

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1253
Tuesday, June 23, 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	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on June 18, 2020, at 10:02 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 1:10 p.m.

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

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

<https://www.gotomeet.me/COT5/council-chambers-boa-june-23rd>

The staff members attending remotely are as follows:

- Mr. Stuart Van De Wiele, Chair
- Mr. Austin Bond, Vice Chair
- Ms. Burlinda Radney
- Ms. Jessica Shelton, Board Member
- Mr. Dwayne Wilkerson, Tulsa Planning Office
- Ms. Audrey Blank, City Legal

The staff members attending in person are as follows:

Ms. Briana Ross, Secretary
Mr. Austin Chapman, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

MINUTES

None.

UNFINISHED BUSINESS

22902—Lamar Outdoor Advertising

Action Requested:

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

Presentation:

The applicant has withdrawn the application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

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

22894—Jorge Fernandez

Action Requested:

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

Presentation:

The applicant has withdrawn the application.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

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

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NEW APPLICATIONS

22945—Wallace Engineering – Mike Thedford

Action Requested:

Variance to reduce the Build-to-Zone Requirement along Lewis Avenue (Section 10.030, Table 10-4); Variance to reduce the ground floor ceiling height from 14 feet (Section 10.030, Table 10-4); Variance to reduce the minimum transparency required along a street facing building facade (Section 10.030, Table 10-4).

LOCATION: 2311 East 11th Street South **(CD 4)**

Presentation:

The applicant requests a continuance to July 14, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Variance to reduce the Build-to-Zone Requirement along Lewis Avenue (Section 10.030, Table 10-4); Variance to reduce the ground floor ceiling height from 14 feet (Section 10.030, Table 10-4); Variance to reduce the minimum transparency required along a street facing building facade (Section 10.030, Table 10-4) to the July 14, 2020 Board of Adjustment meeting; for the following property:

LT 19 BLK 1; LT 2 BLK 1; E 40 LT 1 BLK 1; LT 3 BLK 1; W. 77. 3' OF LOT 1 BLK 1; LTS 4 THRU 18 LESS S5 W40 LT 14 & LESS E5 S5 LT 15 & LESS S5 LTS 17 & 18 BLK 1, HILLCREST ADDN, HILLCREST PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond entered the meeting at 1:10 P.M.

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UNFINISHED BUSINESS

22904—Sierra Russell

Action Requested:

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

LOCATION: 6373 East 31st Street South, Suite J (CD 5)

Presentation:

Sierra Russell, 6373 East 31st Street, Suite J, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Ms. Ross stated that the Board has been made aware that there is a school within a 1,000 feet of the subject site. Ms. Ross asked Ms. Russell if she was aware that Oklahoma state licensing may have an issue with that spacing. Ms. Russell stated that she was made aware of that conflict.

Ms. Ross stated there is another dispensary within 1,000 feet of the subject site and that dispensary has already received their Certificate of Occupancy. Ms. Ross asked Ms. Russell where they were located in relation to her site. Ms. Russell thinks they were 900 feet away. Ms. Russell stated that when she started construction on her site that another site was still for lease. Ms. Russell stated that her contractor applied for the Certificate of Occupancy on January 28th, she received her letter for the zoning clearance on January 22nd, and she put in her application on March 12th and that is when she was made aware of the other dispensary in the area.

Ginger Sloan, 5808 Mistletoe Court, Oklahoma City, OK; stated that construction was started in December.

Mr. Van De Wiele asked Ms. Sloan how she would propose the Board verify spacing given there is Certificate of Occupancy within 1,000 feet, and how does the applicant intend to deal with the licensing issue given the distance to the school. Ms. Sloan stated they were made aware of the school and done the map on OMMA already. As for the other dispensary she measured it to be 879 feet away so she would ask the Board to make an exception because they had actually applied with the City prior to the other location having started.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, 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 **REJECT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary, given that there is a Certificate of Occupancy within 1,000 feet of the applicant's proposed location; for the following property:

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

22873—Carina Garcia

Action Requested:

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

Presentation:

Carina Garcia, 3811 South 27th West Avenue, Tulsa, OK; stated she would like to place a manufactured house on her lot. There was a stick-built house on the property that burned down.

Ms. Ross asked Ms. Garcia about the age of the manufactured house that she wants to place on the property. Ms. Garcia stated that it was built in 2011.

Ms. Ross asked Ms. Garcia if she has seen the e-mails and letters received by the Board regarding her request. Ms. Garcia answered affirmatively. She believes those people are just worrying about the value of their houses. She does see the harm in placing a manufactured house on her property.

Mr. Van De Wiele asked Ms. Garcia if she had a chance to speak to any of her neighbors directly. Ms. Garcia answered affirmatively. Ms. Garcia stated that the neighbors told her that they would be okay with her moving a manufactured house onto the property if she maintained the house, installed a concrete driveway, make the manufactured house stationery, and make the house look nice.

Ms. Ross asked Ms. Garcia if any of the neighbors brought up landscaping for the manufactured house. Ms. Garcia answered no, but she has a sister that will take care of that for her.

Ms. Garcia stated that she had been remodeling one of the two stick-built houses on her property and someone burned it down, so this is now her only option.

Interested Parties:

Jeannie Cue, District 2 City Councilor, 175 East 2nd Street, Tulsa, OK; stated this is hard for her because there are neighbors that care about her and Ms. Garcia also has family there. Ms. Cue stated there is already a mobile home in the area, but she cannot find any records where it has come before the Board. She is concerned about any mobile home or manufactured home or modular home that is approved in the City of Tulsa. She has spoken to ten different departments about how this is handled, including INCOG. It is very unclear as to what is a mobile home versus a trailer versus a modular home. Her question to INCOG and everyone else, if we allow manufactured houses or ones that are not considered houses how is the City following up? Who knows if a homeowner given a seven-year approval ever comes back before the Board; no one can find that out? Ms. Cue stated she has spoken with the WIN Department supervisors and found that on occasion someone in that department will call INCOG to find if something is legal. WIN does not train the staff; if there is a report filed about an illegal mobile home in the City no one is following up on that report. Ms. Cue stated she has concerns about allowing things to happen. Ms. Cue stated that she spoke with the Permit Department and they were very unclear how a manufactured house even gets to the Board of Adjustment. No one follows up on whether a foundation is installed under the manufactured house unless there is a permit pulled so there is a lot of open ended questions that she has been working with her staff on and she feels there is not enough control over how things are followed up. There is a mobile home right next to the subject property that is falling apart but no one can tell her that it is out of compliance and has been for years. Ms. Cue stated that INCOG does send a letter to applicants telling them that the time limitation has ended, and it is time to come back before the Board of Adjustment. There is a lot of confusion when mobile homes are being studied about being placed in the City. The residents of the neighborhood like Ms. Garcia, but there are several mobile homes in the area that no one has followed through on. That

is scary for this City, if something is continued to be approved and there is no control on how it is handled. Ms. Cue requests the Board deny this case until she can have a group meeting with INCOG, Permit Department and WIN.

Kelly Bruce, 3651 South 28th West Avenue, Tulsa, OK; stated she met with Ms. Garcia and her family, but this is an older neighborhood. There are families in the area that are improving their houses and there are houses that still need improvements. Regarding the manufactured house is that it would set a precedent in this neighborhood. The houses that burn down or get destroyed are razed. This is a residential area with stick built houses, and in the 14 years she has lived in the neighborhood she has not seen any manufactured houses or mobile homes moved in; one did try to come into the neighborhood and it was denied by the Board of Adjustment. Manufactured houses are a convenient way to bring a house into the neighborhood but then the neighborhood becomes mobile home park, and the neighbors want to keep this historic area as is and keep the history going.

