

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1264  
Tuesday, January 12, 2020, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2nd Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Van De Wiele, Chair Bond, Vice Chair Radney, Secretary Brown Shelton		Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on January 7, 2020, at 10:17 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.

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

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

<https://www.gotomeet.me/CityOfTulsa3/boa-gotomeeting-in-council-chambers-january-12th>

The staff members attending remotely are as follows:

Ms. Audrey Blank, City Legal

The Board members and staff members attending in person are as follows:

Mr. Stuart Van De Wiele, Chair  
Mr. Austin Bond, Vice Chair  
Ms. Burlinda Radney, Secretary  
Mr. Steve Brown, Board Member  
Ms. Jessica Shelton, Board Member  
Mr. Austin Chapman, Tulsa Planning Office  
Mr. Dwayne Wilkerson, Tulsa Planning Office  
Ms. Janet Sparger, Tulsa Planning Office

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### MINUTES

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the December 8, 2020 Board of Adjustment meeting No. 1263.

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Mr. Van De Wiele informed the audience that today's agenda is quite lengthy so, there will be time limits placed on each case. There will be five minutes for the applicant, three minutes for each interested party, and three minutes for rebuttal from the applicant. The Board can extend the time frame if there are questions from the Board, but he would ask everyone to respect the time frames so everyone can have their case heard today.

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### NEW APPLICATIONS

#### 23066—Tulsa Housing Authority

##### Action Requested:

Variance to reduce Build-to-Zone width and the percentage of the building facade that must be located in the Build-to-Zone in a MX1-U District (Section 10.030, Table 10-5). **LOCATION:** NW/c of West 23rd Street North and North Jackson Avenue West (**CD 2**)

##### Presentation:

Staff requests a continuance to January 26, 2021 due to issues with the notice and this case needs to be readvertised.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION of SHELTON**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **CONTINUE** the request for a Variance to reduce Build-to-Zone width and the percentage of the building facade that must be located in the Build-to-Zone in a MX1-U District (Section 10.030, Table 10-5) to the January 26, 2021 Board of Adjustment meeting; for the following property:

**A PART OF BLOCKS I AND III OF RIVER VIEW PARK ADDITION, A REPLAT OF BLOCK 1 AND A PLAT OF BLOCKS 2-13, CITY OF TULSA, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, RECORDED AS PLAT NUMBER 3128.**

**MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE NORTHEAST CORNER OF RIVER WEST PHASE I, A RE-SUBDIVISION OF PART OF BLOCK I AND BLOCK III OF RIVERVIEW PARK ADDITION IN THE NORTH HALF (N/2) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF AND RECORDED AS PLAT NO. 6913 IN THE OFFICE OF THE TULSA COUNTY CLERK; THENCE S 22° 11' 39" E, ALONG THE EAST LINE OF SAID RIVER WEST PHASE I, A DISTANCE OF 212.29 FEET; THENCE S 24° 02' 20" E, CONTINUING ALONG THE EAST LINE OF SAID RIVER WEST PHASE I, A DISTANCE OF 169.37 FEET; THENCE S 38° 34' 14" E, CONTINUING ALONG THE EAST LINE OF SAID RIVER WEST PHASE I, A DISTANCE OF 78.38 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING S 38° 34' 14" E, AND ALONG THE EAST LINE OF BLOCK III OF RIVER VIEW PARK ADDITION, A REPLAT OF BLOCK 1 AND A PLAT OF BLOCKS 2-13, CITY OF TULSA, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, RECORDED AS PLAT NUMBER 3128, A DISTANCE OF 98.44 FEET, TO THE NORTHEAST CORNER OF BLOCK I OF SAID RIVERVIEW PARK ADDITION; THENCE CONTINUING S 38° 34' 14" E, AND ALONG THE EAST LINE OF SAID BLOCK I, A DISTANCE OF 191.02 FEET, TO A POINT OF CURVATURE; THENCE ALONG A TANGENT CURVE TO THE RIGHT, CONTINUING ALONG THE EAST LINE OF SAID BLOCK I, HAVING A RADIUS OF 140.00 FEET, AN ARC LENGTH OF 161.98 FEET, A CENTRAL ANGLE OF 66° 17' 21", A CHORD BEARING OF S 05° 25' 33" E AND A CHORD DISTANCE OF 153.09 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A TANGENT CURVE TO THE LEFT, CONTINUING ALONG THE EAST LINE OF SAID BLOCK I, HAVING A RADIUS OF 344.71 FEET, AN ARC LENGTH OF 171.00 FEET, A CENTRAL ANGLE OF 28° 25' 21", A CHORD BEARING OF S 13° 30' 27" W AND A CHORD DISTANCE OF 169.25 FEET; THENCE S 00° 47' 32" E, CONTINUING ALONG THE EAST LINE OF SAID BLOCK III, A DISTANCE OF 309.88 FEET, TO THE SOUTHEAST CORNER OF SAID BLOCK I; THENCE S 89° 07' 09" W, ALONG THE SOUTH LINE OF SAID BLOCK I, A DISTANCE OF 330.00 FEET; THENCE N 00° 47' 32" W, PARALLEL WITH AND 330.00 FEET WEST OF LAST SAID EAST LINE, A DISTANCE OF 705.20 FEET, TO A POINT ON THE SOUTH RIGHT OF WAY OF WEST 22<sup>ND</sup> STREET ACCORDING TO SAID PLAT OF RIVER WEST PHASE I; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT, ALONG SAID SOUTH RIGHT OF WAY LINE, HAVING A RADIUS OF 5000.00 FEET, AN ARC LENGTH OF 117.87 FEET, A CENTRAL**

ANGLE OF 01° 21' 02", A CHORD BEARING OF N 50° 18' 10" E AND A CHORD DISTANCE OF 117.87 FEET, TO A POINT ON THE NORTH LINE OF SAID BLOCK III; THENCE CONTINUING ALONG LAST SAID CURVE TO THE LEFT, ALONG SAID SOUTH RIGHT OF WAY LINE, HAVING A RADIUS OF 5000.00 FEET, AN ARC LENGTH OF 118.45 FEET, A CENTRAL ANGLE OF 01° 21' 26", A CHORD BEARING OF N 48° 56' 56" E AND A CHORD DISTANCE OF 118.45 FEET, TO THE POINT OF BEGINNING;

SAID TRACT OF LAND CONTAINING 6.08 ACRES / 264,875.30 SQUARE FEET.

THIS LEGAL DESCRIPTION WAS CREATED ON JULY 9, 2020 BY ALBERT R. JONES, III, OK PLS #1580, WITH THE BASIS OF BEARING BEING S 22° 11' 39" E, ALONG THE EAST LINE OF RIVER WEST PHASE I, A RE-SUBDIVISION OF PART OF BLOCK I AND BLOCK III OF RIVERVIEW PARK ADDITION IN THE NORTH HALF (N/2) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF AND RECORDED AS PLAT NO. 6913 IN THE OFFICE OF THE TULSA COUNTY CLERK.

AND

A PART OF BLOCK I OF RIVER VIEW PARK ADDITION, A REPLAT OF BLOCK 1 AND A PLAT OF BLOCKS 2-13, CITY OF TULSA, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, RECORDED AS PLAT NUMBER 3128.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF RIVER WEST PHASE I, A RE-SUBDIVISION OF PART OF BLOCK I AND BLOCK III OF RIVERVIEW PARK ADDITION IN THE NORTH HALF (N/2) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF AND RECORDED AS PLAT NO. 6913 IN THE OFFICE OF THE TULSA COUNTY CLERK; THENCE S 22° 11' 39" E, ALONG THE EAST LINE OF SAID RIVER WEST PHASE I, A DISTANCE OF 212.29 FEET; THENCE S 24° 02' 20" E, CONTINUING ALONG THE EAST LINE OF SAID RIVER WEST PHASE I, A DISTANCE OF 169.37 FEET; THENCE S 38° 34' 14" E, CONTINUING ALONG THE EAST LINE OF SAID RIVER WEST PHASE I, A DISTANCE OF 78.38 FEET; THENCE CONTINUING S 38° 34' 14" E, AND ALONG THE EAST LINE OF BLOCK III OF RIVER VIEW PARK ADDITION, A REPLAT OF BLOCK 1 AND A PLAT OF BLOCKS 2-13, CITY OF TULSA, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, RECORDED AS PLAT NUMBER 3128, A DISTANCE OF 98.44 FEET, TO THE NORTHEAST CORNER OF BLOCK I OF SAID RIVERVIEW PARK ADDITION; THENCE CONTINUING S 38° 34' 14" E, AND ALONG THE EAST LINE OF SAID BLOCK I, A DISTANCE OF 191.02 FEET, TO A POINT OF CURVATURE; THENCE ALONG A TANGENT CURVE TO THE RIGHT, CONTINUING ALONG THE EAST LINE OF SAID BLOCK I, HAVING A RADIUS OF 140.00 FEET, AN ARC LENGTH OF 161.98 FEET, A CENTRAL ANGLE OF 66° 17' 21", A CHORD BEARING OF S 05° 25' 33" E AND A CHORD DISTANCE OF 153.09 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A TANGENT CURVE TO THE LEFT, CONTINUING ALONG THE EAST LINE OF SAID BLOCK I, HAVING A RADIUS OF 344.71 FEET, AN ARC LENGTH OF 171.00 FEET, A CENTRAL ANGLE OF 28° 25' 21", A CHORD BEARING OF S 13° 30' 27" W AND A CHORD DISTANCE OF 169.25 FEET; THENCE S 00° 47' 32" E, CONTINUING ALONG THE EAST LINE OF SAID BLOCK III, A DISTANCE OF 309.88 FEET, TO THE SOUTHEAST CORNER OF SAID BLOCK I; THENCE S 89° 07' 09" W, ALONG THE SOUTH LINE OF SAID BLOCK I, A DISTANCE OF 330.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING S 89° 07' 09" W, CONTINUING ALONG THE SOUTH LINE OF SAID BLOCK I, A DISTANCE OF 328.90 FEET, TO THE SOUTHWEST CORNER OF SAID BLOCK I; THENCE N 00° 52' 53" W, ALONG THE WEST LINE OF SAID BLOCK I, A DISTANCE OF 302.63 FEET, TO AN INTERIOR CORNER OF SAID BLOCK I; THENCE CONTINUING N 00° 52' 53" W A DISTANCE OF 273.21 FEET, TO A TANGENT POINT OF CURVATURE; THENCE ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 25.00 FEET, AN ARC LENGTH OF 39.27 FEET, A CENTRAL ANGLE OF 90° 00' 14", A CHORD BEARING

OF N 44° 07' 14" E AND A CHORD DISTANCE OF 35.36 FEET; THENCE N 89° 07' 20" E A DISTANCE OF 49.40 FEET, TO THE SOUTHWEST CORNER OF SAID RIVER WEST PHASE I; THENCE CONTINUING N 89° 07' 20" E, ALONG THE SOUTH LINE OF SAID RIVER WEST PHASE I, A DISTANCE OF 23.28 FEET, TO A TANGENT POINT OF CURVATURE; THENCE ALONG A TANGENT CURVE TO THE LEFT, CONTINUING ALONG THE SOUTH LINE OF SAID RIVER WEST PHASE I, HAVING A RADIUS OF 285.00 FEET, AN ARC LENGTH OF 185.44 FEET, A CENTRAL ANGLE OF 37° 16' 47", A CHORD BEARING OF N 70° 28' 57" E AND A CHORD DISTANCE OF 182.18 FEET, TO A POINT OF COMPOUND CURVATURE; THENCE ALONG A TANGENT CURVE TO THE LEFT, CONTINUING ALONG THE SOUTH LINE OF SAID RIVER WEST PHASE I, HAVING A RADIUS OF 5000.00 FEET, AN ARC LENGTH OF 75.44 FEET, A CENTRAL ANGLE OF 00° 51' 52", A CHORD BEARING OF N 51° 24' 37" E AND A CHORD DISTANCE OF 75.44 FEET; THENCE S 00° 47' 32" E A DISTANCE OF 705.20 FEET, TO THE POINT OF BEGINNING;

SAID TRACT OF LAND CONTAINING 4.72 ACRES / 205,798.70 SQUARE FEET.

