

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1297
Tuesday, July 12, 2022, 1:00 P.M.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT

Radney, Vice Chair
Wallace
Barrientos
Brown

**MEMBERS
ABSENT**

Bond, Chair

**STAFF
PRESENT**

D. Wilkerson
S. Tauber
K. Davis
A. Chapman

**OTHERS
PRESENT**

A. Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on July 6, 2022, at 12:59 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Radney called the meeting to order at 1:00 p.m.

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

Ms. Radney notes that they are a 5-person board and that the Mr. Bond, Chair is absent. Applicants can request a continuance to a future meeting when they have a full board. One of our commissioners will be recusing on Item #9, so we will only have 3-person for this Item. Also, one application has been withdrawn which is BOA-23357 by Mr. Nathan Cross.

UNFINISHED BUSINESS

23309 - Ryan Neuhor, Image Builders

Special Exception to permit a Dynamic Display sign in a Residential District containing a School Use (Sec. 60.050-B.2.c) Special Exception to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F)

Location: 3909 East 5th Place South (Rogers)

Presentation:

Applicant requested a continuance until July 26, 2022.

Board Action:

On **MOTION** of **WALLACE**, the board voted 4-0-0 (Barrientos, Brown, Radney, and Wallace all “ayes, no “nays”, no “abstentions”) to **CONTINUE** the requested Special Exception to permit a Dynamic Display sign in a Residential District containing a School Use (Sec. 60.050-B.2.c) Special Exception to permit a dynamic display sign within 200-feet of Residentially Zoned Lots (Sec. 60.100-F) until July 26, 2022.

**BEG 1219.4E & 25S NWC OF SW TH S791 SW40.03 E1437.1
N826 TH W1417.08 POB LESS S35 FOR ST SEC 4 19 13, CITY OF TULSA, TULSA
COUNTY, STATE OF OKLAHOMA**

23319 - Jason Evans

Variance to allow the floor area of a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure (Sec. 45.030-A.2); Variance of the 35-foot setback from an arterial street. (Sec. 5.020, Table 5-2); Variance to permit a Detached Accessory Building exceeding 10-feet in height to the top of the top plate in the rear setback (Sec. 90.090-C)

Location: 4217 East 15th Street South, Tulsa, OK

Presentation:

Applicant requested a continuance until July 26, 2022.

Board Action:

On **MOTION** of **WALLACE**, the board voted 4-0-0 (Barrientos, Brown, Radney, and Wallace all “ayes, no “nays”, no “abstentions”) to **CONTINUE** the requested Variance to allow the floor area of a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure (Sec. 45.030-A.2); Variance of the 35-foot setback from an arterial street. (Sec. 5.020, Table 5-2); Variance to permit a Detached Accessory Building exceeding 10-feet in height to the top of the top plate in the rear setback (Sec. 90.090-C) to July 26, 2022.

LT 10 BLK 4, ELECTA HGTS ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23376 - Guy and Kim Thiessen

Variance to permit a detached accessory building in the rear setback to exceed 10-feet in height to the top of the top plate (Sec. 90.090-C2); Variance to allow more than 25% coverage by a detached accessory building in the rear setback in an RS-2 District (Section 90.090-C2) Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A)

Location: 2241 E. 32nd Pl. S., Tulsa, Oklahoma

Presentation:

Guy Thiessen, 4241 East 32nd Place, Tulsa, OK, stated that he is requesting a Variance for covering and enclosing an existing outdoor space which currently has a pergola. The top plate which exceeds between six inches to a foot and a half. Also, we are seeking a Variance on the square footage coverage based on the square footage space of the home. It will have a flat roof. The hardship is that our home has a detached garage and square footage calculation is based on the living space is limits what they can do. The hardship on the top plate is that it was designed in excess to what is allowed.

Interested Parties:

No interested parties were present.

Questions and Comments:

Mr. Brown asked for the use of the building and Mr. Thiessen stated that it was for personal use as an outdoor space next to their pool.

Mr. Barrientos asked how what year the existing garage structure was built. Mr. Thiessen stated that it built recently, after the purchase of the home.

Ms. Radney asked what they would be entitled to by right. Mr. Thiessen stated that the garage was permitted to replace an existing building that was in disrepair.