Billy Halstead, 3623 South 26th West Avenue, Tulsa, OK; stated that Red Fork was established in 1883 with lots, blocks, alleyways, street right-of-ways, and it was all designed out next to an area that did have these things. Red Fork set their self aside with rules and regulations for lots in the neighborhood. Mr. Halstead stated that his father purchased his property and built a house in 1952, so he has lived in the neighborhood all his life. Mr. Halstead stated that he added 546 square feet to his property in 2001 and the City required him to have architectural drawings on the addition so he could meet the City Code at that time. Mr. Halstead stated that he saw the mobile home that Ms. Cue referred to go in, and at one time Burlington railroad had property in Red Fork and had their own housing in the area. Burlington has since torn down their housing and he assumed that the manufactured house was on the railroad property. Mr. Halstead stated that Red Fork is special and that is why Tulsa paid a big price to annex and he objects to Ms. Garcia's request.

Earl Brashear, 2501 West 37th Street, Tulsa, OK; stated this is an R-3 neighborhood and people want a house built not a mobile home or a manufactured house or a modular house in the neighborhood. There are a lot of historic houses in the area and it is one of the oldest neighborhoods in Tulsa. The Board should uphold this as an R-3 neighborhood.

Rebuttal:

Carina Garcia stated she is paying for building permits and she is paying taxes as everyone else in the neighborhood is. She has had to clean the lot from the burned down house and she thinks she has done everything the City has asked of her. Ms. Garcia stated that the manufactured house will be a house like everyone else.

Mr. Van De Wiele stated that in 1985 there was a Special Exception granted for a mobile home on the lot south of the subject property; Ms. Garcia has stated that she owns two lots so is that also her lot or is it another lot? Ms. Garcia stated the lot with the trailer is not her lot. Mr. Van De Wiele asked Ms. Garcia if the lot south of her

property still has a mobile home on it. Ms. Garcia answered affirmatively; people are living in it.

Susie Beasley, 3743 South 29th West Avenue, Tulsa, OK; stated there is a second modular house in the neighborhood located at 3604 South 29th West Avenue. That modular house has been there since she moved into the neighborhood 13 years ago. Will the City allow this to continue happening? If the other two in the neighborhood has not been checked on that is not fair to the residents. Ms. Beasley stated that modular houses are paper houses, they are not well made. The argument of between modular and mobile is just a play on words, they are all made the same. The mobile home that has been discussed is located at 3821 South 29th West Avenue and she wonders if that is what made Ms. Garcia think she could move a manufactured house into the neighborhood. There are Ordinances and laws in the City for a reason and she would like to see them upheld.

Comments and Questions:

Mr. Van De Wiele asked Mr. Wilkerson if he had anything to add to what Councilor Cue was asking about time limits; what is the process when the time limit draws to an end? Mr. Wilkerson stated INCOG staff maintains a log of time limits and it is monitored, and what that time limit ends staff sends out notices to the property owner at the time. The vast majority of those letters sent out get some kind of response. INCOG staff does not receive the benefit of knowing what happens on the enforcement side if the property owner chooses not to follow the rules. Mr. Van De Wiele asked if a property owner chooses to ignore the letter is there something sent to Code Enforcement or does it just die waiting for a violation? Mr. Wilkerson stated that when INCOG does not hear back from a property owner staff does get in touch with Code Enforcement, but that is rare. Mr. Chapman stated he is not a Code Enforcer and there is some responsibility of neighbors; INCOG is not aware that Code is being broken. Mr. Chapman stated that he does not know if the Board has any control over the City of Tulsa Code Enforcement. Mr. Chapman stated that today's request is for a manufactured home and there is not anything that can be permitted as a mobile home in the City of Tulsa any longer. Generally, a manufactured home will be required to be on a foundation and skirted if it is approved.

Ms. Radney stated that it is her understanding is that a manufactured home is constructed to higher building standards though they may not be exactly item for item the same codes used for stick building, but the manufactured homes have more rigorous standards than they did in the past. Ms. Radney asked if that was a correct assumption. Mr. Chapman stated that all buildings generally have a higher building standard than in the past, in terms of the manufactured house, the way it is looked at, is if it assembled elsewhere and brought to a site and not built on site it is considered a manufactured house because it is manufactured elsewhere. It does meet a building code that was established by the Federal Housing Authority in terms of what is being discussed today. To that point there should not be wheels on whatever is placed on the property; it is brought in on a flat bed or potentially in pieces.

Ms. Radney thinks this is an important distinction, because in mid-town there are residents looking at tiny houses, houses that can be bought in kit form to make a granny pod in the back yard, and she understands that those accessory buildings are not terribly unlike what a manufactured home is. Mr. Chapman stated those are not necessarily being reviewed by any authority when those kits are sold and a lot of them are illegal in the City of Tulsa. In terms of look possibly but in terms of the building standards a lot of what people refer to as tiny houses is not actually something that can be permitted because they are not built to the standards that the federal government requires for what would be considered a manufactured home, in terms of the look possibly but not the actual standards of the building. Ms. Radney she assumes that in stating what the federal government requires that would also mean to meet the standards required for a mortgage, like an FHA loan; you can get an FHA loan for a manufactured home but that home has to meet certain standards in order to meet the lending criteria, and she would presume this house meets those standards. Mr. Chapman stated that per Code it would have to in order to grant the Special Exception.

Mr. Van De Wiele stated that he certainly approved manufactured houses in parts of Tulsa, probably not too far from here, and he does think they can be installed in way that is not detrimental to a neighborhood if they couldn't he couldn't vote for it. Mr. Van De Wiele stated he is undecided about the use itself, but he would not vote for an unending time period.

Ms. Ross stated she is not offended by the look or design of the unit itself and would like to see landscaping around it. She thinks the request for the driveway is a reasonable request to make it look more like a house in the neighborhood that is not going to be moved. The neighbor's concerns are valid, and she does not know that she would want this in her neighborhood if a house burned down, so there is that issue as well.

Ms. Radney stated she would not support an unlimited duration without seeing how the house is set on the lot, and to get a sense of landscaping and the driveway and the other elements that would make it fit into the neighborhood. She would like to know if the applicant intends to set the unit in line with the existing structures. Ms. Radney also asked the applicant how she planned to get from the driveway to the front door. Ms. Garcia stated she is going to try to cover the entrance and put it by the road. Ms. Radney asked Ms. Garcia if she was saying she was going to change the location of the front door. Ms. Garcia stated she wanted the front door to face the road to allow it to look more like a house.

Mr. Van De Wiele stated that there is a lot of unknowns in this case and it concerns him. Ms. Garcia stated the reason she is making all the changes is so that it will not look like a trailer and she still has work to do.

Ms. Radney asked Ms. Garcia if she would be willing to come back before the Board to show them how she has set the manufactured home on the lot if they were to approve

her Special Exception request, come back in 24 months. Ms. Garcia answered affirmatively.

