively.

Ms. Radney asked if that would be the hardship; the lot has two street yards the developer has to comply with? Ms. Ross thinks if this were a single-family residence that might not be an issue.

Mr. Van De Wiele asked Mr. Wilkerson how the Board is to determine which is the rear yard on a corner lot. Mr. Wilkerson stated that on a lot that has two front doors it is conceivable that there is no rear yard, but he does not think that is how the Permit Office looked at it.

Board Action:

On **MOTION of BOND**, the Board voted 4-1-0 (Bond Radney, Shelton, Van De Wiele "aye"; Ross "nay"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a duplex in an RS-3 District (Table 5.020, Table 5-2), subject to conceptual plan 17.10 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LTS 1 & 2 BLK 1, UNIVERSITY HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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 **CONTINUE** the request for a **Variance** to reduce the 25-foot street setback in an RS-3 District; **Variance** to reduce the required 25-foot rear setback for a Special Exception Use from an R-zoned Lot (Section 5.030, Table 5-3) to the January 28, 2020 Board of Adjustment meeting; for the following property:

LTS 1 & 2 BLK 1, UNIVERSITY HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22833—Michael Tolman

Action Requested:

Verification of the 300-foot spacing requirement for a bar from a public park, school or religious assembly use and 50-foot spacing requirement from an R-zoned lot (Section 40.050-A). **LOCATION:** 111 South Detroit Avenue East (**CD 4**)

Presentation:

Michael Tolman, 1516 South Nyssa Avenue, Broken Arrow, OK and **Casey Bradford**, 1516 South Nyssa Avenue, Broken Arrow, OK; **Michael Tolman** stated they would like to establish a bar on South Detroit Avenue.

Mr. Van De Wiele stated the Board is in receipt of the applicant's spacing exhibit on page 18.5 of the agenda packet.

Mr. Van De Wiele asked Mr. Tolman if there were any other prohibited uses in the 300-foot radius. Mr. Tolman stated there were not.

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 for the proposed bar subject to the action of the Board being void should another conflicting use be established prior to this bar; for the following property:

N1/2 LT 5 BLK 86, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22834—Align Design Group – Kyle Gibson

Action Requested:

Variance of the required 20-foot rear setback and the required 5-foot side setback in an RS-3 District (Section 5.030, Table 5-3). **LOCATION:** 1948 East 33rd Place South (**CD 9**)

Ms. Shelton recused and left the meeting at 3:48 P.M.

Presentation:

Jason Gibson & Kyle Gibson, 551 South Quaker Avenue, Tulsa, OK; Mr. Jason Gibson read a prepared statement. For this address the design is to maintain the single story on the west side of the house and a partial second story on the east side of the house. Mr. Gibson stated he has been in contact with the neighbors and certainly in touch with the neighbor to the east.

Mr. Kyle Gibson came forward and stated on August 1st applied for the permit for the subject address and received the permit through the fast track process on the same day. August 6th there was a failed foundation inspection, construction was halted, and a site visit took place to determine where the encroachment was taking place.

Mr. Van De Wiele asked Mr. Gibson about the failed foundation inspection. Mr. Gibson stated that it was the rebar for the concrete footing was in place and the Inspector had an issue with the proximity to the east property line. The property pin on the northeast corner was discovered and it was noticed at this time that the total distance between the privacy fences on the block was 78.6 where the lot width is 80. Upon those findings there was further research performed and the property pin was discovered on the southeast corner. He then went parallel to the west fence line and both of those points hit almost perfectly on a power pole that is located in the back corner. At that time the garage was offset about 12", re-laid the rebar and the work passed the inspection on

August 12th. The City of Tulsa does not require a signed and sealed survey for site plans; his firm relies on reliable public information and knowledgeable City staff in the review process. It was not until November 27th that he received a disputed property line notification via the Tulsa County Assessor, at which time he hired a surveyor. The framing is up, the foundation is down, the roof is in, the windows are in, and this is a great concern. Mr. Gibson stated his surveyor did find discrepancies with the survey that was hired by the east property owner, and that was discussed, and it came up that in fact an encroachment was noticed on December 3rd. At that time, he immediately submitted a Variance to the Board of Adjustment. There is a signed and sealed plat of survey, after the two surveyors conversed and agreement on the property line was reached, that was signed by his surveyor. It notes the setback encroachment on the rear lot; a one-foot setback encroachment in the rear and on the east property line it was found that there is approximately a 9" setback encroachment.