Ms. Radney asked Mr. Chapman to help her understand how they are violating the coverage on the lot. Mr. Chapman stated that at the rear set back they are allowed to cover 25% per code and they are covering 37% per the plan.

Mr. Wilkerson stated that since the pergola did not have a roof it was considered open space but putting a roof on it changes that.

Discussion and Questions:

Mr. Brown stated that there was a fence along the rear of the property and no windows towards the back, so privacy is not an issue.

Mr. Barrientos stated that he was having a challenging time with the hardship.

Mr. Brown stated that he did not have a problem with the design.

Mr. Wallace stated that the existing garage is already non-conforming, and they have an existing pergola and hardscape. He stated that this is the appropriate location for it for a lay out standpoint.

Ms. Radney asked Mr. Thiessen why he put the pergola where it is placed. Mr. Thiessen stated that it had to do with spacing and the amount of landscaping visible.

Ms. Radney asked what the uniqueness of the lot is.

Mr. Thiessen stated that is how the detached garage factors into getting the way of a modern improvement to a property. They needed the turn around to make the garage functional. There are elevation changes going from east to west. The pool is at a higher level than the garage level and we had to build a retaining wall to hold all the earth for the pool. Water drainage has been important for the house to our west.

Ms. Radney stated that this lay out was most functional in terms of being to contain run off and is the best accommodation of the layering of the site that has some drop going east to west.

Board Action:

On **MOTION** of **WALLACE**, the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”) to **APPROVE** a Variance to permit a detached accessory building in the rear setback to exceed 10-feet in height to the top of the top plate (Sec. 90.090-C2); Variance to allow more than 25% coverage by a detached accessory building in the rear setback in an RS-2 District (Section 90.090-C2); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A), finding the hardship to be the shape of the existing lot, maintaining the use of the existing garage, and storm water flow. Per the Conceptional Plans on 3.8 – 3.9 of the Agenda Packet.

In granting the Variances, 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 3, OAKNOLL, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

DRAFT

23380- Kory Myers

Special Exception to increase the permitted driveway width in a Residential District (Section 55.090-F.3)

Location: 3144 East 33 Street South, Tulsa, Oklahoma

Presentation:

Jeromy Perkins, 20 South Lewis, Tulsa, OK 74104, stated that he was standing in for the owner and that they were in the application process to obtain a permit for a third car addition to an existing home and two car garage, and an upper-level space. The existing driveway is non-conforming. We are allowed 30-feet in a side yard setback. Due to a corner lot the house placement, it restricts the ability to get into a third car garage space, we need another 9 foot, 6 inches which puts us well over the allowed space. The curb cut will remain the same, but we need to swing out into that setback to get into the third garage space.

Interested Parties:

No interested parties were present.

Questions and Comments:

Ms. Radney asked is this was going to be a new structure. Mr. Perkins stated that it will be an addition to an existing two car garage and taking the attic space above for an additional bedroom which is all attached to the residence.

Ms. Radney asked Mr. Chapman if there was anything unusual about the street setback with them being on a corner. Mr. Chapman stated that there the regulation states that there are two parts of a driveway as defined in the Code and it is in the right-of-way and then on the lot inside the street setback which on a corner lot should be 15-feet. He is limited in that width. It is taking in all the aggregate, so it is all the driveways across a lot are taken together.

Mr. Brown asked what the driveway width they are requesting. Mr. Perkins stated that the driveway width they are requesting is 9-foot 6-inches wide and it is at an angle. The depth of that would be 15-feet to be able to swing their car into the space comfortably.

Mr. Barrientos asked if they have spoken with any of the neighbors. Mr. Perkins stated that he had not, but he knew that there was a letter that had been received from a neighbor that did not like the way the house looked.

Ms. Radney stated that she appreciated that there were not two curb cuts, and she thinks this works nicely.

Mr. Wallace stated the Board had received a letter of opposition for the record.

Board Action:

On **MOTION** of **BARRIENTOS**, the Board, voted 4-0-0 (Barrientos, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”) to **APPROVE** the Special Exception to increase the permitted driveway width in a Residential District per the Conceptual Plans on 4.4 – 4.6 of the Agenda Packet.