Mr. Van De Wiele stated that concerns him because it is not where he thought the thought process was going unless Ms. Radney had said two to four months. Ms. Radney stated that she did stipulate 24 months because she thinks Ms. Garcia is taking this approach in purchasing this house because cash funds really need to go into making the house a home, and putting a lot of extra burden on her financially to come up with drafting documents that would make the Board agree, and Ms. Radney feels that would be money better spent on the actual house and on the site hoping to address the concerns of the neighbors. Ms. Radney stated she would rather see Ms. Garcia spend a \$1,000 on the exterior of the house than another application.

Ms. Shelton stated that she agrees with Ms. Radney, and the applicant could present a hand sketch. Ms. Shelton thinks she is for use as well, but she wants more security that it will fit into the neighborhood.

Mr. Van De Wiele stated that he would want to see some kind of sketch before the mobile home is placed in the neighborhood.

Ms. Radney stated that if this case is continued the Board would like to see where the driveway will be placed, where any sidewalk or pedestrian walkway will be placed, and she would like to see where the front door will be placed and what the end of the building would look like. Ms. Ross stated that obviously Ms. Garcia will not be able to do all this work at the same time, but she would like to have a time frame of each item to be completed. Mr. Bond stated that he is really apprehensive about getting into the aesthetics and design. He believes there is an applicable section, Section 40.210, in the City Zoning Code.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to allow a manufactured housing unit in an RS-3 District (Section 5.020, Table 5-2); **Special Exception** to extend the time limit permanently (Section 40.210) to the July 14, 2020 Board of Adjustment meeting; for the following property:

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

22884—Brandon Ledezma

Action Requested:

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

Presentation:

Brandon Ledezma, 4408 North Delaware Avenue, Tulsa, OK; stated when he purchased the house there was an old garage next to the house and next to the fence line, so he razed the garage and built a new carport two years ago. He built the new carport 2'-6" away from the fence line so there would not be a problem.

Ms. Ross asked Mr. Ledezma if the side panels of the carport were metal. Mr. Ledezma stated the sides are brick walls.

Interested Parties:

William Armshead, 4238 North Delaware, Tulsa, OK; stated he has the property next door to the subject property. The subject carport butts up to the gate that he and the applicant share. The previous owners had a carport and it burned down, and Mr. Ledezma has done a great job in building his carport. Mr. Armshead stated that he does not have an issue with the subject carport, he is just in attendance to say that he owns the property next door.

Rebuttal:

Brandon Ledezma came forward and stated the neighbor wanted to know why he did not build the carport on the other side of the house, and it is because there are water lines in front of the house and on the other side of the house are the power lines.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, 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 required 5-foot side yard setback in an RS-3 District (Section 5.030, Table 5-3), as constructed as shown on 4.5, 4.6, 4.7 4.8, 4.9, 4.10, 4.11 and 4.12 of the agenda packet. The Board has found the hardship to be the location of easements on the property limiting the area of buildable area on the property and the historic location of an even larger carport in the past. 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 30W & 123.3N SECR N/2 NE SE NW TH N126.7 W144.24 S122 E144.32 POB SEC 17 20 13 .412AC, YAHOLA HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22885—Susie Woody

Action Requested:

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

Presentation:

Manion , Miami Home Plate, 704 Sunset Strip, Miami, OK; stated he is the owner of the house and Susie Woody is the consultant that works for Miami Home Plate. The Variance request is so if anything were to happen to the house it could be built back exactly as it is. He just wants to know that if a disaster were to strike, such as a tree falling on it, that the garage could be built back where the garage is now located.

Mr. Van De Wiele asked if all that was going on is an interior remodel. Manion stated that he is looking at an interior remodel, keeping all the outside façade the same, and not looking at moving the garage. He wants the house to fit into the local neighborhood.

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 reduce the required 5-foot side yard setback in an RS-3 District (Section 5.030, Table 5-3); Variance to reduce the 20-foot side setback for a street facing garage on a corner lot (Section 80.020-B), subject to conceptual plan 5.9 of the agenda packet. The Board has found the hardship to be a house and plat that was constructed prior to

the Comprehensive City 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:

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

22886—J. R. Donelson

Action Requested:

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

Presentation:

J. R. Donelson, 12820 South Memorial Drive, Bixby, OK; stated he represents Tulsa Sod and Mulch in this application. The business has been at the subject location for 19 years and the product they sell is mulch, decorative rock, topsoil, etc. and they would like the area to remain the same. The parking areas are concrete which the employees use. Presently if a person comes in to buy product they drive onto a drive lane, then tell an employee what it is you want to purchase, the employee then instructs you to drive to a loading bin that adjacent to Highway 169, and the employee then loads the vehicle with a skid steer. Mr. Donelson stated he does not believe the business shows a detriment to the area or to Highway 169.

Ms. Ross asked Mr. Donelson about a dirt filled gutter shown on page 6.10 which has been a concern. Mr. Donelson deferred to the owner of the business.

Interested Parties:

James Moran, 5630 South 107th East Avenue, Tulsa, OK; stated when the City came to the property and addressed the issue it was fixed with an erosion control program, a silt sock, and an erosion control mat.

Ms. Ross asked Mr. Moran if the parking area for the customers was concrete. Mr. Moran answered affirmatively.

Ms. Ross asked Mr. Moran how he addressed the mud after a heavy rain. Mr. Moran stated that if there is an issue, even it was not caused from his company, he cleans up the area even when it is not due to his facility.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; Bond "abstaining"; none absent) to **APPROVE** the request for a Variance of the Parking Area Design Standards to permit an existing gravel parking lot (Section 55.090), as constructed on page 6.17 of the agenda packet. The approval is subject to the applicant adopting and providing written copies to INCOG of a dust abatement program, erosion control measures which will include measures to prevent sediment migrating to the storm sewers, require the applicant to maintain the gravel surfaces to avoid the over accumulation of sediment and street cleaning measures. The Board has found the hardship to be the historical industrial nature of this property and the surrounding areas. 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 3 & 4 LESS N60 E200 LT 3 & LESS BEG NWC LT 3 TH E314.89 SW162.53 S161.47 W296.76 N322.92 POB FOR HWY BLK 2; N60 E200 LT 3 BLK 2, GOLDEN VALLEY, City of Tulsa, Tulsa County, State of Oklahoma

22892—Dale Bennett

Action Requested:

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

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, 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 permit additional dynamic display signage on a single lot (Section 60.080-E) to the July 14, 2020 Board of Adjustment meeting; for the following property:

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

22895—Israel Sanchez

Action Requested:

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

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, 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 setback in an RM-1 District (Section 5.030, Table 5-3) to the July 14, 2020 Board of Adjustment meeting; for the following property:

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

22920—Eller & Detrich – Lou Reynolds

Action Requested:

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

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated that she does have the information the Board requested at the last meeting. The storage buildings will not be masonry but will be engineered metal panels; they will be powder coated and earth tone. Along Memorial Drive the Zoning Code will required 10 to 12 trees and on 16th Street the Zoning Code requires 8 to 10 trees. Additionally, the screening fences will require one tree per 25 feet of fence. The northern half of the property is basically all flood plain and has significant growth happening as part of the Jones Creek tributary system. Ms. Cornett had several pictures of the property placed on the overhead screen. There are several storage facilities in the area, so this is in character with the neighborhood.

Ms. Radney asked Ms. Cornett if the five-foot setback on Memorial will leave plenty of room for the required tree scape. Ms. Cornett answered affirmatively; that was an administrative adjustment and it was actually along 16th Street not along Memorial.