THIS LEGAL DESCRIPTION WAS CREATED ON JULY 9, 2020 BY ALBERT R. JONES, III, OK PLS #1580, WITH THE BASIS OF BEARING BEING S 22° 11' 39" E, ALONG THE EAST LINE OF RIVER WEST PHASE I, A RE-SUBDIVISION OF PART OF BLOCK I AND BLOCK III OF RIVERVIEW PARK ADDITION IN THE NORTH HALF (N/2) OF SECTION FOURTEEN (14), TOWNSHIP NINETEEN (19) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF AND RECORDED AS PLAT NO. 6913 IN THE OFFICE OF THE TULSA COUNTY CLERK., City of Tulsa, Tulsa County, State of Oklahoma

### **23071—Eller & Detrich – Lou Reynolds**

#### **Action Requested:**

Variance to permit a swimming pool within the required 5-foot side street setback (Section 80.020-B and Section 90.090, Table 90-1)). **LOCATION:** 3541 South Rockford Avenue East (CD 9)

#### **Presentation:**

The applicant requests a continuance to February 9, 2021; more relief may be needed.

#### **Interested Parties:**

There were no interested parties present.

#### **Comments and Questions:**

None.

#### **Board Action:**

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to permit a swimming pool within the required 5-foot side street setback (Section 80.020-B and Section 90.090, Table 90-1) to the February 9, 2021 Board of Adjustment meeting; for the following property:

W. 50 OF LT-16-BLK-4, PARRAMORE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

\* \* \* \* \*

## **UNFINISHED BUSINESS**

### **23029—Eller & Detrich – Andrew Shank**

#### **Action Requested:**

Appeal of the Administrative Decision issued in the Letter of Deficiency written September 30, 2020 for permit application **SIGN-070484-2020**, stating that the existing dynamic display off-premise outdoor sign, located in the River Design Overlay (RDO-2), requires a permit and a Variance to replace the tri-fold dynamic display sign with LED dynamic Display (Section 70.140) **OR** in the alternative a Variance from Section 80.060-B.1 of the Code to “update an existing non-conforming tri-fold dynamic display off- premise outdoor advertising sign in a River Design Overlay District to an LED dynamic display sign”. **LOCATION:** 9904 South Riverside Parkway East (**CD 2**)

**Mr. Van De Wiele stated that in Appeals the Board hears from the City Official first.**

#### **Presentation:**

**Danny Whiteman**, Sign Plan Reviewer, City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated the application came in to convert an existing off premises outdoor advertising sign that has a tri-fold display to a digital display. The description from the applicant says, “convert the existing dynamic display outdoor advertising sign from a tri-fold to a digital outdoor advertising sign of the same size and location”. As part of the review process the first thing is to look to see where the sign is located, and this sign is located in the River Design Overlay (RDO). Mr. Whiteman stated he has specific Code sections that the uses and the section of the Zoning Code that pertains to the RDO says, “off premises outdoor advertising signs and dynamic display signs are prohibited in the RDO”, so the City sees the sign as a non-conforming sign legally established because the applicant originally did have a permit. When the City looks at the section on non-conforming signs it says, “non-conforming off premises outdoor advertising signs must be maintained in good repair and safe condition in accordance with Section 80.010.D. No permits may be issued for upgrades or modifications of non-conforming signs”. The City sees this as a non-conforming sign and sees the conversion from a trifold to a digital as an upgrade and a modification. Again, that sections says, no permits may be issued for the upgrades or modification of non-conforming signs, so this is part of the decision process. Section 60, the chapter of the Sign Code, deals with outdoor advertising signs and it says, “no off premises outdoor advertising sign with a dynamic display may be modified, extended or enlarged until a permit has been issued for its installation and use as a dynamic display sign”. Mr. Whiteman stated the City issued the LOD but did not think the permit could be issued because the City sees this as a

modification and an upgrade not a repair of a non-conforming sign which is prohibited because it is in the RDO.

Mr. Van De Wiele asked staff if there was something in the RDO that allows a Variance to be granted. Mr. Wilkerson stated that the request for a Variance from the provision in the Code is okay.

Mr. Van De Wiele asked Mr. Whiteman if this is an existing sign that was placed on the property legally. Mr. Whiteman answered affirmatively. Mr. Van De Wiele asked Mr. Whiteman if, under the Code, the City is treating a change from an existing type of sign to the desired new type of sign as if it were a new sign, which would then remove the sign from its current legally non-conforming status. Mr. Whiteman answered affirmatively and stated that he does not know that he would consider this a new sign because of the clause in the Code, Section 80.060.B1, that states no permits may be issued for upgrades or modifications of non-conforming signs, and that is how the City reviewed it, a modification, and an upgrade of the same sign.

Mr. Van De Wiele stated that in the agenda packet pertaining to this case, page 60-16 of the Code, it appears Section 80.011 says, "conversion of an authorized advertising sign into an off-premises advertising sign with a dynamic display requires a permit as if it were an entirely new sign". Mr. Whiteman stated the City came to an agreement that the trifold is considered a dynamic display, but the City sees this as an upgrade and a modification.

Mr. Van De Wiele asked Mr. Whiteman if the trifold is considered dynamic because the tri-fold moves. Mr. Whiteman answered affirmatively.

**Andrew Shank**, 2727 East 21st Street, Suite 200, Tulsa, OK; stated the Code expressly gives the Board the power to hear, in a quasi-judicial hearing, whether or not the City official appropriately interpreted the Zoning Code and that is what this appeal is about. In Oklahoma property rights are strongly protected, they are constitutional. Oklahoma's constitution is more protective of property rights than many states across the nation, so with the case law interpreting land use regulation says, we are strictly construing zoning codes against the government, in this case the City of Tulsa, and in favor of the landowner and for use of land. That is bedrock Supreme Court case law in Oklahoma, that is the lens through which the Board analyzes this application. Often times when filing for a permit in any jurisdiction, particularly one that has substantial regulations like the City of Tulsa. There is an intersect between what the law says, what the black letter of the Code says, and what the governing body wants. Oklahoma tells the Board "want" has no place in the conversation, what does the black letter of the Code say? Mr. Shank stated that here, he thinks it is clear that the City of Tulsa does not want a new digital sign in the RDO. Unfortunately for the City, none of that is in the Zoning Code. The sign is located in King's Landing at the interchange of Delaware Avenue and the Creek Turnpike. The sign is oriented toward the river and the Creek Turnpike in both directions. The sign was established in 2006, this is a lawful sign that was permitted as a changeable copy sign. Those words and that time are important. In

the old Code there was a distinction between a digital sign and a non-digital sign. In 2016 the current Zoning Code was adopted in January; ten years after the subject sign was lawfully permitted as a changeable copy sign. The new Code eliminates the distinction between digital and non-digital. The Code has a new definition, dynamic display sign is any element of a sign or a sign structure capable of displaying words, symbols, figures, images, or messages that can be electronically or mechanically changed by remote or automatic means. This also includes a display that incorporates rotating panels, LED lights, etc. The City agrees that the sign permitted in 2006 is a dynamic display. What the definition change did was to extend the City's regulatory arm, because under the old Code if the sign was non-digital it was operated under a less restrictive set of rules. If the sign was digitized the road became more difficult. Here the City has incorporated changeable copy tri-vision signs together with LEDs to create a new term and in doing so made life more difficult for any new dynamic display sign. But on the other side if the sign was lawfully permitted it is treated as all signs in that group. Mr. Shank thinks the City interpreted the Code incorrectly. You can't upgrade from a dynamic display sign to anything else, the only upgrade that happens is from a sign without a dynamic display to a sign with a dynamic display. Here, under the law, the sign is permitted as dynamic display and have been since 2006. He seeks to use the sign as a dynamic display. Mr. Shank thinks what the City wants is to say, is if the sign is changed from a dynamic display tri-vision to a dynamic display that is digital it is a new sign. Mr. Shank referred to Section B in the Code, "no off premises outdoor advertising sign with a dynamic display may be modified, extended or enlarged until a permit has been issued for its installation and use as a dynamic display sign". Mr. Shank stated that under the law he has a permit for a dynamic display sign and have had since 2006. It becomes clear when the Code says, "the conversion of off premises outdoor advertising sign [without dynamic display] into one with dynamic display requires a permit as if it were an entirely new sign". There is a Code distinction between non-dynamic and dynamic, the non-digital with static went away. Mr. Shank stated the sign cannot be upgraded; it is already permitted as a dynamic display; the applicant is entitled to use the property in accordance with the permit.

Mr. Van De Wiele stated that he agrees that "C" is not applicable to this sign because it is not being converted from non-dynamic to dynamic, but he wants to know how Mr. Shank addresses sub-section "D" that talks about non-conforming. Mr. Shank stated that the opening definition in "D" is regarding a non-conforming off premises outdoor advertising sign, it does not indicate with a dynamic display. This sign is a non-conforming off premises outdoor advertising sign with a dynamic display; it is already permitted as a dynamic display. There is no indication that the applicant is starting with a dynamic display. What this came from were the "time and temperature" tags that were on static signs, but the Code clearly states that if the sign is coming from something without dynamic display into something that is dynamic display permits are needed. A sign cannot be upgraded from what is already there. If the City is not going to enforce the regulations against a broader pool in the definition of dynamic display, it has to be by law gives those that were permitted under the same definition the benefit of being a dynamic display. Mr. Shank stated that in reviewing Mr. Whiteman's comments, he thinks he is hanging his hat on upgrade and modification. Mr. Shank agrees with the



City on how the overlay affects the Code. The Code states that a lawful and non-conforming sign is Section 60-B, "non-conforming off premises advertising signs must be maintained in good repair and safe condition". That means a sign can be used in accordance with the permit. No permits may be issued for upgrades or modifications of non-conforming signs. The Code is devoid of any definition of what is supposed to be done. Mr. Shank stated that the only upgrade an outdoor advertising sign can have is from one without a dynamic display to one with dynamic display. The Code states that a sign must be maintained and operated as an outdoor advertising sign in good repair and safe condition. Mr. Shank quoted the Tulsa Building Code, sign alteration provision, as stating "that no sign shall be enlarged or relocated". If the applicant were making a larger sign or moving the pole out of the concrete and relocating it, "any such sign has to conform with provisions of the Code applicable to new signs", then the Code states, "the changing of movable parts of an approved sign that is designed for such changes or the repairing or the reposting of display matter shall not be deemed an alteration provided the conditions of the original approval are not changed".

Mr. Van De Wiele asked Mr. Shank what modifications would require a new permit? Mr. Shank stated that no modification, extension or enlargement until a permit has been issued for its installation and use as a dynamic display". This is the legislature saying that the sign is coming from no authority as a dynamic display to authority as a dynamic display. Mr. Van De Wiele stated it says "no off premises outdoor advertising sign with a dynamic display" so this is starting with a dynamic display. Mr. Shank stated not necessarily lawfully; the sign regulations have these all over that they maybe there was no tracking of the time and temp tags that were being added to the signs, so if there is not permit on file a permit needs to be had. Mr. Van De Wiele asked Mr. Shank if he was saying the Board should not read the last part as until a new permit is issued. Mr. Shank agreed and stated that it says, "until there is a permit for use as a dynamic display sign" and there is a permit and there has been a permit.