Ms. Ross asked Mr. Kyle Gibson if he said the abstract had not been updated and this was done through a land record search. Mr. Gibson answered affirmatively. Ms. Ross asked if the City confirmed that. Mr. Gibson answered affirmatively and stated it was through the permitting process. Mr. Gibson stated the only easement on the site is the five-foot easement on the south side.

Mr. Kyle Gibson stated that he has found that the encroachments are non-injurious in nature and are only encroachments of the building setback lines. No encroachment of any existing easements or property lines are part of this discussion. Encroachments on the subject site amount to the width of an exterior wall which is a minor encroachment and a construction error. Two-thirds of the east face of the house is effectively screened by the neighboring yard tree growth, especially in the spring and summer months. The garage corner of the neighbor's house, at it is currently built, maintains roughly 30'-0" from the closest point to the subject house. The only two-story portion of the house is 15'-0" in total width along the east property line. The dormer for the two-story room was added under permit #BLDR049576. All two-story areas of the house are setback from the front of the house in order to maintain the single-story context of the majority of existing homes along 33rd Place.

Interested Parties:

Elizabeth Weatherholt, 3320 South Yorktown Avenue, Tulsa, OK; stated she is the property to the east. Ms. Weatherholt read a note that was attached to the application. The first permit was granted on August 1st and it one or two days before she saw dirt moving machines working and she noticed that it was very close to her fence. The subdivision is about 70 years old and she has never seen discrepancies like this. She called the City's 311 number and immediately an inspector came out and shut down the project because there was no demolition permit nor a construction permit, and there was no erosion control. She does not understand how they could proceed if they were so concerned about due diligence but yet not get a survey. Ms. Weatherholt stated the contractor was shut down a number of times and on August 6th foundation failed inspection. Ms. Weatherholt stated that she has been waiting to see the legal remedy because she just wants this issue to be quieted.

Ms. Ross asked Ms. Weatherholt if she disagrees with the surveyor. Ms. Weatherholt stated she wants the survey so that it is settled once and for all. She was thrilled when her surveyor told her that he and the other surveyor reconciled.

Mr. Van De Wiele stated this is not a property line settlement board. Per this survey both the east and the west fence are inside the applicant's property line.

James Hodges, 2622 East 21st Street, Tulsa, OK; stated he represents Katie Murray who owns the property right behind the subject house. This application satisfies none of the ordinance requirements for the granting of a Variance; referring to Chapter 70, Section 70.130-H. Based on the survey there are known Variances on the east side of the subject house into the five foot setback, there is a known Variance on the south side of the subject house into the rear setback, and there is a known Variance over the lot line as established by the plat. It shows what kind of due diligence was made by the builder before putting this house on the foundation. The builder stated in his narrative that the project was flagged on August 6th and they determined where the corners were with a surveyor, the southeast and northeast corners. They had the facts before them that would have allowed them to measure with precision what five feet required them to do, and they failed to do it. Even after finding the corner pins they're measuring at 3.9 feet instead of five feet. They're measuring at 4.2 feet at the corner instead of five feet. They're measuring at 19 feet instead of 20 feet in the rear. They did a sloppy job and that falls on them, and they are asking for a Variance to clear them of their mistake. The purpose of a Variance is not to grant a party who is careless relief of their carelessness, but it is to give genuine cases a place to go. Nobody has testified about topography or a weird shape of the lot or the manhole cover that is in an awkward position, there is nothing wrong with the subject lot. The lot is 80'-0" x 135'-0" on a fairly level topography. The problem is the builder put the house up the way they wanted it, not the inspectors and surveyors told them to do. For the Board to face a case like this, after it is already done, to grant a Variance in this situation is to excuse that kind of carelessness. On behalf of the Murrays who live right behind this he would ask the Board to show with the decision what kind of behavior you want to approve of and what kind of behavior you disapprove of. This set of facts does not qualify for a Variance under any section and would ask the Variance to be denied.

