

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1259
Tuesday, September 22, 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 Radney, Secretary Shelton		Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on September 17, 2020, at 1:57 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

The City Board of Adjustment was held in person, by videoconferencing and teleconferencing via **GoToMeeting**, an online meeting and web conferencing tool. Board of Adjustment members and members of the public were 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/CityOfTulsa2/boa-meeting-in-council-chambers-september-22nd>

The staff members attending remotely are as follows:

- Ms. Burlinda Radney
- Ms. Jessica Shelton, Board Member
- Ms. Audrey Blank, City Legal

The staff members attending in person are as follows:

- Mr. Stuart Van De Wiele, Chair
- Mr. Austin Bond, Vice Chair
- Mr. Dwayne Wilkerson, Tulsa Planning Office
- Mr. Austin Chapman, Tulsa Planning Office
- Ms. Janet Sparger, Tulsa Planning Office

MINUTES

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the July 28, 2020 Board of Adjustment meeting (No. 1255).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today, due to a Board member moving outside the city limits of Tulsa. So, as a requirement that necessitated Ms. Ross's retirement from the Board and the Mayor is in the process of finding a new Board member. Normally when there is less than five Board members in attendance the Board would entertain a request for continuances but given the time involved in the search and appointment process there may be a few meetings where there are only four Board members, so cases will be dealt with as the Board comes to them if there is an issue. Most motions the Board makes it will require an affirmative vote of three of the remaining four members. Also, another Board member is traveling and is expected to be in attendance within 10 minutes, if an item is called and there is only three Board members present the applicant can be bumped down the agenda until the fourth Board member arrives. Everyone nodded their understanding and no one requested a continuance.

UNFINISHED BUSINESS

22982—Greg Hollinger

Action Requested:

Variance of the required 25-foot rear setback (Section 5.030, Table 5-3); Special Exception to increase the permitted driveway width (Section 55.090-F).

LOCATION: 2103 East 37th Street South **(CD 9)**

Presentation:

The application has been withdrawn.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

No Board action required; for the following property:

**PRT LT 2 BEG 112.80SW NEC TH SW155.70 W53.3 CRV RT 66.8 NE106.80 E92.80
POB & PRT VAC TERWILLEGER BLVD BEG 53.3W SECR TH W45.41 CRV RT
82.88 NELY98.05 E52.87 SLY TO POB BLK 6,HIGHLAND PARK EST, LEWIS ROAD
ESTATES PRT B6-9 HIGHLAND PARK EST AMD B6-9, City of Tulsa, Tulsa County,
State of Oklahoma**

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NEW APPLICATIONS

22996—Nick Puma

Action Requested:

Variance to allow a non-conforming lot to have less than 50% open space (Section 80.020-B). **LOCATION:** 1037 East 39th Street South (**CD 9**)

Presentation:

Staff requests a continuance to October 13, 2020 due to a notice issue.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-0 (Bond, Radney, Van De Wiele "aye"; "nays"; no "abstentions"; Shelton absent) to **CONTINUE** the request for a Variance to allow a non-conforming lot to have less than 50% open space (Section 80.020-B) to the October 13, 2020 Board of Adjustment meeting; for the following property:

**LT 10, NILES RESUB E/2 L7 BROCKMAN'S ADDN, City of Tulsa, Tulsa County,
State of Oklahoma**

Ms. Shelton entered the meeting at 1:08 P.M.

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UNFINISHED BUSINESS

22983—John Durkee

Action Requested:

Special Exception to increase the permitted driveway width (Section 55.090-F).

LOCATION: 1125 East 49th Place South (CD 9)

Mr. Van De Wiele stated this case was continued to allow the applicant to present a more defined site plan relating to his request.

Presentation:

John Durkee, 1125 East 49th Place, Tulsa, OK; stated that the red portion of the site plan at the top of the site plan is what he is requesting to be designated as a driveway. The City regulation 55.090-F has been changed since the Zoning Office did their review, it specifies that anything over 75 feet has a 30-foot driveway width. This still requires a designation from the Board of Adjustment that the remaining bricks are ornamental.

Mr. Van De Wiele asked staff to give a clarification in this request. Mr. Chapman stated the Board needs to approve a Special Exception to increase the driveway width which includes the bricks across most of the northern and eastern lot. If inclined the Board can also limit where the applicant can park his vehicles. Mr. Van De Wiele stated that the last he heard, there is no prohibition against bricking an entire yard. Mr. Chapman stated that is correct but currently there is no designation between what is brick and what is driveway on the applicant's lot; it is all one essentially. The applicant wants to be able to park on the bricks at a certain point, so what the Board is approving is a driveway per these specifications and limiting where the applicant can park possibly to where it is outlined on the site plan.

Mr. Van De Wiele asked Mr. Chapman if this were to be approved would this require a more typical curb cut? Mr. Chapman stated he believes so to be able to drive over it.

Mr. Durkee stated that the curb at the location is at an angle because it is not a normal square curb. He would propose that the Board designates the area with planters or paint it to distinguish the driveway.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Radney stated she did drive by to see the lot and she can support the request as presented.

Ms. Shelton stated that she thinks if the pavers stay it will be an invitation to the applicant to park on them or store things on them. She is against this request unless there is removal of some of the pavers.

Mr. Van De Wiele stated that to him this is strange that this request is before the Board because the applicant has the right to have 30 feet of driveway, and the applicant is designating 28 feet on paper. It was heard at the last hearing that if a person wants to pave or brick a yard the homeowner can do so. It is unique to him and a little strange that this request is before the Board. He can support this request given the applicant has the right to do what he has done although he is concerned that without a physical marking of where the driveway start and stop, he thinks this will encourage a broader use.

Ms. Radney stated that ordinarily she would not be inclined toward a time limitation, but because this was brought before the Board because of violations for what the Board is about to approve for the parking layout she would like to have a time limitation to confirm the applicant is going to be a good neighbor; a ten year time limit.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-1-0 (Bond, Radney, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to increase the permitted driveway width (Section 55.090-F), subject to conceptual plan marked exhibit Addendum #1. The Special Exception does not confer or grant an additional right to park on any other space, brick paved or unpaved, on the subject property other than those expressly delineated on the exhibit as driveway space. There is to be a time limit of ten years, September 22, 2030. 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:

LOT-9-BLK-15, RIVERVIEW VILLAGE B14-20, City of Tulsa, Tulsa County, State of Oklahoma

22990—Wallace Engineering – Nicole Watts

Action Requested:

Variance of the screening requirement between office use and residential districts (Section 40.260-D). **LOCATION:** 5750 East 15th Street South (**CD 5**)

Presentation:

