

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1254
Tuesday, July 14, 2020, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Ross, Secretary Radney Shelton	Bond, Vice Chair	Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on July 8, 2020, at 8:04 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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

<https://www.gotomeet.me/CityOfTulsa2/boa-gotomeeting---council-chambers-july-14th>

The staff members attending remotely are as follows:

Ms. Burlinda Radney
Ms. Audrey Blank, City Legal

The staff members attending in person are as follows:

Mr. Stuart Van De Wiele, Chair
Ms. Briana Ross, Secretary

Ms. Jessica Shelton, Board Member
Mr. Dwayne Wilkerson, Tulsa Planning Office
Mr. Austin Chapman, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

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MINUTES

None.

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Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. Most motions the Board makes it 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. Mr. Van De Wiele asked if there were any applicants that 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.

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UNFINISHED BUSINESS

22945—Wallace Engineering

Action Requested:

Variance to reduce the Build-to-Zone requirement along Lewis Avenue (Section 10.030, Table 10-4); Variance to reduce the ground floor ceiling height from 14 feet (Section 10.030, Table 10-4); Variance to reduce the minimum transparency required along a street facing building facade (Section 10.030, Table 10-4).

LOCATION: 2311 East 11th Street South (CD 4)

Presentation:

The applicant has requested a continuance to August 25, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Variance to reduce the Build-to-Zone requirement along Lewis Avenue (Section 10.030, Table 10-4); Variance to reduce the ground floor ceiling height from 14 feet (Section 10.030, Table 10-4); Variance to reduce the minimum transparency required along a street facing building facade (Section 10.030, Table 10-4) to the August 25, 2020 Board of Adjustment meeting; for the following property:

LT 19 BLK 1; LT 2 BLK 1; E 40 LT 1 BLK 1; LT 3 BLK 1; W. 77. 3' OF LOT 1 BLK 1; LTS 4 THRU 18 LESS S5 W40 LT 14 & LESS E5 S5 LT 15 & LESS S5 LTS 17 & 18 BLK 1, HILLCREST ADDN, HILLCREST PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

22951—Coast to Coast Motors – Greg Bissonette

Action Requested:

Special Exception to allow for Commercial/Vehicle sales and Service/Personal vehicle sales & rental use in a CS District (Section 15.020). **LOCATION:** 3112 South Mingo Road East (CD 7)

Mr. Van De Wiele stated that an interested party has requested a continuance in this case. Mr. Van De Wiele asked Mr. Bissonette if he was in agreement with the continuance request. Mr. Bissonette stated he is not. Mr. Van De Wiele stated there was no one in person or online to discuss the continuance request. He is not inclined to grant a continuance request unless someone is here to discuss the continuation request.

Presentation:

This item will be heard at the time it is called in the regular agenda rotation.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

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

N 250 E 250 NE LESS N 50 & E 50 SEC 24-19-13, City of Tulsa, Tulsa County, State of Oklahoma

UNFINISHED BUSINESS

Mr. Van De Wiele announced that due to the length of today's agenda the Board is going to give time limits to the speakers. The applicant will have five minutes, interested parties will each have three minutes, and the applicant will have two minutes for rebuttal at the end. This is being done to try to get everyone heard at this afternoon's meeting.

22873—Carina Garcia

Action Requested:

Special Exception to allow a manufactured housing unit in an RS-3 District (Section 5.020, Table 5-2); Special Exception to extend the time limit permanently (Section 40.210). **LOCATION:** 3811 South 27th West Avenue (**CD 2**)

Presentation:

Carina Garcia, 3811 South 27th West Avenue, Tulsa, OK; stated at the last meeting the Board requested some design plans and she has forwarded that information. Ms. Garcia stated that she will have a driveway, sidewalk, and everything a house requires.

Interested Parties:

Randy McDevitt, 2116 West 42nd Place, Tulsa, OK; stated he came to the Board before to protest a manufactured home. This will be detrimental to the neighborhood because if the Board allows one, they will have to allow another one. Mr. McDevitt stated that Ms. Garcia owns several lots in the neighborhood, not just one lot. Mr. McDevitt quoted Darla Hall, "A mobile home is a mobile home. You cannot make a stick house out of a mobile home it will always be a mobile home." A foundation can be placed under a mobile home, but it will still need to be tied down still making it a mobile home. This will sit on the lot just like a mobile home and he thinks if Ms. Garcia is allowed to bring this one into the neighborhood, she will try to put other mobile homes on the five or six lots she owns. The mobile home Ms. Garcia is going to purchase is already seven years old so a third of the mobile home's life has passed.

