

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1245  
Tuesday, February 25, 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 Ross, Secretary Radney Shelton		Wilkerson Chapman Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on February 20, 2020, at 9:16 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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**MINUTES**  
None.

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**NEW APPLICATIONS**

**22856—William Shirley**

**Action Requested:**

**Special Exception** to permit low-impact manufacturing and industry use in a CG District (Section 15.020, Table 15-2). **LOCATION:** 14557 East 13th Street South (CD 1)

**Presentation:**

Mr. Van De Wiele announced there is a noticing issue with this case. Mr. Van De Wiele asked the applicant if he was aware of issue with the case.

**Bobby Whittaker**, 1927 North 24th West Avenue, Tulsa, OK; stated that Mr. Shirley had emergency surgery yesterday, so he is before the Board as his representative.

Mr. Van De Wiele stated the issue is the publicized address on the notice and posted with the City Clerk was incorrect, so this case needs to be continued to March 10th.

**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, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to permit low-impact manufacturing and industry use in a CG District (Section 15.020, Table 15-2); for the following property:

**S175 LTS 15 & 16 BLK 2 & S175 W20 E200 N250 NE SEC 25 20 12 .08AC, EMERSON ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

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**UNFINISHED BUSINESS**

**22839—Whistler Sign Company**

**Action Requested:**

Variance of the 1,200-foot spacing requirement for an outdoor advertising sign with dynamic display from another outdoor advertising sign with dynamic display (Section 60.100-K). **LOCATION:** 9810 East 42nd Street South **(CD 7)**

**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:

**PRT LT 1 BEG NWC LT 1 TH SE138.46 TH ON CRV LF 124.94 SELY83.05 SE244.93 SWLY67.98 SW57 NW485 NE265 POB BLK 2, KOGER EXECUTIVE CENTER RESUB PRT FORTY FIRST & MINGO CTR, City of Tulsa, Tulsa County, State of Oklahoma**

**22851—Flavio Monteil**

**Action Requested:**

Special Exception to permit a carport in the street setback; Special Exception to reduce the required 5-foot side yard setback for a carport in a RS-3 District (Section 90.090-C.1). **LOCATION:** 2623 North Quincy Avenue East (**CD 1**)

**Ms. Radney recused and left the meeting at 1:09 P.M.**

**Presentation:**

**Brian Carter**, 500 West 7th Street, Tulsa, OK; stated he represents Mr. Flavio Monteil. Mr. Carter stated his client is requesting that the carport he has built be approved for the requested Variance. The house was remodeled, and the carport was an afterthought and was not on the original drawings. The carport was built within the original carport; the house originally had a carport which was built on the property line. The carport is now on the setback of the house even though it is not in compliance with the Code; there is about a two-foot discrepancy.

Mr. Van De Wiele asked Mr. Carter if he knew how old the original house and carport were? Mr. Carter thinks the original house was built in the 1930s and he is unsure of the carport. The carport was on the house when Mr. Monteil purchased the property in 2018.

Mr. Van De Wiele asked Mr. Carter if he knew whether the carport had been permitted. Mr. Carter stated that he does not know.

Mr. Van De Wiele asked Mr. Carter to explain how the carport is in keeping with the harmony of the Zoning Code and how it would be non-injurious to the neighborhood. Mr. Carter stated this carport encroaches less than the original carport, it matches the house, it is well designed, it is integral to the house, the carport creates no problem for the next-door neighbor and the carport was approved by the City.

Mr. Van De Wiele asked Mr. Carter about why the carport was not erected in the back yard. Mr. Carter stated by putting the carport in the back yard would require a street cut and additional permitting to erect a structure in the back yard. Mr. Carter stated the

carport was an oversight and Mr. Monteil added it on to the front because there was a previous carport there. Mr. Carter stated that Mr. Monteil does have plans to do some more work in the back yard in the future once he is moved into the house. Carports are standard in the neighborhood. This carport is well done and is attractive and is no detriment to the neighborhood.

Mr. Van De Wiele asked Mr. Carter to explain his statement about how the carport encroached less than the original carport. Mr. Carter stated the issue is the setback on the south property line, and the pictures show the original carport was set either on the property line or potentially over the property line. The new carport is back at least two and a half feet off that line. Mr. Van De Wiele asked Mr. Carter if the new carport was placed more north than the original carport. Mr. Carter answered affirmatively.

