

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1260
Tuesday, October 13, 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 Radney, Secretary Brown Shelton	Bond, Vice Chair	Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on October 8, 2020, at 9:16 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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/CityOfTulsa3/boa-gotomeeting-in-council-chambers-october-13th>

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. Steve Brown
- Mr. Dwayne Wilkerson, Tulsa Planning Office
- Mr. Austin Chapman, Tulsa Planning Office
- Ms. Janet Sparger, Tulsa Planning Office

MINUTES

On **MOTION** of **SHELTON**, the Board voted 3-0-1 (Radney, Shelton, Van De Wiele "aye"; no "nays"; Brown "abstaining"; Bond absent) to **APPROVE** the **Minutes** of the August 11, 2020 Board of Adjustment meeting (No. 1256).

On **MOTION** of **SHELTON**, the Board voted 3-0-1 (Radney, Shelton, Van De Wiele "aye"; no "nays"; Brown "abstaining"; Bond absent) to **APPROVE** the **Minutes** of the August 25, 2020 Board of Adjustment meeting (No. 1257).

Mr. Van De Wiele explained to the applicants and interested parties that there were only three board members present today; Mr. Bond will not be able to attend today's meeting because of work commitments. Normally when there is less than five Board members in attendance the Board would entertain a request for continuances. Most motions the Board makes it will require an affirmative vote of three of the remaining four members. Everyone nodded their understanding and no one requested a continuance.

UNFINISHED BUSINESS

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:

Raul Cisneros, 1312 South Garnett Road, Suite E, Tulsa, OK; stated his client would like to have a detached garage.

Mr. Van De Wiele asked Mr. Cisneros the age of the house. Mr. Cisneros stated that it has been there since the 1960s.

Mr. Van De Wiele asked Mr. Cisneros if the garage was going to be any farther toward the street than the house. Mr. Cisneros answered affirmatively. Mr. Van De Wiele asked Mr. Cisneros to confirm that it would not extend beyond the other side of the house, the south side, or the north side of the house. Mr. Cisneros answered affirmatively.

Mr. Van De Wiele asked Mr. Cisneros if the proposed garage was a two-car garage. Mr. Cisneros answered affirmatively.

Ms. Shelton asked Mr. Cisneros if the proposed garage is centered on the lot. Mr. Cisneros answered affirmatively. Ms. Shelton asked if there was a reason why the garage could not go farther to the south. Mr. Cisneros stated that it can, but the client wanted a little room on the south side to walk around or store items. Mr. Cisneros stated the client wanted the garage to align with the house and be symmetrical. Ms. Shelton stated her concern is that there is no sidewalk along Oklahoma Street, that is the reason for the 20-foot setback, so a car would not be parked on the sidewalk if parked in front of the garage.

Mr. Van De Wiele asked Mr. Cisneros how close is the proposed garage to the property line on the north side? Mr. Cisneros stated it is 30 feet from the property to the center of Oklahoma and it is 6'-11 ¼" to the property line. Mr. Van De Wiele asked Mr. Cisneros if he knew the distance from the property line to the curb line. Mr. Cisneros stated that he does not, but he would guess it to be about 20 feet.

Mr. Van De Wiele asked Mr. Cisneros if he had given any consideration to entering the garage from the alleyway. Mr. Cisneros answered no. Mr. Cisneros stated the houses on the east side of the property have their garages facing the alley, but he never considered it. He designed the proposed garage on a house on Oklahoma Street, that is east of the subject property, 1401 North Boston.

Mr. Wilkerson stated that alley is located in a PUD and it is limited to the uses of the houses in the PUD, so it is not a public alleyway.

Mr. Van De Wiele asked Mr. Wilkerson if there is any provision in the PUD for a sidewalk on the south side of Oklahoma Street? Mr. Wilkerson stated the PUD was done before the current sidewalk regulations were in place. There are provisions for sidewalks on Martin Luther King, Jr. Boulevard, but there is nothing required that he is aware of.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; "nay"; no "abstentions"; Bond absent) to **APPROVE** 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), subject to conceptual plans 3.10, 3.11, 3.12 and 3.13 of the agenda packet. The Board finds the hardship to be the small size of the lot and the lot being platted before the 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 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:

Raul Cisneros, 1312 South Garnett Road, Suite E, Tulsa, OK; stated his client was unaware of the construction permitting process and he stopped construction. The accessory building framing and the roof is already in place, that is when it was discovered the accessory building is too large. The client would be allowed to build a 500 square foot building and he has started building a 728 square foot building.