Nicole Watts, KKT Architects, 123 North Martin Luther King, Jr. Boulevard, Tulsa, OK; stated as discussed two weeks ago the Board wanted to see a plan showing screening on the southern side of the property. Also, in the two weeks ONG has spoken with the two neighbors that were in attendance at the last meeting and have worked out a plan that is acceptable for all parties.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the screening requirement between office use and residential districts (Section 40.260-D), subject to conceptual exhibit Addendum 1 presented today. The Board finds the hardship to be the topographical and elevation of the subject property. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

A TRACT OF LAND THAT IS THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER (NW/4 SE/4) OF SECTION TEN (10), TOWNSHIP NINETEEN (19) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:BEGINNING AT A POINT THAT IS THE NORTHWEST NORNER OF SAID NW/4 SE/4; THENCE NORTH 88°17'08" EAST ALONG THE NORTHERLY LINE OF SAID NW/4 SE/4 FOR 155.50 FEET; THENCE SOUTH 01°16'30" EAST PARALLEL WITH THE WESTERLY LINE OF SAID NW/4 SE/4 FOR 568.50 FEET; THENCE SOUTH 07°36'48" EAST FOR 92.43 FEET; THENCE NORTH 88°13'28" EAST FOR 18.00 FEET; THENCE SOUTH 01°41'56" EAST FOR 301.00 FEET; THENCE NORTH 87°53'51" EAST FOR 259.06 FEET; THENCE SOUTH 01°45'25" EAST FOR 360.40 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID NW/4 SE/4, THE SAME BEING A POINT ON THE NORTHERLY LINE OF LOT THIRTY-SIX (36), BLOCK THREE (3), GLEASON VILLAGE, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE SOUTH 88°18'26" WEST ALONG THE SOUTHERLY LINE OF SAID NW/4 SE/4, AND ALONG A NORTHERLY LINE OF SAID BLOCK 3, FOR 448.00 FEET TO THE SOUTHWEST CORNER OF SAID NW/4 SE/4, THE SAME BEING THE NORTHWEST CORNER OF LOT 43, BLOCK 3, OF SAID GLEASON VILLAGE, AND ALSO BEING A POINT ON THE EASTERLY LINE OF LOT TWO (2), BLOCK ONE (1), WEDGWOOD, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE NORTH 01°16'30" WEST ALONG THE WESTERLY LINE OF SAID NW/4 SE/4, AND ALONG THE EASTERLY LINE OF SAID BLOCK 1, WEDGWOOD, AND ITS NORTHERLY EXTENSION THEREOF, FOR 1319.92 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND.
City of Tulsa, Tulsa County, State of Oklahoma

22994—Raul Cisneros

Action Requested:

Variance to reduce the 20-foot setback for a street facing garage (Section 5.030-A, Table Note 3); Variance to increase the maximum coverage area of the rear yard setback for a detached accessory building (Section 90.090-C.2, Table 90-2).

LOCATION: 1347 North Boston Place East (CD 1)

Presentation:

The applicant was not present.

Mr. Van De Wiele suggested that this request be continued one more time, until October 13, 2020 and he asked Mr. Chapman to contact Mr. Cisneros again. Mr. Van De Wiele stated that as one voice, one Board member he will not be inclined to continue this case again.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to reduce the 20-foot setback for a street facing garage (Section 5.030-A, Table Note 3); Variance to increase the maximum coverage area of the rear yard setback for a detached accessory building (Section 90.090-C.2, Table 90-2) to the October 13, 2020 Board of Adjustment meeting; for the following property:

LT 1 BLK 2, ADAMS RESUB L5-19 B1 & L1-17 B2 CLINESS CREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22995—Raul Cisneros

Action Requested:

Variance to allow the floor area of detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A). **LOCATION:** 3727 East Pine Place North **(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 **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to allow the floor area of detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A) to the October 13, 2020 Board of Adjustment meeting; for the following property:

LOT-19-BLK-1, LOUISVILLE HGTS ADDN B1-8, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22997—Drew Giddens

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 6529 East 51st Street South (**CD 5**)

Presentation:

Drew Giddens, 2877 West 12th Street, Jenks, OK; stated he represents Hemp USA in this request for a Variance. A Variance is being sought so Hemp USA can operate in the right location which is a store front business called the Glass Works which has been in operation for many years. There is a warehouse in Glass Works that will be converted into a dispensary. Between the warehouse and the retail area of Glass Works there is a small office that will be converted into the lobby for the patrons of Hemp USA. The owner and operator of Glass Works, Fred, is present today and the owner has a background of a mental health professional and he will be in tune with the medical needs of the future customers of Hemp USA. Mr. Giddens stated that Fred is a passionate and it is contagious. Glass Works is a successful business which generates substantial tax revenue for the City of Tulsa and the State of Oklahoma. There is no reason to stifle the American spirit of entrepreneurship and opportunity with an arbitrary and restrictive 1,000-foot spacing requirement. The rule itself is arbitrary and why the spacing requirement? Glass Works was in operation at the subject site before medical marijuana was legal in the state. Let the businesses compete for customers not the approval of regulators. At the State level the Oklahoma Marijuana Authority has already granted a license to Hemp USA to operate its dispensary at the subject location. The City and State are in conflict with one another. The City's rule infringes on the right to free enterprise which the founders of our nation so valued. This Board has the power and authority to grant the Variance today. Hemp USA is a legitimate Oklahoma business already licensed by the State. The rule restricting its operation is arbitrary, overly moralistic, and restrictive to small business in the entrepreneurial spirit. Mr. Giddens would ask the Board to vote in favor of this Variance and allow Fred to deepen his connection to this community and enrich his business and his customer's lives.

Mr. Van De Wiele asked Mr. Giddens where the competing dispensary is located and how close it is to the subject site? Mr. Giddens stated the nearest location is Inhale Dispensary and it is located on the northwest corner of 51st and Sheridan; about 650 to 700 feet away.

Mr. Van De Wiele asked Mr. Giddens when his client received his OMMA license. Mr. Giddens stated the license was issued October 14, 2019. Mr. Van De Wiele asked Mr. Giddens if that is a dispensary license. Mr. Giddens answered affirmatively.

Mr. Van De Wiele asked Mr. Giddens if Inhale Dispensary was open at that point in time. Mr. Giddens stated that he believed so.

Mr. Van De Wiele asked Mr. Giddens why his client had not gone through the spacing verification last year; why wait almost a year to pursue the spacing? Mr. Giddens stated there was some miscommunications between himself and his client and the City staff which led to significant delays. There was also the process of developing a site plan.

Mr. Van De Wiele asked Mr. Giddens to explain what is unique about his client's property that would serve as the basis for the hardship. Mr. Giddens stated that the Oklahoma Medical Marijuana Authority has granted the license for this specific location.

Mr. Bond asked Mr. Giddens if the license is dependent upon the approval of the municipality in which it is located or does exist independent of the City's authority? Mr. Giddens stated that it is his understanding that it exists independent of the City's authority.