Ms. Ross asked Mr. Carter about the brick columns that are in the photo. Mr. Carter stated the brick columns are for a future wrought iron fence to be erected between the columns.

**Interested Parties:**

**Joyce Brown**, 2435 North Quaker, Tulsa, OK; stated she grew up in the neighborhood and is very familiar with the subject property. The original house was very dilapidated, pre-World War II house, and the original carport had been in place for about 50 years. Ms. Brown stated that Mr. Monteil took the house down to the foundation layer and started rebuilding it from the frame up. Ms. Brown stated that she had asked Mr. Monteil if he had a building permit for the work and she was told no, so she called the Permit Department. Ms. Brown stated she opposes the new carport; it is not uniform with the community. No other individual on the street has a carport and carports are not a common occurrence within the general community; two or three miles around the subject property. The carport is about two or three feet away from the house to the south and that distance is usually about five feet. The new carport was built prior to Mr. Monteil receiving a permit, and as a contractor he knows the rules.

Mr. Van De Wiele asked Ms. Brown if it was the carport or the entirety of that side of the house that is two or three feet away from the neighbor's house. Ms. Brown stated the side of the house is out of Code; the house has always been too big for the lot.

Ms. Brown stated that most houses with a structure to protect a vehicle has the structure in the rear of the house. The diagram depicts the houses along East 26th Place North have rear entries for a driveway to a structure that accommodates a car. The subject property also has a gate in the rear that would accommodate a driveway where a carport or structure could be erected. This is an opportunity for the subject property to come into uniformity of character with the other structures in the area.

Ms. Ross asked Ms. Brown about the overhead power lines in the rear being a potential hazard with a carport. Ms. Brown stated that would depend on the position of the carport. If the carport were erected near the house there may be an issue with the height but if the carport is erected to the rear of the property there is plenty of room for

the carport. There are options for Mr. Monteil to have a carport, but to have the carport in front is not in character with the uniformity of the neighborhood. Ms. Brown she is also concerned about people not taking into consideration the character of the neighborhood in general.

Mr. Van De Wiele asked Ms. Brown how she sees the new carport, either its existence or its location, being injurious to the neighborhood or detrimental to the public welfare. Ms. Brown stated the carport creates a blind spot. When a person drives up 26th Place North the driver has to really focus on the area because of the carport.

Mr. Van De Wiele stated the columns of the carport may be a hinderance but how does the carport create a sight line issue? Ms. Brown when a driver is driving down the street the driver starts focusing near the front of the house, so they do not really see the cars as they approach the intersection; a person looks at the carport rather than looking through it.

Mr. Van De Wiele asked Ms. Brown about the stop sign situation at the corner of Quincy and 26th Place North. Ms. Brown stated she does not recall a stop sign at the intersection.

**Rebuttal:**

**Brian Carter** came forward and stated that Ms. Brown does not live in the neighborhood, so he is not sure what her interest in this application is. There was a carport on the house in that location originally so that would not have changed the view from either perspective of anybody entering the intersection from four directions. Mr. Carter stated that he would argue that Mr. Monteil has enhanced the character of the neighborhood with the subject house, just like the houses that are farther north.

Ms. Ross asked Mr. Carter what his client did for a living. Mr. Carter stated that Mr. Monteil is a drywall contractor.

Mr. Van De Wiele asked Mr. Carter about his statement about his client having a permit for the house and that the original plans did not include the carport. Mr. Carter stated the way he understands it is that the original drawings had the house and the carport but the permitting process between the house and the carport were separated, and the house has been permitted yet on review of the permit for the carport issues came up.

Mr. Van De Wiele asked Mr. Carter if it was his understanding that there were plans approved prior to construction, or were plans approved after construction? Mr. Carter stated that he does not know. He knows there are approved plans, but he does not know in what order they were approved.

Mr. Van De Wiele asked Mr. Carter if construction was still ongoing on the house. Mr. Carter answered affirmatively.

### **Comments and Questions:**

Ms. Ross stated she likes the fact that Mr. Monteil is revitalizing the house, but she does not like the fact that he is putting things in without proper permits only to ask for forgiveness later. Ms. Ross stated that she does not see any space in the rear for an attached carport because of the existing wires. There was a carport on the front of the house before and this looks nicer than what was previously there. Ms. Ross stated that if there are any more requests for Special Exceptions or Variances on the subject property where something is constructed prior to receiving permission she will be a no vote.