Ms. Shelton asked Ms. Cornett if a sidewalk were built in the future would it be inside the right-of-way and at least ten feet away from the building wall along Memorial. Ms. Cornett answered affirmatively. Mr. Wilkerson stated that there will need to be sidewalk construction on Memorial and on 16th Street; typically, it would be in the street right-of-way.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Radney stated that she appreciates the fact that this use to be an office park and to change the use so substantially without having a sense of what the built environment will look like will be a no vote for her. She does not have a problem with the use but she

has also seen more creative structures around Tulsa where storage facilities into existing neighborhoods in a way that looked more in the style of the surrounding commercial district and this does not meet that cast at all.

Mr. Wilkerson left the meeting at 3:28 P.M.

Ms. Shelton stated that she started feeling less comfortable with the project when she found out there would not be masonry walls. She has a real concern that because of the site plan and the way the buildings are being used as the exterior façade, blank walls can become very bad over time. She is worried about the long term and how this will age.

Ms. Ross asked Ms. Cornett why there were no depiction of what the buildings would look like. Ms. Cornett stated that what she has is a black and white rendering of corrugated metal so she did not think that would inform the Board. She would be happy to send it to Mr. Chapman if it would help the Board. Ms. Ross stated that other applications that have come before the Board there are actual pictures from the vendor of what the color would be, the style of the building, details to help the Board envision what the structure would look like on the property. She would hate to have this request be denied; if Ms. Cornett could get something like that to the Board it would help. Ms. Cornett stated that she would be happy to do that, but the property has had a lot of development challenges. The developer has been focused on fixing those before getting to renderings and architectural drawings. Ms. Ross stated metal building vendors have drawings depicting what the building would possibly look like. Mr. Chapman asked Ms. Ross if it would be possible to table this request to the end of the agenda to allow Ms. Cornett the chance to e-mail something more to him. Ms. Cornett agreed to this.

Mr. Wilkerson re-entered the meeting at 3:30 P.M.

Ms. Ross tabled this agenda item at 3:30 P.M.

Board Action:

No Board action required at this time.

22922—A-Max Sign Company

Action Requested:

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

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated this application is for the Davenport building located on North Main. The challenge is getting this project done was keeping the sign down on the lower portion of the building and getting the letters the proper size to be legible from Main Street. The letter height is 14.25 inches on the proposed sign but there are other signs in the area with larger letters. The sign goes from the top of the parking deck floor to the bottom of the parking deck.

Ms. Ross asked Mr. Ward what will be in the building. Mr. Ward stated the ground level floor will be multi-use, like retail, and the remainder of the building will be residential.

Ms. Shelton asked Mr. Ward to state his hardship for the request. Mr. Ward stated the hardship is that the sign cannot be moved down any lower, and the lettering is 14" which is small in character.

Mr. Bond asked Mr. Ward if the proposed sign would block the view of the sign located behind it as shown on page 11.6. Mr. Ward answered no; the sign itself would not block that sign but it appears as the entire building blocks that sign but he is not sure.

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"; "abstaining"; none absent) to **APPROVE** the request for a Variance to permit a projecting sign on a major street to exceed its maximum permitted height of 32 feet (Section 60.080-D), subject to conceptual plans 11.9, 11.10, 11.11 and 11.12 of the agenda packet. The Board has found the hardship to be the inability of the sign to be placed any higher or lower on 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:

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

22920—Eller & Detrich – Lou Reynolds

Action Requested:

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

Ms. Ross reconvened this item at 3:42 P.M.

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated that on page 5 of the packet just e-mailed, this shows the building elevations depicting what the storage units will look like front and back. There will be rolling garage doors, vertical corrugations on the street sides and horizontal on the door sides. This type of building is permitted to be built on the subject property so the approval from the Board is just for the use.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Bond stated that none of these buildings are pretty. He thinks it should be a permitted use on the property because he does not think it will be injurious to the neighborhood.

Mr. Van De Wiele and Ms. Ross both agreed with Mr. Bond.

Ms. Shelton stated she will be voting no on this request because she thinks this can be injurious to the neighborhood, particularly where it is located.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 3-2-0 (Bond, Ross, Van De Wiele "aye"; Radney, Shelton "nays"; "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit a self-service storage facility in a CS District (Section 15.020, Table 15-2), subject to conceptual plan 10.17 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:

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

22932—Eller & Detrich – Lou Reynolds

Action Requested:

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

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated the subject facility is currently holding events for under 250 people, which is a permitted use by right in the CBD District. The property owners are engaging in renovation of this old building and they have been approved by the Fire Marshal for a 299 occupancy. There is on street parking available between 13th Street and 10th Street, and Detroit there are 44 marked parking spaces. In addition, there is an American pay parking lot on 12th Street between Detroit and Cincinnati that has 24 parking spaces. Those parking spaces available total 68 which would accommodate up to 272 guests. The subject property owner is talking with the property owner to the north and working out an agreement for making that a vendor parking area or something like that, but that is an ongoing conversation. Lastly, there are about four or five square blocks of parking lots along Cincinnati. Those are parking lots for TCC and the Boston Avenue Church so those are not available for on street parking or for a public parking lot, but there are no gates and she would imagine that those lots have no cars in them except on Sunday and Wednesday nights.

Ms. Radney is still concerned about where off-site parking would be. She agrees that there is a lot of parking around but in order to approve it as an off-site parking location the Board has to have a letter of understanding to attach to this request. She also still has concerns about noise.

Ms. Cornett stated that appears to her that all the on street parking on Elgin is used by the residents; she has driven through there at lunch time and in the evening and it is always filled with cars and from what she can tell the cars look like residents of the adjacent apartment buildings. As far as noise, the building has been operating as an event center for 15 years or so and have not had any noise complaints from the residents. The neighbor to the north is a roofing company with a metal shop. There is a lot of noise in the area just from the existing uses. The existing use of the property as an event center has not caused any grievances in the past.

Ms. Ross asked Ms. Cornett why there was a Letter of Deficiency issued if this building has been used as an event center for the last 15 years. Ms. Cornett stated the building is being renovated to get it up to fire code. It is an old building from the 1920s and as part of the renovation there are walls being removed and the occupancy is being increased to 299. There were cars stored in the building previously along with events.

Ms. Radney asked Ms. Cornett which area of the building is being repurposed to add to the capacity? Ms. Cornett stated that she does not know where the cars were being stored within the building. It may be scenario when they started doing renovations and the Fire Marshal came in it was then decided that things needed to be brought up to Code and that triggered the LOD. Ms. Cornett stated she is not sure what the layout of the interior of the building was beforehand, but it is her understanding that it was a warehouse, so it was open already.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he does not have an issue with this request. From a parking standpoint, inside the IDL is a different animal. When these buildings downtown are used there is usually an overabundance of parking and more people are using Uber.

Mr. Bond stated this area is an ocean of parking. He has gone there many times throughout his lifetime, and he has never had an issue with parking. This building has been used as an event center for decades, and he relates it as moving next to the Cain's Ballroom and complaining about the Cain's being Cain's after you moved in. Mr. Bond stated he has no issue with this request.

Ms. Shelton stated that she has no concerns with the parking. Originally she has concerns about the noise because she is always super sensitive to the effect of adjacent uses on residential, but if the center was always at capacity of 250 people in the past what is adding 49 people going to do to the noise level. She does not think that will make that much of a difference.