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

LT 6 BLK 6, RANCH ACRES RESUB L5-12 B5 & L4-6 B6, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

DRAFT

NEW APPLICATIONS

23383 - Tom Hanlon

Variance to reduce the required 20-foot rear setback in the RS-3 District (Sec. 5.030-A, Table 5-3)

Location: 523 East Pine Place, Tulsa, Oklahoma

Presentation:

Tom Hanlon, 6805 South Ash Place, Broken Arrow, Oklahoma, stated that he is the contractor for the homeowner, who is present. The lot is laid out in a cul-de-sac which makes it difficult to make an addition to the house without going into the setback.

Interested Parties:

No interested parties were present.

Questions and Comments:

Mr. Brown asked if the plans were under construction at this time. Mr. Hanlon stated that it was not.

Ms. Radney ask if the sunroom is enclosed at this time. Mr. Hanlon stated that it has not been constructed at this time.

Ms. Radney asked if the sunroom would be a new addition. Mr. Hanlon stated that yes it would be. Ms. Radney asked if it would be fully enclosed, and Mr. Hanlon stated that it would be.

Ms. Radney asked what the hardship would be, and Mr. Hanlon stated that it is the shape of the lot.

Board Action:

On **MOTION** of **BARRIENTOS**, the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”) to **APPROVE** the Variance to reduce the required 20-foot rear setback in the RS-3 District finding the hardship to be the current location of the utility easement and the shape of the lot and location of the existing home per Conceptual Plans 5.7 of the Agenda packet.

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:

ALL LTS 3 4 & W25 LT 5 BLK 1, UNIVERSITY PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23384 – Laura Hasbun

Special Exception to permit Low-Impact Medical Marijuana Processing (Low-Impact Manufacturing and Industry Use) in the CH District (Sec. 15.020, Table 15-2)

Presentation:

Laura Hasbun – 3216 East Admiral Place, Tulsa, OK 74110, stated that they have a grow license for this facility and want to add on an additional Low-Impact Processing License due to current OMMA regulations you cannot add Kief to a pre-roll or process Kief in any way. We want to be able to use the Kief that our product is providing we are applying to add Low-Impact Processing License.

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Brown asked if they had spoken to any of their neighbors. Ms. Hasbun stated that they had gone through this process when they were applying for the grow license and the neighbors that were concerned voiced their opinions at that time.

Ms. Radney asked if thus far they have been a good corporate neighbor. Ms. Hasbun stated yes, they had.

Ms. Radney asked if Ms. Hasbun would tell the Board what manufacturing they would be doing and what Kief is. Ms. Hasbun stated that Kief is a small particles like fine dust that comes off the flower when it is being trimmed. To utilize it, it must be processed separately from the flower. They will be putting it into a pre-roll, which can then be sold directly to dispensaries.

Mr. Brown asked how much of the building will be utilized for this processing. Ms. Hasbun stated that the grow house is only on the second floor, and they would only be using one room as shown on page 6.9.

Mr. Brown asked where shipping and receiving is located. Ms. Hasbun stated that they transport the product via automobile and the license comes with a Transport License.

Mr. Brown asked Mr. Chapman asked if there is an issue with the residential area that this abuts. Mr. Chapman stated that there is not from a Code perspective, since they already are a grower, they should have some sort of filtration system to prevent smell to be released. They have already met all the requirements as far as security and filtration system and state requirements as well.

Board Action:

On **MOTION** of **BARRIENTOS**, the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”) to **APPROVE** the Special Exception to permit a Low-Impact Medical Marijuana Processing (Low-Impact Manufacturing & Industry Use) in the CH District per the Conception Plan on pages 6.18 – 6.19 in 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:

ALL LTS 3 4 & W25 LT 5 BLK 1, UNIVERSITY PARK, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

DRAFT

23385 – Bija Investments, LLC

Special Exception to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL district (Sec. 15.020, Table 15-2)

Location: 1247 North Garnett Road East

Presentation:

Trevor Henson – 110 West 7th Street, Suite 900, Tulsa, OK 74119, stated that he is an attorney Barrow and Grimm, and represent Bija Investments, LLC. They have a separate grow operation in a stand-alone building. They had a separate washroom that they want to adjust to Low-Impact processing that will accommodate the non-hazardous processing.