Kyle Bruce, 3651 South 28th West Avenue, Tulsa, OK; stated he has lived in the neighborhood for 15 years and really likes it there. It appears to him that a Special

Exception is an exception to the established building and zoning codes designated by the elders of Tulsa. Mr. Bruce stated he is aware of a couple other cases, BOA-21317, BOA-21213, that requested a Special Exception for a mobile home in the area and both of those were denied.

Mr. Van De Wiele asked Mr. Bruce how close these requests were to him. Mr. Bruce stated that one was within two blocks and the other was in Park Valley in Red Fork.

Mr. Bruce stated he has two petitions in opposition to this request. The first petition has in excess of 45 signatures and the second petition has 38 signatures, so there are many people that do not want a mobile home in the neighborhood.

Carl Brashear, 2501 West 37th Street, Tulsa, OK; stated that the front door on the unit Ms. Garcia is wanting to install on the subject property, will have that front door in the master bedroom and right where all the plumbing is located for master bathroom. At the last meeting there was discussion of allowing Ms. Garcia two years to get certain things completed, but after two years if those items are not complete who will come in to take that mobile home away? The City of Tulsa will not take it away. This is one of the oldest neighborhoods in Tulsa and it is a historic neighborhood. Mr. Brashear stated that at the last meeting Jeannie Cue, Council member, asked to have this request denied so he does not understand the willingness to vote for an approval. There are places and areas for mobile homes, and he believes if this is approved there will be mobile homes all over the neighborhood which totally unfair.

Jill Halstead, 3623 South 26th West Avenue, Tulsa, OK; stated that it does not matter whether there is a driveway, landscaping, sidewalk or whatever it still does not change the structure of the house. The placement of the trailer on the subject property means that the neighborhood will be looking at the end of a trailer.

Billy Halstead, 3623 South 26th West Avenue, Tulsa, OK; stated he has lived in Red Fork since 1952. Route 66 is on 40th Street and Southwest Boulevard, 1 ½ blocks from the subject property and down the road is a train next to a mobile home park. Recently the mobile home park was made to erect an eight-foot privacy fence so no one can see the mobile homes from Route 66 museum. A person can look from Route 66, across the railroad track into the yards of the existing trailer that is there and into the proposed modular home, will there be fencing required? Mr. Halstead stated that if the neighborhood is forced to accept this request could the Board require that the mobile home be installed on the two lots so maybe there would not be another request for another mobile home in the future?

Jana Schell, 3808 South 29th West Avenue, Tulsa, OK; stated a mobile home will not be in harmony with the neighborhood. A mobile home will be injurious to the neighborhood and to property values. A Special Exception will go against the Zoning Code and the wishes of everybody in the neighborhood. Ms. Schell would ask the Board to respect the neighbors and listen to their concerns.

Rebuttal:

Carina Garcia stated she could erect a privacy fence to block the view from the train track if required. There is no million-dollar house in the neighborhood, and she is just trying to make a home for her children, and this is what she can do. Ms. Garcia does not think she is hurting anyone.

Comments and Questions:

Ms. Ross stated she respects what Ms. Garcia is trying to do, establish a home for her and her children, she thinks due to the sheer number of neighbors that object to this request she will vote no today.

Ms. Shelton stated that she has been building houses in this industry for her entire career, and it seems like a mobile home get this same reaction in any neighborhood. She thinks this is more about how the house is built versus where it is located. Ms. Shelton stated she is always going to be on the side of affordable housing, and she thinks this is a form of affordable housing.

Ms. Radney stated she is sensitive to the neighbor's objections, but she is also sensitive to the manner of construction as opposed to how it will actually present on the lot. Ms. Radney stated she is familiar with the neighborhood and has driven it considerably over the last few weeks. A shotgun style house, for lack of a better description, is not exceptional in this part of Tulsa and she thinks the additional elements will help make the mobile home appear to be more conforming with the neighborhood. She understands that there have been instances in the past where mobile homes have been associated with people who are marginally vested in a neighborhood, but she does not think that is what this applicant is representing.