Mr. Chapman stated that when the owner renews his OMMA license they have to verify with the City that the site meets Code; the Certificate of Compliance process.

Mr. Van De Wiele asked Mr. Giddens if his client has been operating as a dispensary. Mr. Giddens answered no.

Ms. Shelton asked Mr. Giddens if there was anything unique about the area or unique about the property that would convince her that there needs to be two dispensaries within 1,000 feet of each other. Mr. Giddens stated there is a liquor store next door, there is another dispensary, and this would not change the essential character of the area. He thinks it is really absurd to think about changing the character when speaking about a medication, this is not an illicit substance. It is legal in the State of Oklahoma.

Mr. Bond asked Mr. Giddens if it was legal for those who possess a prescription. Mr. Giddens answered affirmatively.

Ms. Radney asked Glass Works has anything to do with the medical marijuana industry. Mr. Giddens deferred to his client for the answer to this question. Mr. Van De Wiele stated that in looking at the signage depicted on page 8.9 of the agenda packet it appears that it is a related business.

Interested Parties:

Fady Srour, Hemp USA, LLC, 1317 West Omaha Place, Broken Arrow, OK; stated the current business has been in existence since 2016. This would be a natural expansion to everything that has been done and are doing. He has license from the State. He has a sales tax permit from the City of Tulsa. It has been almost a year that he has possessed the documentation, but he has not been able to operate because he needs a Certificate of Occupancy. He has clientele that comes in for their CBD needs, for glass or other related items, and he would like to expand into the space that he owns. Mr.

Mr. Srour stated he has a Masters Degree in Psychology, and is a licensed professional counselor in the State of Oklahoma for over 17 years. This will not be the typical smoke shop; he educates his clientele. This would be a natural addition to the market for him and for Tulsa. Mr. Srour stated he thinks Inhale opened because of his business already being established. He is not changing anything because he is already in the location and has a license to sell the product.

Mr. Van De Wiele asked Mr. Srour if Glass Works is the same or is it a different legal entity than Hemp USA. Mr. Srour stated that it is a different entity.

Mr. Bond asked Mr. Srour when he applied for his OMMA license. Mr. Srour stated the day the license was issued is September 20, 2019, so he submitted an application before that date.

Mr. Van De Wiele asked Mr. Srour if this issue came up because of the Certificate of Compliance issue with the City of Tulsa. Mr. Srour answered affirmatively.

Mr. Bond asked Mr. Srour if he applied for his OMMA license September 20, 2019 and his license was granted October 14, 2019. Mr. Srour answered affirmatively. Mr. Srour stated that when he spoke with OMMA he was told “no problem” and they granted him his license knowing he did not have a Certificate of Occupancy. Mr. Srour stated he paid his money, and his application was approved and now he is before the Board of Adjustment.

Mr. Bond asked staff if OMMA, as a practice or tradition, granting licenses irrespective of where the dispensary is located and who the neighbors are? Mr. Chapman answered affirmatively. Mr. Chapman stated there are people who are receiving OMMA licenses to operate a dispensary in residential, and at every point of the way they refer the person to check with the local City Ordinances. At this point it is just that they are requiring a Certificate of Occupancy from the City so they can renew their license.

Cody McCoy, 3032 South Boston Place, Tulsa, OK; stated he is the owner and operator of Inhale Dispensary located at 5048 South Sheridan Road. His landlord just told him about this issue on Friday. The 1,000-foot requirement is something that everyone in the business has had to deal with and the City of Tulsa put that in place for a reason. The market is already extremely oversaturated. The normal citizen is tired of seeing dispensaries everywhere. There is no need for that many dispensaries when this is medicinal and not recreational. Mr. McCoy stated that he has had his license since September 17, 2018. Everyone has had the same opportunity to get their license and establish a business before the City of Tulsa instituted the 1,000-foot regulation. If this is truly about helping patients then why not find a location that complies with the regulations that everyone complies with. The proposed business is one block away from his business and it would be extremely detrimental to his business.

Rebuttal:

Drew Giddens came forward and stated as Mr. McCoy stated all dispensaries have had to comply with the 1,000-foot rule, but as it was pointed out Inhale Dispensary did not have to deal with the 1,000-foot spacing verification. At that time, his client was not notified that there would be a contested issue about the 1,000-foot spacing because that issue did not exist at that time. If he had been able to foresee that there would be a problem, he could have been in the competition of who submitted an application first. The only person who is in attendance today is another business owner who clearly has a stake in limiting competition. The first time he submitted for a Certificate of Occupancy was January 19, 2020. With that application he submitted a COO application form, he submitted the license from OMMA, he submitted a map, a floor plan and a property search from the County Assessor for the subject property. From that time forward he was overwhelmed with responses back from his application that basically said the application was incomplete. If the steps are traced back to the time when the application was actually first submitted to the City that accounts for a lot of the time that has elapsed.

Mr. Van De Wiele asked Mr. Giddens if at that point he and his client were aware of the 1,000-foot spacing requirement. Mr. Giddens answered affirmatively and stated that is why he started the process. He and his client wanted to make sure the City was aware of the plans moving forward and to contest the rule as it stood.

Ms. Radney asked Mr. Giddens to restate his hardship for this request. Mr. Giddens stated the hardship is that Glass Works has been in operation as a smoke shop for many years, even before Inhale Dispensary and before medical marijuana was legal in the State of Oklahoma, and before there was a 1,000-foot spacing verification. The customers of Inhale know they are in good care with the ownership and the staff at Glass Works. That customer base is alienated by a rule that retroactively takes the right away from this business owner to operate a dispensary at the subject location. This specific location has good will in the community that is lost as a result of this rule.

Comments and Questions:

Mr. Bond stated that if he goes by the earliest possible time frame of when this was brought to the City, which is all the Board can go on, that was in January 2020. There is someone, Inhale Dispensary, that not only was pre-December 2018 applicant they even received a Certificate of Occupancy on July 22, 2019. That precludes the applicant from being there. For the Board's purposes in this case the dates do not work out. Mr. Bond stated he does not see a hardship in this case.

Ms. Radney stated that in the absence of being able to identify a hardship that isn't self-made she would not be able to support this request.

Ms. Shelton agreed with Ms. Radney and Mr. Bond. She always listens for something physically unique and she appreciates Ms. Radney's attempt to try and extract one earlier, and she still cannot see a hardship.

Mr. Van De Wiele stated that is where he is as well. He does not know that he has seen the notion of a natural expansion of a business, even though they are different entities but probably related in ownership, to him that is not a valid hardship that this Board can base a Variance on.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **DENY** the request for a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) due to a lack of a hardship; for the following property:

E 30 LT 6 & ALL LT 7 BLK 1, F D M CENTER, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Srour berated the Board members on his way out the door. Mr. Van De Wiele stated that those type of outburst have no basis, no reason here or anywhere. This is a volunteer Board, the members volunteer their time, hours a month. That is offensive and despite the applicant's comments about how professional he is he walked out of the room with those kind of comments. Wrong and do not want to hear it. Do not want to hear it on this application or any others.