Interested Parties:

Jeremy Ledbetter – 5405 East 119th Street, Tulsa, OK stated that he is the proprietary and principal party of the establishment, and that they have been there for over three years. They are going to use two small room that accounts for about 600 square-feet of the building.

Comments and Questions:

Mr. Brown asked how much of the building will this occupy. Mr. Henson stated that the grow occupies one hundred percent of the building. We are just going to take a couple of rooms that were used to wash the product and use them for this cold-water extraction processing. Nothing other than the typical use of the property is going to change. It makes little to no noise.

Mr. Barrientos asked if they had discussed this with the neighbor. Mr. Henson stated that they have, and they do not have any problems with the processing. This is a previously approved grow and has been operating for a couple of years.

Ms. Radney asked if this was all water based and should not create much odor. Mr. Ledbetter stated that this should tone down any odor.

Board Action:

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”) to **APPROVE** the Special Exception to permit Moderate-Impact Manufacturing and Industry Use) in the IL district per the Conceptional Plans on pages 7.10 and 7.11 of the agenda packet.

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

LT 1 LESS W17 THEREOF & 20 VAC 117 AVE ADJ ON E, COOLEY'S SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23386 – Precision Sign and Design

Variance to allow more than one sign per street frontage in the OM District (Sec. 60.060-B.1); Variance to increase the maximum allowable sign area in the OM district (Sec. 60.060-C)

Location: 5151 East 51st Street, Tulsa, OK

Presentation:

Steve Ballard, 195 South 122nd East Avenue, Tulsa, OK, stated that they are asking for two signs for the street frontage on the Darlington side and two signs for the 51st Street frontage. On the Darlington side they are asking that one of the signs to be 226 square-feet. There is only one illuminated sign, and it is on 51st Street.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Radney asked if what he is asking for is signage on the backside of the monument and have the signage on the building.

Ms. Radney asked if the main shipping access is going to be off Darlington and Mr. Ballard stated that is correct. Volunteer parking access will be off 51st Street.

Ms. Radney asked Mr. Brown to explain why they need signage of both sides of the monument sign. Mr. Brown stated that he found it hard to object to a large sign at this location due to the benefit Meals on Wheels is to our community.

Mr. Wallace asked for the size of the monument sign. Mr. Ballard stated that it is a shipping container.

Mr. Barrientos stated that this is a large building and there are so many traffic accidents on 51st Street that this concerns him.

Mr. Ballard stated that one side of the monument sign has already been approved, permitted, and is in fabrication.

Ms. Radney asked Mr. Chapman where it would have been permitted for that structure to be there.

Mr. Chapman stated that it was part of the sign permit. Mr. Ballard got one side permitted. Currently, the way it is designed, there is only one side. He has gotten permitted as much as he can without the relief requested. Approval of this would get the second side. If the Board wanted to deny the second signage but approve the display area on the "Together We Can Deliver" portion, it would be up to the applicant if they wanted to do it as the Board requested or reject the relief continue with what can be permitted.

Ms. Radney asked what a sign can be. Is it anything that is constructed that is legally allowed to be on the site and then converted into a sign?

Ms. Blank stated to Mr. Chapman that on page 8.4 there is a photograph of the building.

Mr. Ballard stated that the container may have been permitted through construction plans.

Ms. Radney asked Mr. Chapman if what he was saying was if it were not permitted as part of the construction of the permanent structures that it could be permitted to stay there if it became a sign.

Mr. Chapman stated that if it is considered part of the building, that it changes from a monument sign to a wall sign. The shipping container was applied for as a sign, if there shipping container was left there without signage, it would need a building permit. There is some general language about shipping containers can be issued permits for several days for storage or as a part of ongoing construction on a site. They would not be allowed to leave it there unless they turn it into a building. At this point, he thinks it is not permitted as a building, but part of the sign.

Ms. Radney asked Ms. Blank if they could approve one without the other. Ms. Blank stated that they could do so. Ms. Blank stated that she was not clear on what two signs they are seeking approval for at this time.

Ms. Radney stated to Mr. Brown that she is respectful of the fact that would like to have signage at the corner. She is unconvinced of the necessity of it. Ms. Radney thinks that they want a large sign on the building and the signage on the container.

Mr. Wallace stated that his concern was the heavy traffic at this corner.