Mr. Van De Wiele asked Mr. Cisneros if the proposed building is going to be a garage. Mr. Cisneros stated that it will be a storage area and a small gathering area. Mr. Van De Wiele asked if there would vehicles parked inside the building. Mr. Cisneros answered no.

Mr. Van De Wiele asked if the building was going to be a second residence for anyone. Mr. Cisneros answered no. Mr. Van De Wiele asked if there would be any sleeping quarters, kitchen, or bathroom in the building. Mr. Cisneros stated there will be a restroom.

Ms. Shelton asked Mr. Cisneros if the overhead door was for the ease of moving things in and out of the building. Mr. Cisneros answered affirmatively.

Mr. Van De Wiele asked Mr. Cisneros if the building is placed on the left side of the house. Mr. Cisneros answered affirmatively.

Mr. Van De Wiele asked Mr. Cisneros to state his hardship for this request. Mr. Cisneros stated his client's family is getting bigger and they already use the existing garage as a living space, so they need a storage area.

Mr. Van De Wiele asked Mr. Cisneros how much of the building has been completed at this point in time. Mr. Cisneros stated the slab has been poured, it has been framed and the roof has been installed.

Mr. Van De Wiele asked if the covered porch area of the building counted against the floor area. Mr. Wilkerson stated that he does not know how the City calculated the floor area but typically a covered porch is not open space.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; "nay"; no "abstentions"; Bond absent) to **APPROVE** 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), subject to conceptual plans 4.12, 4.13, 4.14, 4.15 and 4.16 of the agenda packet. The Board finds the

hardship to be the age of the existing home and how the square footage and storage needs have changed since the time of construction. The new structure is not to be used as a second dwelling unit. There are to be no vehicles houses in the new structure. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

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:

Nick Puma, 11229 South 108th East Avenue, Tulsa, OK; stated the request is to have about 54.5% of house coverage on the lot.

Mr. Van De Wiele asked Mr. Puma if he was asking for 326 feet more. Mr. Puma answered affirmatively.

Mr. Van De Wiele asked Mr. Puma why he didn't design this project with 300 feet less. Mr. Puma stated he was trying to take away from the driveway but that would make the driveway about ten feet making it hard to turn into the garage.

Mr. Van De Wiele asked Mr. Puma if the subject site was a vacant lot. Mr. Puma answered affirmatively. Mr. Van De Wiele stated the lot is a non-conforming lot and asked Mr. Puma how non-conforming the lot is. Mr. Chapman stated the size of the lot is 6,900 square feet, a 50-foot wide lot, so its not the size of the lot but the width of the lot. Mr. Chapman stated that is what grants the applicant the allowance to reduce his open space to 50%.

Mr. Van De Wiele asked what the minimum lot size is in RS-3 zoning. Mr. Chapman stated that it is 60 feet. Mr. Van De Wiele asked what the coverage would be if the lot were 60 feet wide. Mr. Chapman stated it would be 4,000 square feet. Mr. Van De Wiele asked what percentage that would be. Mr. Chapman stated it is not based on a percentage, it is an actual number. In the RS-3 District an owner is required to maintain the property at 4,000 square feet; 4,000 square feet out of 7,200 square feet.

Mr. Van De Wiele asked Mr. Puma to explain how this Variance request is not self-imposed. Mr. Puma stated he could not answer that question right now.

Mr. Brown stated that he lives in a house that is similar in size on small lot, and this is squeezing a lot into the shoebox. Without a real hardship this new construction does not fit into the neighborhood in scale or materials or size; it overwhelms everything. Mr. Brown stated that he would lean toward a no vote in this request.

Ms. Radney stated that she has concerns similar to Mr. Brown's. She is inclined to be a no vote for this request as well.

Mr. Puma asked the Board if it would help if he cut back on the covered patio and cut back some of the driveway so that would take the coverage down to about 51%.