Mr. Bond stated he does not see how this carport is injurious to the neighborhood. He is not a fan of the asking for forgiveness than permission, but from what he can tell looking at Google satellite he sees a lot of carports in the neighborhood. If carports are part of the neighborhood the Board regularly allows them and this one is tastefully done, so he would grant the Special Exception.

Ms. Shelton stated she is a no on this request. She drove to the subject site and thought a lot about the site this past week. The carport is out of context for the street, and this house bookends the street. The carport feels way out of scale. Ms. Shelton stated she is specifically bothered by the distance of the carport and the entire house away from the property line, and the house exceeds the previous relief action.

Mr. Van De Wiele stated the Board sees a lot of applications for replacement of detached garages, and he sees this to be similar to those. The applicant tore the house down to the foundation and rebuilt on the same foundation, and the carport within the footprint. This, to him, seems to be a replacement of something that was in existence for 50 years or more. Mr. Van De Wiele stated he will be a yes for this request.

### **Board Action:**

On **MOTION** of **BOND**, the Board voted 3-1-1 (Bond, Ross, Van De Wiele "aye"; Shelton "nay"; Radney "abstaining"; absent) to **APPROVE** the request for a Special Exception to permit a carport in the street setback; Special Exception to reduce the required 5-foot side yard setback for a carport in a RS-3 District (Section 90.090-C.1), subject to conceptual plans 1.10, 1.11, 1.12 and 1.13 of the agenda packet. The Board is not granting any relief for the existing columns or for the future fence. The Board finds that the requested Special Exceptions will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LT 1 BLK 3, MARTIN ROLL ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Radney re-entered the meeting at 1:38 P.M.**

## **22853—Pete Webb**

### **Action Requested:**

Special Exception to permit a ground sign with dynamic display to be located within the City of Tulsa right-of-way along East 31st Street South (Section 60.020-E);

Variance to permit a dynamic display sign to be located within 200 feet of an RS-3 District (Section 60.100-F). **LOCATION:** 3521, 3531, 3535 & 3547 East 31st Street South (**CD 9**)

### **Presentation:**

**Pete Webb**, Claude Neon Federal Signs, 1225 North Lansing Avenue, Tulsa, OK; stated the request is for a sign that is in the right-of-way and is within 200 feet of a residential district on the rear of the property. All of the addresses listed on the request have been combined to be 3535 East 31st Street. The sign was an existing sign pole and the intention was to utilize the poles that were in place. When the property was designed the existing sign was used to structure the parking and the flow of traffic. The right-of-way runs through the middle of the sign. Fiesta Mart has kept all of this in mind when building the property; installed an eight-foot cinder block wall in the rear between the building and the neighborhood.

Mr. Van De Wiele asked Mr. Webb how tall and how big does the client desire the sign to be? Mr. Webb stated the sign itself is seven feet overall in height from the grade. Mr. Van De Wiele asked Mr. Webb if the sign use to be a taller structure. Mr. Webb stated it should be about the same height as to what was there previously.

Mr. Van De Wiele asked Mr. Webb what was there before. Mr. Webb stated it was a static Braum's sign.

Ms. Shelton asked Mr. Webb if there were going to be two signs for the same property, because there is a free-standing Sinclair sign and now the request for another sign. Mr. Webb answered affirmatively. Mr. Webb stated both signs were existing on the property except the Braum's sign was not a dynamic display. Mr. Webb stated he is using the existing structure and installing dynamic display.

Mr. Chapman stated the Braum's sign was approved by a Variance in the mid-1990s. Claude Neon added a base and added a new face including the digital lettering without permits, and that increased the encroachment into the right-of-way including the masonry base.

Mr. Van De Wiele asked if that was the taller of the two signs. Mr. Chapman answered affirmatively and stated that is not a part of today's request, but he felt it was important for the Board to be aware of that.

Mr. Van De Wiele asked Mr. Chapman if the smaller, shorter sign was approved in the mid-1990s or at some later point? Mr. Chapman stated he did not find anything on that sign, and he is not sure what it looked like previous to the Claude Neon installation.

Mr. Van De Wiele asked Mr. Webb to state his hardship for the Variance request. Mr. Webb stated the hardship is that the poles were existing, the property was designed around the existing structure, and if that sign were moved back into the property the sign would be much closer to the neighborhood, the sign cannot be extended into the street, and to place the sign anywhere else on the property would hinder the flow of traffic for the parking. Mr. Van De Wiele stated that might go to where the sign is placed but if it weren't a dynamic display the Variance would not be needed. Mr. Van De Wiele asked Mr. Webb for his hardship on the property that justifies the dynamic display at that location. Mr. Webb stated it is part of the Fiesta Mart branding, they use dynamic displays at all of their locations.