22998—Owen Properties & Remodeling, LLC

Action Requested:

Special Exception to permit the alteration of a structure with an existing non-conforming side setback (Section 80.030-D). **LOCATION:** 2944 South Cincinnati Avenue East (**CD 9**)

Presentation:

Bob Farmer, Owen Properties & Remodeling, 6000 Douglas Lane, Bartlesville, OK; stated he represents the homeowner. The house is contemporary with the neighborhood and the garage may be original, but the dates of the all the additions is unknown. There was a patio on the back that was later covered with a shed roof and a laundry room was added behind the garage. There are several structural problems, and the roof is leaking. Mr. Farmer stated that his client has asked him to resolve the problem and it will require reconstruction of the garage, laundry room and the roof over that section of the house. The garage, the windows, and the covered patio will be demolished and then reconstructed in place in the same footprint. There will be no real change in the overall square footage of the house.

Mr. Van De Wiele asked Mr. Farmer if he was minimally reducing the encroachment. Mr. Farmer answered affirmatively. Mr. Farmer stated the only reason the overall

square footage stays the same is because of what is now an open patio will be enclosed.

Ms. Shelton asked Mr. Farmer if the garage is to be torn down and it had to be built in the 5-foot side yard setback he would not have room for the garage correct? Mr. Farmer answered affirmatively. The actual garage outer dimensions are 10'-4" and if he had to fully comply with the setback it would not be usable as a garage.

Ms. Shelton asked staff if the Variance is being requested for both sides or just one side? Mr. Chapman stated that right now it can be considered a Special Exception because of the existing non-conformity, and the Board is only dealing with the side that is being reconstructed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit the alteration of a structure with an existing non-conforming side setback (Section 80.030-D), subject to conceptual plans 9.12, 9.13, 9.14, 9.15, 9.16, 9.17 and 9.18 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:

S50 LT 4 BLK 3, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22999—Brent Barnes

Action Requested:

Special Exception to allow for Commercial/Vehicle Sales and Service/Personal Vehicle Sales & Rental use in a CS District (Section 15.020, Table 15-2).

LOCATION: 9955 East 21st Street South (**CD 5**)

Presentation:

Brent Barnes, 7030 South Yale, Suite 104, Tulsa, OK; stated the subject site is the former Dean's RV and his client purchased the property several months ago. El Chico's Restaurant is located to the west and a future electrical parts store will be on the east. His client would like to have a public auto auction on the property because there are zero public auto auctions in the city; there are several private auto auctions in the city.

Mr. Barnes stated that El Chico Restaurant is in favor of the request. This is a three-acre lot and there is more than ample parking for the facility. There will be one to two employees on off days on site, and there will be auction days one or two days a week; one auction day on the weekend and one auction day during the week. During the auction days there will be five or six employees on site. None of the traffic will congest 21st Street. The incoming vehicles to be auctioned will lane up on 101st Street and they will be filed into one of the 204 inventory spots on the back half of the property. This is more than sufficient because his client anticipates only running 90 to 100 vehicles on any given auction day; there are 200 spaces with 100 customer spaces as well. The cars will post up in the auction lane and that is where the bidding will also take place. The property does have a BOA approval for this same type of function however, it was defined as recreational and commercial vehicles.

Mr. Van De Wiele asked Mr. Barnes if there would be any inoperable vehicles auctioned. Mr. Barnes answered no.

Mr. Van De Wiele asked Mr. Barnes if the vehicle auction lane was covered by a canopy. Mr. Barnes answered affirmatively.

Ms. Shelton asked Mr. Barnes how the parking in the front out of the fenced area would be used. Mr. Barnes stated that parking will be customer parking and that also includes the stalls on 21st Street which are also identified as customer spaces; there is also a designated employee parking area.

Ms. Shelton asked Mr. Barnes what had been done to keep cars from backing up into 21st Street. Mr. Barnes stated the exit flow from when vehicles are purchased at the auction will go back to a stall and at that point the payment is dealt with and the cars will exit toward I-44 through an exit that feeds down 101st Street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow for Commercial/Vehicle Sales and Service/Personal Vehicle Sales & Rental use in a CS District (Section 15.020, Table 15-2), subject to the conceptual plan exhibit Addendum #1 presented today. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LTS 1 & 2, LESS W447.79' LT 1, BLK 2, MAGIC CIRCLE SOUTH ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23000—A-Max Sign Company, Inc.

Action Requested:

Variance to permit a projecting sign to exceed the maximum permitted height of 25 feet above grade to be installed at 75 feet above grade (Section 60.080-D).

LOCATION: 624 South Boston Avenue East (CD 9)

Presentation:

Bob Dale, A-Max Sign Company, 9520 East 55th Place, Tulsa, OK; stated he represents Fidelity Bank. The bank is based out of Kansas and they are investing and expanding in the Tulsa community. When looking for a main office they chose the 624 building located in downtown Tulsa; one of the best examples of Art Deco in the city. Fidelity has strict branding guidelines and their image, but they like the building so much they set their branding aside and want to have a sign that will blend with the building; something out of the 1920s. The hardship for this request is that the existing sign code does not allow for a sign like this. The sign would be limited to a maximum height of 25 feet and a minimum clearance of 10 feet from the sidewalk; that would create a very tiny sign on a very tall building which is about 170 feet tall. If a small sign is erected a lot of the architectural features would not be distinguishable. This is an opportunity to do something special in the Art Deco District. A-Max would like to have the opportunity to create a sign that fits the era, the style and the scale of the building. Granting the Variance will create a precedence and it would fit in the art deco scheme of the area and it would not cause any harm to the public good.

Mr. Van De Wiele asked Mr. Dale if there were residential units in the building. Mr. Dale stated that he understands that the building is all commercial.

Mr. Van De Wiele asked Mr. Dale if his client was purchasing the entire building. Mr. Dale answered no and stated that his client is leasing long term. Mr. Van De Wiele asked Mr. Dale if his client had approval and authority from the building owner. Mr. Dale answered affirmatively.

Ms. Radney asked Mr. Dale how the sign will be lit. Mr. Dale stated the sign will look very old style; it will have individual lighted letters that say the word "bank". There will be cove lighting. The sides of the cabinet will have a glow going inside and outside. On the very bottom of the sign there will be a part of the bank branding; the bank colors and lettering which will be lit internally.

Mr. Van De Wiele asked Mr. Dale if the letters that spell out bank will be lit internally. Mr. Dale answered affirmatively.