Ms. Radney stated thinks she is a no. She feels that they will be adding another 100 instead of 50, and there was a neighbor at the last meeting who was concerned about the use. Per her comments she said there are problems with the event parking and Ms.

Radney stated that the surface parking is heavily used by the residents particularly at night.

Board Action:

On **MOTION** of **VAN DE WIELE**, 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 Special Exception to allow a Commercial/Assembly & Entertainment/Large (>250) in the CBD District (Section 15.020, Table 15-2). The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

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

NEW APPLICATIONS

22935—Cannatopia, LLC

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: 9999 South Mingo Road East, Suite V **(CD 7)**

Presentation:

The applicant was not present. Ms. Ross moved this item to the end of the agenda.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required at this time.

22943—Robert Jackson

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: 4328 South Mingo Road East **(CD 7)**

Presentation:

Robert Jackson, 4328 South Mingo Road, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Ms. Ross stated the Board has a map exhibit on page 14.9 there is 2,990 feet from the nearest dispensary. Mr. Jackson confirmed the statement.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, 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:

PRT SE NE BEG 1281.50N & 108.73NW SECR NE TH S270.71 W229.96 N368.79 SE249.95 POB SEC 25 19 13 1.69ACS, City of Tulsa, Tulsa County, State of Oklahoma

22934—Katy Anderson

Action Requested:

Variance to increase the permitted 240 square foot display area for a wall sign in a CS District (Section 60.080-B). **LOCATION:** 1711 East Skelly Drive South **(CD 9)**

Presentation:

Katy Anderson, 1711 East Skelly Drive, Tulsa, OK; stated she has a mural on the side of her wall that was painted for her business. As soon as the mural went up there was a complaint placed with the City, so the City Inspector contacted her and asked her to permit the mural. Ms. Anderson stated that she did obtain a permit and was told that the sizing of the mural is too large because of the logo and it is considered signage instead of a mural. Ms. Anderson stated that the neighbors to the west have expressed

that they are not happy with the mural. There was a meeting yesterday in hopes of reaching a resolution about the mural but there was no compromise because they did not like the peace signs and the flowers; the artwork.

Ms. Ross asked Ms. Anderson if the neighbors said they did not like the artwork. Ms. Anderson stated the neighbors told her that it evokes a party vibe that is unprofessional.

Mr. Van De Wiele asked Mr. Chapman if 240 feet was allowable for the sign. Mr. Chapman answered affirmatively. Mr. Van De Wiele asked if the entire wall was counted as a sign? Ms. Anderson stated when the City did the measurements, they counted the entire drawing as signage. Mr. Chapman stated the dimensions on that are 740 square feet. Ms. Anderson stated that her argument is that the back half of the building is not signage because it does not have her logo on it, it doesn't have the same context as her building or business, it is just artwork.

Ms. Radney asked Ms. Anderson if she had a copy of what she uses as a logo, like a business card or letterhead? Ms. Ross stated that Ms. Anderson is wearing a shirt that has her logo on it and it is the same font and everything as the Kush. Ms. Radney asked Ms. Anderson if she was using the artwork in other part of her business as advertisement. Ms. Anderson stated that she does not use the mural; it is posted places by other people, but she does not use it for advertisement.

Ms. Anderson stated that she has a seven-page petition that neighbors and customers have signed showing support for the mural. Ms. Anderson stated she has people coming into her business everyday telling her that they never noticed the building until the mural was painted; those people live in the neighborhood and have been in the neighborhood for years. People tell her that they drive down the highway and see it, and that the mural is what brought them into her business. The mural is her best advertising.

Mr. Van De Wiele asked Ms. Anderson if she owned the vacant lot next to her. Ms. Anderson stated the lot is owned by the state, it was purchased when the highway was widened and is held up in a lawsuit currently.

Ms. Shelton asked Ms. Anderson if she had any plans to erect signage by the road. Ms. Anderson stated if she keeps the mural as is, she will not add any additional signage because she is at the maximum. If she has to remove the logo from the mural to keep the mural, then she would want to add additional signage.

Ms. Radney asked staff if the dispensary flag that is at Skelly considered part of the applicant's signage or is that temporary. Mr. Chapman stated that he cannot speak to whether it was permitted but typically it would be considered a promotional signage, depending on how close it is to the road it possibly could be in the right-of-way which is not allowed. Ms. Anderson stated that when the City Inspector called her the flag was discussed and he told her to keep the flag out of the right-of-way and she brings the flag in every night.

Ms. Ross asked Ms. Anderson to state her hardship for her request. Ms. Anderson stated that if the mural is the best way, she has to advertise her business because of the topography and the turn in the highway.

Mr. Bond asked Ms. Anderson if the artist that painted the mural would be free to paint another similar mural somewhere else. Ms. Anderson stated that she believes they would be able to do so, because there are murals all down Brookside. Ms. Anderson stated that artist is with Clean Hands and he has painted murals all over Tulsa. Mr. Bond asked Ms. Anderson if the murals would look similar to this and have nothing related to her product. Ms. Anderson answered affirmatively. Mr. Bond asked Ms. Anderson if there was no secondary meaning. Ms. Anderson answered no. Ms. Anderson stated that she wanted a very comfortable and welcoming vibe and she thinks the mural does that. Other than that, there is no ulterior motive with the design.

Mr. Bond stated the test here is whether this is part of the applicant's trade for advertising versus whether it is decoration, which in this case he thinks is protesting the decoration. Mr. Bond thinks there is a line in the middle, one which is distinctive advertising and one which is not. If the applicant is over budget on the first half, based on her location off the exit of the highway he would be inclined to see that as a hardship. The second half of the sign, he believes, is a mural to make the City great; they are all over and he would hate to start a habit of policing murals on the sides of buildings.

Ms. Shelton stated she does not think the applicant can physically have a traditional sign. There is overhead that is really burdensome across the front of her property, there is a freestanding sign to the west that is minimal and hard to see. Ms. Shelton agrees with the argument that this is the best and maybe the only way to advertise the applicant's business.

Interested Parties:

Ron Sage, 1703 East Skelly Drive, Tulsa, OK; stated he has the building next door to the subject property. Mr. Sage stated that he has been in the building for four years and the complaint that he has had from his tenants is that the sign doesn't invoke professionalism and the tone that is required to continue business. His tenants have expressed a desire to end their leases or not to renew their lease because of the tone and overall size of the sign. Mr. Sage stated that he has tenants that are health insurance companies, payment processing company, commercial appraiser, architectural firm, a vast array of businesses. Mr. Sage stated that he is also concerned that the sign will negatively impact the building to attract tenants in the future. What the sign evokes is a party vibe and this is an office corridor. This sounds like the applicant is asking for forgiveness rather than permission. Mr. Sage stated that he had a sign placed out front, We Buy Houses, and he went to Claude Neon Federal Sign, went through all the permits and the Code requirements. Mr. Sage stated that his overall concern is being able to attract tenants and keep his building occupied.

Ms. Ross asked Mr. Sage if the complaints he was receiving were against the mural itself or is it that there is a dispensary next door. Mr. Sage stated that it is the mural itself, the dispensary is not an issue.