Mr. Van De Wiele stated he is struggling to come up with a hardship. There are already some big houses in the neighborhood which are obviously rebuilds, and if those were built without the same needed relief he does not see a way to reach a hardship that is not self-imposed. Mr. Van De Wiele suggested this request be continued to allow time to consider a hardship. Mr. Puma agreed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond 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 27, 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

NEW APPLICATIONS

23007—Tom Neal

Action Requested:

Variance to allow more than 25% coverage by an accessory building in the rear setback (Section 90.090-C); Variance of the allowable height of a detached accessory building from one story or 18 feet in height to two stories and 26 feet in height and from 10 feet to 18 feet in height to the top of the top plate (Section 90.090.C); Variance of the minimum required open space in the RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 210 East Hazel Boulevard South (**CD 4**)

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated there is an existing garage with quarters above it which is approximately 20'-0" x 20'-0" x 23'-0" tall. What is being proposed is a modernization of the structure to meet current conditions. In 1929 a Chevrolet was about 13 feet long and today a vehicle is approaching 20 feet long. His client would like to be able to park his vehicles into the building and replace the existing quarters. There is also a drainage issue and he hopes to address that issue at the same time as the new construction. Mr. Neal stated the proposed is a new garage at 24'-0" x 28'-0" and about three feet taller than the current structure. The new garage would resemble the existing house.

Mr. Van De Wiele asked Mr. Neal how large the current structure is. Mr. Neal stated the current garage is 20 x 20 about 23 feet tall to the peak; it is a pitched roof with a dormer situation.

Mr. Van De Wiele asked Mr. Neal if the existing garage has living quarters above. Mr. Neal answered affirmatively stating there is a kitchenette, a functioning $\frac{3}{4}$ bath and exterior staircase that would be moved to an interior staircase because the exterior staircase is in the required side yard.

Mr. Van De Wiele asked Mr. Neal to tell the Board about the desired materials, roof pitch and it compares to the house of the current structure. Mr. Neal stated the current house has vinyl siding that is being removed and replace with a hardy board historically accurate 1929 revival type house. The bottom of the house is brick, and the new garage will be an all wood structure like the current garage with simple one over one windows. The roof pitch will be essentially the same as the existing house. There is not currently a

dormer on the front, but one has been added to make the quarters a little more functional.

Mr. Brown asked Mr. Neal if the house is located in a historical preservation district. Mr. Neal stated that it is not; it is south of 21st Street, it is considered Maple Ridge, but it is not an HP District.

Mr. Van De Wiele asked if the existing stairway is included in the 20 x 20 measurement. Mr. Neal stated that it is not, it is actually an addition to the 20 x 20 measurement. The existing stairway is about 4 feet wide and suspects that it was a later addition because the original stairway fell apart.

Mr. Brown asked Mr. Neal what the garage doors would look like. Mr. Neal stated it is an overhead door with panels and a row of glass at the top. The future garage door will be wider and taller to accommodate a larger pickup truck.

Mr. Van De Wiele asked Mr. Neal if the proposed garage would be getting any closer to the rear and side lot lines. Mr. Neal answered no stating that the garage will be moved east putting it into the homeowner's back yard.

Mr. Brown asked Mr. Neal what the two closest structures are south and east of the new garage. Mr. Neal stated immediately to the north and to the west there is a small existing garage, and to the south is a free-standing garage on the neighbor's property.

Mr. Van De Wiele asked Mr. Neal if those garages were two-story garages. Mr. Neal did not think so, but the existing garage being discussed is two stories.

Mr. Shelton asked Mr. Neal if he had discussed the windows on the south side with the neighbor. Mr. Neal stated that he has not heard anything, but he would suspect that communication would go straight to the homeowner and they have not said anything.

Mr. Neal stated the homeowner elected not to have any windows to the west to allow privacy, but there is a fire ingress/egress requirement that has to be met.

Interested Parties:

Kay Sheehan, 207 East 27th Street, Tulsa, OK; stated her property is directly behind the proposed garage to the south and will receive the biggest impact. Ms. Sheehan stated this is not a small height elevation, it is 30%. The existing building is a 1-1/2 story with no dormers, and it gives the south side complete privacy equal to all the other garages and garage apartments in the area. She has asked the current homeowner to deal with the drainage that she receives from their house because it is severe. She has tried to sculpt the landscaping to deal with the drainage and has poured a V-shaped driveway. The existing garage had a two-car garage door, and the building has been bumped out in the rear to accommodate bigger, longer vehicles and the previous owner had large vehicles in the garage.