Ms. Shelton asked Mr. Webb how deep the subject lot is. Mr. Webb stated it is 135 feet deep. Ms. Shelton asked Mr. Webb if he would not have a point on the property that is outside of the 200 feet from the R District, would he? Mr. Webb stated that is correct.

Mr. Van De Wiele asked Mr. Webb if the sign is visible from the R District. Mr. Webb stated there is a building and a canopy in the layout so he could not imagine the residences could see the sign.

Ms. Shelton asked Mr. Webb if the company had erected a fence in the rear. Mr. Webb answered affirmatively and stated that it is an eight-foot block wall.

Ms. Ross asked Mr. Webb why relief was not sought before the sign was installed? Mr. Webb stated that it was a mistake by Claude Neon. The sign was erected without prior approval and he notified Fiesta Mart about not turning on the sign.

Mr. Van De Wiele asked Mr. Webb if the taller sign for a different gas station than what is being requested today, or is it all one property? Mr. Webb stated that it is all one property.

Ms. Radney asked Mr. Webb if it was all one business but on a different lot. Mr. Webb stated the lots have been combined.

Mr. Van De Wiele asked Mr. Chapman if there were any issues with the sign budget or the number of signs. Mr. Chapman stated not per the review of permitting, but with that being said he does not know if they were looking at the other sign in the original plans.

Ms. Ross asked Mr. Chapman how many signs, per the Code, if the applicant allowed to have? Mr. Chapman stated the applicant would be allowed one sign for every 100 feet of major street frontage and he not sure how wide the lot is; they potentially could be allotted two signs on the property.

**Interested Parties:**

There were no interested parties present.



### **Comments and Questions:**

Mr. Van De Wiele stated that from a Special Exception standpoint, the fact that there used to be a sign there and the applicant obtained a removal agreement with the City he thinks the Special Exception is okay. He does not see the sign being injurious to the neighborhood or detrimental to the public welfare. Mr. Van De Wiele in regards to the Variance if the discussion had been about the distance to a signalized intersection he would be less inclined to approve this, but the fact that it is less than the height of the wall and there is a building blocking it he does not think there is significant risk of the residential lots seeing or being impacted by this.

Ms. Ross stated she has no issue with the sign. She does not think it will be visible from the neighborhood, and as long as the applicant does not exceed the sign budget, she thinks it is fine. This is the second case in a row the Board has heard today and saw there was construction taking place before the proper approval was sought, and she thinks sign companies know that this approval has to be sought and she does not want this to continue to occur. These could be very expensive mistakes.

Mr. Bond stated the Board approved a sign about a year ago across the street for a church, so he does not think there is an issue with the intersection, and the height is appropriate. Mr. Bond stated he would have an issue if the sign went up in size.

### **Board Action:**

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a ground sign with dynamic display to be located within the City of Tulsa right-of-way along East 31st Street South (Section 60.020-E); Variance to permit a dynamic display sign to be located within 200 feet of an RS-3 District (Section 60.100-F), subject to conceptual plans 3.6, 3.23, 3.24, 3.25, 3.26, 3.27, 3.28 and 3.29 of the agenda packet. The sign is to be limited to the size and the shape as shown in the plans mentioned. The Board has found the hardship to be that the sign was previously located on the lot and the shape of the lot; a combined lot. 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 23 LESS S10 BLK 8; E/2 LT 20 & ALL LTS 21 & 22 LESS S10 BLK 8; LTS 18 19 & W/2 LT 20 LESS S10 BLK 8; LT 24 LESS S10 BLK 8, BELLAIRE HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22855—John Baskin**

**Action Requested:**

Variance to allow a detached accessory building to exceed 40% of the size of the principal residential structure in an RS-1 District (Section 45.030-B); Variance to increase the permitted height of a detached accessory building to exceed 10 feet in height to the top of the top plate (Section 90.090); Variance of the dustless, all-weather surfacing requirement to permit a gravel driveway (Section 55.090-F).

