

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1222  
Tuesday, February 12, 2019, 2:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Van De Wiele, Chair Back, Vice Chair Ross, Secretary Bond Radney		Wilkerson Ulmer Sparger E. Smith	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on February 7, 2019, at 10:50 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.

\*\*\*\*\*

Ms. Ulmer read the rules and procedures for the Board of Adjustment Public Hearing.

\*\*\*\*\*

**MINUTES**

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **APPROVE** the **Minutes** of the January 8, 2019 Board of Adjustment meeting (No. 1219).

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **APPROVE** the **Minutes** of the January 22, 2019 Board of Adjustment meeting (No. 1220).

\*\*\*\*\*

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. Any motion will require an affirmative vote of three of the remaining four members. When there is less than a full Board the Board will

entertain a request to continue agenda items to a later meeting date, at which all five members of the Board may be present. If an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. The audience nodded their understanding and no one came forward to request a continuance.

\* \* \* \* \*

**UNFINISHED BUSINESS**

**22573—Sisemore Weisz & Associates**

**Action Requested:**

Variance of the minimum lot area per unit requirement; Variance of the minimum open space per unit requirement in an RM-1 District (Section 5.030-A).

**LOCATION:** SW/c of North Lewis Avenue East & East Archer Street North (CD 3)

**Presentation:**

The application has been withdrawn by the applicant.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

No Board action required; for the following property:

**A TRACT OF LAND THAT IS PART OF BLOCK FOUR (4), EASTLAND ADDITION, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 4; THENCE SOUTH 01°06'54" EAST ALONG THE EASTERLY LINE OF SAID BLOCK 4 FOR 242.74 FEET; THENCE SOUTH 88°53'06" WEST FOR 10.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING SOUTH 88°53'06" WEST FOR 309.29 FEET TO A POINT ON THE WESTERLY LINE OF SAID BLOCK 4; THENCE NORTH 01°06'54" WEST ALONG SAID WESTERLY LINE FOR 195.69 FEET TO A POINT OF CURVE; THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 89°11'59", A CHORD BEARING OF NORTH 43°29'05" EAST, A CHORD DISTANCE OF 42.13 FEET FOR AN ARC LENGTH OF 46.70 FEET; THENCE NORTH 88°05'05" EAST PARALLEL WITH AND 13.00 FEET SOUTHERLY OF THE NORTHERLY LINE**

OF SAID BLOCK 4 FOR 261.92 FEET; THENCE SOUTH 51°45'39" EAST FOR 23.04 FEET; THENCE SOUTH 01°06'54" EAST PARALLEL WITH AND 10.00 FEET WESTERLY OF THE EASTERLY LINE OF SAID BLOCK 4 FOR 214.74 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND. SAID TRACT OF LAND CONTAINING 1.608 ACRES, OR 70,025 SQUARE FEET, MORE OR LESS., City of Tulsa, Tulsa County, State of Oklahoma

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

\* \* \* \* \*

**NEW APPLICATIONS**

**22579—Vicky Ark**

**Action Requested:**

Special Exception to allow a duplex in the RS-3 District (Table 5-2.5); Variance to reduce the required street setback (Table 5-3); Variance of the required 25-foot setback from an adjacent R District for special exception uses (Table 5-3).

**LOCATION:** 1115 East 55<sup>th</sup> Street South **(CD 9)**

**Presentation:**

The applicant requests a continuance to the February 26, 2019 Board of Adjustment meeting.

**Interested Parties:**

**Kevin Wessel**, 5326 South Newport Avenue, Tulsa, OK; stated he wants to voice his displeasure in hearing this case. He thinks the Houstonia Addition has adhered to the policies of building and the setback for the addition since the late 1950s. He is not thrilled about another aspect of having renters.

Mr. Van De Wiele stated the Board is not hearing the merits of this case right now, and he asked Mr. Wessel if he was objecting to a continuance of this case. Mr. Wessel stated this just ruined his personal day, but he will come to the next meeting because he is not wanting this.