Mr. Van De Wiele asked Mr. Sage if when the tenants are discussing the mural with him, is it the entirety of it or is it the right half or the left half or is it all of it? Mr. Sage stated that it is more the right half of it. Mr. Van De Wiele asked Mr. Sage if his tenants would still be of the same opinion if the Kush Dispensary were painted over? Mr. Sage stated that he does not want to speak for the tenants because he thinks there are tenants waiting to speak.

Candice Bradshaw, 1547 East 50th Place, Tulsa, OK; stated she has to drive by the sign every day because she lives in the area. The sign is so large and so loud. The sign looks like graffiti rather than an advertising for a medical facility and that is what a dispensary is supposed to be. It does not blend with the surrounding office buildings. It does not blend with the residential area that she lives in. She does not have an issue with a sign like this if it is in the right area, like downtown in an art district.

Mr. Van De Wiele asked Ms. Bradshaw if it is the entirety of the sign, is it parts of the sign? Ms. Bradshaw stated that it is the size and the loudness, taken as a whole. The sign is a lot to take in. Ms. Bradshaw stated that she has no issue with the dispensary because they are all over Tulsa. She has seen other dispensaries that look very professional and fit in with other businesses and other offices. She has an issue with the size and the loudness of the sign.

Craig Trevithick, 1703 East Skelly Drive, Tulsa, OK; stated he is a tenant and for him personally it is the size of the sign. He has clients from internationals, non-profit, child organizations, etc. One of the things he likes about the building he is in is the professional feel, the professional vibe, although it is one of the only office buildings in the area. These are office buildings mixed with residential and it is a pleasure bringing people to the office. The sign is an eyesore, his clients ask him about it. He would prefer the applicant stick to the Code. His issue is the overall size, and he cannot tell where the sign ends and where the artwork begins.

Terry Tidwell, 1414 East 39th Street, Suite 115, Tulsa, OK; stated he is a tenant. The sign is well done but it looks like graffiti. Mr. Tidwell thinks the sign was intentionally designed to look like graffiti. To him it gives a Gonzo party atmosphere vibe, especially the cabana, the beach, and the peace signs. The sign takes away the professional atmosphere of the office building. Mr. Tidwell stated that a lot of the clients that come to the building are very conservative, with conservative views. He would ask the Board if they were an accountant or a lawyer would they want this sign on your building? He thinks this will help his customer base and would be happy if the applicant painted over the party part of the sign.

Terry Baner, 1439 South Gary Place, Tulsa, OK; stated he is the artist and has been painting murals in Tulsa; he painted the Woody Guthrie mural in 2012. Mr. Baner

stated that he is very aware of the signage laws and the Kush image is the only brand collateral the sign actually uses; roughly a 170 square feet and did not realize it would carry over to 240 square feet. The remainder of the mural is simply art and it is not meant to evoke a party vibe, it is meant to bring brightness to a rather beige wall where there would be darkness. Murals are meant to increase the arts and bring the community together and bring unity. Art is up for interpretation and if someone sees a party vibe that is their opinion. The only brand asset is the Kush logo which runs 8'-6" by 20'-0" which is 170 square feet of signage and the rest is just art to cover up a dull cinder block wall.

Ms. Radney asked Mr. Banes what he considered to be the brand collateral, looking at the diagram on page 15.4, within the allotted boundary. Mr. Banes stated that it is just the Kush logo, that is the only brand collateral that the applicant uses throughout their branding. Mr. Banes stated that everything else from the Kush to the right is just extra art that he added, and the Kush branding is what he considers signage, which is under the allotted 240 square feet. Ms. Radney asked Mr. Banes if it was his discretion to add the language within the dispensary, but it is not part of the dispensary trade artwork? Mr. Banes answered that it is not to knowledge. Ms. Radney asked Mr. Banes the name of his business. Mr. Banes stated that it is Clean Hands. Ms. Radney asked if Aaron Whisner is affiliated with the business. Mr. Banes stated that Aaron Whisner is his business partner. Ms. Radney stated that she thinks Aaron Whisner is a wonderful person but with that she will need to recuse herself as he is a former client.

Ms. Radney recused and left the meeting at 4:44 P.M.

Rebuttal:

Katy Anderson came forward and stated that the reason a resolution could not be had yesterday is because she thought the trouble would be with the front half of the mural not the back half, and she had trouble with what peace signs, a sun, a bus and some flowers evoked a party unprofessional vibe. This is art and it is meant to be bring the neighborhood joy and it is not meant to bring controversial issues. Ms. Anderson stated that she has not received any negative comments on her sign until yesterday.

Comments and Questions:

Mr. Van De Wiele stated that he has been reviewing the Zoning Code and he asked staff about Section 60.130, how to measure signs. There is a provision that says if it is a sign that is enclosed in a frame or a cabinet, which this is not, then the whole frame or cabinet is measured. What he is looking at is Subsection 2 and it states the area of a sign comprised of individual letters or elements attached to a building wall, is this the section the Board should be in? If this is where the Board should be then it is the smallest geometric figure, i.e. a square, rectangle, circle, that can be drawn around the letters. Is that what is being done? Clearly, it seems like the permitting department stipulated that the whole wall is the sign but that is not how he reads the Zoning Code. Mr. Chapman believes that permitting was given an exhibit and that is what the

applicant said was her sign. If the Board is inclined not to consider the ... Mr. Van De Wiele asked how this got to this stage if this was done first, was there a notice of violation? Mr. Chapman stated the applicant has mentioned that there was an Inspector that visited her business. Mr. Van De Wiele asked if there was any correspondence from the Inspector. Mr. Chapman stated that he does not have any, and the only comments he has are from the Permit Center; a Letter of Deficiency.

Ms. Anderson came forward and stated that after the City received a telephone call, they called her, there was not a violation issued, the Inspector just told to her to permit the whole mural. The Inspector directed her to permit the entire thing as a sign so that is what she did. She was then rejected and at that point she was asked to scale the sign down or come before the Board of Adjustment for a Variance.

Mr. Van De Wiele asked staff what section in the Zoning Code tells him how to measure this sign. What he thinks he knows is if he painted the entire wall hot pink and then painted a 10 x 10 area that just said dispensary he does not think the Permit Center would call the pink portion a sign, he thinks they would draw a box around the letters and say that is the sign. Is this in that category? Mr. Wilkerson stated that when signage is looked at on any other permit application that comes through INCOG that is typically discretionary, staff would look at the signage chapter just like the Board has. There has been quite a bit of discussion about where the line would be drawn between artwork and the sign itself. In this particular instance it appears the Permit Office may have blurred that line, the easy thing to do from their perspective was to consider the entire wall a sign and ask for a Variance. That is what is in front of the Board, is there a Variance to allow that much square footage. Mr. Van De Wiele asked who initially decided the size of the sign, did the applicant say she has a sign a certain size or did the Permit Center say she has this large of a sign? Mr. Chapman stated that he believes it was the applicant because there was an application for a sign plan that showed a 9 x 80 sign and that is what was reviewed, issued a Letter of Deficiency and at this point the Board is deciding a Variance.

Ms. Blank stated that the definition of sign in the Code is on page 95-17 and it is very broad. A sign is not just words but also symbols, letters, figures, design symbols, fixtures and colors designed to attract attention. Ms. Blank stated that a sign can be more than just words, and the reference about measuring individual letters or drawing boxes around the letter, she knows it applies to individual letters affixed to a wall but she is not sure how that plays in measuring a painting. Mr. Van De Wiele stated that he understands that and forget how we got here, but is this whole thing a sign or not? Ms. Blank stated that it fits within the general definition of a sign.