**LOCATION:** 17607 East 14th Street South (CD 6)

**Presentation:**

**John Baskin**, 17607 East 14th Street, Tulsa, OK; stated he would like to build a 40 x 60 x 12-foot-tall barn for his cars. There are other barns in the area. Mr. Baskin stated he just built the house and moved in in May. There is a concrete apron from 14th Street into the property, but he used gravel to come to the house and would like to continue to use the gravel.

Mr. Van De Wiele asked Mr. Baskin how big his house is. Mr. Baskin stated the living space is 2,300 square feet and with the garage it is about 2,900 square feet.

Mr. Van De Wiele asked Mr. Baskin if the 12 feet in height was the top plate? Mr. Baskin answered affirmatively. Mr. Baskin stated the building will have a 3/12 roof and it will be about 16 feet in height.

Mr. Van De Wiele asked Mr. Baskin if there was a house on the property originally? Mr. Baskin stated the 2-1/2 acres that the new house is on never had a house on it.

Ms. Shelton asked Mr. Baskin if the building was going to be a metal building. Mr. Baskin stated it will be a pole barn with metal siding. Ms. Shelton asked Mr. Baskin if he was going to do anything to the exterior or would it just be metal? Mr. Baskin stated that it will be a white metal building with a charcoal grey trim work, and he will have plants on the back side.

Ms. Shelton asked Mr. Baskin if he had been in contact with the neighbor to the north. Mr. Baskin answered affirmatively, and he has no issues with the proposal.

Ms. Radney asked Mr. Baskin if his proposed building is going to be smaller than the neighbor's building to the north. Mr. Baskin answered affirmatively.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to allow a detached accessory building to exceed 40% of the size of the principal residential structure in an RS-1 District (Section 45.030-B); Variance to increase the permitted height of a detached accessory building to exceed 10 feet in height to the top of the top plate (Section 90.090); Variance of the dustless, all-weather surfacing requirement to permit a gravel driveway (Section 55.090-F), subject to conceptual plans 4.14 and 4.15 of the agenda packet. The Board finds the hardship to be the large size of the lot. 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 5 BLK 7, LYNN LANE ESTATES, City of Tulsa, Tulsa County, State of Oklahoma**

## **22857—Clare Ashby**

### **Action Requested:**

Variance of the minimum 15-foot side setback in a RE District to permit a swimming pool to be located in the side yard (Sections 5.030-A & 90.090, Table 90-1). **LOCATION:** 1836 East 43rd Street South (**CD 9**)

### **Presentation:**

**Clare Ashby**, Landscape Architect, 5550 South Lewis Avenue, Suite 103, Tulsa, OK; stated her client is asking permission to allow a three-foot section of the swimming pool to be located within the 15-foot side yard setback.

Mr. Van De Wiele asked Ms. Ashby if any of the other improvements needed a Variance. Ms. Ashby stated that she is not aware of any other Variances needed.

Mr. Van De Wiele asked Ms. Ashby to state the hardship for the Variance request. Ms. Ashby the Evans have three small children, all under the age of 6, so the design intent was to create a courtyard so the swimming pool could be very visible from inside the house; not only now but as the children grew into teenage years. The pool is quite small, 30'-0" long, and there is hardly any room to move the pool around partly because the house had to be redesigned due to a utility easement that Mr. Evans had to create. It was thought about moving the pool to the south side, which is the back yard, but there is about seven-foot drop off which would have created large retaining walls and putting the pool in an out-of-sight location which is uncomfortable for the parents.

Mr. Van De Wiele asked Ms. Ashby if there was anything preventing the swimming pool from being turned north/south rather than east/west? Ms. Ashby stated it would create a redesign of the space because a 27-foot pool is tiny, but it could be possible.

### **Interested Parties:**

**Heath Evans**, 7980 South 90th East Avenue, Tulsa, OK; stated this is his family's proposed house. If the pool were turned 90 degrees, on the west side is a second-floor walkway and by turning the pool would place it closer to that walkway and he does not want to encourage any children to jump off the balcony into the pool. As it is now, there is a very shallow zero entry edge that cannot be jumped into and if the pool were turned it would create a deeper section that might encourage people to jump into the pool. It is a safety thing to keep the pool as close to the house possible, visible from the kitchen and the living quarters to keep a close eye on the children.

Ms. Shelton asked Mr. Evans if that were the case for west of the pool also? Mr. Evans stated west of the pool is where the balcony would be and east of the pool is into the easement.

Ms. Shelton asked Mr. Evans if he considered the balcony as an extension of the house, and the pool couldn't get any closer to the west. Mr. Evans stated there is only a couple small steps down underneath the covered area to the pool.