Ms. Shelton asked Mr. Dale if the elevation depicted on the site plan is the height that the sign is being mounted. Mr. Dale answered affirmatively. Mr. Dale stated there is enough physical footage on the building that a sign could be made bigger than what is designed, but it is the height limitation with the Central Business District that places the sign on the building at the designated height.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to permit a projecting sign to exceed the maximum permitted height of 25 feet above grade to be installed at 75 feet above grade (Section 60.080-D), subject to conceptual plans 11.8 and 11.10 of the agenda packet. The Board finds the hardship to be the historic building, the surrounding tall buildings in the Central Business District, as well as that in relation to the size of the building. 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:

S50 LT 4 BLK 163, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

23001—Ash Cigar Bar, LLC – Mark Bahlinger

Action Requested:

Special Exception to allow bar use in an IL District (Section 15.020, Table 15-2);
Variance of the 300-foot separation distance between a bar and another bar
(Section 40.050-A). **LOCATION:** 4205 South Sheridan Road East (**CD 5**)

Presentation:

Mark Bahlinger, Runners Licensing, 5747 South 70th East Avenue, Tulsa, OK; stated he represents the applicant. Ash Cigar Bar is a unique establishment, and the adult beverage bar could be considered an accessory use based on the square footage. The primary use of the cigar bar is a cigar smoking establishment. Alcohol sales will be incidental to this use. The bar itself, the alcohol distribution point, will take up less than 25% of the floor area. There is no cigar smoking establishment specified in the Zoning Code so it will fall under the adult entertainment establishment category. The Special Exception is requested to allow for a commercial bar use in an IL District. The cigar bar's hours of operation, primarily evening, incidental traffic incurred by location should be less impactful than other uses allowed in the zoning. The location is quite a distance from any residential area so patrons should not have any effect on nearby homes. This location would only be the fourth establishment on Sheridan between 41st and 51st Streets selling alcohol for on premises consumption, and only the second bar. The Variance is requested because the topographical and man-made issues unique to the location make the direct line of measurement unique and difficult to justify. The 300-foot distance measurement between the nearest wall of the proposed location to the nearest wall of the existing establishment, on a separate parcel, falls short of the 300 feet. However, if measured in the shortest path possible counting for the topographic elevation change and man-made obstacles, maneuvering around a large retaining wall and around a deeply recessed over-sized stormwater catch basin in the parking lot a person would most likely to walk a distance of 301'-5". If measured door to door along the same path the distance is 309'-9". Furthermore, the two bars carry different clienteles, one is an upscale cigar bar and the other is a neighborhood hole in the wall bar. Neither location has outdoor seating so noise should not be an issue. Title 37A of the Oklahoma State Statute, which is the law which deals with alcohol zoning on the state level, no longer requires a 300-foot separation.

Mr. Van De Wiele asked Mr. Bahlinger to state his hardship for the Variance request, and to speak more about the primary use of the facility. Mr. Bahlinger stated, based on square footage, the actual distribution point takes up less than 25% of the total square footage of the area; the remainder will be seating and work area. Based on the states rules it would be more than 35% of the income so it would be still classified as Type I, a bar, by the State. Mr. Bahlinger stated the hardship for the Variance request is that there is a 6'-6" tall retaining wall between the subject location and the other bar. There is a topographical change and a storm drain that is large.

Ms. Shelton asked Mr. Bahlinger if this is a new development. Mr. Bahlinger answered affirmatively. Ms. Shelton asked Mr. Bahlinger if his client had chosen the tenant space

that is the farthest to the north would they still be within the 300-foot radius? Mr. Bahlinger answered affirmatively.

Mr. Van De Wiele asked Mr. Bahlinger where in the center to the south is the other bar? Mr. Bahlinger stated it is on the extreme north end.

Interested Parties:

James George, 5207 South Sheridan Road, Tulsa, OK; stated he is the developer of the building and he supports this request. There is no access from the subject location to the development to the south except by driving on Sheridan.

Comments and Questions:

Ms. Shelton stated that she is struggling with this request because she does not see a hardship, and there are other factors as to why there should be spacing requirements for any type of use and that is the neighborhood affect. In this case she does not think it is detrimental to the neighborhood to have two bars within 300 feet of each other.

Ms. Radney stated the market the bar is primarily targeting is cigar smokers and less people that are hard drinkers. This is for people that want to enjoy an atmosphere where they can smoke.

Mr. Van De Wiele asked Mr. Swiney if that was a distinction the Board can rely upon as a hardship? Mr. Swiney stated that is a valid distinction, but he does not see it as a hardship, however. The definition of hardship is that, in the language of the Code, the Board must find an unnecessary hardship or practical difficulty for the property owner as distinguished from a mere inconvenience. Mr. Van De Wiele asked how would that bend a person toward not being hardship? The difference between a traditional bar and a cigar bar not being the basis for a hardship? Mr. Swiney stated the applicant stated that the use of alcohol is not the primary purpose of the proposed use, it is more of an accessory use to the smoking of cigars and selling the cigars.

Mr. Bond asked Mr. Swiney if the Board was bound to ABLE's 35% rule or can the Board have their own standard? Mr. Chapman stated the City of Tulsa has their own definition for accessory use and it speaks to 25% floor area limited to a restaurant and he thinks that is where Permitting would make the determination that this would not be accessory, it would be its own principle use.

Mr. Van De Wiele asked Mr. Swiney if the thought of this being a cigar bar with not technically an accessory use bar under the Zoning Code, does that concept get him close or there toward a hardship? Mr. Swiney stated he thinks it is up to the judgement of the members of the Board.

Ms. Radney stated she is inclined to believe that by strictly regulating this business as though it were a bar where one went primarily to purchase and partake of alcoholic beverages by applying the regulations to this business in the strictest way is a hardship. Really this business exists for the purpose of celebrating and the partaking of cigars and

the alcohol service is just incidental to that. That makes this categorically different especially given there are regulations in other spaces where people are allowed to smoke in restaurants that also serve alcohol. This is expressly for the purpose of expressly smoking.

Ms. Shelton stated she is on the no side of this because she thinks this is self-imposed. She agrees with Ms. Radney but it's just ignoring the location and the physicalness of this location. There is nothing that prevented the applicant from leasing into a spot that is outside the 300 feet.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow bar use in an IL 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:

LTS 33 THRU 35 & PRT LT 18 BEG SWC LT 35 TH E152 S40 W152 N40 POB BLK 2, KATY FREEWAY INDUSTRIAL PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

On **MOTION** of **RADNEY**, the Board voted 3-1-0 (Bond, Radney, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the 300-foot separation distance between a bar and another bar (Section 40.050-A). The Board finds the hardship to be that the intent of the space in separation is to separate drinking establishments and the characterization of the applied usage as a cigar bar would justify a distinction that the primary purpose for the business location would be for the enjoyment and sales of tobacco products. The intended use for this Variance is at a cigar bar and not specifically as a drinking establishment. The approval is limited to the tenant space at 4205 South Sheridan Road. The principle or primary use of this location or this address would be as a cigar bar. 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 33 THRU 35 & PRT LT 18 BEG SWC LT 35 TH E152 S40 W152 N40 POB BLK 2, KATY FREEWAY INDUSTRIAL PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23002—Tim Boeckman

Action Requested:

Minor Special Exception to amend a previously approved site plan for a Church in a residential district to permit construction of a new bell tower (Section 70.120).