Mr. Van De Wiele asked Mr. Hodges how the one-foot encroachment has impacted his client's quality of life, their property and what is their concern? Mr. Hodges stated there are windows in the rear south wall of the subject property are visible above the privacy fence. The activities that take place in that room will be visible to the people that live to the south.

Mr. Bond asked Mr. Hodges what the relief is he is seeking. Mr. Hodges stated he thinks the builder should take out the offending wall and build everything out to the west because there is plenty of room to the west. There is no reason for this to be set where it is, particularly with the jut out making the encroachment even more.

Mr. Van De Wiele stated there are certainly things that could have been done differently on the front end of the project, but the Board has heard this argument before. Sometimes, what the Board hears is that people do not like the project with asking for a relatively small footprint of encroachment. That is what the Board has to sort out. A City Inspector inspected and blessed the foundation.

Mr. Hodges stated a footing is 18 to 24 inches across the top, and he does not know where the Inspector measured. There is a lot of room for things to take place after the Inspector leaves and this may be built by workers who do not even know the importance of it.

Elizabeth Weatherholt came forward and asked what the rules are for if people are to conserve the characteristics of the neighborhood? Now her property is most certainly worth less, whether she approves the house plans or not. There are many ways to add 2,000 square feet on to the house without making 90 feet along the fence, and now it is out of character.

Mr. Van De Wiele stated that he understands Ms. Weatherholt's concerns. Part of the issue is that a lot of the older neighborhoods do not have homeowner's association as seen in newer neighborhoods that may enforce every house to look similar to one another. There is a reason houses are being bought in mid-town for more and more money, and it is not because of property values are going down.

Ms. Weatherholt stated that the builder refused mediation twice when she was attempting to sell the property line.

Robert Farr, 1927 East 33rd Place, Tulsa, OK; stated he lives four houses down the street, and he supports his neighbors in fighting this Variance, because he does not see a justification other than an expensive mistake was made. He would like to have the setbacks remain as they are.

Rebuttal:

Kyle Gibson came forward and stated the survey began on 12/03/2019 at which time he realized the encroachment may be a possibility. That was the exact same day he made his application to the Board of Adjustment for a Variance. He made decisions to help them pass the failed inspection on August 6th; he was not working off surveyor points at that time. To the best of his ability with public knowledge and the review process of the City determined the footprint and ultimately the inspection process.

Mr. Bond asked if the house jutted out beyond where the concrete is poured? Mr. Gibson stated that it does not other than the overhang or the eave of the house.

Ms. Radney asked Mr. Gibson why he did not get a survey when he did not pass the City inspection. Mr. Gibson stated that it is not required by the City. Ms. Radney stated that she understands that, but this is a very expensive endeavor and she is curious why at that point in time it was decided not to obtain a survey. Mr. Gibson stated he worked

for a surveying firm for many years and determined, from he found in the field, to be true property corners and that is what he went from.

Mr. Van De Wiele asked Mr. Gibson if Sean Cease had found different property corners. Mr. Gibson stated that Mr. Cease did find different property corners, and different from that of the survey completed by Ms. Weatherholt.

Jason Gibson came forward and stated that the property pin that changed since the surveyor was involved is the southeast property corner, and that is the only one that was different. Based on the pins that he located he adjusted the house as a result, and he was actually in touch with Mr. & Mrs. Weatherholt throughout the process of the location of the east property line.

Mr. Bond stated the main concern before the Board today is whether there is a hardship, and the City of Tulsa says the builder can do this and he did it. He considers that the hardship. He understands how this could have people because people move pins and they remove pins, especially in older neighborhoods. Mr. Bond stated he is inclined to vote in favor of the Variance.

Ms. Ross stated she did not hear any evidence that this was an intentional act. The City approved the first permit. The subject project is allowed to be within five feet and that is the rule. If there had not been an issue with the property line and the surveyors disagreeing, she does not think the encroachment is so great that it is worth tearing down everything that has already been done.