Mr. Van De Wiele asked Mr. Shank to state the hardship for his Variance request. Mr. Shank stated the hardship is related to the context of the property. There is a lawfully permitted sign that is located in the RDO and it is lawfully permitted as a dynamic display sign. The overlay of the RDO made the sign a lawfully nonconforming sign. A lawfully nonconforming use is routinely found to be a necessary hardship, and in looking at the new Code it becomes clear that the strict application of the Code in order to uphold the purpose. The purpose of the RDO regulations, "RDO regulations apply within the boundaries to all new uses, new structures and all building alterations, site modifications that require a building permit". Anything done with the sign does not require a building permit. The sign is not new; it has been dynamic display and want to continue being dynamic display.

Mr. Bond asked Mr. Shank if the sign currently rotates. Mr. Shank stated the faces are stationary that have triangular panels with a changeable copy message.

Mr. Van De Wiele asked Mr. Shank if the size of the sign was getting larger. Mr. Shank stated that it is not; there is no enlargement and no moving. The dynamic display copy

that is there today is being replaced with new dynamic display copy of the same size in the same location. Mr. Van De Wiele asked Mr. Shank if the angle would be changing. Mr. Shank stated the orientation may change a bit, one end may flair a little bit, but the aspect of the structure is staying the same. Mr. Van De Wiele asked Mr. Shank if the square footage of the sign was changing. Mr. Shank answered no.

Ms. Radney asked staff if there was anything in Section 60.100 the Board should consider. Mr. Whiteman stated Section 60.100-J & K, for the spacing the City saw no problem with the spacing. The sign was established before January 1, 2010 and there are only separation requirements from the side of the highway and the City did not see an issue with the spacing. Mr. Chapman stated that section deals with static images, moving images, and the brightness of the sign. Mr. Whiteman stated that when he reviewed the application, he did not see any problems with compliance of Section 60.100.

Mr. Van De Wiele asked Mr. Whiteman if a sign had a permit, had spaced and all the requirements were met for a digital billboard and the sign was to be changed to newest and latest technology would that require a new permit from the City? Mr. Whiteman stated that it is his understanding that if the sign meets the requirements for a digital display there is the possibility that the sign could be converted to digital, but the interpretation of Section 60.080 is that the sign would still need a permit but if the sign conforms otherwise the permit could still be issued. Mr. Shank stated that if the sign were permitted as a digital sign and new LEDs were to be installed there is no permit required to change them out. The City does not require a permit to change out static sign, it is permitted to have that sign structure. Ms. Blank stated the sign would be nonconforming because it existed before the RDO went into effect, but she does not know if City staff interprets this as a modification or an upgrade.

**Interested Parties:**

**Steve Easley**, 9640 South 67th East Avenue, Tulsa, OK; stated he is the owner of the property that is between Kum & Go and the vet clinic on Riverside at 101st. He purchased the property existing in the River Design Overlay, which means he paid an extreme premium for the property, and he is in the process of constructing a building on the property. He will be investing over \$7 million dollars and will be abiding by every letter of the RDO, in knowing that a bright digital sign is going to be visible from the fourth-floor high end steak and seafood restaurant that focuses on outdoor seating he has an issue with that. In listening to Mr. Shank he does not see this as an upgrade or maintenance of a sign. Mr. Shank stated that the same pole will be used, but if he puts a sign on a building the building does not become the sign. The sign under discussion is on the pole and he would ask what model number is the current sign and what model number is going to be put up? He does not believe this is an upgrade or maintenance of an existing sign. The River Design Overlay is very specific about and explicit about no signage and about beautifying the river. For the people that are trying to invest in the river he does not think there needs to be another obstacle of a bright sign illuminating the river. The sign will be visible from multiple locations of every floor in his building with the exception of maybe the first floor. It has been stated that the sign has been well

maintained but looking at the sign coming from the west to the east the sign currently is not functioning properly.

**Rebuttal:**

**Andrew Shank** came forward and stated that he does not think comments from the public are permissible or relevant in an interpretation, because the simple task of the Board is to determine whether the City is right, or the applicant is right. Because there is an alternative request for a Variance, he thinks it is appropriate. He would say that this in no way impairs or harms the neighborhood in any way because there is a lawful permitted dynamic display sign and if the Board gives his client what is being asked for there will be a lawful permitted dynamic display sign, there is not an addition or anything new to the framework, therefore he would ask for the Board's approval.

**Comments and Questions:**

Mr. Bond believes that from what the City intended to regulate versus what they did he thinks there is a gap. Section 60.100 deals with detail, the illumination and brightness of LED sign which are very important, but the sign is also near major arteries. He would consider any kind of relief that would impinge the ability of the City to regulate those things safety and driving. He thinks the sign is a dynamic display, it was before, and it is now.

Mr. Van De Wiele asked Mr. Bond if the appeal were to be denied would he likewise stand in favor of a Variance? Mr. Bond stated that a Variance is a different subject, and a hardship would be required. He thinks the hardship in this case would be the ambiguity of the Code.

Ms. Shelton agrees with Mr. Bond, she believes there is a gap in the Code. LED is in the definition of dynamic display, but if the Code were to work in the way the City is trying to interpret it, she thinks the word "LED" should have been written into A, B, and C of Section 60.080. She feels differently about the Variance, she thinks she has been consistent about giving hardships due to ambiguity in the Code, so she is against the Variance, but she will be in favor of the applicant for the Appeal.

Ms. Radney stated to the extent that the Variance might give the Board an opportunity to talk about some of the dynamic display elements, like light levels, she would be somewhat open to considering the Variance. She too has concerns along the lines that Ms. Shelton just stated. She is persuaded that based on the guidelines and the restrictions which the Board has to make a decision about whether the City has made an appropriate decision she would be inclined to support the applicant on the Appeal.

Mr. Brown agreed with Ms. Radney.

Mr. Van De Wiele stated that he is torn on the Appeal. He does not know that it is limited to just the time and temperature type signs, it is the modification part that has him undecided. He thinks he could support a Variance, but he understands Mr. Shank's argument, but he also tends to think that if this were a sign that had been there pre-

RDO he does not think it would have been denied. He thinks it is the gap between original trifold, and the current generation of LEDs.

Mr. Chapman stated that he would ask the Board that when they move on the Appeal that they ask the applicant what the intended outcome of the Appeal is. The applicant was denied a permit and now they are appealing that they needed a permit. Mr. Chapman asked Mr. Shank if he intended to have the City issue a permit based on this appeal if the Board finds in his favor. Mr. Shank answered affirmatively stating that as Mr. Whiteman indicated, the only reason the appeal was denied, there were no issues with Section 60.100 or anything else, it was simply the interpretation of this provision in the Code that requires a permit. If the Appeal is upheld the permit has to be issued.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 3-2-0 (Bond, Radney, Shelton "aye"; Brown, Van De Wiele "nays"; no "abstentions"; none absent) move to **REVERSE** the Administrative Decision issued in the Letter of Deficiency written September 30, 2020 for permit application SIGN-070484-2020, stating that the existing dynamic display off-premise outdoor sign, located in the River Design Overlay (RDO-2), requires a permit and a Variance to replace the tri-fold dynamic display sign with LED dynamic display (Section 70.140). Finding that the Development Administrator inadeverently **ERRED** in the Administrative Decision issued in the Letter of Deficiency written September 30, 2020 for permit application SIGN-070484-2020, stating that the existing dynamic display off-premise outdoor sign, located in the River Design Overlay (RDO-2), requires a permit and a Variance to replace the tri-fold dynamic display sign with LED dynamic display (Section 70.140). This decision in no way aggregates the obligations and duties of the applicant to fully conform to all applicable City regulations involving a LED display sign or a dynamic display sign listed in Secton 60.100 and other places throughout the City Zoning Code, The applicant has also withdrawn the request for a Variance; for the following property:

**LT 1 BLK 1, KINGS LANDING, City of Tulsa, Tulsa County, State of Oklahoma**

## **23035—Tom Neal**

### **Action Requested:**

Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Variance to allow a detached accessory dwelling unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C); Variance to allow the floor area of a detached accessory dwelling unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2; 45.031-D6.a); Variance to allow more than 30% coverage by a detached accessory dwelling unit in the rear setback in an RS-3 District (Section 90.090-C). **LOCATION:** 1524 South Trenton Avenue East (CD 9)

### **Presentation:**

**Tom Neal**, 2507 East 11th Place, Tulsa, OK; stated he has met with the neighbors and made significant changes to the project. He has reduced the size of the project in response to concerns of the neighbors; about 6'-6" smaller on the north/south dimension and the elevation has changed a little. The windows on the east face have been changed to be wide and not very tall.

Mr. Brown asked Mr. Neal about the overhang on the east side. Mr. Neal stated that formerly it was a porch and the Grays had concerns that the porch would intrude on their privacy, so it was eliminated but the structure has been cantilevered outward about four feet to allow the east bedroom to be a functional size.

Mr. Brown asked about the size of the revised structure. Mr. Neal stated that about 456 square feet is being added on the ground floor for the garage, and the upstairs apartment is about 520 square feet in addition to the existing 300 square feet from the 1920s garage apartment; overall it is about 300 square feet less than it was originally and about 100 square feet less in the footprint.

### **Interested Parties:**

**Chris Wentworth**, 1524 South Trenton Avenue, Tulsa, OK; stated that he just submitted some documents that show the views from the existing garage apartment that he thinks would be worth considering.

**Robert Howland**, 1520 South Trenton, Tulsa, OK; stated he is the owner of the house just to the north of the subject property. He has not seen the revised plan of the project and he wanted to see the revision of the second-floor plan regarding the privacy on the east face. Mr. Chapman placed the plan on the overhead screen. After reviewing Mr. Howland stated that he has no problems with the new plan.

### **Rebuttal:**

**Tom Neal** came forward.

Mr. Van De Wiele asked Mr. Neal to state his hardship for his request. Mr. Neal stated the hardship is that a person cannot have a garage apartment on top of a garage if the Variance is not approved.

Mr. Van De Wiele asked Mr. Neal if the existing garage is two-story. Mr. Neal answered affirmatively.

Mr. Neal stated the lot is the typical 50'-0" wide mid-town Tulsa non-conforming sized lot. With the strong emphasis to not pave over or build over the entire rear yard also drives a hardship, which he thinks is not self-imposed.

**Comments and Questions:**

The neighborhood is an eclectic mix of residential, commercial and offices, and he thinks the project has been done in a good way, so he would support this request.

**Board Action:**

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Variance to allow a detached accessory dwelling unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C); Variance to allow the floor area of a detached accessory dwelling unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2; 45.031-D6.a); Variance to allow more than 30% coverage by a detached accessory dwelling unit in the rear setback in an RS-3 District (Section 90.090-C), subject to the conceptual plans submitted today. The Board finds the hardship to be the narrowness of the lot and the existence of a garage in its current location. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

**LT 6 BLK 4, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**23045—M. Scott Pohlenz**

**Action Requested:**

Special Exception to permit the alteration, expansion, or enlargement of a structure with an existing non-conforming side setback (Section 80.030-D); Variance of the 25-foot rear setback in an RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 2251 East 26th Street South **(CD 4)**

**Presentation:**

**Scott Pohlenz**, 3402 South Peoria Avenue, Tulsa, OK; stated he is the Architect for the subject project. His client would like to have a tandem two-car garage addition to the 1935 house. He has requested a Special Exception to address the side yard setback, as the existing house is already non-compliant. The dimension of the northwest corner of the house from the west side yard property is 4'-1 5/8", and his proposal to add to the rear of the house would allow him to maintain the existing 4'-1 5/8" space, shown on site plan S2. Additionally, he is requesting a Variance to allow the garage structure to extend into the 25'-0" rear yard setback. The rear property is angled and on the north side of the footprint he proposes a setback dimension of 9'-11", and on the northeast side of the proposed addition the dimension is proposed to be 9'-8 3/8" from the rear property line. He believes the hardship is that the existing garage does not allow two cars to be parked inside, and that inability impacts his client's ability to park their cars or give guests the ability to park in the driveway. The garage is too narrow, and the doors are impeded by a center column and the car must enter the right door at an angle because of existing bump outs for a light well to the basement and a fireplace.