Mr. Ballard stated that he understood the concern about the traffic. The building use was specifically permitted and reviewed by the board as a distribution center.

Ms. Radney stated that the building itself is striking and is concerned about the distraction of all the signage.

Ms. Radney suggested that the Board continue this matter since the Board is deadlocked at this time.

Mr. Wallace stated that this will give Meals on Wheels time to work on a hardship that is not self-imposed.

Board Action:

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace) to **CONTINUE** the requested Variance to allow more than one sign per street frontage in the OM District (Sec. 60.060-B.1); and Variance to increase the maximum allowable

sign area in the OM district (Sec. 60.060-C) until July 26, 2022, for the following property:

**PRT LT 1 BEG SWC LT 1 TH N429.10 E304.52 S429.10 W304.57 POB BLK 1,
LINCOLN CTR RESUB L1 B1 SE YMCA & L16 CANFIELD SUB CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

DRAFT

23387 – Kyle Gibson

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

Location: 4818 East Pine Street

Presentation:

Kyle Gibson, 551 South Quaker Avenue, Tulsa, OK 74120, stated that he was representing the owner of the property. They have received their permit and then after starting construction were up for their final Certificate of Occupancy through the Fire Marshal at which time, they found out the building across the street was a marijuana dispensary also and was opening. There is 150 feet between the two businesses and there is a 1,000-foot requirement by Code. They were told they needed a Variance to go forward.

Interested Parties:

Jennifer Fralick, 1135 East 61st Street, Tulsa, OK, stated that she is the dispensary owner across the street from this property. We gained possession of the building July 2021 and took all the proper steps to open, and this is my third location. No one came over to ask what type of business they were opening. We were open for business in March of 2022. The name of our business is Top Shelf Stock. Ms. Fralick stated that she was at the meeting to object since she had followed all the rules to open first.

Rebuttal:

Mr. Gibson stated that this is a very tough situation and understands Ms. Fralick's position. Mr. Gibson stated that the public is not aware how to find active permits with the City of Tulsa.

Comments and Questions:

Ms. Radney asked Mr. Gibson what date they had applied for their permit. Mr. Gibson replied that they had applied on December 17, 2021. The permit for the business across the street was issued in October 2021. Their final inspection passed within two weeks of our submittal. No indication of their opening a dispensary was April 2022, two months after we had our permit. We did get an LOD on the first submittal.

Ms. Radney asked Mr. Gibson what the zoning category was for the building across the street and if it had been approved as a dispensary. Mr. Gibson verified that there had been no re-zoning.

Mr. Chapman stated that neither of the buildings had been dispensaries prior to this time.

Mr. Skates, Development Services Director for the City of Tulsa, stated that since December his staff and INCOG staff have worked together to get the map that they use up to date.

Ms. Radney asked Mr. Gibson what date they applied for their license. Mr. Gibson

stated that the owner would know that and that he is representing them through the permitting process. Mr. Gibson did not think that they could apply for their OMA Licenses until they had their Certificate of Occupancy.

Mr. Wallace stated that he felt badly for both business in this situation.

Mr. Brown asked how the Board is to address the situation now. He was inclined to be confused. He stated that fair was out the window and thought who started the process first was appropriate.

Mr. Barrientos stated that the Board has denied situation like this in the past.

Mr. Chapman stated that he would caution the Board that the Code reads that there is supposed to be 1,000-feet between dispensaries and this 150-feet. He would encourage the Board to look for a physical hardship related to that property.

Ms. Radney stated that she would be looking more towards the uniqueness of this situation and that it was uniquely confusing, and that the city has stated that they have been working on a solution to situation like this happening again.

Mr. Chapman stated that it is the applicant's responsibility to check with the permitting office.

Ms. Radney stated that Item 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;"* especially to the extent that the city has recognized the conflict and is working diligently to the likelihood this would occur again. That would get me there. Everything else is self-imposed.

Mr. Barrientos stated that he was inclined to support this based on the uniqueness of the case.

Mr. Brown stated that his head said follow the law and his guts said compete across the street.

Mr. Wallace asked if either of the properties were to change ownership is the property still at right to be utilized as a dispensary.