Mr. Van De Wiele stated the Board does not deal with drainage issues. Part of the building permit process those type of issues are looked at. Mr. Wilkerson stated that drainage issues are part of the site plan application and it has to be shown how the water is moving on the site, but there may not be specific resolutions to existing problems.

Ms. Sheehan stated that the ideal position to the new gigantic, tall garage would be attached to the house where there is presently a porte cochere. That would enlarge the green space in the back to handle more water flow.

Mr. Van De Wiele stated that a detached building can be closer to a lot line than a principle structure, and if the garage were to be attached it may not be able to be there.

Ms. Sheehan stated she is losing all of her privacy if this garage is two-story with windows on the back. Mr. Van De Wiele asked Ms. Sheehan if there were any windows on the existing garage in the back. Ms. Sheehan answered no stating that if windows were installed on the west side it would not disturb anyone's privacy because it looks over a garage into a driveway.

Mr. Van De Wiele stated that with some degree of regularity with issues like this the Board has mandated moving windows to another side, and on other occasions required opaque windows.

Ms. Radney asked Ms. Sheehan if she would be agreeable to opaque windows on the south side. Ms. Sheehan stated that is the only area she has to sunbathe, and it is her garden space. Ms. Sheehan stated she does not care if people see her naked in her back yard, but the neighbor might be offended by her body. That is the only space she has to do whatever she wants to do and with a gigantic structure that is gone.

Kate Thorp, 223 East 33rd Place, Tulsa, OK; stated she is not a neighbor but a longtime friend and a realtor that represented Ms. Sheehan on the purchase of her house in 2008. At the time of the purchase the house did have a detached garage and it needed to be remodeled. She tried to encourage Ms. Sheehan to remodel the detached garage and have another apartment on the top floor. Instead of doing what she had suggested Ms. Sheehan was concerned about the adjacent neighbors and their privacy. After those discussions she razed the garage and added a second apartment onto to her house. Also, she created the only green space on that lot, and she shares a driveway with her neighbor, so the green space is very limited. Ms. Thorp stated she heard the Board question Mr. Cisneros and Mr. Puma about their hardships, but she did not hear a lot of hardship in Mr. Neal's case. The proposal is a 30% increase in height and in the footprint. The garage does not need to be at that height and there is no reason the garage cannot be attached to the house. This is an excessively large building. Ms. Thorp stated she does see a hardship for this request and the Board seemed to be very focused on the hardships in the two previous cases. Mr. Van De Wiele stated this is a little different than the two previous cases, and the Board grants this type of relief very often.

Rebuttal:

Tom Neal came forward and stated he and his client would be happy to change to windows to address Ms. Sheehan's concerns. They can be replaced with clear store windows that are much higher, possibly even make them translucent so the bottom of the window would be forehead height. He can move an egress window to the west. He can put some windows to the east over the staircase and open the stair hall. Mr. Neal understands Ms. Sheehan's frustrations with the drainage issues, but one of the primary reasons for doing a rebuild rather than an expansion or reconstruction is so the drainage can be addressed. Mr. Neal stated the new garage will not have a bump out as there is now.

Mr. Van De Wiele asked Mr. Neal how does that existing bump out line up with the planned rear wall of the new structure? Mr. Neal stated the new structure is going to be where the bump out is now. At the southwest most corner it will be about three feet off the rear and five feet off the side approximately.

Mr. Van De Wiele asked Mr. Neal if any part of that is closer to the westerly or southerly neighbors. Mr. Neal answered no stating that it will go to the north to gain the square footage and it will go to the east.

Mr. Van De Wiele asked Mr. Neal to state his hardship on the height. Mr. Neal stated the hardship for the height is that the current space is about 5'-6" tall in a significant portion of it and that does not meet Code. What has been done is to raise it 12-1/2% above the existing to be able to have an eight-foot ceiling throughout the new garage apartment. The first floor will have a 9'-0" plate so there can be 8'-0" door and need 12" for a header and at least 12" for floor structure.