Mr. Van De Wiele agreed with Ms. Ross. If this were an application that had come before the Board before construction had started, he does not think there is a hardship. On one hand the City of Tulsa said the permit was approved and the inspection was approved, now after the fact, a different arm of the City is being asked to remove the project. He understands all the point, but he thinks there is a hardship in this case, and he does not think it was self-imposed. The hardship is either created or exacerbated by incorrect publicly available information and approval by the City. Mr. Van De Wiele stated he will vote to approve this request.

Ms. Radney stated she is going to vote no on general principle. She believes that the penalty vastly exceeds the crime in that if the Board did not approve the Variance then the structure would have to be significantly remodeled. She thinks that there are professional standards, public information notwithstanding, and the applicant suggested they had within their capacity to understand why they would need a survey actively conducted ahead of time. Flagrant carelessness is not an excuse. Ms. Radney stated she agrees with the neighbors, this is sloppy, and this Board affectively required a family to replace a roof because they flagrantly disregarded a publicly available standard for what the roof material was supposed to be. The Board stood by the law in that case, and in this case, she thinks this is self-imposed.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-1-1 (Bond, Ross, Van De Wiele "aye"; Radney "nay"; Shelton "abstaining"; none absent) to **APPROVE** the request for a Variance of the required 20-foot rear setback and the required 5-foot side setback in an RS-3 District (Section 5.030, Table 5-3), subject to conceptual plan 19.7 of the agenda packet. The Board finds the hardship to be the applicant's reliance upon the City of Tulsa's inspection and building permit approval. 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 4, ADAMS ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Shelton re-entered the meeting at 4:54 P.M.

Mr. Bond left the meeting at 4:55 P.M.

Mr. Van De Wiele stated that Mr. Bond must leave the meeting and given that, any other items, if the applicant would like to request a continuance the Board will entertain that request. No one requested a continuance.

22835—Michael Hagan

Action Requested:

Variance of the 20-foot rear setback and 25-foot front setback in an RS-3 District (Section 5.030-A); Variance to allow a nonconforming lot to have less than 50% open space (Section 80.020-B); Special Exception to allow a carport in a street setback and street yard with modifications to allow the carport to exceed 20 feet in width and to exceed 8 feet in height within 10 feet of a side lot line (Section 90.090-C.1). **LOCATION:** 314 East 38th Place South (**CD 9**)

Presentation:

Michael Hagan, 314 East 38th Place, Tulsa, OK; stated the subject property is his personal residence. The addition to be added to the residence is currently at the City for permitting and everything has been approved except for today's requests. The lot is an east-west facing lot and 55'-0" wide x 150'-0" long, and his front lot is the side lot area compared to the neighbors. The addition he wants to do will be to the west, and that seemed logical since that would be toward everyone else's back yards. He is over the 50% open space by about 200 square feet, and it is because of the addition of a sidewalk to give the house a more inviting feel. Mr. Hagan stated that if his lot were a traditional lot where his garage is in the back and the driveway were brought beside the house but for his house it is deemed as coming off the front yard, which is 38th Street. The garage is a story and a half, so he did not build up to the maximum of 35 feet; his maximum height is 26 feet. There is a deck area from the garage that he plans to park under, and the City deemed this deck as a carport.

Mr. Van De Wiele asked Mr. Hagan to explain the need for the deck/carport if there is a garage. Mr. Hagan stated the idea for the deck was because there is a living space above the garage and wanted people to be able to access outside, and the garage will also be used as a hobby shop for woodworking so deck/carport would allow him to park with some protection.

Mr. Van De Wiele asked Mr. Hagan if the area above the garage accessible from the interior of the house. Mr. Hagan answered affirmatively.

Ms. Radney asked Mr. Hagan where the interior stairwell is located. Mr. Hagan stated there is a small corridor off the laundry room which leads up into the garage living space.

Mr. Van De Wiele asked Mr. Hagan if there were plans to make the garage living space a rental unit. Mr. Hagan answered no. Mr. Hagan stated that it will be similar to a mother-in-law suite for family use and that is why it is attached to the house.

Ms. Ross asked Mr. Hagan about the rear setback. Mr. Hagan stated that he had to have a sight survey for the flood plain and the existing house is built about five feet off the property line. Mr. Hagan stated his hardship for that is if he has to have 25 feet off

the front and 10 feet off the back that gives him a 10-foot buildable area because the house should have been facing the other direction or facing Madison.