Mr. Chapman stated that it will be in perpetuity, so it runs with the land and not the owner. Unless you state in your motion otherwise, it will be in perpetuity. He would encourage the Board to be specific about where the conflicting dispensary is what relief you are granting.

Ms. Blank stated that she suggested that the Board identify property by address and not by the current name of the business.

Ms. Radney stated to Ms. Blank that she was inclined to grant this Variance because of the specific circumstances that relate to these two specific operators and asked if that presents a problem.

Ms. Blank stated that when we want to put limits on things, we do it by time. That gives the property that has received the Variance the opportunity to come back and apply again.

Ms. Radney stated that the economy cycles every seven years and that fifteen years would give them adequate time to establish their businesses. This would apply to only the property at 4818 East Pine Street. A typical commercial loan is fifteen years and if we do not grant this amount of time, we could impede to access funds.

Board Action:

On **MOTION** of **WALLACE** the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”) to **APPROVE** the Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Sec. 40.225-D) finding the hardship to be extreme uniqueness of the bureaucratic process and the proximity in time to each applicant of property 4818 East Pine Street North and property 1447 North Yale Avenue. Per the Conceptual Plans shown in the agenda packet and subject to the following conditions that this Variance due to the approximate 130-foot spacing of an existing dispensary at 1447 North Yale Avenue, the Board looks to grant a Variance of fifteen years for the subject property at 4818 East Pine Street North.

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 LESS 101E NWC LT 1 TH E35 S35 NW49.51 TO POB BLK 1; LT 10 BLK 1, HIGHLAND TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

DRAFT

23388 – Nathalie Cornett

Special Exception to permit a monument sign to be partially located in the right-of-way (Sec 60.020-E) Variance to permit a dynamic display to be located within 200 feet of a residential district. (Sec 60.100-F)

Location: 4132 East 51st Street

Presentation:

Nathalie Cornett, 2727 East 21st Street, Suite 200, Tulsa, OK 74114, stated she is representing her clients and the property is located within a PUD. There is a large median between the parking lot and 51st Street. It is 40 to 45-feet wide. If they stay within the property boundaries, the sign will be setback 30-feet from the curb, and they are requesting a Special Exception_ to locate the signage limit it to 20-feet from the curb. This location in the median would be consistent with other businesses on 51st Street and the placement of their signage. If the Board approves this, her client will still need to apply for a license agreement from the City of Tulsa. Their second request is for a Variance to permit a dynamic display to be located within 200-feet of a residential district. The Avery Apartments are on the north side of 51st Street. The sign is not visible to the residential neighborhood to the south. This request is not tied to their request to move it 10-feet closer to the curb. The 200-foot distance would put any sign location toward the middle of their property where the building is currently located. 200-feet from the property line of the Avery Apartments to the north is in the middle of their property. Because this property is in a PUD, we typically would apply to amend the development plan and go through the planning commission. The Code treats dynamic displays specifically. You can amend the sign standards in a PUD, but the current zoning code requires that dynamic displays comply with the regulations of the code. The PUD as it exists and as it was approved by the previous zoning code permits dynamic displays on this property, however, the new code has a 200-foot separation distance. To put the dynamic display, which is permitted by right by the PUD zoning, the sign cannot be located anywhere that it would be effective. It would have to be placed in the middle of the lot. That is not where they want their primary monument sign to be. This PUD does not have specific sign standards. The hardship is that there is nowhere a dynamic display could be placed on the property so that it would be visible from 51st Street.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Radney asked about the hours of operation. Ms. Cornett stated that they will comply with the zoning code requirements.

Ms. Radney asked Mr. Chapman would state what the hours are, and he replied that dynamic display signs on offices can operate between 7:00 AM – 9:00 PM.

Ms. Radney asked how large the dynamic display area would be. Ms. Cornett stated that on page 10.10, it shows that it will be 4-foot by 8-foot. It will have general

information for the pharmacy. Ms. Cornett stated that it must be a static digital image and will change in a few seconds. It will be facing east and west on 51st Street and not into any residences to the north.

Mr. Brown stated that for the school's dynamic display a stipulation that there are to be no white backgrounds. He also stated that he thinks this sign is too large and signs like this create continual digital clutter. There are few examples adjacent to this sign. He stated that he is inclined not to approve this sign.