Mr. Van De Wiele stated that he is on the fence about this request. He is not one to say there are ten neighbors against it and one neighbor for it, so the vote should be against the request. That is not the standard that he uses. The Board has certainly approved this type of use on the other side of the highway, and he thinks that effectively is a divider because there is a difference in those neighborhoods. Mr. Van De Wiele stated he is not sold on the use and finds this a detriment to the neighborhood.

Board Action:

On **MOTION** of **ROSS**, the Board voted 2-2-0 (Ross, Van De Wiele "aye"; Radney, Shelton "nays"; no "abstentions"; Bond absent) to **DENY** the request for a Special Exception to allow a manufactured housing unit in an RS-3 District (Section 5.020, Table 5-2); Special Exception to extend the time limit permanently (Section 40.210); for the following property:

S 1/2 LT 4 BLK 30, RED FORK, City of Tulsa, Tulsa County, State of Oklahoma

THE MOTION FAILED

On **MOTION** of **RADNEY**, the Board voted 2-2-0 (Radney, Shelton, "aye"; Ross, Van De Wiele "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow a manufactured housing unit in an RS-3 District (Section 5.020, Table 5-2); Special Exception to extend the time limit permanently (Section 40.210), subject to conceptual plans 1.11, 1.12, 1.13, 1.14, 1.15, 1.16 and 1.17 of the agenda packet and the drawings presented at today's meeting. The approval is subject to the property having a concrete sidewalk to allow easy passage from the front of the house, and there is to be a standard concrete driveway. The approval will have a five-year time limit, July 2025. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

S 1/2 LT 4 BLK 30, RED FORK, City of Tulsa, Tulsa County, State of Oklahoma

THE MOTION FAILED

22892—Dale Bennett

Action Requested:

Variance to permit additional dynamic display signage on a single lot (Section 60.080-E). **LOCATION:** 200 South Denver Avenue West (**CD 4**)

Presentation:

Dale Bennett, Claude Neon Federal Signs, 1225 North Lansing, Tulsa, OK; stated this request is for an electronic message board to erected on the northeast corner of the BOK building. Due to the architecture of the building the entryway does not directly face Denver and the message board would direct pedestrian traffic to the second-floor lounges and the private areas.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to permit additional dynamic display signage on a single lot (Section 60.080-E), subject to conceptual plans 2.13, 2.14 and 2.15 of the agenda packet. The Board has found the hardship to be the size of the building and the volume of pedestrian

traffic. 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, TULSA REGIONAL CONVENTION AND EVENTS CENTER RESUB PRT
OT TULSA, City of Tulsa, Tulsa County, State of Oklahoma**

22895 – Israel Sanchez

Action Requested:

Variance to reduce the required 25-foot setback in an RM-1 District (Section 5.030, Table 5-3). **LOCATION:** 119 North Wheeling Avenue East (**CD 3**)

Presentation:

Israel Sanchez, 119 North Wheeling, Tulsa, OK; stated he started building a deck and the City came in and stopped the construction.

Mr. Van De Wiele asked Mr. Sanchez how far past the building line the deck will be. Mr. Sanchez stated he did not understand the question.

Mr. Van De Wiele asked Mr. Chapman if he knew how far past the building line the porch would be. Mr. Chapman stated that it is a 25-foot requirement and the applicant is reducing that to 9 feet. Mr. Chapman stated that he does not think that any of the houses in the neighborhood are conforming to the 25 feet.

Mr. Van De Wiele asked Mr. Sanchez what was there before the porch was started being built. Mr. Sanchez stated that there was a porch, but a storm came in and tore it down. The new porch is six feet larger than the old porch.

Ms. Radney asked Mr. Sanchez what the second protrusion is on the porch and what purpose does it serve? Mr. Van De Wiele stated that the entire structure comes out six feet toward the street, and the additional structure on the top is likely to provide some coverage for the steps.

Ms. Radney asked if the structure rests on top of the roofline of the old porch; how is it supported? Mr. Sanchez stated that it is all built together. Ms. Radney asked if it was like a vent for air flow? Mr. Sanchez answered affirmatively.

Ms. Ross asked if there was an issue with the carport. Mr. Chapman stated that not all of the carport will be removed but it will be reduced so there is a four-foot setback.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Shelton stated she is concerned about the mass of the structure, but there are no neighbors here to protest.