Mr. Bond stated the only question for him is if the applicant is entitled to a Variance based on the fact that she is over by 100 square feet. The only germane question is whether there is a hardship. Mr. Bond thinks the right side of the wall is a mural, it is art. Whether anybody likes it or not he thinks it is protected.

Ms. Shelton agrees with Mr. Bond, she is in favor of the request.

Mr. Van De Wiele stated he has the same type of thoughts, but the fact that the Zoning Code definition talks about things that are done to attract attention is giving a little bit of a pause. Has the advertising been blended into art such that all of it is a sign? He does not know and that is what he is concerned about.

Ms. Blank stated she is concerned that the Board is now venturing into deciding what part is the determination of the plan review that all was a sign. The Board is not really being asked to do that, the Board is being asked to determine what size it should be. Mr. Van De Wiele agreed with that statement and stated that he wishes this had come before the Board as an appeal, but if that is the case this is effectively an application for 9 x 80 or 720 square feet and that makes it a 480 foot Variance request. He cannot get there from a hardship standpoint.

Ms. Ross stated that she does not have a problem with the Variance going from 240 square feet to 340 square feet for the left side. She does not have a problem with the artwork, other than the issues that have been brought up today. She does agree, per the definition of a sign, this is there to attract attention to the business.

Ms. Blank asked if the applicant would consider going back to the permit department for a revised Letter of Deficiency given the discussion of the Board today. Ms. Blank thinks the Board deciding that only part of this is a sign is not before them today. This is just an option; the applicant can elect to move forward today.

Ms. Ross asked Ms. Anderson if she would consider taking Ms. Blank's suggestion by going back to the permit office to get a clarification on how of this wall is sign and how much of the wall is mural. Ms. Anderson answered affirmatively.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-1 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; Radney "abstaining"; none absent) to **CONTINUE** the request for a Variance to increase the permitted 240 square foot display area for a wall sign in a CS District (Section 60.080-B) to the July 14, 2020 Board of Adjustment meeting; 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

Ms. Radney re-entered the meeting at 5:15 P.M.

22936—D. Robert Neil

Action Requested:

Variance of the required 30-foot front street setback and 15-foot side street setback in an RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 2506 East 57th Street South **(CD 9)**

Presentation:

Donald Robert Neil, 2506 East 57th Street, Tulsa, OK; stated he would like to add a second bay on the garage with a bonus room on the rear. Mr. Neil stated that he has heard from two of the neighbors about concerns they have. One neighbor thought it would be too large and the other neighbor was concerned about it bringing down her property value. Mr. Neil stated he has one of the smallest houses on the block and one of the largest lots. Another neighbor did express concern about losing a 65-year-old tree but the only tree being removed is on the front of the lot that has decay and is a safety issue.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the required 30-foot front street setback and 15-foot side street setback in an RS-2 District (Section 5.030, Table 5-3), subject to the conceptual plan submitted today as Option B. The Board has found the hardship to be the historical front setback of the house and the stub dead-end street of Atlanta. 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 7 BLK 6, SOUTH LEWIS TERRACE AMD, City of Tulsa, Tulsa County, State of Oklahoma

22937—Rex’s Remedies, LLC

Action Requested:

Special Exception to allow a Moderate-Impact Medical Marijuana Processing Facility in the IL District (Section 15.020). **LOCATION:** 11105 East 56th Street South, Suite G (CD 7)

Presentation:

Jake Miller, 5923 East 27th Street, Tulsa, OK; stated he has been doing business at the subject site since March 2019 and have had no problems. The subject property is zoned industrial light and that will not allow him to receive his Certificate of Occupancy which he needs to continue being licensed. Mr. Miller stated that the process is heat pressure extractions and no dangerous materials are used. He also focuses on pre-rolls medicinal grade cannabis. There is very little waste product. Mr. Miller stated that he has spoken with his neighbors and no one had any complaints, and he submitted letters of support from the neighbors.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a Moderate-Impact Medical Marijuana Processing Facility in the IL District (Section 15.020). 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 4 & 5 BLK 1, CARTER INDUSTRIAL PARK, City of Tulsa, Tulsa County, State of Oklahoma

22938—Encinos 3D Custom Products & Signs

Action Requested:

Variance of the maximum allowable sign area in an OM District (Section 60.060-C); Variance to allow a dynamic display sign in an OM District for a use that is not public, civic, or institutional (Section 60.060-E). **LOCATION:** 2651 East 21st Street South **(CD 4)**

Ms. Radney recused at 5:37 P.M.

Presentation:

Christian Ortiz, 9810 East 58th Street, Tulsa, OK; stated this is for a sign that will exceed the allowable to 114 square feet. The electronic message center will be used as a static image only for the core tenant which is Keller Williams. The remaining ten spaces will be for the other tenants in the five-story building.

Mr. Van De Wiele asked Mr. Ortiz if the 108 square feet included the LED panel. Mr. Ortiz answered affirmatively.

Interested Parties:

Jennifer Overmyer, 2612 East 20th Street, Tulsa, OK; stated she lives in the neighborhood that backs up to Keller Williams, and the neighborhood has concerns regarding the sign and the lighting. It is not necessary to have this large of a sign because coming from the east driving to the west there is a good line of sight and coming from the west there is also a clear view of any signage. This proposed sign is quite a bit larger than the other modest signs in the area. The building is on the corner and the proposed sign could block other signs, and this new sign could start a domino effect of requests for larger lit signs. This will change the aesthetics of the mid-town area.

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

Rebuttal:

Christian Ortiz stated the sign is only 20 feet tall which is within Code requirements. There is other signage within the area; across the street there is a six-story office complex that has a sign that is also 20 feet tall. Across from Columbia heading east there is another sign that exceeds the 20-foot height, but he believes that is a sign that has been grandfathered in. Going down 21st Street there are several signs that are all 20 feet in height, including the bank and the medical facilities. The lighting panels will have an ivory vinyl overlay to mimic the color of the building and in keeping with the

design of the existing building, the Columbia Building. The message center is equipped with an ambient light source which adjusts to the surrounding light.

Mr. Wilkerson re-entered the meeting at 5:45 P.M.

Ms. Shelton asked Mr. Ortiz if the new sign would be placed in the existing planter. Mr. Ortiz stated that is where the sign will be located. This sign has been before the Board of Adjustment in 2018 and it was approved, but the owner at that time became discouraged with the process and has reached out to 3D to complete the permitting process. Mr. Ortiz the only thing that was left was to receive a right-of-way construction permit through the City of Tulsa Engineering Department. However, that owner provided an incorrect site plan showing the sign to be in the right-of-way and after additional surveying the sign is not in the right-of-way. Mr. Ortiz stated he has been in meetings with the Engineering Department and the Sewer and Water Department, and those departments agree the sign is not in the right-of-way.

Mr. Van De Wiele asked Mr. Ortiz to state the hardship for the request. Mr. Ortiz stated the visibility of the sign is limited heading east because of trees, and heading west the building is blocked by the highway underpass, by a seven-story building on the same side of the street and across the street there is a seven-story building. This is the only six-story building in the area without a tenant directory.

Comments and Questions:

Mr. Van De Wiele stated he does not see a hardship for the dynamic display.

Ms. Ross agreed with Mr. Van De Wiele about the dynamic display.