Mr. Van De Wiele asked Mr. Evans to tell the Board about the utility easement. Mr. Evans stated when he purchased the house it was dilapidated and the original storm drain ran through where the main body of the kitchen would be, unbeknownst to him as the home buyer. That drain was not on any Tulsa city map or survey that had been done. He had to have that drain moved which cost him about \$125,000 and in addition to that cost he had to redo the storm drainage for basically the entire 40-acre neighborhood, and he privately incurred the cost for that. It precludes him from putting anything in the back yard and that caused the house to be shifted toward the neighbor to the east. Mr. Evans stated that he has discussed this proposal with all the neighbors that live in close proximity and they have no issues.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; "nay"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** of the minimum 15-foot side setback in a RE District to permit a swimming pool to be located in the side yard (Sections 5.030-A & 90.090, Table 90-1), subject to conceptual plan 6.8. The Board finds the hardship to be the existing drainage easement and the unique topography of the subject lot. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

**TR 2 BEG NEC LT 8 TH SLY 233.8 WLY 136.71 N 260.73 ELY 172.01 TO POB BLK 6, BOLEWOOD ACRES, City of Tulsa, Tulsa County, State of Oklahoma**

## **22858—The M.E.T. – Graham Brannin**

### **Action Requested:**

Special Exception to permit a consumer material drop-off station with outdoor storage in a CS District (Section 15.020, Table 15-2). **LOCATION:** 2160 South Garnett Avenue East **(CD 6)**

### **Presentation:**

**Graham Brannin**, Executive Director of The Metropolitan Environmental Trust (The M.E.T.), 1 West 3rd Street, Suite 110, Tulsa, OK; stated the M.E.T. would like to locate a recycling depot, or a consumer drop-off center, in the parking lot of Plaza Santa de Cecilia. The citizens in the area can drop off their recyclables. There was a depot nearby for 25 years and The M.E.T. was moved off that property. This is an opportunity to reach and more effectively serve the Latino population that is thriving in the area.

Mr. Van De Wiele asked Mr. Brannin to explain what the depot will physically look like. Mr. Brannin stated there is a depot platform which is what the workers use to work from, and there is a caged trailer placed next to the platform so the works can separate the different items that are left. There is also a small hut that is a temporary workers quarters giving them a place to get out of the elements or take a lunch break in. There are also covered roll-off containers and those are for items like newspapers, glass, magazines, etc. A person driving into the lot will the different areas that items can be dropped off. The site will have staffed hours seven days a week, and there will be a night drop for the off hours.

Mr. Van De Wiele asked Mr. Brannin to explain how the process in the off hours works. Mr. Brannin stated that 24/7, 365 days a year means there are rolling carts in specific locations and the public can place their items in those carts and that allows the staff to make the items is placed in the proper bin for recycling. Every morning someone will arrive to the site to make sure that it is serviced and if there is any mess it is cleaned up right away. Mr. Brannin stated that The M.E.T. employs adults with developmental disabilities and this gives them meaningful employment. Those employees are the front line to the citizens.

Mr. Van De Wiele asked Mr. Brannin if The M.E.T. leased a portion of the parking lot from the owner? Mr. Brannin answered affirmatively. Mr. Van De Wiele asked Mr. Brannin if the lease had renewable options. Mr. Brannin answered affirmatively.

Mr. Van De Wiele asked Mr. Brannin how long is the lease? Mr. Brannin stated that it is for a year; that is consistent with the normal government practices and the wishes of the T.A.R.E. Board, which helps funds The M.E.T.

Ms. Radney asked if the site has two pads? Mr. Brannin stated there is blacktop and everything The M.E.T. puts on the site is able to be moved, it is not a permanent structure.

Ms. Radney asked Mr. Brannin why the site was not pushed farther to the west. Mr. Brannin stated there were a couple of considerations, and part of that was the property management's preference and how it does not interfere with the traffic flow. The site will also give The M.E.T. easier access to electricity and visibility.

Ms. Shelton asked if the 30-yard containers were open tops. Mr. Brannin answered no because there are paper in those, so they are enclosed with doors that lock.

Ms. Shelton asked Mr. Brannin if there were plans for a fence. Mr. Brannin answered no because the site is meant to be accessible to the public.