Ms. Radney stated she would not be inclined to support the extra ridge that extends beyond the porch as built. She understands that there are structures in the neighborhood that do not comply with the Code but that extra portion is too much; she can support the porch.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-1-0 (Radney, Shelton, Van De Wiele "aye"; Ross "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to reduce the required 25-foot street setback in an RM-1 District (Section 5.030, Table 5-3), subject to conceptual plans 3.4 and 3.5 of the agenda packet. The Board has found the hardship to be that the homes in the neighborhood were built and constructed prior to the current Zoning Code. The ridge at the upper edge of the porch structure be removed and made flush with the west facing gable of the newly constructed porch. 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 13 BLK 19, CHEROKEE HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22934—Katy Anderson

Action Requested:

Variance to increase the permitted 240 square foot display area for a wall sign in a CS District (Section 60.080-B). **LOCATION:** 1711 East Skelly Drive (**CD 9**)

Mr. Van De Wiele stated that what the Board has seen is that the City, via the Permit Office, has taken the position that the left half of the subject site is the sign and the right half is not a sign. Mr. Chapman stated that is correct. Mr. Van De Wiele stated the Board is tasked to give a Variance from the square footage.

Presentation:

Katy Anderson, 1711 East Skelly Drive, Tulsa, OK; stated the last time she was before the Board it was discussed that the City originally designated the whole mural as a sign, and she needs a Variance for the sign requirements. After that meeting it was decided that if she would go back to the City of Tulsa and ask if they would agree that from the peace signs to the right is all mural and the purple background with the dispensary logo on the left half is signage the Board would approve the Variance because of the placement of the property and because the sign is not easily seen because of the topography. Ms. Anderson stated she went to the City of Tulsa and has submitted that to the Board, and now she is back before the Board for another review of her case.

Mr. Van De Wiele stated that after the last meeting Mr. Sage did reach out to him and he told Mr. Sage that he needed to direct his comments to Mr. Austin Chapman at INCOG.

Interested Parties:

Ron Sage, 1703 East Skelly Drive, Tulsa, OK; stated he is in the building directly west of the subject dispensary. That wall is clearly there to attract attention to the dispensary and part of it reads Tulsa high country. The Kush logo in the front matches the same color scheme as the surfboard and peace signs. It was mentioned at the last meeting that he was offended by the sign and he was never offended by the sign, it would take a lot more than her sign to offend him. In continuing on, the sheer size of the sign is the issue. In section 60.080, sub paragraph F, it clearly reads 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 the adjacent property, which it has. Mr. Sage stated that his tenants have already informed him that they may not be renewing their lease. He has received comments from other neighbors in the Brookside area; he has many properties in the Brookside area. This has definitely been a point of contention as far as the overall grandness and the look of the building. In the previous case, the Board said because of the way it looks it doesn't match the neighborhood and it intrudes over into the building line, and the Board made Variance to the building to take it back. The was based on a judgment call and he thinks this is the same thing. Mr. Sage thinks the Board has to look at this and ask does it need to be this large? Is it necessary to be this large to be seen from the freeway? The laws that are in place were put there for a reason by the City Planners, and he asks that the Board look at that and look at the laws that were put in place for this reason. It directly affects and alters the essential character of the neighborhood and impairs the use of the development of the neighborhood businesses. Mr. Sage believes it is injurious to the values of the neighborhood and the businesses as well. Mr. Sage stated he is opposed to this request.

John Huffines, 256 East 46th Street, Tulsa, OK; stated he is before the Board on behalf of the Brookside Neighborhood Association. He appreciates the applicant's entrepreneurial spirit, however in this particular case, the association sees it important to impose the law. The association is fine with the advertising of the sign by standards previously set. This business is situated close to I-44, between Lewis and Peoria Avenues, is located in area where there is much lane changing occurs and exiting from I-44. It is helpful to keep motorists focused on driving. The sign size limits were determined for a reason and he would like the Board to honor the impact of the City Planners. Much thought and deliberation go into the setting of these standards. Mr. Huffines stated the applicant does have other options, such as a billboard. Mr. Huffines asks the Board to deny this request and maintain the standards. The neighborhood would appreciate the smaller sign, 240 square feet, in that it will be more harmonious in the neighborhood setting.

Rebuttal:

Katy Anderson came forward and stated she has nothing more to add.