Mr. Van De Wiele asked Ms. Ulmer why the applicant is requesting a continuance. Ms. Ulmer stated the applicant is out of town.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to allow a duplex in the RS-3 District (Table 5-2.5); Variance to reduce the required street setback (Table 5-3); Variance of the required 25-foot setback from an adjacent R District for special exception uses (Table 5-3); for the following property:

**LTS 14 & Lt 15, BLK 2, HOUSTONIA HOME SITES ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22589—AAB Engineering, LLC – Don Clifton**

**Action Requested:**

Variance to allow a detached accessory structure to exceed 750 square feet or 40% of the of the floor area of the principal structure (Section 45.030-B).

**LOCATION: 7415 & 7425 East 98<sup>th</sup> Street South (CD 8)**

**Presentation:**

Staff requests a continuance to February 26, 2019.

**Interested Parties:**

**Irving Frank**, 9740 South 75<sup>th</sup> East Avenue, Tulsa, OK; stated he lives in the gate house for the subdivision Audubon Village to the east. Mr. Frank stated that he was told by staff that there may be a continuance, or the applicant may even withdraw the request.

Mr. Van De Wiele asked Ms. Ulmer why staff has requested a continuance for this case. Ms. Ulmer stated that staff needed more information and the request may need to be re-noticed.

Mr. Van De Wiele informed Mr. Frank that there is a potential situation of maybe needing either further relief or at least another notice of the request. Based on staff's recommendation the Board should not proceed with this case today.

Mr. Frank stated that the home owners had a meeting last night and there are about 30 home owners that are concerned over the application.

Mr. Van De Wiele stated the Board is only speaking about whether or not there should be a continuance, not necessarily the merits of the application. Mr. Van De Wiele stated that generally speaking when there are staff level concerns about an application and staff requests a continuance, those are almost certainly granted but the Board will discuss it. If the case is continued the home owners, the home owner's association can contact the staff at INCOG and have conversations about the concerns and the issues.

Mr. Frank asked if the neighbors would be noticed. Ms. Ulmer stated that if the application's legal description or the relief requested is changed the neighbors will be sent a new notice. Ms. Ulmer stated that she has Mr. Frank's e-mail and can let him know that way also.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Variance** to allow a detached accessory structure to exceed 750 square feet or 40% of the of the floor area of the principal structure (Section 45.030-B) to the February 26, 2019 Board of Adjustment meeting; for the following property:

**LT 1 BLK 3; LT 1 BLK 4, AUDUBON VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma**

**22580—John Moody**

**Action Requested:**

**Variance** to increase the permitted display surface area of the north elevation wall sign along East 71<sup>st</sup> Place in an OM District (Section 60.060-C); **Variance** to increase the permitted display surface area of the west & northwest elevation wall signs along South Yale Avenue in an OM District (Section 60.060-C); **Variance** to permit three signs total, one ground sign and two wall signs, in an OM District to be oriented toward the South Yale Avenue street frontage (Section 60.060-B).

**LOCATION:** 7171 South Yale Avenue East (**CD 8**)

**Presentation:**

**John Moody**, 5214 South 75<sup>th</sup> East Avenue, Tulsa, OK; stated he represents 71, LLC. The company has purchased property located at the southeast corner of 72<sup>nd</sup> and South Yale a year ago. The company is formed several optometrists and they are opening up their own businesses under different names on the property. The existing signs that are on the building were attached to the face of the building walls, these walls are constructed of a panel type material and the electrical wiring cannot be run through the walls of the building to the lettering of the new signs. The electrical has to be run over the roof through conduit to the signage. The primary problem that was encountered was to remove the old wall signs, it damages the panels that cannot be repaired because of the way they were constructed, which leads to damage to the face of the building. In order to remove the old signs and replace them with the new signs has a problem of placing the wiring and covering up the damages to the building when the existing lettering is removed. The solution was to use a 2" pan which is the blue or purple depiction on Exhibit #2. The square footage of the South Optical lettering is seven square feet, however, under the sign code because the lettering is affixed to the