**Mr. Pohlenz lost connection. Mr. Van De Wiele stated that the Board would table this case until connection may be made again and will hear the next item.**

**Interested Parties:**

There are interested parties waiting to be heard.

**Comments and Questions:**

None at this time.

**Board Action:**

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

**E.10-LT-18-ALL LT-19-BLK-8, WILDWOOD, City of Tulsa, Tulsa County, State of Oklahoma**

## **23051—William Bell**

### **Action Requested:**

Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Section 45.080-A); Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A). **LOCATION:** 3514 South Yale Avenue East **(CD 9)**

### **Presentation:**

The applicant was not present. Mr. Van De Wiele moved this case to the end of the agenda to allow time for the applicant to arrive.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

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

**PRT SE NE BEG NEC N/2 S/2 SE NE TH W280 S195.11 E280 N195.11 POB LESS E50  
THEREOF FOR RD SEC 21 19 13 1.03AC, City of Tulsa, Tulsa County, State of Oklahoma**

**Mr. Chapman informed the Board that Mr. Pohlenz has been able to re-establish his connection. Mr. Van De Wiele stated the Board will continue with Mr. Pohlenz's case.**

## **23045—M. Scott Pohlenz**

### **Action Requested:**

Special Exception to permit the alteration, expansion, or enlargement of a structure with an existing non-conforming side setback (Section 80.030-D); Variance of the 25-foot rear setback in an RS-2 District (Section 5.030, Table 5-3). **LOCATION:** 2251 East 26th Street South **(CD 4)**

### **Presentation:**

**Scott Pohlenz**, 3402 South Peoria Avenue, Tulsa, OK; stated the garage door is tucked toward the west face of the house. To the right of the garage there are three windows on that side of the house; the first window is the kitchen window and that is the only window the kitchen has, the second window on the side of the fireplace was covered by the previous owner causing a window on the outside of the house but it is enclosed on the inside of the house, and the third window toward the front of the house. There is also a light well that allows light into the basement and it is located to the left of the fireplace. Mr. Pohlenz stated that he has reviewed several options to solve the problems



and by process of elimination he has ended up with a solution that he has on the table. The garage has been pulled forward about 4'-3"; that area is where the overhang exists so it would be cost effective to enclose that space because there is an existing roof, but it is not practical to extend the garage any closer to 26th Street because of the kitchen window, the light well and the fireplace. He has looked at the possibility of building two-story detached garage at the rear of the property similar to many of other houses on the street, but that would be cost prohibitive because the access to that structure would have to come from either 26th Street or Lewis. If coming from 26th Street the only solution would be to convert the existing garage into a drive-thru porte-cochere which would allow access to the garage from the back; the grade of the back is 18" higher than the grade of the front of the house. If the access came from Lewis that access would be off a busy street and over multiple utility easements, therefore, those two options are non-starters and impossible. That put the plans back to today's proposal of extending the garage to be a tandem situation. The back of the existing house is currently within the rear yard setback, over 9'-0" within the building setback line. There is also a second-floor door that opens up to a Juliette balcony that faces north off the master bedroom. His client could build a structure all the way across the back of the property that is two-story and up to 35'-0" tall with stairs down to the ground that would not require any approval from the Board of Adjustment, but this is not what his client wants. His client wants to secure his privacy as much as he wants to secure the neighbor's privacy. The main objective is to have a two-car garage that solves their dilemma.

**Interested Parties:**

**Lori Dale**, 2243 East 26th Street, Tulsa, OK; stated her property is to the west of the subject property. The original letter sent to the neighbors was extremely misleading about the scope of this project. Nowhere did it mention the 18 x 24 proposed deck on top of the tandem garage, and that is a game changer. Anyone receiving the letter was misinformed and misled, so it is very frustrating that there is a discussion about the roof top deck when it has nothing to do with the proposed hardship. The burden of proof should be on the applicant to prove that the hardship exists. When the current homeowners purchased the house, they saw everything in plain sight; the garage doors, the driveway width, the garage size. Everything was visible to them. She understands that this was not created or self-imposed however they sought the existing structure. She is also struggling to understand the Variance request, because it doesn't appear to be the minimum requirement. The proposed structure would be four feet from her property line and that will extend back 25'-0" paralleling her fence which will be her entire back yard. She will see the structure from any window on the back of her house or any time she walks outside. It is very frustrating that this would come into play when the initial request is a one-story tandem garage. Screening has been discussed but she does not think anything can grow in a four-foot space between the two houses, so it would put the burden on her to provide screening. If this is approved there will be several frustrated neighbors and she thinks there are other alternatives. Mr. Pohlenz mentioned that the kitchen would possibly no longer have any windows, however, the kitchen has three doorways one which is very wide and opposes the existing window. Ms. Dale stated she is happy to have neighbors who are eager to improve their house

but not at the expense of the surrounding neighbors. Ms. Dale respectively asks the Board to deny both the Special Exception and the Variance.

**Mr. Dornblazer**, 2240 East 25th Place, Tulsa, OK; stated that he agrees with Ms. Dale. He has focused on this as a hardship case with the hardship being that the homeowners cannot park their cars in the garage, and to let them have a larger garage is fine but he fails to see how that hardship encompasses the outdoor living space on the top floor of the garage. If the current homeowners would install a regular pitched roof on the garage, he would be fine with the proposal. He has a real concern of setting a precedent.

**Lisa Doyle**, 2244 East 25th Place, Tulsa, OK; stated her back yard backs up to the subject property. The Variance before the Board is a remedy a parking inconvenience hardship. If she understands correctly the Variance should be granted at a minimum to afford relief. This would impact her quality of life as well as the adjacent homeowners, and this will alter the character of the neighborhood. Ms. Doyle stated that she would not be able to enjoy the comforts of her own backyard if this is approved because it is right where her pool is located. She thinks there are alternative options that could be explored. The homeowner knew of the garage constraint prior to purchasing the house, and this Variance would affect three neighbors if approved. The previous homeowner, who lived there for over 20 years, had four drivers with four cars that the existing garage and driveway accommodated appropriately. She has seen the current homeowner park three or four cars with plenty of driveway space to spare. Ms. Doyle asked the Board to deny the request.

**Thad Dale**, 2243 East 26th Street, Tulsa, OK; stated he lives on the west side of the subject property. Mr. Dale stated that he has a pool, a sun deck, a seating area, a cooking area, full glass double doors and a large window in the rear of his house that he does not cover. The master closet in his house is the closet room to the proposed structure and he does not know how noise pollution could be enforced. He thinks the noise from the proposed deck would carry to the outdoor spaces in his back yard, and a lot more so since it is an elevated space. The significant size of the patio, 24 x 18, being so close to the property line will exacerbate both the visual and the noise concerns. The substantial size and the stairs, in his opinion, indicate an area for more than quiet time. He is also concerned about the wooden slats that were proposed because he does not think they would offer visual privacy or acoustical privacy. Mr. Dale stated that he has lived in his house over nine years and had two major exterior additions and he would like to see something the neighborhood can live with. This proposal would significantly impair the use his back yard. He would request the Board to deny this request.

**Rebuttal:**

**Scott Pohlenz** stated the comments possible future additions to the property, a swimming pool is being considered but it has nothing to do with the hardship or the need for the two-car garage. There are other homes in the neighborhood have outdoor spaces and swimming pools, they have been afforded that right. Of the seven houses adjacent and behind, six have swimming pools and outdoor areas where they can play

music and entertain. The reason the 6'-6" walls are proposed is so that his client cannot look down into other yards and people cannot look up into the proposed space.

**Comments and Questions:**

Mr. Van De Wiele stated the letter Ms. Dale mentioned are not intended to give a full description, architectural plans, it is just a notice of a hearing. Mr. Bond stated staff does hard work, and he does not think that anyone at the City intentionally misled anyone.

Mr. Brown stated that the project being presented to the Board is a garage with a deck on top, and he thinks that even with the screening walls this second story imposes itself on the neighbors. He does not like the deck and would tend to deny the request.

Ms. Shelton stated she thinks the applicant meets the level of hardship, and she is leaning toward approving the request.

Ms. Radney agreed with Ms. Shelton.

Mr. Bond stated that no one has a statutory right to a view, and he has listened to everyone speak and he understands their concerns. He lives in a neighborhood that is very densely packed as well; what one person does affects light, view, privacy, all of it. His issue is that the Board regularly allows people to convert older garages into modern garages, and garages will continue to be heard. Even if there was no deck included in the site plan the homeowner could install a flat roof on the garage and still do whatever they want to do. Mr. Bond stated that he is inclined to support the request.

Mr. Van De Wiele stated he does not have much concern about meeting a hardship for the additional parking. It is a two-car garage and the Board often sees relief given in accordance with a set of plans. He has an issue with the minimal relief.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 3-2-0 (Bond, Radney, Shelton "aye"; Brown, Van De Wiele "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to permit the alteration, expansion, or enlargement of a structure with an existing non-conforming side setback (Section 80.030-D); Variance of the 25-foot rear setback in an RS-2 District (Section 5.030, Table 5-3), subject to conceptual plans 4.12, 4.13, 4.14, 4.15 and 4.20 of the agenda packet. Columnar evergreens are to be planted to reasonably achieve privacy screening. The Board finds the hardship to be a modern garage designed to replace an older non-usable garage at a house in neighborhood that existed prior to the Comprehensive Zoning Code in the City of Tulsa, and existing utility easements. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties

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

**E.10-LT-18-ALL LT-19-BLK-8, WILDWOOD, City of Tulsa, Tulsa County, State of Oklahoma**

**23051—William Bell**

**Action Requested:**

Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Section 45.080-A); Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A). **LOCATION:** 3514 South Yale Avenue East **(CD 9)**

**Presentation:**

The applicant was not present. Mr. Van De Wiele moved this case to the end of the agenda to allow time for the applicant to arrive.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

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

**PRT SE NE BEG NEC N/2 S/2 SE NE TH W280 S195.11 E280 N195.11 POB LESS E50 THEREOF FOR RD SEC 21 19 13 1.03AC, City of Tulsa, Tulsa County, State of Oklahoma**

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## **NEW APPLICATIONS**

### **23056—Tom Neal**

#### **Action Requested:**

Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Variance of the required 3-foot setback for a detached accessory building located in a rear setback (Section 90.090-C). **LOCATION:** 1723 West Reconciliation Way North **(CD 4)**

#### **Presentation:**

**Tom Neal**, 2507 East 11th Place, Tulsa, OK; stated the homeowner has an existing garage that has been on the property since the 1920s and they would like to change the garage to a small mother-in-law suite. There would be no change in the footprint but there would be windows added to allow light filtration and for egress. There will be a small bath and a small kitchenette added. The existing structure is about two and a half feet off the rear property line.

Ms. Shelton asked Mr. Neal about the window in the gable if there is a second floor. Mr. Neal stated there is not a second floor but there will be a storage loft, but it will not be a habitable space. There are currently no windows in the structure, and he suggests adding a narrow slider over the bed, and above in the storage loft just to allow light in.

#### **Interested Parties:**

There were no interested parties present.

#### **Comments and Questions:**

None.