Comments and Questions:

Ms. Ross stated she would vote to keep the left half, although she does think the right half is really cool and a great design. This does not bother her at all, but she does think that artwork and murals look really cool in certain districts in Tulsa and in other places they can stick out. In this case she does think this sticks out so she would probably vote to deny the relief for the right half.

Mr. Van De Wiele stated that the way the City Permit Office has now looked at this is that there is no request for a Variance in connection to the right half of wall. Mr. Chapman stated that is correct. It is the Kush Dispensary which is 340 square feet on the left portion. Mr. Van De Wiele stated by right the applicant has 240 square feet for a

sign and the applicant is requesting 100 square feet additional to allow the size of the left half of this.

Mr. Van De Wiele stated he has not seen a basis for a hardship for an additional 100 square feet; that basically means that entire side of the building is going to be painted whether it be by a mural or a sign. If the point of the hardship is that this is right next to a highway, and he is not entirely certain that a motorist could exit the highway by the time the sign was seen, he thinks the applicant has done enough work there to catch the attention of the public. He does not see a hardship for another 100 square feet of signage on the building.

Ms. Radney stated that if the artist came back and finished the mural going southward reducing the amount of wall art that actually is the business, the Board would not have any purview over that either. Ms. Radney believes the applicant has made her case to be approved for the additional signage.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Radney, Ross, Shelton "aye"; Van De Wiele "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to increase the permitted 240 square foot display area for a wall sign in a CS District (Section 60.080-B), subject to page 4.5 as shown in the agenda packet. The Board has found the hardship to be the location of the subject property being on a one-way street, and only allowing for signage that can be visible from only one side of the building. 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:

**N230 LT 10 LESS BEG NL HWY 44 & WL LT 10 TH E110 N25.10 SW110.46 S15
POB FOR RD, PERRY'S 27207 SUB, City of Tulsa, Tulsa County, State of
Oklahoma**

NEW APPLICATIONS

22947—Jermaine Miller

Action Requested:

Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-A); Variance to allow an accessory structure to exceed one story, 18 feet in height and more than 10 feet in height to the top of the top plate (Section 90.090.C); Variance to allow more than 30% coverage in the rear setback (Section 90.090-C.2). **LOCATION:** 1232 South Braden Avenue East **(CD 5)**

Presentation:

Jermaine Miller, 1232 South Braden Avenue, Tulsa, OK; stated he did not know anything about permits or the Board of Adjustment, so he started to build an extra house in the back yard to be close to his Grandmother. He went the first contractor he could find, and that contractor started construction. The City of Tulsa Inspector came out and informed him that there was no permit to build, warned him of all the violations, and shut the job down. Afterward he went to INCOG and now he is before the Board. Just recently he received e-mails from the neighbors about the proposed apartment complex, an increase in noise, an increase in trash, and an increase of traffic but that is not the case. Mr. Miller stated that it will be the same as before. Mr. Miller stated that there was an e-mail regarding the window in the rear and he does not have a problem with removing that window if needed.

Mr. Van De Wiele asked Mr. Miller how many bedrooms will be in the proposed house. Mr. Miller stated that it will be two bedrooms.

Ms. Ross asked Mr. Miller if he wrote the statement of hardship that is shown in page 6.4 in the agenda packet. Mr. Miller answered affirmatively. Ms. Ross stated that statement says the house is to be a rental and generate income. Mr. Miller stated that he would be the one renting the house. Ms. Ross asked if the owners of the front house are a relation. Mr. Miller stated he is related by marriage; the owner is his grandmother-in-law.

Ms. Shelton asked Mr. Miller about the window he had referred to. Mr. Miller the neighbor has a father that has Alzheimer's and the neighbor does not want them to be able to see into their backyard.

Mr. Van De Wiele asked Mr. Miller if there were any other two-story garage apartments in the neighborhood. Mr. Miller stated that he knows of one other.

Ms. Ross asked Mr. Miller if there are intentions of renting the proposed house. Mr. Miller stated the only person that will rent the house is himself, and that is just to help his Grandmother.

Interested Parties:

Donna Kerminski, 1233 South Braden Avenue, Tulsa, OK; stated her concern is that this very intrusive from the street. They already have more trash than the trash carrier will haul away. More people in that area will create more debris that sits by the street.