pan being used to cover the wiring and the surface of the damaged wall that has to be included as part of the sign's display surface area. That is what increased the size of the sign from seven square feet to 124.5 square feet. The blue paint that is behind the sign area would not count as part of the sign display surface area. The same problem exists for the wall that formerly advertised Tulsa Eye Clinic, which had a total of 60.6 square feet sign display surface area, so the new owners are replacing with the Eye Institute sign on the pan behind the logo. The total square footage of the actual sign language, the logo, the lettering, if it were not for the pan would be less than what is existing; 57.9 square feet. The necessity for requesting the Variances for the wall signs is caused by the problem of installation, make the sign look attractive, and cover up the damage and the conduits on the front of the building. Exhibit B explains the reason for the requested Variance. This is one building that holds two businesses; one on the 72<sup>nd</sup> frontage and the other on the Yale frontage. There are two parking lots on the west side of the building; one parking lot is adjacent to the building with two rows of parking and to meet the parking requirement the had to use the parking on the west which adjacent to South Yale. The problem with that is the elevation and trees between the building and South Yale is such that a person cannot see the entrance making it difficult to see the sign on the west side of the property. There is an additional ground sign that is on the property located on the northwest corner of the property, which is the southwest corner of the intersection of Yale and 72<sup>nd</sup>. That sign was there before the Zoning Code was changed a number of years ago, and he did research and could not locate a permit for that sign. The Variance requests would permit the ground sign and the wall signs. Development Services determined the signs exceeded what is allowed. If it were not for the pan the Variances would not be required and that is the hardship for the request.

Mr. Van De Wiele asked Mr. Moody what was on the property previously. Mr. Moody stated there were two eye facilities; one for the surgeons on the west portion of the building, and the other side of the building were optometrists. Mr. Van De Wiele asked Mr. Moody if they all were operating under the name of Tulsa Eye Clinic. Mr. Moody answered affirmatively.

Mr. Van De Wiele asked Ms. Ulmer to place page 5.14 on the overhead projector, because in the Variance request the Board is being asked to permit three signs but he is counting more than three. Mr. Moody stated there are three existing signs; one if the ground sign and two wall signs which faced 72<sup>nd</sup> and faced Yale. Mr. Van De Wiele asked Mr. Moody if he was asking to change or replace an existing ground sign on the corner of Yale and 71<sup>st</sup> Place. Mr. Moody answered affirmatively. Mr. Van De Wiele asked Mr. Moody to point out the existing signs he has been talking about. Mr. Moody stated the existing walls signs are #3.2 and #2.3, and the ground sign is #1.1. The additional sign that is being added is #5, which is necessary because it is the entry into the surgical entrance.

Mr. Van De Wiele asked Mr. Moody to confirm that he is asking for the exhibit for the ground sign on page 5.30, for the replacement of the north sign on page 5.20 which is

the 3.2 sign, for the sign of the corner on the northwest and the new sign is on the west side. Mr. Moody answered affirmatively.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

Mr. Bond stated he understands there are technical issues in replacing the sign above the entrance, however, the total signage is an issue.

Mr. Van De Wiele asked Ms. Ulmer if the backer pan was being included in the calculations for the sign. Ms. Ulmer that she believed so. Mr. Van De Wiele asked if there would be an issue if there was just a measurement of logos and letters like they were on the existing building? Ms. Ulmer stated that she just reviewed the Letter of Deficiency (LOD) and did not look at it without the pan.

Ms. Radney if the applicant just wanted to take off the old lettering which has damaged the boards, and replace it with something that was a solid color like the aluminum plates would that be alright as long as there was no messaging on it? Mr. Van De Wiele answered affirmatively.

Mr. Van De Wiele stated that the sign on page 5.20 does bother him, but the sign on page 5.27 it appears to be bigger because there is lettering and a logo. He is not concerned about the north elevation and the northwest elevation, those are close in comparison. Likewise, the existing ground sign seems to be the equivalent replacement, but installing a new sign as shown on page 5.24 is hard to justify.