Mr. Barrientos stated that with the speed limit 40 to 45 MPH with two lanes on both sides he thinks that is why they need that large of a sign.

Ms. Cornett wanted to remind the Board that the size of the sign is permitted by right. She stated that the hardship on the Variance is that the PUD which is unique to the property permits a dynamic display, however, as it currently exists, a dynamic display could not be located closer to 51st Street from the middle of the property.

Ms. Radney stated that given the PUD, the hardship has relevance, but you will be hard pressed that under normal circumstances. The PUD is unique to this site.

Mr. Wallace stated that he did not have a problem with the sign but did not understand why they needed to move it 10-feet into the right-of-way.

Mr. Wilkerson stated that the Code requires that dynamic displays to be 200-feet from residential district and they want to put their sign close to the street in the right-of-way, the PUD is not the issue. It really is where they want to put the sign. Because it is in the street right-of-way and a sign has been approved for that location inside the PUD, but now they want to put it in the right-of-way. The hardship is where they want to put the sign in relation to the street and in relation to the residential boundaries.

Ms. Radney stated that the applicant would suggest that there is no point in getting the opportunity to move it forward if they cannot also get the Variance on the dynamic display.

Ms. Cornett stated that Development Services issued the LOD after the sign plan was approved for the Variance to be within 200-feet.

Mr. Wilkerson stated that he thought the letter of deficiency was based on the location.

Mr. Chapman stated that the sign that Jay approved was not in the right-of-way, but still within 200-feet of a residential district.

Mr. Wilkerson stated that the Motion needs to be limited to the 200-feet of a residential district and in the street right-of-way.

Michael Skates, Development Services Director, stated that he was not sure that a

license agreement would be approved. If there is any opportunity to keep it on the applicants property but do the Variance from the fact that it is within 200-feet from the residential district would be preferable to him. The Board to approve it to be in the right-of-way has no validity because they still must get a license and he does not think the license would be approved.

Ms. Cornett stated that the Board is aware that they have the power to grant a Special Exception to permit a sign to be in the right-of-way subject to the approval of the licensing agreement and it is not within Development Services purview, it is the Board's power to make that determination. If we are in harmony of the spirit and intent of the Code and will not be detrimental to the public welfare. There was an existing sign of the previous tenant in the right-of-way. She stated that she had not been able to find a licensing agreement that was granted for that, but the sign existed in the right-of-way. As far as it being detrimental or somehow not in line with the surrounding area, she would submit to the Board its' location partially in the right-of-way as a new sign, which will not be fully in the right-of-way as the previous sign on this property would maintain the spirit and intent of the zoning code. The right -of-way extends 51-feet from the property line to the center line on 51st Street. It was her understanding, based on the LOD they received and based on her discussion with INCOG and reading of the zoning code, is that to have a sign located on either side of the property line or in any portion of the right-of-way, because it is within 200-feet of the residential district, we need a Variance of that requirement. The sign plan that was approved for the PUD is located inside of the property boundary and we are requesting a Special Exception to push it forward.

Mr. Barrientos stated that he would need further evidence of why the sign needed to be in the right-of-way versus 10-feet back on the property.

Mr. Brown stated that he simply does not like the size of the sign and the location is a moot point.

Mr. Wilkerson stated that the building permit office was wanting relief from the 200-foot dimension no matter where it is. The Special Exception allowing it in the right-of-way is a part of it.

Ms. Radney stated that continuing the Special Exception until October 11, 2022, would give the applicant time to work further on this item.

Board Action:

On **MOTION** of **BARRIENTOS**, the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace all "ayes," no "nays", no "abstentions") to **CONTINUE** the request for a Special Exception to permit a monument sign to be partially located in the right-of-way (Sec 60.020-E) until October 11, 2022, and the Board voted 3-1-0 (Barrientos, Radney, Wallace, 3 "ayes", Brown "nay", no "abstention") to **APPROVE** the Variance to permit a dynamic display to be located within 200 feet of a residential district. (Sec 60.100-F) finding the hardship to be that the current building was constructed prior to zoning code

restriction regarding dynamic displays, per the Conceptual Plans shown on pages 10.10 and 10.11 subject to the conditions that there will be no white background and require a licensing's agreement with the City of Tulsa.