Mr. Van De Wiele asked Ms. Kerminski how many people she thinks lives at the house. Ms. Kerminski stated she sees numerous cars parked in the street at all times, but since the concrete pad has been poured, they have been parking on the pad. There seems to be a lot of people that come and go from the residence. This would be fine if the City can accommodate the volume of trash and the debris that is created, and at this point the City has not been able to do that.

Ms. Ross asked Ms. Kerminski if some of the debris is construction related. Ms. Kerminski answered no.

Mr. Van De Wiele asked Ms. Kerminski if she saw the trash before construction started. Ms. Kerminski answered affirmatively.

Jimmy Winkle, 1205 South Allegheny, Tulsa, OK; stated he has lived in the neighborhood for 15 years, and before he purchased the house, he is in now he lived next door to the subject residence for six years. Mr. Winkle stated that he was constantly in contact with the Mayor due to fences, the back yard growing up taller than the fence and a rat infestation due to that house not being maintained. That house has always been overrun and not taken care of. The addition of a house on this property is overload on the property and it affects property values. He does not see how this can be a plus for the neighborhood. He does not see how this can be safe or beneficial to the neighborhood because the lot is over-ridden with people living there.

Rebuttal:

Jermaine Miller came forward and stated that at the moment the people that stay in the main house total eight. If the proposed house is allowed to be built there would be four people in the main house. The people that would live in the second house would be himself, his fiancé, and his two sons. There would be no additional people moving in. The debris that is located in the back yard is construction debris. Mr. Miller stated he has had complaints about the cars, and he was informed by the City that he could not park the cars on the street, and he has taken care of that. Mr. Miller stated that as far as the extra trash, he goes to QuikTrip and purchases the orange stickers for pickup.

Ms. Ross asked Mr. Miller who would be residing in the main house on the property. Mr. Miller stated that the four people in the main house would be his Grandmother-in-law, a Grandson, and two Granddaughters. Ms. Ross asked if the children were minors. Mr. Miller answered no.

Mr. Van De Wiele asked Mr. Chapman how much over the allowed square footage the proposed house would be. Mr. Chapman stated that 720 square feet is allowed, and the proposed structure is 2,048 square feet two-story house.

Comments and Questions:

Ms. Shelton stated that her concerns are the amount of relief requested and the window.

Ms. Ross stated the entire things has her concerned. There is eight people living on one lot that was platted for one residence. The 2,000 square feet requested is probably larger than the main house and that really concerns her.

Mr. Van De Wiele stated the number of people does not bother him. There are more and more multi-generational families living together and that does not concern him, but he is struggling to find a hardship that is not self-imposed or financial.

Ms. Radney stated that if the applicant were not before the Board begging for forgiveness, she does not think the Board would be inclined to support a structure this big. There are accessory buildings all over the neighborhood and some of them do appear to be very large, looking at the aerial, including the one that is immediately to the west of the subject property. She does not have a problem with there being an additional structure, it is large but given the size of the lot it is not taking an excess amount of the lot. The question is the height and the square footage. Ms. Radney stated that she is inclined to support the request.

Ms. Ross asked Ms. Radney if she was supporting the request because the structure is already mostly built. Ms. Radney answered affirmatively. Ms. Ross stated that she thinks that sets a precedent for people to build whatever they want and then come in asking for forgiveness. Ms. Radney agreed.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-1-0 (Radney, Shelton, Van De Wiele "aye"; Ross "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-A); Variance to allow an accessory structure to exceed one story, 18 feet in height and more than 10 feet in height to the top of the top plate (Section 90.090.C); Variance to allow more than 30% coverage in the rear setback (Section 90.090-C.2), subject to conceptual plans 6.13, 6.14, 6.15, 6.16, 6.17, 6.18 and 6.19 of the agenda packet. The windows be removed and conform with the drawings that are included today from the agenda packet. The Board has found the hardship to be the family's need to accommodate the extended family premises, and

construction of an accessory building in a similar manner and scale that is consistent of the context of accessory buildings that are built in the neighborhood and predate the current Zoning Code. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

S1/2 N1/2 E1/2 LT 12, CROWELL HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22949—Crown Neon – Gary Haynes

Action Requested:

Variance to permit two signs on an OM lot with one street frontage (Section 60.060-B); Variance of the allowable display surface area for signs in the OM District (Section 60.060-C). **LOCATION:** 3227 East 31st Street South (**CD 4**)

Presentation:

Gary Haynes, Crown Neon Signs, 10101 East 46th Place, Tulsa, OK; stated the property has been remodeled and they would like to have two signs, one a monument sign. Coming from east to west on 31st Street there is a slight decline in topography. The building sign will be reverse illuminated which means the light will focused toward the building.