Ms. Shelton stated that this shopping center may look like any other typical shopping center, but this shopping center is important to East Tulsa and it is on the radar for the new destination's planner. The previous owners had plans to incorporate the shopping center into the Small Area Plan, so there will be planning on this property in the future. Her concern is not that The M.E.T. is here before the Board today on this property, it is more about the image of it. Ms. Shelton asked Mr. Brannin if he would be willing to offer some decorative fencing? Mr. Brannin stated that he has done some fencing at the downtown location in Tulsa, so it is possible. The fence becomes an issue for getting materials in and out of the site, and to make sure the site is visible and accessible to the public.

Ms. Shelton stated the property is considered a gateway into Tulsa for new immigrants, the bus coming in from out of town will sometimes drop off immigrants. She does not know what can be done to dress the site but still provide some accessibility and functionality that is needed. Mr. Brannin stated that the roll-offs are being upgraded and refurbished because they can become unsightly as they wear; the issue is the roll-offs move around from center to center.

Ms. Radney stated she very much admires the mission of The M.E.T. and has used the service, and she has been happy to do so. Her concern is that this is a waste drop-off location and it is in the middle of retail merchandising setting. It is a few hundred feet away from a corridor where there is a lot of intensity in the neighborhood and the surrounding city to develop a destination district; a tourist hub. And this is part of a revitalization effort, she like to hear if there has been any consideration given to making the entire setting more aesthetically pleasing, so she would like to hear from the property manager.

**Interested Parties:**

**John Peters**, Adwon Properties, 1924 South Utica, Tulsa, OK; stated his company has been in the process of upgrading this center. His company took over property management about four months ago. When this came along his company looked at the opportunity to do a lot of good for fellow Tulsans, whether they are using the service or working for the service. It will also fulfill a need that was lost when the site at 129th went away. Mr. Peters thinks this will bring people to the shopping center for the recycling

and stay for lunch, and that would keep the small businesses open that are important to Tulsa.

Ms. Shelton asked Mr. Peters if he had been in contact with the Destinations Management. Mr. Peters stated he has spoke with the out-of-state owner and he has given the approval to do this project. The destinations manager is in a different section of the area; this is a very large parking lot.

Ms. Shelton stated the Destinations Manager is someone within INCOG. Mr. Peters stated he thought Ms. Shelton was speaking about the bus system. Mr. Chapman stated he can give Mr. Peter his card so he may contact Ms. Luisa Krug at INCOG.

Mr. Bond asked Mr. Peters if he thought this would be detrimental to the public welfare. Mr. Peters stated his company would not allow it if they did not think it would be an improvement to their client's businesses.

**Rebuttal:**

Mr. Van De Wiele asked Mr. Brannin if he would like to come forward for a rebuttal. Mr. Brannin declined.

**Comments and Questions:**

Mr. Van De Wiele stated that he has worked with Mr. Peters outside of this arena in his professional life and it has nothing to do with this location or with Mr. Peters working for Adwon Properties; he does not that as a conflict or issue that clouds his judgement on this matter.

Ms. Shelton stated this is not about degrading the site or leaving a mess, she is sure The M.E.T. will take great care but it is the image that is being put forth. This is the gateway to the community and that image will be this is how we recycle trash. That image is there as soon as people leave the bus. It is not necessarily about how things will look; it is the image that is being put forth. Ms. Shelton would like to see a condition of a time limit or a screening fence placed on the motion.

Mr. Van De Wiele stated these types of Special Exceptions are not limited to The M.E.T., and the Board cannot link it to that. If The M.E.T. were to leave the site, effectively the property could have this type of use for another operator so he will not support this request without a time limit.

Ms. Ross stated she not inclined to support any screening or time limit. The center is managed by a property management company, they are not going to let a junky outfit come in and trash the property.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Radney, Shelton, Van De Wiele "aye"; Ross "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a consumer material drop-off station with outdoor storage in



a CS District (Section 15.020, Table 15-2), subject to conceptual plans 7.12 and 7.13 of the agenda packet. There is to be a three-year time limit on the approval, February 2023. The containers are to be covered when not in active use. 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:

**PRT LTS 1 & 2 & 4 BEG NEC LT 2 TH W150 S140 W10 S150 W APR 479.11 N APR 520.24 E APR 489.11 S APR 175 E APR 150 S55.24 POB BLK 1, TIFFANY PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**22859—Mahmood Ahktar**

**Action Requested:**

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

**LOCATION: 3163 West Charles Page Boulevard South (CD 1)**

**Presentation:**

**Mahmood Ahktar**, 3160 Charles Page Boulevard, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board has the applicant's spacing map on pages 8.1 and 8.6 of the agenda packet.