Ms. Shelton stated that a typical garage door is 7'-0" tall. Mr. Neal confirmed that statement and stated the typical 7'-0" tall garage door will not allow a large vehicle, and the 7'-0" garage door hangs below the 7'-0" opening slightly; he would argue that an 8'-0" door is the new standard.

Ms. Thorp stated that she does not see a hardship to go upward that is not self-imposed, and she is going to be coming before the Board on her property as well, but she finds it extremely distressing. All the questions that were thrown at Mr. Puma and Mr. Cisneros regarding hardship Mr. Neal did not get the same questioning and his hardship is not proven to go higher. Mr. Van De Wiele stated the Board has asked the question that you (Ms. Thorp) asked the Board to ask, whether this hardship is sufficient or not is up to the Board members. Ms. Thorp stated that in other parts of town there are a lot of questions and here it just a given. Mr. Van De Wiele stated that he thinks Ms. Thorp is reading the line of questioning into one project versus another project incorrectly. Mr. Van De Wiele stated the Board has heard Ms. Thorp's concern, but the Board has not gotten to the point of discussing or making a judgment.

Tom Neal came forward and stated that in the spirit of compromise he needs to run the idea past his client, but it is possible that the design could be tweaked a little bit to reduce the height.

Mr. Van De Wiele asked Mr. Neal if he would be agreeable to continue his case to October 27th to allow him time to visit about the issues. Mr. Neal answered affirmatively.

Ms. Radney stated that as a fellow realtor she is sensitive to the arguments that are being brought forth. As a realtor, she too, consider the relationship with her client to endure well beyond the boundary is the transaction. It is clear the neighbor has a solid advocate in her realtor, and she is appreciative of her concerns about the regulations are applied uniformly across the City. What is true though is that the context of the neighborhoods and the character of the neighborhoods really do differ from block to block. The spirit of how the Board wants to apply the law, which includes the right to request Variances and Special Exceptions, the Board really does try to do that as fairly as possible. In support of Mr. Van De Wiele the Board has not yet entered into discussion, but Ms. Thorp can be assured that the Board does hear the remarks and concerns of the adjacent property owners.

Mr. Van De Wiele stated that he has been on the Board for 11 years, so he has seen projects from every corner of the City, every zip code, every neighborhood, and to be blunt he takes it personally for himself and personally for the Board when there is an accusation or the hint of an accusation that this Board treats different applicants differently. There is a lot of that going on in this City and in this Country right now and that is not this Board. He understands people are passionate, and the one thing that everybody gets passionate about is their home or their friend's home, and the Board understands that. To suggest that there is something other than a fair look at each project on a project by project basis is just wrong. When he sees that he will call that out. It is not personal to any applicant or to any interested party, but people need to know where this Board comes from on those issues.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a **Variance** to allow more than 25% coverage by an accessory building in the rear setback (Section 90.090-C); **Variance** of the allowable height of a detached accessory building from one story or 18 feet in height to two stories and 26 feet in height and from 10 feet to 18 feet in height to the top of the top plate (Section 90.090.C); **Variance** of the minimum required open space in the RS-2 District (Section 5.030, Table 5-3); for the following property:

LT 9 BLK 14, SUNSET TERRACE, City of Tulsa, Tulsa County, State of Oklahoma

23008—Mike Wimberly

Action Requested:

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

LOCATION: 6358 East Newton Street North (CD 3)

Presentation:

Mike Wimberly, 6358 East Newton Street, Tulsa, OK; stated his family is large and there has always been an issue with parking on the narrow streets. He hired a concrete company that he thought was reputable and he was told everything was taken care of. When he had a water main break and the driveway entrance had to be demolished and at that time a City Inspector told him that he did not find any permits for the driveway. The City tells him he cannot repair the driveway entrance until all the permits were taken out.

Mr. Van De Wiele asked Mr. Wimberly if he had any conversations with the neighbor that fronts on East Marshall Place or the neighbor across the street on Newton or heard any concerns from any of the neighbors. Mr. Wimberly stated that he has not.