LOCATION: 3188 East 22nd Street South (CD 4)

Mr. Bond recused and left the meeting at 3:42 P.M.

Presentation:

Tim Boeckman, CJC Architects, 1401 South Denver Avenue, Suite B, Tulsa, OK; stated he represents The Church of the Madalene who would like to build a bell tower on their property. The bell tower will not reduce any of the required parking spaces because it would be built on the end of an existing structure. The tower will be 44'-0" tall to the tip of the cross. The church has provided a schedule of when they plan to ring the bells; Sunday mornings, Saturday evenings, special events throughout the year, Thursday and Saturday before Easter, Christmas Eve and Christmas Day, weddings, a special community event. The church does not want to be a nuisance to the neighborhood and have provided a letter from the bell's manufacturer which states the process for establishing the loudness of the bells. The bell tower will face Harvard Avenue and most of the houses closest to the church are owned by the church and occupied by constituents of the church.

Ms. Radney asked if there is anything unusual about the sound the bell will make? Will it always be the same peal or is it something that can play a song? Mr. Boeckman stated the bell tower has three bells, a big bell, a medium bell, and a small bell. It is his understanding that the bells make the same sound when they are clacked but they can be made to harmonize different tones.

Ms. Shelton asked Mr. Boeckman if there is any concern about positioning the bell tower across the street from a facility that deals with a very vulnerable population, and

some decibels can be very annoying to some people. Mr. Boeckman stated that if a musical decibel would be applied at the property line the distance from that facility would have a decibel reduction.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Radney, Shelton, Van De Wiele "aye"; no "nays"; Bond "abstaining"; none absent) to **APPROVE** the request for a Minor Special Exception to amend a previously approved site plan for a Church in a residential district to permit construction of a new bell tower (Section 70.120), subject to conceptual plans 13.14 and 13.15 of the agenda packet. The approval is subject to the conceptual schedule of the bell ringing that was presented today. The noise level of the bell tower is to be no more than 75 decibels at the property line. 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 1 BLK 1 & LT 1 BLK 7 BONNIE BRAE & LT 1 BLK 1; PT VAC GARY PL BEG
NEC LT 1 BLK 7 TH S ON EL 87.7 E50 N ON WL 71.4 ON CRV TO 39.25 TO NL W
ON SL22ND 75 TO BEG, WIL-REY TERRACE, BONNIE BRAE, City of Tulsa, Tulsa
County, State of Oklahoma**

Mr. Bond re-entered the meeting at 3:54 P.M.

23003—Richard Oertle

Action Requested:

Variance to allow the total aggregate floor area of all detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A). **LOCATION:** 6624 South Oxford Avenue East (**CD 9**)

Presentation:

Richard Oertle, 6624 South Oxford Avenue, Tulsa, OK; stated the property is 2.51 acres and it is his sole residence. The hardship for his request is that mathematically the determination is based on the square footage of the house where he believes the intent of the Zoning Regulation is to prevent an eyesore. An example of that would be his next door neighbor, who has 9/10 of an acre, and the building he wants to build would well fit within the size of his building on a piece of land that is 1/3 of the size of his land (the applicant's land). He would ask for a hardship exemption because he believes

the intent of the original restriction was to keep the building becoming an eyesore. The additional space he is requesting accounts for less than 1% of the total space of the lot. Mr. Oertle stated he has spoken with all his neighbors and none of them have any objections. He is requesting the Board allow him to have 2,344 square feet for a building and then turn his 750 square foot garage and turn it into a room for him and his wife to do hobbies.

Mr. Van De Wiele asked Mr. Oertle if, ultimately, he wants to build a 25 x 60 building. Mr. Oertle answered affirmatively. Mr. Van De Wiele asked Mr. Oertle if that building would be placed in the northeast corner of his property. Mr. Oertle answered affirmatively. Mr. Van De Wiele asked Mr. Oertle if he wants to keep the 600 square foot garage and change the use. Mr. Oertle answered no. Mr. Van De Wiele asked Mr. Oertle if when he is complete, he wants a house, an existing garage and a 25 x 60 building. Mr. Oertle answered affirmatively.

Mr. Van De Wiele asked Mr. Oertle if the driveway would be asphalted or concreted. Mr. Oertle stated the driveway is concrete underneath with a layer of asphalt on top. Mr. Van De Wiele asked Mr. Oertle if he would vehicle access to the proposed building. Mr. Oertle answered no.

Mr. Van De Wiele asked Mr. Oertle if his current house is 3,344 square feet in size. Mr. Oertle answered affirmatively. Mr. Van De Wiele asked Mr. Oertle how large the existing garage is. Mr. Oertle stated it is 750 square feet. Mr. Van De Wiele asked Mr. Oertle if he wanted a total of 2,244 square feet for accessory buildings. Mr. Oertle answered affirmatively.

Mr. Bond asked Mr. Oertle what he planned to use the accessory buildings for. Mr. Oertle stated the original two-car garage will be turned into a workshop for himself and a craft room for his wife. The items in that garage will be stored in the new accessory building. Mr. Van De Wiele asked Mr. Oertle how many buildings would be on the property. Mr. Oertle stated there will be three buildings on the lot.

Ms. Radney asked Mr. Oertle to explain what the proposed building will look like. Mr. Oertle stated that it will be a dark green aluminum quonset hut; it is all one structure. The ribs turn it into a single building with no internal poles.

Ms. Radney asked Mr. Oertle what type of cladding will the building have? Mr. Oertle stated it will be galvalume made by Alcoa. There will be a front and a back with slide up garage door and personnel door in the front and in the back.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for Variance to allow the total aggregate floor area of all detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A), subject to conceptual plan 14.12 of the agenda packet and the exhibit presented today. The Board finds the hardship to be the topography and the size of house in relation to the size of the lot. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

**BEG 596.76W NEC SE TH W309.9 S353.83 E309.9 N353.83 POB SEC 03 18 13
2.52ACS, City of Tulsa, Tulsa County, State of Oklahoma**

23005—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a self-storage facility in the OL District (Section 15.020, Table 15-2); Variance of Section 40.360-B.3 of the code to permit up to two (2) garage-style access doors to be visible at ground level from abutting O/R lots and streets right-of-way. **LOCATION:** 5012 South Victor Avenue East (**CD 9**)

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents the applicant. The subject property was just recently zoned OL and immediately to the east is property zoned OM. The OM zoned property is being used as a staging area for the I-44 widening project, and it is intended to be used for quite some time because there are other widening projects coming in the future. Immediately across the street farther east

the property is zoned RM-2 and it is a retirement community. The westerly walls of these buildings to the east of the subject property are about 250 feet away. The property has an existing building that was the former Bel-Aire Assembly of God church building. Part of that building will be used for self-service storage facility, about 3,500 square feet. Another 1,000 square feet of the building will be used for office purposes. There will be no outside storage. The garage style doors will be on the east side of the building and they will be visible from the OM abutting property and the RM-2 property.