Mr. Van De Wiele asked Mr. Ahktar if he was aware of any other dispensary, licensed or otherwise, within the 1,000-foot radius. Mr. Ahktar answered no.

Mr. Van De Wiele asked Mr. Chapman if he was aware of any other dispensary within the 1,000-foot radius. Mr. Chapman stated he is not aware of any other dispensary within the 1,000-foot radius, but there was a dispensary spaced a few weeks ago that is 1,300 feet away, but it has not opened as of yet.

Mr. Van De Wiele asked Mr. Ahktar if he had received his license yet or does, he need this spacing verification before he can obtain his license? Mr. Ahktar stated he needed this spacing verification before he can obtain his license.

**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, Radney, Ross, Shelton, Van De Wiele "aye"; "nay"; no "abstentions"; 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 a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

**LTS 18 THRU 20 BLK 11, HALE SUB, City of Tulsa, Tulsa County, State of Oklahoma**

**22860—Brent Barnes**

**Action Requested:**

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

**LOCATION:** 515 South Main Street (**CD 4**)

**Mr. Bond recused and left the meeting at 3:02 P.M.**

**Presentation:**

**Brent Barnes**, 7030 South Yale, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated the Board is in receipt of the applicant's spacing exhibits on page 9.1 and 9.5 of the agenda packet.

Mr. Van De Wiele asked Mr. Barnes if he was aware of any other dispensaries, opened or otherwise, within the 1,000-foot radius. Mr. Barnes answered no.

Mr. Van De Wiele asked Mr. Barnes if he had his license. Mr. Barnes answered affirmatively.

**Interested Parties:**

**Daniel Regan**, 15 East 5th Street, Tulsa, OK; stated he is here today representing multiple interested parties in the area. Mr. Regan stated the subject location is within 1,000 feet of numerous early childhood education facilities as well as churches. The stakeholders in the area have concerns about the children, organizations and the tenants of several properties.

Mr. Van De Wiele stated the issue that is before the Board, the spacing verification, they are truly mathematical measurements as to whether there is or is not a dispensary

within 1,000 feet. The idea of whether a dispensary should be or should not be located in a particular place is outside of this Board's purview.

Mr. Van De Wiele asked staff if there was a church spacing similar to the school spacing. Mr. Chapman stated there is not, but it might come about in 2020 in legislature, but the interested party can contact OMMA to file a complaint.

**Rebuttal:**

**Brent Barnes** came forward and stated that his dispensary is located inside a 4-story brick building. When entering the front door of the building there is a set of stairs with a bay window, and his clients would go down the stairs because he will occupy the basement. There will be no serious signage or display, and the store front will not be seen from the street.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-1 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; Bond "abstaining"; 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 a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

**N25 LT 6 S25 LT 7 BLK 148, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma**

**Mr. Bond re-entered the meeting at 3:08 P.M.**

**22862—Whistler Sign Company**

**Action Requested:**

Verification of the spacing requirement for an outdoor advertising sign with dynamic display (Section 60.100). **LOCATION:** 9810 East 42nd Street South (**CD 7**)

**Presentation:**

**Nathalie Cornett**, 2727 East 21st Street, Tulsa, OK; stated the Variance application for this sign was withdrawn when it was realized that the sign was operating under the wrong provision of the Code. This sign was established prior to January 1, 2010 as a dynamic display. It has been trifold and has had vinyl on it, but it has always been permitted. At one point it was a dynamic display. The sign is now being upgraded to

LED and due to the age of the previous spacing verification the City has requested that the sign's spacing be reverified.

**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, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; 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 between dynamic display (digital) outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign or conflicting use be constructed prior to this sign, subject to conceptual plan 10.13 of the agenda packet; for the following property:

**PRT LT 1 BEG NWC LT 1 TH SE138.46 TH ON CRV LF 124.94 SELY83.05 SE244.93  
SWLY67.98 SW57 NW485 NE265 POB BLK 2, KOGER EXECUTIVE CENTER  
RESUB PRT FORTY FIRST & MINGO CTR, 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 requested that all the spacing verifications be grouped together on at the beginning of the agenda to get through the smaller cases quicker.

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There being no further business, the meeting adjourned at 3:12 p.m.

Date approved: 3/24/2020

  
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Chair