Ms. Shelton asked Mr. Wimberly how many cars does he need to park? Mr. Wimberly stated that it is five to six cars.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-1-0 (Brown, Radney, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to increase the permitted driveway width (Section 55.090-F), subject to conceptual plan 7.10 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 1 BLK 11, MAPLEWOOD ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23009—Shalisa McFalls

Action Requested:

Special Exception to permit a medical marijuana grower operation, Agricultural/Horticulture Nursery Use, in the CH District (Section 15.020, Table 15-2). **LOCATION:** 5031 East Admiral Place North (**CD 3**)

Presentation:

Shalisa McFalls, 5031 East Admiral Place, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele asked Ms. McFalls if she has her OMMA license. Ms. McFalls stated she needs this approval before she can receive her license.

Mr. Van De Wiele asked Ms. McFalls if the building is compliant with the OMMA regulations and requirements. Ms. McFalls deferred to Mr. McFalls.

Marion McFalls, 5031 East Admiral Place, Tulsa, OK; stated they are aware of the building requirements.

Mr. Van De Wiele asked Mr. McFalls what businesses are operating on either side of the subject property. Mr. McFalls stated there is a bar to the east and heat exchange processing business next door.

Mr. Van De Wiele asked Mr. McFalls if he had spoken with any of the neighbors. Mr. McFalls stated he spoke with the bar owner and there are no problems.

Mr. Brown asked Mr. McFalls where the access to the building is located. Mr. McFalls stated there is parking access in the rear and there is two-hour parking in the front.

Mr. Brown asked Mr. McFalls what type of deliveries will there be? Mr. McFalls stated there will be box type trucks making deliveries, but the rear is large enough to accommodate a large 18-wheeler. There is also a service road in the rear that all the other businesses utilize.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit a medical marijuana grower operation, Agricultural/Horticulture Nursery Use, in the CH District (Section 15.020, Table 15-2),

subject to conceptual plan 8.10 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E9.28 E50.78 SW 2.5ACS E9.73ACS LT 4 & TR BEG SWC SE2.5ACS TH N330 E32.22 S330 W32.22 POB LESS S40 & N30.19 FOR STS SEC 3 19 13 .248AC, City of Tulsa, Tulsa County, State of Oklahoma

23011—Trails End Equipment, LLC

Action Requested:

Special Exception to permit High-Impact Medical Marijuana processing (High-impact Manufacturing & Industry Use) in the IM District (Section 15.020, Table 15-2). **LOCATION:** 1614 East 6th Street South **(CD 4)**

Presentation:

Talbot Donley, 1614 East 6th Street, Tulsa, OK; stated he would like to operate a small processing center. The machine is about six feet tall and it uses antifreeze to separate the liquids from the flower in the process. The material is run through the machine, it separates it, and the Special Exception request is to be able to use the chemicals within the facility; antifreeze, ethanol, cleaning agents, etc. The building was built in 1950 and is all filled cinder block. There is an addition on the rear of the building that is storage for tools and equipment.

Mr. Brown asked Mr. Donley if the building was equipped with a fire suppression system. Mr. Donley answered no.

Mr. Brown asked Mr. Donley if he would be storing flammable materials on the site. Mr. Donley stated that he will be using and storing food grade ethanol.

Mr. Brown asked Mr. Donley where he would be taking deliveries. Mr. Donley stated that he delivers everything is provided at the dispensary level.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Shelton thinks the neighborhood suffers from some past poor planning in that a lot of the areas have the benefit of having corridors every mile along mile sections, and this part of the City has a commercial corridor along 11th Street, along 6th Street and along 3rd Street. She feels that the residents of this area feel the brunt of commercial activity more than other areas of the city.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to permit High-Impact Medical Marijuana processing (High-impact Manufacturing & Industry Use) in the IM District (Section 15.020, Table 15-2), subject to conceptual plans 9.9, 9.10 and 9.11 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LTS 5 & 6 BLK 5, GLASS FACTORY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23012—Gregorio Torres

Action Requested:

Special Exception to increase the permitted driveway width in the right-of-way (Section 55.090-F). **LOCATION:** 12158 East 35th Street South (**CD 3**)

Presentation:

Gregorio Torres, 12158 East 35th Street, Tulsa, OK; stated he would like to improve his driveway and he was not aware of the driveway width limitations when he started.