Mr. Van De Wiele asked Mr. Reynolds if the garage doors were going to be on the rear of the building. Mr. Reynolds answered affirmatively.

Mr. Reynolds stated the building will be cleaned up, painted, the doors will be the same color as the building, and the signage will be taken down. There will also be landscaping installed to make it nicer looking. Mr. Reynolds stated that the literal enforcement of the Code results in an unnecessary hardship, and the Variance is the minimum amount of Variance to afford the relief and it will not cause substantial detriment to the public or impair the spirit of the Code.

Mr. Van De Wiele asked Mr. Reynolds to state his hardship for the rear doors. Mr. Reynolds stated it is the distance; it is about 85'-0" from the OM staging yard, it is about 175 feet to the property line of the RM-2 property and that building is about another 60'-0" away from their property line so it will look just like two typical garage doors. The doors are designed to allow a vehicle to go into the building and access bays inside.

Ms. Radney asked Mr. Reynolds what the occupancy load of the building would be. Mr. Reynolds stated the unit sizes have not been chosen as of yet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a self-storage facility in the OL District (Section 15.020, Table 15-2); Variance of Section 40.360-B.3 of the code to permit up to two (2) garage-style access doors to be visible at ground level from abutting O/R lots and streets right-of-way, subject to conceptual plans 15.13 of the agenda packet and the exhibits presented today. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The Board finds the hardship to be the distance between the adjoining properties and the zoning use classifications as well as the garage doors in this case be distinguishable from those intended in the 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:

W 195' and the N 35' of the E 85' of Lot 8 Perry's 27207 Subdivision, City of Tulsa, Tulsa County, State of Oklahoma

23006—Jason Emmett

Action Requested:

Special Exception to expand a high school use in an R District and Modify a previously approved site plan (BOA-17718) to allow for the construction of a gymnasium (Section 5.020, Table 5-2 & Section 70.120); Special Exception to permit an alternative compliance parking ratio to reduce the required number of parking spaces for a high school use (Section 55.050-K & Section 55.020, Table 55-1). **LOCATION:** 12150 East 11th Street South **(CD 6)**

Presentation:

Jason Emmett, Cedar Creek Consulting, 11912 North Penn, Oklahoma City, OK; stated he represents the Architect and the Tulsa School Board. The Special Exceptions requested are to expand East Central High School and to modify a previously approved site plan by adding a gymnasium and to reduce the required number of parking spaces for the high school. The parking request is based on the fact that the student body has a low driving demographic based on the number of issued parking permits. On site there are 544 on site parking spaces and there have been only 188 parking permits issued including faculty. Not all events at the high school are simultaneous. Mr. Emmett believes the hardship to be that the language of the parking ordinance does not provide

relief for or consider a provision for non-simultaneous uses which puts an unnecessary hardship upon the high school.

Mr. Van De Wiele asked Mr. Emmett if a high school football game is the maximum capacity or highest use. Mr. Emmett answered affirmatively. Mr. Emmett stated the stadium has a capacity for 4,000 people which would require 800 parking spaces, however, previous years has shown that the average attendance at a football game is 500 people with the maximum of 700 people. Mr. Emmett stated that if there ever was a time when the stadium was packed with 4,000 people there is plenty of overflow parking near the baseball fields to the south.

Mr. Van De Wiele asked Mr. Emmett how many total parking space will exist after the fact. Mr. Emmett stated there would be 544 on site parking spaces with an additional 56 spaces.

Ms. Radney asked Mr. Emmett where the auxiliary parking spaces are located. Mr. Emmett stated the 56 spaces are located on the east side of the property, east of the football field.

Ms. Radney asked Mr. Emmett if the field is only used for school events or are there other events held there by other entities? Mr. Emmett deferred to Chris Hutchins.

Chris Hutchins, Tulsa Public Schools Bond Office, 3027 South New Haven, Tulsa, OK; stated the existing football stadium is currently used only for school events.

Ms. Shelton asked if there were alternative parking spaces for people who do not drive to the school. Mr. Emmett stated the people that do not drive are either transported by bus or they are dropped off.

Interested Parties:

Marlenna Tejada, 12359 East 13th Place, Tulsa, OK; stated she is opposed to this request.

Oscar Tejada, 12359 East 13th Place, Tulsa, OK; stated he does not understand what the request is concerning.

Mr. Van De Wiele stated the plan is to build a gymnasium to the west of the existing high school and that is essentially it.

Mr. Tejada asked if this project would affect his property and home. Mr. Chapman stated the project is only respective to property owned by the school district.

Sheri Ransom, 12405 East 13th Place, Tulsa, OK; stated that it is the overflow parking that concerns her. Her house is on the corner of 13th Place and 124th and she is not understanding exactly where the overflow parking is going to be. Mr. Van De Wiele stated that it is directly beside the football field and little south of that. There is no

overflow parking shown beyond where 124th East Avenue make the bend to the east; north of 12th Street. Ms. Ransom stated that is the primary entrance to the neighborhood from 11th Street. That area is very congested because people park along the street during sporting events at the stadium.

Mr. Van De Wiele left the meeting at 4:51 P.M.

Chris Hutchins stated the school did acquire two pieces of property on the west side of the subject site, so the site is expanding and be expanding the parking in that direction to accommodate the public.

Ms. Radney asked Mr. Hutchins if that expansion would be large enough so the 56 spaces on the street would not have to be planned for? Mr. Hutchins deferred to the Civil Engineer.

Mr. Van De Wiele re-entered the meeting at 4:53 P.M.

Civil Engineer, no name or address provided, stated people are parking along the road right now because that is the tendency of people. That is why it is recognized. The parking of the east side is being improved but those numbers are included in the parking study. The site is being brought up to Code, both in landscaping, routing and providing wider drop off areas. The work is being done to make the area safer and more accommodating for the staff and for the people of the community. The 56 spaces along 124th Street are still recognized because they are being utilized, so unless that is restricted people are going to park there even with the 500 parking spaces provided on the west side.