#### **Board Action:**

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow an accessory dwelling unit in an RS-3 District (Section 45.031-D); Variance of the required 3-foot setback for a detached accessory building located in a rear setback (Section 90.090-C), subject to conceptual plan 6.6 of the agenda packet. The Board finds the hardship to be that the existing structure was built in 1910 with a 2'-6" setback from the rear lot line that does not conform with the current Code. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

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

**LT 7 BLK 17, IRVING PLACE, City of Tulsa, Tulsa County, State of Oklahoma**

**23057—KEO Construction, LLC – Kevin O'Brian**

**Action Requested:**

Variance of the required height limitations for a detached accessory building to amend the previously approved plans in BOA-22453 (Section 90.090-C); Variance to allow the floor area of a detached accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-A). **LOCATION:** 2430 East 22nd Place South **(CD 4)**

**Presentation:**

**Kevin O'Brian**, 2430 East 22nd Place, Tulsa, OK; stated his client has a garage that was built in 2018 before he purchased the subject property, and it was approved by the City. The footprint of the existing structure will not be changed but his client would like to convert it to living space and a mother-in-law suite or pool house. There is an existing pool on the property. The structure is 1,476 square feet which includes the garage. The building has an existing half bath and existing plumbing for a kitchenette, his client would like to finish that out and install a wall to separate the two-car garage portion. The staircase would be to allow a workspace or an upstairs office. A dormer will be added to the structure to allow for head height and a sliding door.

Mr. Van De Wiele asked Mr. O'Brian if the existing structure is single story. Mr. O'Brian stated that it has full head height attic space upstairs. Mr. Van De Wiele asked Mr. O'Brian if they would just be finishing out the second story. Mr. O'Brian answered affirmatively; the dormer and deck would be added, and the deck would overlook the homeowner's pool not a neighbor.

Mr. Van De Wiele asked Mr. Chapman how this structure did not have an issue about the floor area before. Mr. Chapman stated the structure went before the Board previously for the height, and when it was described at that point it was looked at as a

one-story structure with unfinished attic space. At this point, the applicant is coming back to the Board through permitting because he is adding the usable space in the existing attic space which increases the floor area of the building. To the applicant's point, it is not really the footprint of the building it's just usable space within the existing footprint.

Mr. Brown asked Mr. O'Brian if there was a balcony on the second floor. Mr. O'Brian answered affirmatively stating the deck will be on the east side of the garage and will look into the homeowner's pool.

**Interested Parties:**

**Frank Zigman**, 2430 East 22nd Place, Tulsa, OK; stated the garage is unusually large and as it is now, he does not use the back half of the building, nor the rear overhead door nor the specialty garage accessory. He just wants to utilize the maximum amount of space that is existing.

**Comments and Questions:**

Mr. Van De Wiele stated that he voted in favor of this structure in 2018. To him this is a minimal change to utilize space within the building. He would be in favor of the request.

Ms. Shelton stated she is concerned with the balcony. She understands that the balcony faces east but a person could definitely see into the back yard of the neighbor.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Brown, Radney, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; absent) to **APPROVE** the request for a Variance of the required height limitations for a detached accessory building to amend the previously approved plans in BOA-22453 (Section 90.090-C); Variance to allow the floor area of a detached accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-A), subject to conceptual plans 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17, 7.18, 7.19, 7.20, 7.21 and 7.22 of the agenda packet. The Board finds the hardship to be the inability to expand the current garage given its current position and as it presently exists. 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 8 BLK 2, WELLS HEATH ADDN RESUB TR 14-17 HARTER'S SECOND SUB, City of Tulsa, Tulsa County, State of Oklahoma**

**23058—Thomas A. Beck**

**Action Requested:**

Special Exception to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 15.020, Table 15-2). **LOCATION:** 2623 East 36th Street North (**CD 1**)

**Ms. Shelton recused and left the meeting at 3:446 P.M.**

**Presentation:**

**Thomas Beck**, 2623 East 36th Street North, Tulsa, OK; stated he believes his business definitely falls within the spirit and intent of the Code for a Special Exception. The request is in harmony with the spirit and intent of the Zoning Code in that the water washing harvest resin isolation process does not generate any noise, smoke, particulate matter, odors, or vibration. It is a water sieve operation as opposed to the typical extraction or distillate methods which typically involve the use of butane, CO2, or other hazardous chemicals. At harvest time when the flower of the plant is placed in freezers and washed in ice water. The cold water washes the resin glands, known as tricones which holds all the medical beneficial cannabis elements, from the surface of the flower. The tricones are then water sieved through various gauge mesh thereby sifting the tricones from the water resulting in the hash. Mr. Beck stated he has received his license from OMMA and has had his license since April 2019. He began the permit process for building modifications in September 2019 and was granted a building permit December 2019. He completed all the various permits and completed the build out, passed all inspections, and has spent his life savings. The OMMA requires a Certificate of Compliance to assure that all building codes are being adhered to. He presented that certificate to the City and was told that he needed a Special Exception because he is processing.

Mr. Van De Wiele stated there is a letter from the church across the street and a letter from Habitat for Humanity. The letters express their concerns and disagreement with a processing facility in the neighborhood, and think that such a facility would bring traffic, noise, smell, chemicals, exhaust fans, security, and property values. Mr. Van De Wiele asked Mr. Beck to speak to the Board about these concerns. Mr. Beck stated there will be no traffic generated because it is one car a day that will come and go from the



building, his facility is a manufacturer only not a dispensary and there is no retail to the public. There is a U-Haul business next door that has trucks that come and go with trailers all day, and it also has a mechanic shop; his business is a lot less than that. Mr. Beck stated that he cannot think of any noise that would be made by his business because his processing is literally a tub of water and ice. There will be no smells outside of the building, but smells are regulated through OMMA. Mr. Beck stated he has been in business at the subject property for about a year and a half and has no security issues.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Ms. Radney stated that her issue with this request is less with the applicant and more with the underlying Comprehensive Plan that creates this opportunity to put this type of processing so close to residential.

Mr. Bond agreed with Ms. Radney.

Mr. Wilkerson stated that is why this is not allowed by right, and the reason there needs to be a public process and why it needs to come before the Board of Adjustment. He understands Ms. Radney's comments and that is why this request is before the Board for discussion.

Ms. Radney stated there are other areas in Tulsa that are protected by right through the Zoning Code and the Comprehensive Plan. This structurally is creating a conflict that requires the public to actually come before the Board to stop what would otherwise be a potentially allowed use that could be argued that the Board would not approve of in the middle of Brookside. Mr. Wilkerson concurred.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 3-1-1 (Bond, Brown, Van De Wiele "aye"; Radney "nays"; Shelton "abstains"; none absent) to **APPROVE** the request for a Special Exception to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 15.020, Table 15-2), subject to conceptual plan 8.11 of the agenda packet and to the processing description on page 8.8 of the agenda packet. The approval is limited to the building noted on page 8.11 and limited to the processing comments made by the applicant in the presentation. 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, BARRETT & EVANS SUB RESUB PRT L7, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Shelton re-entered the meeting at 4:02 P.M.**

**Action Requested:**

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

**LOCATION:** 10640 South Sandusky Avenue East (**CD 8**)

**Presentation:**

**Mike Wackenhuth**, 10640 South Sandusky Avenue, Tulsa, OK; stated he is trying to build a two-car garage on the north side of his house, and he has received permits for that structure. At this point, he needs to widen the concrete approach to the garage by about 450 square feet; the addition will be about 13'-0" wide by the house and it will slope down to the existing driveway. The widening will not involve any curb cut.

**Interested Parties:**

**Brenda Mallonkon**, 10603 South Sandusky Avenue, Tulsa, OK; stated she lives north of the subject property and she has flooding concerns. The drawing shows that the overland drainage will continue and once this is finished, she does not want to see it do anything to her property in regard to the drainage.

Mr. Wackenhuth stated that he is improving the drainage. He will run a pipeline from the gutters down the north side of the structure and he will also install a French drain.

Mr. Van De Wiele stated that the Board's approvals or denials do not remove or modify easements, so if there is an easement and the easement will remain.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-1 (Bond, Brown, Radney, Shelton "aye"; no "nays"; Van De Wiele "abstains"; none absent) to **APPROVE** the request for a Special Exception to increase the permitted driveway width (Section 55.090-F), subject to conceptual plan described as Exhibit B presented at today's meeting. 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 8 BLK 7, SHADY OAKS ESTATES, City of Tulsa, Tulsa County, State of Oklahoma**

## **23060—Michael Hall**

### **Action Requested:**

**Special Exception** to allow a carport in the street setback with modifications to reduce the 5-foot side setback and to allow the carport to project more than 20 feet away from the principal building (Section 90.090-C.1). **LOCATION:** 3139 South 133rd East Avenue **(CD 6)**

### **Presentation:**

**Michael Hall**, 3139 South 133rd East Avenue, Tulsa, OK; stated he would like to have a place to park his cars and protect them from the Oklahoma weather. His house was built in 1972 as a rental house so the garage is not as large as the other houses in the neighborhood, and he has lived in the house for 29 years. He did not know if he could abut the carport against the house, so he left a two-foot space.

Mr. Van De Wiele asked Mr. Hall if the carport was metal or wood. Mr. Hall stated that it is metal with 7" I-beams that go across.

Mr. Hall stated that he knows people have made on-line comments about the carport affecting house values, but he spoke with several realtors and has been told that if the carport is well built it will increase the value.

Mr. Bond asked Mr. Hall if there were other carports in the neighborhood. Mr. Hall stated there are none on his street but there are carports two streets away, southeast of his property.

Ms. Shelton asked Mr. Hall if the existing garage was being used as a garage or if it is built out for living space. Mr. Hall stated that it is a garage. Ms. Shelton asked Mr. Hall if he needed to park more than two vehicles. Mr. Hall stated the garage is not a true two-car garage in width, and his driveway is longer than the other driveways on the street.

### **Interested Parties:**

**Kathy Tezeno**, 13321 East 32nd Place South, Tulsa, OK; stated that a lot of the people that live in the subject neighborhood are starting to convert their garages into living space and that affects parking. There are a lot of rental properties in the area and that brings in additional cars. The subject house does have a regular two-car garage just like all the other two-car garages in the area. The carports are unsightly, and they change the landscape of the block and they look bad. People's houses are an investment and people rely on the value of their investment. Ms. Tezeno thinks that neighboring property owners should not be forced to look at unsightly carports. If a person needs more space, they should consider selling and moving to a larger house. The answer is not to haphazardly adding carports. There are other houses in the area that have carports, but the proposed carport is going to look ugly. People get carport kits and as time goes by the carport starts to look ugly and brings down the appearance of the

community. Ms. Tezeno stated that people need to be encouraged to make their house look better, and they need to consider the outward appearance. Ms. Tezeno stated the garages in the neighborhood are smaller because the houses are smaller.

**Rebuttal:**

**Michael Hall** came forward and stated he just wants to protect his cars. His house was built as a rental house and it is not as big as other houses, it is only 1,100 square feet.

**Kathy Tezeno** came forward and stated that Mr. Hall has stated that his house was built as a rental property, but she does not know what that means. The houses in the area are houses, it does not matter if it is a rental property or if you live in it, it is a house.

**Comments and Questions:**

Ms. Radney stated the applicant does have a longer than typical driveway and it does look like the shape of the subject lot is such that there isn't the ability to pull through and have additional parking in the rear. It does look as though the carport will not really protrude too much past the adjacent properties. She is not necessarily inclined to deny the request, but the request would have been stronger if the applicant had provided pictures of the proposed carport. At this point Mr. Hall provided pictures to Mr. Chapman to display on the overhead projector.

Mr. Brown stated there are carports that are designed to house an RV, can the Board limit the height and width? Mr. Van De Wiele stated the applicant would have to have permission to have a carport larger than 20 x 20, so the Board can limit it to the location shown in the packet and limit it to the type that is being shown on the overhead projector. Mr. Chapman stated the applicant had submitted a site plan that shows the height of the proposed carport to be 8'-0".

Mr. Van De Wiele stated that the more utilitarian a carport is the more of a potential impact the carport has on other property owners. Generally speaking, the ones that are easier to approve are the ones that match roof pitch and finishes when the carport is in the front yard. Based on the curve of the street and the locations of the neighboring properties he thinks this is less impactful so he could support the request.