Ms. Ross stated that she would like to see the actual measurements on a drawing. What has been provided today does not give the Board what is needed to properly evaluate this project. She would suggest the applicant continue his case to give him time to get more information for the Board.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Variance of the 20-foot rear setback and 25-foot front setback in an RS-3 District (Section 5.030-A); Variance to allow a nonconforming lot to have less than 50% open space (Section 80.020-B); Special Exception to allow a carport in a street setback and street yard with modifications to allow the carport to exceed 20 feet in width and to exceed 8 feet in height within 10 feet of a side lot line (Section 90.090-C.1) to the January 28, 2020 Board of Adjustment meeting; for the following property:

LT 1 BLK 2, MICHAEL JANE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Keith Dalessandro stood and asked the Board if he could continue his case to the next Board of Adjustment meeting due to the late hour.

Mr. Van De Wiele asked Mr. Chapman to announce Mr. Dalessandro's case.

22838—Keith Dalessandro

Action Requested:

Variance to allow a detached accessory building to exceed 40% of the size of the principal residential structure in an RS-2 District (Section 45.030-B); Variance to reduce the required 30-foot street setback in an RS-2 District; Special Exception to increase the allowed width of a driveway both in the right-of-way and within the street setback (Section 55.090-F). **LOCATION:** 2145 North Elwood Avenue West **(CD 1)**

Presentation:

No presentation was made.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Variance to allow a detached accessory building to exceed 40% of the size of the principal residential structure in an RS-2 District (Section 45.030-B); Variance to reduce the required 30-foot street setback in an RS-2 District; Special Exception to increase the allowed width of a driveway both in the right-of-way and within the street setback (Section 55.090-F) to the January 28, 2020 Board of Adjustment meeting; for the following property:

W.1/2 LT 13 BLK 18 OAK CLIFF ALL LT 15 BLK 18, OAK CLIFF ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22822—Joe Puckett

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:** 1630 West 51st Street South – **Tenant Space:** 1618 West 51st Street South (CD 2)

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; Bond absent) to **CONTINUE** 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) to the January 28, 2020 Board of Adjustment meeting; for the following property:

PRT LT 5 BEG NWC LT 5 TH S83 SE215 E74.2 N151.17 W278.48 POB LESS BEG NWC LT 5 TH E22 SW31.02 N21.93 POB, CAMERON CLINE ACRES, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele extended his apologies to Mr. Barnard and thanked him for his indulgence.

22836—Rich Barnard

Action Requested:

Special Exception to permit Personal Vehicle Sales in a CS District (Section 15.020, Table 15-2); Variance to permit the outdoor storage and display of merchandise in a CS District within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** West and North of the intersection of East 5th Place South and South Memorial Drive East (**CD 3**)

Presentation:

Rich Barnard, 9801 South Sooner Road, Oklahoma City, OK; stated he would like to have a car dealership thus the Special Exception request for vehicle sales and the Variance request for outdoor storage and display of the vehicles. During the process he was contacted by the City Councilor and presented his idea to her and did a presentation for the neighborhood association. This project will be a new building and he has assured the neighborhood association that this will not become a junk filled lot.

Interested Parties:

David Day, 551 South Memorial Drive, Tulsa, OK; stated he has lived in his house for 39 years and he has seen the traffic increase. What concerns him is the children of the neighborhood; Dove Science Academy is less than a block away from the proposed project. Mr. Day stated there is also a day care center directly across the street from the proposed project. There is heavy children foot traffic on the west side of Memorial Drive and that foot traffic crosses Memorial at the corner of 5th Street to go down 5th Street.

Mr. Van De Wiele asked Mr. Day what he thought would be a better use for the subject property. Mr. Day stated that light office would be a good fit, not a car lot.

Rebuttal:

Rich Barnard came forward and stated whether the property would be light office, a restaurant or a convenience store typically his traffic count is much lower than those uses. People buy cars every three years, but they buy a soda every day, and he thinks his traffic count would be a lot less than other uses.