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, YOUNG PLAZA, OIL CAPITAL FEDERAL CREDIT UNION, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23389 – Chay Tyner

Special Exception to expand a non-conforming structure in the RM-2 district (Section 80.030-D)

Location: 1319 South Rockford Ave., Tulsa, Oklahoma

Presentation:

Chay Tyner, 3881 East 130th Place, Skiatook, Oklahoma, stated the house was built in 1920 and when the highway was built it changed to a corner lot. They are asking for a side easement and height. The footprint of the house was not changed except for the upstairs. There was a partial upstairs and they have added a bathroom and another bedroom

Interested Parties:

No interested parties were present.

Comments and Questions:

Mr. Chapman stated that the 4.8-feet is the nonconforming area. Code requires 5-feet. To his point, part of the lot was an actual residential lot that was acquired by ODOT for the access road the Broken Arrow Expressway. Mr. Tyner built out the second story partially, so it was expanding that nonconformity. To get it permitted, it is a Special Exception to expand a nonconforming structure.

Ms. Radney asked when it the addition was started. Mr. Tyner stated that it was started November of 2021.

Ms. Radney stated that the house predates the freeway and the zoning code.

Mr. Brown stated that the house is fitting into an existing small lot, and which predated current zoning codes. He in favor of this.

Board Action:

On **MOTION** of **WALLACE**, the Board voted 4-0-0 (Barrientos, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”) to **APPROVE** the Special Exception to expand a non-conforming structure in the RM-2 district (Section 80.030-D) per the Conceptual Plans shown on page 11.8 through 11.11 of the agenda packet.

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

LT 5 BLK 4,BELLVIEW ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23390 – Travis Harris, GH2 Architects

Special Exception to permit a carport in the street yard to and modifications of the allowable height requirements (Sec. 90.090-C.1).

Location: 2645 South Boston Avenue, Tulsa, OK

Mr. Wallace recused himself and left the meeting at 4:40 PM

Presentation:

Travis Harris, 320 South Boston, Suite 100, Tulsa, Oklahoma, stated that they are requesting to build a carport and they are higher than their allowable height because they are matching the existing buildings plate height. There is an existing garage structure which was torn down when they purchased the building because it needed repair. They are coming back with a two-car garage and a family room and bedrooms above the garage. This carport is tying into the garage, so they are matching the plate height and it is above the allowable height

Interested Parties:

Cheryl Evans, 2645 South Boston Avenue, Tulsa, OK stated that their immediate neighbor, Cheryl and Joe Snow, have seen the renderings and they all approve the project.

Comments and Questions:

Mr. Chapman stated that to get it on the record and acknowledged by the Board that there a balcony above the car port and that is usable space.

Mr. Harris stated that he had a rendering of the carport and balcony to clarify the use. What is in question is 1) the carport and 2) the allowable height. It needs to be this high to match the existing plate height and to allow for their large SUV's. We are trying to allow for lots of clearance around the vehicles. The carport will not go out any further than the sidewalk in front of the residence.

Mr. Wilkerson stated that one point of clarification the deck height is allowed by right. The only reason that it is here is because it happens to also be the entrance to the garage so it can be considered a carport. That carport distinction is what brings it to us, and it cannot be above a certain dimension.

Mr. Brown stated that the lots are big in this area and the matching of this addition is in keeping with the house and he tends to support it.

Mr. Barrientos stated that it is a beautiful and clever design. It matches the style of the home.

Ms. Radney stated that she was inclined to support it.

Board Action:

On **MOTION** of **BARRIENTOS** the Board voted 3-0-1 (Barrientos, Brown, Radney all “ayes, no “nays”, Wallace “abstention”) to **APPROVE** the Special Exception to permit a carport in the street yard to and modifications of the allowable height requirements (Sec. 90.090-C.1) per the Conceptual Plans shown on pages 12.8 – 12.9 of the Agenda packet and the renderings supplied 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:

LT 5 LESS E50.3 THEREOF BLK 15,RIVERSIDE DRIVE ADDN THIRD AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Wallace return to the meeting at 4:55 pm.

DRAFT

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Brown extended his thank you to the INCOG staff for arranging parking for the Board members, it is convenient and easy to use.

There being no further business, the meeting adjourned at 4:56 p.m.

Date approved: _____

Chair