Ms. Shelton stated that she has a carport just like the proposed carport, so she disagrees that they are ugly, in fact she loves her carport. She can value the statement the applicant made about protecting the car. Ms. Shelton stated she is struggling with this request because the applicant does have a garage. She is less concerned about the aesthetics because it does sit back. If the carport could be hugged as closely to the house as possible it would feel like an extension of the house. Ms. Shelton stated that she would be in favor of this request.

Mr. Brown stated if the Board can limit the height of the proposed carport he will be in support of the request.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a carport in the street setback with modifications to reduce the 5-foot side setback and to allow the carport to project more than 20 feet away from the principal building (Section 90.090-C.1), subject to conceptual plan 10.10 of the agenda packet. The dimensions of height, width and depth as specified on page 10.10 be adhered to as well as the carport brochure likeness and manufacturer as submitted today by the applicant. 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 9 BLK 3, BRIARGLEN ACRES ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**23061—Eller & Detrich – Lou Reynolds**

**Action Requested:**

Variance to allow a nonconforming structure to extend closer to the lot line than the existing structure within the front setback (Section 80.030-D). **LOCATION:** 2469 East 33rd Street South (**CD 9**)

**Presentation:**

**Nathalie Cornett**, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated the request is for an extension of an existing lawfully non-conforming porch. The property is located on 33rd Street which is a cul-de-sac, and the house is at the end of the cul-de-sac on the northeast side. The house was built in 1952 and the existing covered porch currently sits almost entirely within the front setback as a lawfully non-conforming structure. The property owners are remodeling the house on the interior as well as the exterior and propose to update the front porch. The arch over the front doorway is proposed to be added on with the removal of the middle dormer. The archway extends farther into the front setback than the existing porch. Typically alterations of non-conforming uses can be done with a Special Exception, but in this case because the extension is being brought out farther into the front setback a Variance is required.

Mr. Van De Wiele asked Ms. Cornett how much the extension is bumping out. Ms. Cornett stated that it is about two feet. The shape of the lot has a curved setback due to the cul-de-sac and the house is situated diagonally on the lot. That coupled with the existing non-conforming porch, results in a hardship. Ms. Cornett requests the Board approve the Variance request.

Ms. Shelton asked Ms. Cornett if the extension was just architectural or is it to cover the steps. Ms. Cornett stated the extension is there to cover the steps. The homeowner will be replacing the brick steps and the brick walkway, and it will cover those as well to protect them from the weather.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to allow a nonconforming structure to extend closer to the lot line than the existing structure within the front setback (Section 80.030-D), subject to conceptual plans 11.12 and 11.13 of the agenda packet. The Board finds the hardship to be the inability to build covered steps in either direction without projecting forward, and the location inside a cul-de-sac. 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 1, TIMBERLANE ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

## **23063—Kyle Coleman**

### **Action Requested:**

Special Exception to permit a Residential/Group Living/Re-entry facility in the CS District (Section 15.020, Table 15-2). **LOCATION:** 10117 East 11th Street South (CD 6)

### **Presentation:**

**Stephen Gray**, 2400 West Detroit, Broken Arrow, OK; stated that Kyle Coleman is no longer with the Sterling Oaks Law Firm. Mr. Gray stated he represents Mr. Dixie Pedworth who is in charge of a ministry and social work organization that has had fabulous results in helping men and women who have been incarcerated reintegrate into society. At this time Mr. Pedworth's organization has purchased the old Saratoga Inn on 11th Street which was in a sorely dilapidated condition. The organization is willing to invest substantial sums of money to rehabilitate the Saratoga to make it into sober living units for men and women who are trying to transition back into society. A building permit had been applied for, but it was deficient because they are a transition facility, and under the Zoning Code that requires a Special Exception. Mr. Gray stated the subject property is buffered by a multi-family complex to the north and it does not immediately abut a residential area, which is several hundred feet away. The private funds are being used to rehabilitate the subject property.

Mr. Van De Wiele asked Mr. Wilkerson or Mr. Chapman if there was anything about the Route 66 overlay at play in this situation. Mr. Wilkerson stated the Route 66 overlay is only about signage. Mr. Chapman suggested the Board should ask Mr. Gray if the people at the site are under jurisdiction of the Court or is it just a sober living situation.

**Mr. Brown left the meeting at 4:38 P.M.**

**Dixie Pedworth**, 28664 East 25th Place, Broken Arrow, OK; stated that some of the people are coming out of prison, about 60%. Also, there are people coming out of rehab centers and treatment facilities. The goal is to create a sober center that gives people an opportunity to heal their lives. There is a church adjacent to the subject property, on the west side, and it is hopeful to create an atmosphere that helps people restore their lives, and it is a hand up to the people incarcerated which they work with the Court and the Parole Officers.

Mr. Van De Wiele asked Mr. Pedworth how many residents will be there at any one given time. Mr. Pedworth stated there are about 130 units on the property, and he is hoping to turn the units into efficiencies. The cheaper an efficiency is the easier it is for someone to get back up on their feet. There could be as many as 100 people living on the property at one time, based on how many units can be remodeled.

Mr. Van De Wiele asked Mr. Pedworth if the 130 units were being remodeled to a lesser number of units or will there still be 130 units when the remodel is complete. Mr. Pedworth stated there may be less than 130 units based on whether there is one bedroom, two bedrooms or three bedrooms in a unit. Mr. Pedworth stated his organization also helps people that have come from Family Court with children in DHS who trying to restore their lives. Mr. Pedworth stated his organization does drug testing and alcohol testing on a regular basis to help the people restore their lives.

Mr. Van De Wiele asked Mr. Pedworth what how long is the typical length of stay? Mr. Pedworth stated that it could take up to eight months to a year or longer, it depends on the person. The goal is to help heal the heart and get the person's life back together.

Mr. Van De Wiele asked Mr. Pedworth if there is on premises counseling and education. Mr. Pedworth stated the organization does spiritual counseling, life skills education, anger management classes, parenting classes, marriage classes, and spiritual biblical studies.

**Mr. Brown re-entered the meeting at 4:41 P.M.**

Mr. Van De Wiele asked Mr. Pedworth if this facility is required to be licensed through the state in any way. Mr. Pedworth answered no.

Mr. Brown asked Mr. Pedworth how the people come and go from the property. Mr. Pedworth stated that they receive referrals through the chapels of the prison system, through probation officers, case managers, etc. The people are free to leave during the day to go to work. The organization's goal is to get the person working back in society because a lot of the people do not know how to function. A person that has been incarcerated for five to ten years and they do not know how to function in today's society, so they are shown how put their life back together. The people usually leave about 6:00 A.M. and are back around 6:00 P.M. If a person is struggling, there is a staff member for them to speak with.

Mr. Van De Wiele asked Mr. Pedworth if there are residential staff members. Mr. Pedworth answered affirmatively. Mr. Van De Wiele asked Mr. Pedworth how many residential staff members are there. Mr. Pedworth stated that it varies, it could be two to four or six, it depends on how many residents there are.

Mr. Van De Wiele asked Mr. Pedworth about registered sex offenders. Mr. Pedworth stated that at this time registered sex offenders are not allowed because there are families at the facility.

Ms. Radney asked Mr. Pedworth if there will be childcare facilities on site. Mr. Pedworth stated there are childcare facilities at the church but not on site. Ms. Radney asked Mr. Pedworth if there would be contracts with the State or the City. Mr. Pedworth stated that



he is going after any state contracts or federal contracts. Ms. Radney asked if this would be handled through private pay or through church support. Mr. Pedworth answered affirmatively.

Ms. Shelton asked Mr. Pedworth to explain the types of improvements will be made at the facility. Mr. Pedworth stated that the goal is to totally re-innovate the site; gut it out and replace sheet rock, electrical wiring, plumbing, etc.

**Interested Parties:**

**Greg Helms**, 424 East Main Street, Jenks, OK; stated the whole building will be gutted and new fire sprinklers, new cabinets, new plumbing, new flooring, paint, and other than the studs and the roof trusses the building will be new.

**Mr. Bond left the meeting at 4:48 P.M.**

Ms. Shelton asked Mr. Helms if there would be site improvements made, for example, where will the children play? Mr. Helms stated there have been discussions about a playground area. There will also be fire truck accesses around the property; improvements that have to be done to meet current Codes that were not in effective when the building was originally built.

Ms. Shelton asked Mr. Helms if he had a proposed site plan. Mr. Helms handed Mr. Chapman a site plan to display on the overhead projector. Mr. Helms stated that the site plan is a very early preliminary plan because without the Special Exception being approved, they have not gone too far into the development of the facility, but the plan will show the refurbishing of the restaurant/retail building that faces 11th Street.

**Mr. Bond re-entered the meeting at 4:49 P.M.**

Ms. Radney asked Mr. Helms if there was relief needed for parking. Mr. Helms stated the parking for the facility is much less than it would be for an apartment or hotel.

**Dixie Pedworth** came forward and stated that he would like to maintain the history of the building if possible. The old Saratoga Motel was built in 1962 and it was one of the spotlights in Tulsa when it was originally built. The restaurant is really dilapidated so it will probably be razed, but they would like to go back with frontage that looks like the old Saratoga Motel. Mr. Pedworth would also like to keep the sign because it is Route 66 history.

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

Ms. Radney asked Mr. Pedworth if there would be employment opportunities for the residents. Mr. Pedworth answered affirmatively stating the goal is to install a restaurant, a laundromat, a hair salon, and maybe a dog grooming salon because the goal is to give the residents jobs. There have also been thoughts about a trade school for different careers. Mr. Pedworth stated there is also discussion of placing a playground in the middle of the horseshoe area.

Ms. Shelton asked if there was a perimeter fence all the way around the property except for in front. Mr. Helms answered affirmatively.

**Comments and Questions:**

Mr. Bond stated the citizens need help and he thinks sounds like a great project. This is a need the City has, and this is something that can be great. He likes the idea that the church is next door. The fact that there is no community opposition from the neighborhood so he will support the project.

Ms. Radney agreed with Mr. Bond. She appreciates that fact that a major stake holder is going to be adjacent because this is more than just a small labor of love.

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

Ms. Shelton she is in favor of the use, but she is hesitant in a couple of areas. One area is who was notified which may account for the lack of opposition. There is a multi-family complex that probably did not get any mailings just by how notifications are made, and there is no single family within 300 feet. Her hesitancy is that this is 130 households not five, not ten, that is a neighborhood. Ms. Shelton stated the City treats single family as buffer uses and they shouldn't, this particular residential use and the use to the north of the subject property should have the same protections and the same luxuries as a single-family resident would have. While she is 100% for the use, she wishes the Board could take their time and consider the other things that would play into the single-family discussions, i.e., where will the children play, will there be protection against the children running out into traffic, is there proper privacy for 130 families, will there be semi-private and private spaces? She wonders if this should be continued for more information or is there another stop along the journey that someone will check for these concerns. She appreciates the fact that this is a church, and that church is across the street, there is obviously some good faith that the church will do right because it is a huge investment for them. Ms. Shelton stated she will vote in favor of the request because she will not vote against it, but she wishes the Board had more time for this project.

Mr. Van De Wiele stated that he too is surprised that there is no community interest in this project. He is willing to support a continuance if there are other items the Board members would like to see in a more definitive manner. He is agreeable with the use, but he would want to give the applicant a clear indication of what the Board would like to see if there is to be a continuance.

**Stephen Gray** came forward and stated the property has already been purchased so it is not a fund-raising project. His concern in a delay will cost the applicant money, government funds are not involved in this project it is private money.

**Dixie Pedworth** stated that when he deals with family courts, deal with DHS, deal with Parole Officers, they come out and supervise all the time. They come out and supervise what is being done with the clients and the property. This a part of the church, they heal families. The supervision comes from the City through the Parole Officers, through DOC, through the state courts, through the family courts, that is how it is supervised. Mr. Pedworth stated they have the support of the local Police, the D. A.'s office, state officials, etc.