Board Action:

On **MOTION** of **BOND**, 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 of the maximum allowable sign area in an OM District (Section 60.060-C) and to **DENY** the request for a Variance to allow a dynamic display sign in an OM District for a use that is not public, civic, or institutional (Section 60.060-E), subject to conceptual plans 18.11 and 18.12 of the agenda packet. The Board has found the hardship to be the size of the previous sign in relation to the existing sign. 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:

RESERVE GREENHOUSE SECOND, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Radney re-entered the meeting at 5:45 P.M.

22940—Abraham Adedokun

Action Requested:

Special Exception to permit a Type-2 Home Occupation (Beauty Salon) in an RS-3 District (Section 45.100-G). **LOCATION:** 7719 East 31st Street South **(CD 5)**

Presentation:

Abraham Adedokun, 7719 East 31st Street, Tulsa, OK; stated he would like to have a beauty salon in his home, and it would be an appointment only salon. The salon would be operated by his wife. He would convert his two-car garage into a beauty salon on one side and a one car garage on the other side.

Ms. Ross asked Mr. Adedokun how many clients his wife expects to see, what days of the week would the shop be open, and what would the hours of operation be? Mr. Adedokun stated that she will see two or three clients a day, and the shop would be open from 9:00 A.M. to 4:00 P.M. and occasionally 5:00 P.M., Monday through Friday with some Saturday appointments.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a Type-2 Home Occupation (Beauty Salon) in an RS-3 District (Section 45.100-G). 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 20 BLK 35, BOMAN ACRES FOURTH ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22941—Dustin Justice

Action Requested:

Variance to reduce the required 20-foot front street setback; Variance to reduce the required 20-foot rear setback in an RS-4 District (Section 5.030, Table 5-3).

LOCATION: 1540 East 8th Street South **(CD 4)**

Presentation:

Dustin Justice, 11701 East 83rd Place North, Owasso, OK; stated he would like to be able to build a single-family home on the subject property.

Ms. Ross asked Mr. Justice if the property used to have a house on it. Mr. Justice stated there was a house there and it set on three of the four building lines, but it has been razed. The property was platted in 1912 and at that time the lots were 25 feet wide and 140 feet long. Over the last 108 years the original property has been whittled down, and at one point in time the property line had been drawn around a tree.

Mr. Van De Wiele asked Mr. Justice if he would be limited to the area between the two red dotted lines on the site plan if he were to apply all the current building setbacks? Mr. Justice answered affirmatively. Mr. Van De Wiele asked Mr. Justice how large of a house would that allow him. Mr. Justice stated that he thinks it would be 14 x 28. Mr. Van De Wiele asked Mr. Justice if he was planning to build a one-story or a two-story house. Mr. Justice stated that he would like to build a two-story, about 1,800 square feet modern contemporary with a lot of steel, concrete, and glass. He is working with 360 Design and the plans are at a standstill waiting on the Board's decision.

Ms. Radney asked Mr. Justice if there was an alley running between St. Louis and Trenton. Mr. Justice answered affirmatively.

Interested Parties:

Craig Stutzman, 804 South Trenton, Tulsa, OK; stated he owns the property at 804 and 806 South Trenton which shares a common property with the subject property. He was curious about the construction and what would be going on the property. There

was a lot of problems with the property before. He has owned his property for 15 years and has worked for a long time to get the structure removed from the adjacent property, it took 1 ½ years. It will be better to have something done with the property.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, 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 required 20-foot front street setback; Variance to reduce the required 20-foot rear setback in an RS-4 District (Section 5.030, Table 5-3), subject to conceptual plan 20.11 of the agenda packet. The Board has found the property is not a conforming lot and has been reduced in the past through no action of the applicant, and previously contained a structure that was more intrusive in the setback areas than the applicant's plans both of which serve as a hardship to grant the two Variances. 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:

**W46 LT 1 N10.63 OF W46 LT 2 & S14.37 OF W38.88 LT 2 & N4.55 OF W38.88 LT 3
BLK 6, PARK DALE AMD, City of Tulsa, Tulsa County, State of Oklahoma**

22944—A-Max Sign Company

Action Requested:

Variance to permit a freestanding sign to exceed 20 feet in height in an RS-3 District (Section 60.050-B-2.b); Special Exception to permit a dynamic display sign in an RS-3 District (Section 60.050 B-2.c). **LOCATION:** 7903 East 15th Street South **(CD 5)**

Presentation:

Steve Bigelow, 809 North Darlington, Tulsa, OK; stated the subject sign was erected in 2006 or earlier, and no record of a Variance approval has been found.

Ms. Ross asked Mr. Bigelow if he was wanting to erect a new sign. Mr. Bigelow stated he just wants the existing sign to be legal.

Mr. Van De Wiele asked staff if there is a record of the 2006 Variance. Mr. Chapman stated that there is a record and deferred to Ms. Worthington.

Lori Worthington, A-Max Sign Company, 9520 East 55th Place, Tulsa, OK; stated that the sign did receive approval on October 24, 2006. After the Variance was approved, she went to the City of Tulsa, applied for a permit, and have permit numbers, but the permit numbers she has were voided so the process was started but it never was completed.

Mr. Van De Wiele asked Ms. Worthington if the sign had been built. Ms. Worthington answered affirmatively.

Mr. Van De Wiele asked staff why this sign was before the Board looking at the minutes on 21.7 and the drawing on 21.9 of the agenda packet. Mr. Chapman asked Mr. Bigelow if he was making improvements to the sign. Mr. Bigelow answered no; there are no changes. Ms. Worthington stated the Variance was approved in 2006, case #BOA-20344.

Ms. Worthington stated that Mr. Tim Cartner with the City of Tulsa had received a complaint and Mr. Cartner spoke with Memorial Drive Church staff telling them they had to adjust the digital ads on the message center. Mr. Cartner stated that in his reviewing of the sign he discovered there was no permit for the sign. Ms. Worthington stated that now she has had to start completely over because the previous approval was only good for three years. The sign is not changing from what has been there since 2006.

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 permit a freestanding sign to exceed 20 feet in height in an RS-3 District (Section 60.050-B-2.b); Special Exception to permit a dynamic display sign in an RS-3 District (Section 60.050 B-2.c), subject to conceptual plan 21.12 and 21.13 of the agenda packet. The Board has found the hardship to be the location of the requested sign to be approved as well as the message center for the institution to broadcast their sign. 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:

**S/2 SE SE NE LESS E33 & LESS S40 W597 E630 & LESS W30 FOR STS SEC 11 19
13 3.975ACS, City of Tulsa, Tulsa County, State of Oklahoma**

22935—Cannatopia, LLC

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: 9999 South Mingo Road East, Suite V (CD 7)

Presentation:

The applicant was not present.

Mr. Chapman stated that he does not see any one on ZOOM for this case. If the Board chooses to hear this case, there are no interested parties and staff is not aware of any conflict for the spacing. Also, this could be the Board's last spacing verification to be heard if they would like to make a decision today.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 5-0-0 (Bond, 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:

PRT LT 1 BEG 305.79N & 50E SWC SW TH N355.30 E565.95 S600.98 W228 W10 W108.72 N217.41 NW57.79 W176.11 TO POB BLK 1, MILLICENT CROSSING, YALE CLEANERS ADDN NO 101, PLAZA DEL SOL, 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 4:25 p.m.

Date approved: _____

Chair