Mr. Van De Wiele asked Mr. Torres if the 27'-7" driveway depicted on page 10.8 is already built. Mr. Torres answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to increase the permitted driveway width in the right-of-way (Section 55.090-F), subject to conceptual plan 10.8 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:

LT 11 BLK 5, BRIARGLEN EXT PRT RES A BRIARGLEN, City of Tulsa, Tulsa County, State of Oklahoma

23013—Wallace Engineering – Mike Thedford

Action Requested:

Special Exception to permit a Horticulture Nursery Use in the CG District (Section 15.020, Table 15-2). **LOCATION:** 14002 East 21st Street South (**CD 6**)

Presentation:

Mike Thedford, Wallace Engineering, 123 North Martin Luther King, Jr. Boulevard, Tulsa, OK; stated Eastland Mall has gone through a lot of transitions in the past. The property has gone through zoning from CS to CG. The property is zoned CG with an Optional Development Plan. Horticulture is the proposed use for the lower level of the structure. There are individual tenant spaces in the lower level that are vacant and that is where the grow facility would be located. The lower level has a truck drive thru.

Mr. Van De Wiele asked Mr. Thedford to explain what he means by the lower level; is that the ground level or is there something lower? Mr. Thedford stated that it is the subterranean level.

Mr. Thedford stated the plan is to have an option for each individual space of the subterranean level. There might be the moving of some walls. The first plan is to use one of the current spaces as it is and make all the modifications per the building code and meet all the requirements.

Mr. Brown asked Mr. Thedford how large of an area will be occupied? Mr. Thedford stated that it is about 15,000 square feet on the western end of the lower level to begin.

Mr. Brown asked about the deliveries to the site. Mr. Thedford stated there are entrances on each end that are truck accesses and there are existing truck docks.

Ms. Shelton asked Mr. Thedford why this went through the rezoning with an optional development plan. Mr. Thedford stated the ownership has been straight forward from the very beginning on this project as far as the intended use for this specific area. When it went through the rezoning the ownership thought it would be best to be fairly broad for the rest of the property for the reuse without focusing on one area for the listed uses in the Optional Development Plan.

Mr. Van De Wiele asked Mr. Thedford if the request was just for the lower level. Mr. Thedford answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Special Exception to permit a Horticulture Nursery Use in the CG District (Section 15.020, Table 15-2), subject to conceptual plan 11.20 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:

LT 1 BLK 1, EASTLAND ACRES, City of Tulsa, Tulsa County, State of Oklahoma

23014—W Design

Action Requested:

Variance to allow a drive through on the street facing (East 38th Street) side of the property (Section 55.100-C2). **LOCATION:** 3866 South Sheridan Road East (**CD 5**)

Presentation:

Meenakshi Krishnasamy, W Design, 815 East 3rd Street, Tulsa, OK; stated his company developed the subject property. There is a Domino's Restaurant on the north side, and it has gone through the permitting, but the pick-up window was overlooked. Per the Zoning Code any pick-up window or drive thru cannot face the street side. It is planned to have a donut shop on the south side of the building. This is not a traditional drive thru; it is a pick-up window only. There is no order board because everything is ordered through an app. This property has three sides that faces a street.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of SHELTON**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to allow a drive through on the street facing (East 38th Street) side of the property (Section 55.100-C2), subject to conceptual plan 12.9 of the agenda packet. The Board finds the hardship to be the shallow depth of the lot and proximity to three streets and the adjacent highway. The approval is just for the drive thru window and there is to be no ordering board. 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 150.74N & 50W SECR NE SE TH N250 W135 S363.23 TO N R/W SKELLY DR TH NE ALG R/W POB LESS N25 FOR ST SEC 22 19 13 .878AC, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

Review and Approval of 2021 Meeting Schedule.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the 2021 calendar schedule for the Board of Adjustment meeting removing the November 23rd and December 28th dates. If needed the Board is willing to have a special meeting on December 28th.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Van De Wiele stated that immediately following the agenda on October 27th there will be work session in this room. The topics to be discussed is the 300-foot spacing for bars, alternative compliance parking issues, blade sign limitations, Variances and what constitutes a hardship. If there are any other subjects that should be discussed a Board member may e-mail Austin Chapman or Susan Miller.

Mr. Van De Wiele welcomed the new Board member, Steve Brown. Mr. Brown stated he is glad to be a part of the Board.

There being no further business, the meeting adjourned at 3:50 p.m.

Date approved: _____

Chair

DRAFT