**Board Action:**

On **MOTION of BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a Residential/Group Living/Re-entry facility in the CS District (Section 15.020, Table 15-2), subject to the conceptual site plan submitted today. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**A PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SE/4 SW/4) OF SECTION SIX (6), 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, MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT 26 FEET NORTH AND 996.66 FEET WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW/4) OF SAID SECTION 6; THENCE IN A NORTHERLY DIRECTION A DISTANCE OF 569 FEET COINCIDENT WITH A LINE THAT RUNS FROM SAID POINT OF BEGINNING 1294 FEET NORTH TO A POINT 994.86 FEET WEST OF THE EAST LINE OF THE SOUTHWEST QUARTER (SW/4) OF SAID SECTION 6; THENCE WEST AND PARALLEL TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW/4), A DISTANCE OF 305 FEET; THENCE SOUTH A DISTANCE OF 569 FEET TO A POINT 26 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW/4); THENCE EAST TO THE POINT OF BEGINNING.**

**TRACT 2:**

**LOT ONE (1), BLOCK ONE (1), SARATOGA ADDITION, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 3119, LESS AND EXCEPT THE NORTH 602.58 FEET OF LOT ONE (1), BLOCK ONE (1), SARATOGA ADDITION, AN ADDITION TO THE CITY OF TULSA, COUNTY OF TULSA, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT NO. 3119, LESS AND EXCEPT THE SOUTH 15 FEET OF THE EAST 15 FEET OF THE WEST 158 FEET THEREOF.**

**TRACT 3:**

**THE WEST 9 FEET OF THE SOUTH 652.42 FEET OF LOT ONE (1), BLOCK ONE (1), GUARANTY CENTER NORTH ADDITION, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF., City of Tulsa, Tulsa County, State of Oklahoma**

**23064—Audra Rodriguez**

**Action Requested:**

Special Exception to allow a Type 2 Home Occupation in an RS-1 District to permit a hair salon (Section 45.100). **LOCATION:** 547 South 87th East Avenue (**CD 3**)

**Presentation:**

**Audra Rodriguez**, 547 South 87th East Avenue, Tulsa, OK; stated she an existing structure on her property and she would like to turn that structure into a hair salon. She would be the only operator and she would see one client at a time. There would occasionally be an overlap between clients.

Mr. Van De Wiele asked Ms. Rodriguez if she had read the provisions in Section 45.100 and if her business plans comply with those regulations. Ms. Rodriguez answered affirmatively. Mr. Van De Wiele asked Ms. Rodriguez if she lived on the property. Ms. Rodriguez answered affirmatively.

Mr. Van De Wiele asked Ms. Rodriguez if she would be taking clients by appointment only or if there would be walk-ins. Ms. Rodriguez stated she does not take walk-ins; it is by appointment only.

Mr. Van De Wiele asked Ms. Rodriguez if there would be any signage on the building, the house or on the street. Ms. Rodriguez stated there would be signage on the actual location itself to comply with the Cosmetology Board rules.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a Type 2 Home Occupation in an RS-1 District to permit a hair salon (Section 45.100), subject to conceptual plan 13.12 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:

**S 1/2 LT 4 BLK 10, CLARLAND ACRES, City of Tulsa, Tulsa County, State of Oklahoma**

## **23065—Kyler and Allison Ketron**

### **Action Requested:**

Variance to allow the floor area of a detached accessory building to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A); Variance to allow more than 25% coverage by a detached accessory building in the rear setback in an RS District (Section 90.090-C, Table 90-2).

**LOCATION: 2713 East 55th Place South (CD 9)**

**Mr. Chapman stated that there is an addendum with a second Letter of Deficiency and the second Variance request is no longer needed.**

### **Presentation:**

**Allison Ketron**, 2713 East 55th Place, Tulsa, OK; stated she and her husband would like to have an accessory building. Ms. Ketron stated the hardship for this request is that the existing garage is hardly accessible. They moved into the house in March 2020 and the builder of the house had lived there for 30 years, and the garage was added after the completion of the house. The garage was never intended to be used as a garage because the former owner had an antique refurbishing business as a hobby and he did that out of the garage, and it was never used as a garage. Ms. Ketron stated that their vehicles cannot fit through the garage doors. The house sits on a larger than normal lot for the neighborhood and even with an addition of the proposed building there would still be a substantial sized lot. The reason for the size of the proposed building is to allow all their vehicles to be parked safely inside and not subject to damage. She also has multiple lawn mowers to take care of the property, she has three children that have a collection of bicycles, skateboards, scooters, etc. She also has a pool, and the proposed building would allow for the storage of the pool equipment, pool toys, and the lawn furniture. She and her husband have chosen modern colors that fall in line with the trend of gray and white; the building would be gray with white trim. The plan is to paint the house to match the building so it will create a cohesive look. The plan is to add landscaping. Ms. Ketron stated that she has spoke with the surrounding neighbors and no one expressed any concerns.

Mr. Van De Wiele asked Ms. Ketron if she would be accessing the proposed building from 55th Street. Ms. Ketron stated she has a double-faced lot and there is a street behind the house, to the north, and there is access from that street as well. Mr. Van De Wiele asked Ms. Ketron if she would be driving across the grass all the way back to the proposed building or will she be driving in from 55th Street? Ms. Ketron stated the intention is to have a driveway from 55th Street to the proposed building.

Mr. Brown asked Ms. Ketron if the building would be metal. Ms. Ketron answered affirmatively and stated it is a custom-built metal building by Wheeler Metals. Mr. Brown asked Ms. Ketron if there was anything similar to the proposed building in the

neighborhood. Ms. Ketron stated the next-door neighbor has a carport and a bright red shed, and on her street, there are a lot of carports.

Ms. Shelton asked Ms. Ketron if the garage doors were high bay doors or if they were normal sized garage doors. Ms. Ketron stated they are high bay doors. Ms. Shelton asked Ms. Ketron about the height of the top plate. Ms. Ketron stated that it is 18 feet with a total height about 20 feet. Ms. Shelton asked Ms. Ketron if the building would be still be functional for them if it were lesser height and something more in keeping with the neighborhood or is the proposed building the minimum amount of relief needed. Ms. Ketron stated she has several pieces of lawn equipment because she takes care of her parent's property as well, and her husband has two motorcycles and three trucks, a work trailer, and a motorcycle trailer, and she has a van along with all the kids and pool toys.

Mr. Chapman informed the Board that height is not part of the request, it is not in the setback.

Mr. Van De Wiele asked Mr. Chapman if it was the 500 feet or the 40% that is requiring the Variance request? Mr. Chapman stated that the proposed building is greater than 40% of the principal structure.

Ms. Radney asked Mr. Chapman if he had the dimensions on the proposed building. Mr. Chapman stated he did not have any dimensions, but the applicant is allowed 787 square feet and the request is for a 2,000 square foot building.

Mr. Van De Wiele asked Ms. Ketron about the size of the proposed building. Ms. Ketron stated the building will be 2,000 square feet but there is an additional room above the garage that is 500 square feet, and it is only accessible from the outside and it is not included in the total square footage of the house. Eventually they would like to have access to that room from inside the house.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Bond stated this is a massive lot and a unique neighborhood, until about 20 years ago people kept horses there, it is a large metal building. He would be more comfortable if he knew it would be in keeping with the architectural style of the existing house.

Ms. Shelton stated the Board has accepted the hardship of property before; they have more land to take care so there has to be more equipment to take care of the property. Ms. Shelton stated the Board will not be able to do some of the things that are normally asked of people, matching style, and matching pitch. This building is either 14/12 or 12/12 pitch and that is not doable for an accessory building. The high bay doors and top plate does not match but the color would go a long way.

Mr. Van De Wiele stated the fact that this large is in the middle of the neighborhood is odd, but to him the size of the lot can handle the request. He would support this request because he thinks the size of the lot presents the hardship. It is certainly unique for this part of the neighborhood.

Mr. Brown asked Ms. Ketron if she had considered a wood framed building. Ms. Ketron stated that she does not think her husband priced a wood framed building, but she cannot imagine that being cost efficient because the price of wood has risen so much. Mr. Brown stated his concern is that the proposed building does not fit with the rest of the neighborhood, it is considerably taller and there are no metal sided buildings in the area.

Ms. Radney stated that her concern is that when a person drives down 55th Street they will see an industrial style building. She recognizes that it is the rear yard of the subject property because of the way the lot is laid out, but if you were the neighbor to the north, they will be looking at a house sized industrial style building. To have something that is more in keeping with the style of the existing house would probably be better, even if it were on the street facing side. Ms. Radney asked about continuing this request and have the applicant bring back better renderings of the proposed building.

**Board Action:**

On **MOTION of BOND**, the Board voted 5-0-0 (Bond, Brown, 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 a detached accessory building to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A) to the January 26, 2021 Board of Adjustment meeting; for the following property:

**TR BG 660 E NW COR S/2 SE NW TH S 330 E 132 N 330 W 132 TO PT BG SEC 32 19 13,  
City of Tulsa, Tulsa County, State of Oklahoma**

**23067—Warkeisha Metoyer**

**Action Requested:**

Variance to allow a detached accessory building in the street setback (Section 90.090-C). **LOCATION:** 4229 N. Hartford Ave E (**CD 1**)

**Presentation:**

**Warkeisha Metoyer**, 4229 North Hartford Avenue, Tulsa, OK; stated the subject building has been in her yard for over a year and she purchased the building pre-built. The building cannot fit in her back yard, so it is in the front yard. Ms. Metoyer stated she called to find out if she needed a permit for the building and was told that if the building were under 500 square feet it could be in her front yard, and the building is under 500 square feet. The purpose of the building is to allow her to store items and to operate her clothing business, she has her own clothing line. Ms. Metoyer stated she also takes care of her Grandmother who has Alzheimer's Disease, and she needs to stay close to the house and she works out of the building. Ms. Metoyer stated she spoke with all her

neighbors and no one had concerns with the building. When she purchased the house from the City in an auction and it was a nuisance for the neighborhood and the house could not be seen from the street it was so overgrown. The building sits back 40 feet from the center of the street and is seven feet behind the fence line and five feet from the water meter. Ms. Metoyer asks for the Board's approval today.

Ms. Shelton asked Ms. Metoyer if any one is living in the space, it is just an office/workspace and a storage, right? Ms. Metoyer answered affirmatively. Ms. Shelton asked Ms. Metoyer if the entire building was being used. Ms. Metoyer answered affirmatively. Ms. Shelton asked Ms. Metoyer if the building had plumbing running to it. Ms. Metoyer answered no.

Ms. Radney asked Ms. Metoyer if the building had power. Ms. Metoyer answered affirmatively.

Ms. Metoyer stated the building is fabricated from wood and is painted gray and white, and she plans to paint the house gray to match the building.

Mr. Bond asked Ms. Metoyer how the building was put on the property. Ms. Metoyer stated the people she purchased the building from placed it there.

Ms. Shelton asked Ms. Metoyer if the building would fit in the back yard. Ms. Metoyer stated she cannot get the building down either side of her house.

Ms. Shelton asked Ms. Metoyer if the neighbors she spoke to are her immediate neighbors? Ms. Metoyer answered affirmatively.

Mr. Bond asked Ms. Metoyer to state her hardship for the Variance request. Ms. Metoyer stated that she closed her shop and started working from her home and watch her Grandmother. The machines in the building are how she works and pays her bills. Mr. Bond asked Ms. Metoyer if her Grandmother lived in the house. Ms. Metoyer answered affirmatively.

Ms. Shelton asked Ms. Metoyer if the building was a pre-built structure. Ms. Metoyer answered affirmatively. Ms. Shelton asked if because the building was pre-built, she could not get it into the back yard and out of the street setback. Ms. Metoyer answered affirmatively.