Ms. Radney asked if it was necessary for the parking to be provided on both sides of the street for the plan? The Civil Engineer stated that even without the 56 parking spaces the school has ample parking for what is going on currently. If for some reason the parking along the street was to be restricted the school grounds has enough parking spaces. Ms. Radney stated she would be reluctant to approve the plan with the full 56 spaces as drawn because she thinks that could potentially preclude the neighborhood's ability to go back to the City and perhaps petition to have parking restricted to just one side of the street. If the Board approves those 56 spaces as part of this parking plan that would make it more difficult for the neighborhood to argue that point.

Oscar Tejeda asked if the plans originate before or after the pandemic and has that changed anything?

David Reed, Architect, 4144 Dogwood Lane, Broken Arrow, OK; stated the plans were pre-COVID. The bond project was passed in 2015 and the drawings have been worked

on for several years. The basketball arena seats 1,000 people, the football stadium seats 4,000, ticket sales for the last two years has been 500 to 700, so the parking concerns along the street on the east side of the school should not be active at all. People will attempt to park as close to the facility as possible and there is ample parking on the west side of the high school for the participants.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to expand a high school use in an R District and Modify a previously approved site plan (BOA-17718) to allow for the construction of a gymnasium (Section 5.020, Table 5-2 & Section 70.120); Special Exception to permit an alternative compliance parking ratio to reduce the required number of parking spaces for a high school use (Section 55.050-K & Section 55.020, Table 55-1), subject to conceptual plans 16.18 and 16.19 of the agenda packet. The Board finds that the required alternative parking spaces will be limited to 33 on the east side of the school. 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, that the other allowed parking alternative of Section 55.050 are infeasible or do not apply and the reduced parking ratios proposed are not likely to cause material adverse impacts on traffic circulation and safety or on the general welfare of property owners and residents in the surrounding area; for the following property:

TRACT 1:

**From GENERAL WARRANTY DEED, Recorded in Book 2979 @ Page 43;
The Northwest Quarter of the Northeast Quarter (NW/4 NE/4) of Section Eight (8),
Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and
Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government
Survey thereof.**

LESS AND EXCEPT

**From DEDICATION DEED Public Highway, Recorded in Book 3678 @ Page 19;
All that part of the E/2 E/2 NW/4 NE/4 of Section 8, T-19-N, R-14-E of the Indian
Base and Meridian, Tulsa County, Oklahoma, more particularly described as
follows, to-wit: Beginning at the Northeast Corner of said E/2 E/2 NW/4 NE/4;
Thence S0°10'30"E along the East Boundary of said E/2 E/2 NW/4 NE/4 a distance
of 682.66 feet; Thence N24°47'42"W a distance of 0.00 feet; Thence to the right
along a curve of radius 330.00 feet a distance of 141.80 feet; Thence N0°10'30"W
parallel to and 30.00 feet from the East Boundary of said E/2 E/2 NW/4 NE/4 a
distance of 545.27 feet to a point in the North Boundary of said E/2 E/2 NW/4
NE/4; Thence Due East a distance of 30.00 feet to the Point of Beginning,
containing 0.439 acres.**

ALSO LESS AND EXCEPT

From DEDICATION DEED Public Highway, Recorded in Book 5323 @ Page 2387;

The South 25.25 feet of the North 50 feet of the following described tract of land:
The Northwest Quarter of the Northeast Quarter (NW/4 NE/4) of Section Eight (8),
Township Nineteen North (T-19-N), Range Fourteen East (R-14-E) of the Indian
Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S.
Government Survey thereof.

TRACT 2:

From GENERAL WARRANTY DEED, Recorded in Book 6003 @ Page 142;
Property situated in the NW/4 of Section 8, T-19-N, R-14-E of the Indian Base and
Meridian, Tulsa County, Oklahoma, according to the U.S. Government Survey
thereof and being more particularly described as follows:

The East 130 feet of the North 660 feet of the NE/4 NE/4 NW/4 of said Section 8,
less and except any roadway dedication thereof.

TRACT 3:

From GENERAL WARRANTY DEED, Recorded in Book 6003 @ Page 142;
Property situated in the NW/4 of Section 8, T-19-N, R-14-E of the Indian Base and
Meridian, Tulsa County, Oklahoma, according to the U.S. Government Survey
thereof and being more particularly described as follows:

The North 300 feet of the NE/4 NE/4 NE/4 NW/4 of said Section 8, less and except
the East 130 feet thereof, and less and except any roadway dedications thereof.

ALSO LESS AND EXCEPT

From WARRANTY DEED, Recorded in Book 2190 @ Page 12;

West Twenty-five feet (25') of the East Half (E/2) of the Northeast Quarter (NE/4) of
the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of the Section
Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian
Base and Meridian, according to the Government Survey thereof.

ALSO LESS AND EXCEPT

From GENERAL WARRANTY DEED, Recorded in Book 2190 @ Page 14;

The North Fifty (50) feet of the East One-hundred and Seventy-five (175) feet of
the West Two-hundred (200) feet of the East Half (E/2) of the Northeast Quarter
(NE/4) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of Section
Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian
Base and Meridian, according to the Government Survey thereof, for the express
purpose and to be forever used as a public thoroughfare and/or street and
highway, and for no other purpose.

TRACT 4:

From WARRANTY DEED, Recorded as Document Number 2019017271;

Part of the West Two-hundred (200) feet of the East Half of the Northeast Quarter
of the Northeast Quarter of the Northwest Quarter (E/2 NE/4 NE/4 NW/4) of
Section Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the
Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the
U.S. Government Survey thereof, being more particularly described as follows,
to-wit: Beginning 300 feet South of the Northwest Corner of above tract; Thence
South 65 feet; Thence East 200 feet; Thence North 65 feet; Thence West 200 feet
to the Point of Beginning.

LESS AND EXCEPT

From WARRANTY DEED, Recorded in Book 2190 @ Page 12;
West Twenty-five feet (25') of the East Half (E/2) of the Northeast Quarter (NE/4) of
the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of the Section
Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian
Base and Meridian, according to the Government Survey thereof.

TRACT 5:

From WARRANTY DEED, Recorded as Document Number 2018091252;
A tract of land more particularly described as follows: Beginning at a point 365
feet South and 25 feet East of the Northwest Corner of the West 200 feet of the
East Half of the Northeast Quarter of the Northeast Quarter of the Northwest
Quarter (E/2 NE/4 NE/4 NW/4) of Section Eight (8), Township Nineteen (19) North,
Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of
Oklahoma, Thence South 55'; Thence East 175'; Thence North 55'; Thence West
175' to the Point of Beginning.

TRACT 6:

From WARRANTY DEED, Recorded as Document Number 2018091253;
Lot One (1), GEMO ADDITION, an Addition to the City of Tulsa, Tulsa County,
State of Oklahoma, according to the recorded Plat thereof. (Plat #4407), 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 5:05 p.m.

Date approved: _____

Chair