Ms. Back stated that she does not understand why the sign has to be so big, why can't it be placed above the door like the existing 7171 South Yale above the door.

Mr. Bond stated that he will support the replacement of the existing signs, but he won't support the addition of a new sign on the south side.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to increase the permitted display surface area of the north elevation wall sign along East 71<sup>st</sup> Place in an OM District from 124.5 square feet to 198.75 square feet (Section 60.060-C); Variance to increase the permitted display surface area of the northwest elevation wall sign along South Yale Avenue in an OM District from 51.3 square feet to 107 square feet (Section 60.060-C); Variance to permit two signs total, one ground sign and one wall sign, in an OM District to be oriented toward the South Yale Avenue street frontage (Section 60.060-B), subject to conceptual plans 5.20 and 5.21 for the north elevation, conceptual plan 5.30 for the ground sign, and conceptual plans 5.27 and 5.28 for the northwest elevation. The Board has found the hardship to be the type of building material used to construct this building makes it difficult to repair

where the old signs existed and impossible to run interior electrical conduit requiring exterior conduit which does not look aesthetically pleasing. And to **DENY** a Variance to increase the permitted display surface area of the west elevation wall sign along South Yale Avenue in an OM District shown on page 5.24 of the agenda packet (Section 60.060-C). The Board finds that the following facts, favorable to the property owner, have been established:

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

**PRT LT 1 BEG 27.43E NWC LT 1 TH E APR 14.76 CRV RT 99.22 S154.87 W139 N APR 69.70 E10 N85.86 NE24.53 POB & ALL LT 2 BLK 1, THE QUEST, City of Tulsa, Tulsa County, State of Oklahoma**

### **22582—Christopher Riley**

#### **Action Requested:**

Verification of the 300-foot spacing requirement for a liquor store from other liquor stores, plasma centers, day labor hiring centers, or pawnshops in the CBD District (Section 40.300-A). **LOCATION:** 301 South Frankfort Avenue East **(CD 4)**

#### **Presentation:**

**Christopher Riley**, 1421 South Troost Avenue, Tulsa, OK; stated that the address location is wrong; it is 502 East 3<sup>rd</sup> Street. The subject site is in the Boxyard located at 502 East 3<sup>rd</sup> Street.

Mr. Van De Wiele asked Ms. Ulmer if there is a notice issue. Ms. Ulmer stated that the overall address for the Boxyard, which is one parcel, is 301 South Frankfort Avenue. The motion can be tied to the tenant address.



Mr. Van De Wiele asked Mr. Riley if his address is part of the Boxyard. Mr. Riley answered affirmatively.

Mr. Riley stated that he has a location and is open as a liquor store. His wife came before the Board in September and was approved, and now he wants to move it to a larger and more visible location up front.

Ms. Ross asked Mr. Riley if there were any other liquor stores in the Boxyard. Mr. Riley stated that there is no other liquor store in the Boxyard, and that the closest liquor store is one or two miles away near the Home Depot downtown.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; "nay"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit the liquor store subject to the action of the Board being void should another liquor store or other conflicting use be established prior to the establishment of this liquor store; for the following property:

**LT 8 BLK 114, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma**

\*\*\*\*\*

**OTHER BUSINESS**

None.

\*\*\*\*\*

**NEW BUSINESS**

None.

\*\*\*\*\*

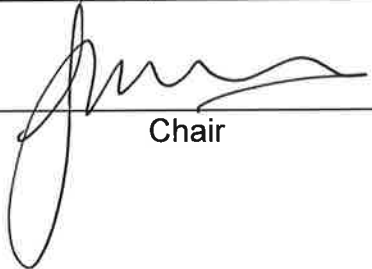
**BOARD MEMBER COMMENTS**

None.

\*\*\*\*\*

There being no further business, the meeting adjourned at 2:05 p.m.

Date approved: 2/26/19

  
\_\_\_\_\_  
Chair