Mr. Van De Wiele asked Mr. Barnard about the existing sidewalks being rebuilt or maintained by him after the project is complete. Mr. Barnard stated he looks forward to working with any bodies as he moves forward for landscaping, sidewalks, etc.

Mr. Van De Wiele asked Mr. Chapman if he knew whether the subject lot meets the parking requirements. Mr. Chapman stated that he does not know the answer because this project has not gone through plan review. The issue regarding the Variance and the spacing between residential is something he added to the request because he was aware of it. Generally, if the project is approved per conceptual plan the applicant will also have to comply with all landscaping requirements and they would have to meet the parking standards.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to permit Personal Vehicle Sales in a CS District (Section 15.020, Table 15-2); **Variance** to permit the outdoor storage and display of merchandise in a CS District within 300 feet of an abutting R District (Section 15.040-A), subject to conceptual plan 21.7 of the agenda packet. There is to be no outdoor storage of inoperable vehicles. All display areas are to be marked, striped according to the Zoning Code regulations. No automotive repairs are to be performed outdoors. Security lights placed in the rear of the business be pointed downward and shielded per the Zoning Code. The Board has found the hardship for the Variance to be the lot width is very small for commercial property. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. 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:

BEG 717.89N & 50W SECR NE SE TH W10 N141.89 W297 N141.90 E307 S283.79 LESS E10 THEREOF FOR ST SEC 2 19 13 .968AC; BEG 859.78N SECR NE SE TH W357 S141.89 E357 N141.89 POB LESS E60 THEREOF SEC 2 19 13 .967ACS,VANCE RESUB L8 B1 & ALL B12 PAMELA ACRES, PAMELA ACRES, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Wilkerson left the meeting at 5:24 P.M.

22837—Pete Webb

Action Requested:

Special Exception to allow a freestanding dynamic display sign to be located in an RS-3 District (Section 60.050 2-C); Special Exception to allow a Dynamic Display sign to be within 200 feet of another R District (Section 60.100.F). **LOCATION:** 2316 North Norwood Place East **(CD 3)**

Presentation:

Ryan Neueohr, 4132 East 41st Street, Tulsa, OK; stated this is a request for a dynamic display for Hamilton Elementary School. The sign will be automatically programmed to shut off at 9:00 P.M. every evening and will come on at 7:00 A.M. every morning. There will be no video animation or anything like that. The dynamic display will be equipped with automatic dimming capabilities so that it will adjust automatically to the brightness. The sign will be an asset for the school and the community.

Mr. Van De Wiele asked Mr. Neueohr if there was only the one sign. Mr. Neueohr answered affirmatively.

Mr. Van De Wiele asked if the proposed sign would be installed at the same location as the existing sign. Mr. Neueohr answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow a freestanding dynamic display sign to be located in an RS-3 District

(Section 60.050 2-C); Special Exception to allow a Dynamic Display sign to be within 200 feet of another R District (Section 60.100.F), subject to conceptual plans 22.6 and 22.9 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:

W825 SE NE LESS W195 S180 SE NE & LESS E25 THEREOF FOR RD SEC 27 20 13 23.436ACS, City of Tulsa, Tulsa County, State of Oklahoma

22841—Peter Grant

Action Requested:

Variance to reduce the required 35-foot front setback in an RS-1 District (Section 5.030, Table 5-3). **LOCATION:** 6635 South Jamestown Avenue East **(CD 8)**

Presentation:

Peter Grant, 2845 South Florence Avenue, Tulsa, OK; stated this request is to be able to build beyond a building line for a residence. The hardship for this request is an irregular lot configuration. The front property line is in the shape of an arc that dips deeply into the property thus not allowing to build in any direction. The new addition will sit behind the façades of the houses to the north, it is the cul-de-sac that creates the exaggerated dip into the subject property.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to reduce the required 35-foot front setback in an RS-1 District (Section 5.030, Table 5-3), subject to the conceptual plan submitted at today's meeting. The Board has found the hardship to be the irregular lot configuration and size. 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 4 BLK 1, CEDAR CREEK, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

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BOARD MEMBER COMMENTS

None.

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There being no further business, the meeting adjourned at 5:40 p.m.

Date approved: _____

Chair