Mr. Van De Wiele asked Mr. Chapman how much in the street setback does the building sit? Mr. Chapman stated the building is 25 feet from the property line and he thinks it is 15 feet into the setback.

Mr. Van De Wiele asked Ms. Metoyer how long the building is. Ms. Metoyer stated the building is 36 feet long and 12 feet wide.



Ms. Radney asked Ms. Metoyer if the structure is made of wood. Ms. Metoyer answered affirmatively. Ms. Radney asked Ms. Metoyer if her house had paintable siding. Ms. Metoyer answered affirmatively. Ms. Radney asked Ms. Metoyer if it was her plan to paint both structures the same? Ms. Metoyer answered affirmatively.

Mr. Van De Wiele asked Ms. Metoyer how long will it take to paint one the structures, so they match? Ms. Metoyer stated that she should be able to do that within six months.

Ms. Radney asked Ms. Metoyer if the house had a garage. Ms. Metoyer answered no. Ms. Radney asked Ms. Metoyer if there was no garage for storage at the time she purchased the house. Ms. Metoyer answered no.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Brown stated that the building does not fit into the area, but it is okay. It is a usable, workable building that should have a time limit placed on it until a new area could be built for storage.

Ms. Shelton stated a time limit is a good compromise. The paint matching on both structures will go a long way too. She certainly appreciates all the improvements that were made and the cleaning up of the site. The existing house is ranch style, so it is wider and therefore has smaller side yards thus limiting the ability to place a prefabricated building in the back yard, that's the hardship.

Ms. Radney stated the lot is oddly shaped.

**Board Action:**

On **MOTION** of **SHELTON**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow a detached accessory building in the street setback (Section 90.090-C), subject to conceptual plan 16.9 of the agenda packet and as placed on the subject property. The Board has found the hardship to be that a pre-built storage structure is not able to affordably be moved to the back yard and out of the street setback. The two structures on the subject property are to be painted to match in color within six months of this approval. The approval has a time limit of five years, January 12, 2026 for additional review. 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 16 BK 5, SUBURBAN ACRES AMD, City of Tulsa, Tulsa County, State of Oklahoma**

DRAFT

**23068—Hall Estill – Amanda Lowe**

**Action Requested:**

Special Exception to permit Low-Impact Medical Marijuana processing (Low-impact Manufacturing & Industry Use) in the CH District (Section 15.020, Table 15-2). **LOCATION:** 1650 East 8th Street South **(CD 4)**

**Mr. Van De Wiele recused and left the meeting at 5:59 P.M.**

**Presentation:**

**Amanda Lowe**, 320 South Boston Avenue, Suite 200, Tulsa, OK; stated this request is to allow medical marijuana edibles to be produced at the subject property. The subject property is currently a commercial kitchen and has been since 2006. The property will continue to be used as a commercial kitchen it is just that the end product will have the extra ingredient. Medical marijuana will be processed off site and will be brought to the commercial kitchen in oil form, and then baked into chocolate truffles which will be distributed to a dispensary and sold to clients at the dispensary. There will be no customer traffic, no extra employees, no advertising or signage, no major deliveries, or large trucks, it will all be indoors, and there will be no noticeable odors from the outside.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Ms. Radney acknowledged that the subject property is in the Pearl District which is a mixed-use district.

**Board Action:**

On **MOTION** of **SHELTON**, the Board voted 4-0-1 (Bond, Brown, Radney, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit Low-Impact Medical Marijuana processing (Low-impact Manufacturing & Industry Use) in the CH District (Section 15.020, Table 15-2), subject to site plan 17.10 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LTS 5-8 BLK 8, PARK DALE AMD, City of Tulsa, Tulsa County, State of Oklahoma**

**Mr. Van De Wiele re-entered the meeting at 6:03 P.M.**

## **23070—Eller & Detrich – Lou Reynolds**

### **Action Requested:**

Variance to reduce the minimum lot width in an RS-3 District from 60 feet to 50 feet to permit a lot split (Section 5.030, Table 5-3). **LOCATION:** 4236 South Madison Place East (CD 9)

### **Presentation:**

**Nathalie Cornett**, 2727 East 21st Street, Tulsa, OK; stated this Variance request is to facilitate a Lot Split. The way the subdivision was platted in 1924 it had mostly small lots that were 60 feet in width and a couple of estate size lots including the subject property. The subject lot is 100 feet wide and 210 feet deep. The owner tends to split the lot to develop it into two residential lots; currently there is a house on the subject property that was built in 1947. The proposed lot split will result in two 50-foot-wide lots. To the west, along Detroit, those lots are in a different subdivision and they are 50-foot-wide lots so the split would result in lots that would be substantially the same as those along Detroit. Other than the lot width the lots will still comply with all the bulk and area requirements of an RS-3 District. The depth of the lots will allow for ample room for rear yards and front yards complying with all the setbacks. The lot area, even when split, will be 10,500 square feet for each lot, so they will still be larger than the 6,900 square foot requirement in the RS-3 District and will be similar in shape and size to what is seen now in RS-3 Districts. The current size of the lot results in a hardship to the property owner and the requested Variance.

Mr. Van De Wiele asked Ms. Cornett to state the hardship for the width of the proposed lots. Ms. Cornett stated it is the shape and depth of the lot as it exists. It is much larger than the other lots platted in the subdivision. There are a couple of estate size lots along Madison Place and those two have been changed in size and shape through the years to facilitate development.

### **Interested Parties:**

**Patrick Arch**, 4224 South Madison Place, Tulsa, OK; stated he lives to the north of the subject house and he has lived there since 1970. All the houses to the north of the subject property have quite large lots. His concern is that this cause a higher density in the neighborhood because theoretically there could be four houses placed on the lot. He is also concerned about what type of house will be built on the property.

### **Rebuttal:**

**Nathalie Cornett** came forward and reiterated that the two proposed lots are really the density that is contemplated in the existing zoning district. As far as the plans for the property, the owner intends to build residences and the property is currently under contract. As to what is going to be built on the lot, that has not been decided as of yet.

### **Comments and Questions:**

Ms. Radney asked if, in theory, there could be two patio homes built because Madison Avenue still exists as a street and there is no discussion about vacating it, so if there

was a house facing Madison Avenue and a house facing Madison Place there could in fact be four units on the two lots contemplated. She is keenly aware of the lots and she is asking the question because the client she once represented wanted to do just that. Ms. Cornett stated that if that were to be the case more relief would be needed because there would not be the lot area to do that. Ms. Radney stated a townhouse could be built because a townhouse is just 4,500 square feet and the lot area would support it. Ms. Cornett to basically have the subject property divided into four lots, each lot would not meet the 6,900 square foot lot area requirement. As proposed each lot will be 10,500 square feet. To divide that again in half the property would no longer meet the lot area requirements.

Mr. Chapman stated the townhouse would be allowed by Special Exception so the property owner would have to come to the Board of Adjustment. Practically speaking, if someone wanted to pave Madison Place, there could be one house facing Madison Place and one house facing Madison Avenue, but that would put two houses on the lot.

Ms. Cornett stated the intended use is to have two single family residences per this request.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the minimum lot width in an RS-3 District from 60 feet to 50 feet to permit a lot split (Section 5.030, Table 5-3), subject to conceptual plan 18.7 of the agenda packet. The Board has found the hardship to be the large lot in comparison to the surrounding lots and this will make the property more in keeping with the existing neighborhood. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

**LT 5 BLK 8, ALTA DENA PLACE, City of Tulsa, Tulsa County, State of Oklahoma**

## **23072—Eller & Detrich – Lou Reynolds**

### **Action Requested:**

Variance of Section 60.060-B of the Zoning Code to allow two on-premises signs on the same street frontage in an OL District; Variance of Section 60.060-C of the Zoning Code to allow 117 square feet of aggregate display surface of on-premises signage on the same frontage in an OL District. **LOCATION:** 2642 East 21st Street South (**CD 9**)

### **Presentation:**

**Lou Reynolds**, 2727 East 21st Street, Tulsa, OK; stated he represents Grand Bank. The property has an unusual shape in that it has frontage on South Columbia and on 21st Street. In the OL zoning it allows the property to have four signs, two on Columbia and two on 21st Street. In the multi-tenant OL zoned building there is a development identification sign, and that sign does not count as a sign, but its square footage counts against the aggregate signage that can be on each street frontage. The bank would like to use the 32 square feet that they are allowed on Columbia and move it to 21st Street. On 21st Street the bank would be allowed 99 square feet of signage and adding the 32 square feet to that there would be 131 square feet, but all the bank is asking for is 117 square feet of signage. At the entrance off 21st Street there will be a project identification sign, then they intend to have a wall sign and a tenant identification sign in the parking lot. Those three signs combine 117 square feet. There will be no sign on Columbia.

Mr. Brown asked Mr. Reynolds if these signs would be two-sided signs. Mr. Reynolds answered affirmatively.

Mr. Reynolds stated the hardship for this request is the unusual size and shape of the subject lot. There is frontage on two streets and the sign application is basically being moved to the main street and there will no signs installed on Columbia.

Mr. Reynolds stated that Ms. Nemeč wrote a letter and as of this afternoon the bank has agreed with Ms. Nemeč to pay her \$2,500 to repair her yard.

Mr. Van De Wiele stated that he thinks Ms. Nemeč is the wife of one of his law partners so he will abstain from this case.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **BOND**, the Board voted 4-0-1 (Bond, Brown, Radney, Shelton, "aye"; no "nays"; Van De Wiele "abstains"; none absent) to **APPROVE** the request for a

Variance of Section 60.060-B of the Zoning Code to allow two on-premises signs on the same street frontage in an OL District; Variance of Section 60.060-C of the Zoning Code to allow 117 square feet of aggregate display surface of on-premises signage on the same frontage in an OL District, subject to conceptual plans 20.19, 20.20, 20.21, 20.22, 20.23, 20.24, and 20.25 of the agenda packet. The Board finds the hardship to be unique size, location, and setbacks of the area, as well as the continued area and return to normal flow on Columbia. 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 1, CROW-DOBBS OFFICE PARK II RSB PT HARTER'S 2ND & PT VIOGHT, City of Tulsa, Tulsa County, State of Oklahoma**

**23051—William Bell**

**Action Requested:**

Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Section 45.080-A); Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A). **LOCATION:** 3514 South Yale Avenue East **(CD 9)**

**Presentation:**

The applicant was not present.

Mr. Van De Wiele asked Mr. Chapman to convey to the applicant that there will be at least one Board member that will be eager to hear this case if they are not in attendance on the 26th.

**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 Special Exception to permit a 12-foot wall in the front street setback and a 10-foot wall around the perimeter (Section 45.080-A); Variance to allow a wall to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A) to the January 26, 2021 Board of Adjustment meeting; for the following property:

**PRT SE NE BEG NEC N/2 S/2 SE NE TH W280 S195.11 E280 N195.11 POB LESS E50  
THEREOF FOR RD SEC 21 19 13 1.03AC, City of Tulsa, Tulsa County, State of Oklahoma**



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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

Mr. Van De Wiele announced that he has been on the Board of Adjustment for over 11 years, but he has notified the Mayor of his intent to resign from the Board of Adjustment as Chair. His resignation as Chair will be effective immediately but he will continue his term on the Board until June. In discussions with Ms. Miller and Ms. Blank the procedural move is to resign as Chairman and that automatically makes Mr. Bond Chairman, then Mr. Bond has the ability to appoint a Vice Chairman. Mr. Van De Wiele stated he has discussed this with Mr. Bond, and he is excited to become Chairman of the Board of Adjustment, and he (Mr. Bond) has asked Mr. Van De Wiele to move into the Vice Chair seat.

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There being no further business, the meeting adjourned at 6:30 p.m.

Date approved: \_\_\_\_\_

\_\_\_\_\_  
Chair