Mr. Van De Wiele asked Mr. Haynes to explain what he is asking for in relation to square footage allowed. Mr. Haynes stated the monument sign is allowed 32 square feet and he wants 50 square feet for that sign. The monument sign is non-illuminated with lights in the ground pointed upward to the sign. Mr. Haynes stated he is not sure what he is allowed for the building sign.

Mr. Van De Wiele asked Mr. Chapman what the property would be allowed for the signs. Mr. Chapman stated the free-standing sign would be allowed 38.7 square feet based on 129 feet of street frontage. The wall sign would be allowed 38.7 square feet also based on the street frontage. The wall sign requested is 51.8 square feet.

Mr. Van De Wiele asked Mr. Haynes to state his hardship for the Variances. Mr. Haynes stated the hardship is the visibility. The monument sign is difficult to see going west to east and going east to west, but the building sign would be more visible.

Ms. Ross asked Mr. Haynes if there was anything built on the corner. Mr. Haynes answered no.

Interested Parties:

Clark Neely, 3227 East 31st Street, Tulsa, OK; stated he is one of the members of the LLC that owns the building. Obviously, he would have like to design the sign when the building was being remodeled but had to go through multiple marketing people and multiple chains of command due to the international company. The main concern is Mid-First Bank owns the building and the raw piece of land directly to the east and it is in their plan to build a building on the land; he knows this because he tried to acquire that piece of land. The mini storage is directly north of Mid-First Bank and their sign can barely be seen because of the downhill slope on 31st Street. The building sign will be above large store front windows and it was thought this would be the best placement for the sign because on the east side of the building it would not be seen.

Mr. Van De Wiele asked Mr. Neely if the building is an office building. Mr. Neely answered affirmatively. Mr. Van De Wiele asked Mr. Neely what is the heightened need to catch the eye of the traveler? Because if you are going to Euro-Chem you are already intending to go there. Mr. Neely stated that it is two-fold. One, this is an international company with people coming from all over the world to visit the office in the United States; an international traveler in a rented car the need for good visibility is important; same thing for visitors coming from the mid-west. Lastly, from a marketing standpoint when this much money is spent on a remodel you want people to drive up and get the same presence on the exterior that was done on the interior.

Ms. Ross stated that she would like to say that this blows her away, because this is good design, the applicant has come to Board asking for permission before seeking forgiveness, it is a good design, there is no one objecting, and this Board is scrutinizing this to the "T" when there have been people here before begging for forgiveness for things that people were upset about, and the Board makes excuses for them to keep what structure, mural or whatever. She thinks the Board needs to be more consistent, and she is preaching to herself as well, in following the Code. Mr. Van De Wiele stated that to him this is the exact same thing as the dispensary on Skelly Drive. Mr. Van De Wiele stated he does not see a hardship in this case, and he did not see a hardship in that case. Ms. Ross stated that it is not the same, because in the dispensary case the applicant could by right paint a mural over the additional signage which is what

everyone had a problem with. Mr. Van De Wiele stated that the volume, either by number or loudness, of the neighbors complaining to him does not make or break a Variance or a hardship. It may tip the scale on something being a detriment to a neighborhood but to be able to find a hardship on a rectangular lot or an office building he does not see a hardship. Ms. Ross stated she thinks the Board is being inconsistent.

Ms. Radney stated that she will disagree with that. She is completely persuaded that the applicant needs to have a sign that will allow the building to be visible, because we do anticipate an obstruction in the future. She also does not see that the applicant has made a case to have two signs, because once the monument sign is seen the applicant could just have an address on the building and a person would know that in fact they are at 3227 East 31st Street. The ability to have a second sign a few hundred away from the other sign she is not compelled yet, but she can be persuaded; 92 square feet is a lot.

Mr. Van De Wiele stated that there is a lot of wall being counted in the 92 square feet. There is a lot of dead space in the 92 square feet.

Mr. Chapman stated that the relief being asked is 51.8 square feet per permitting. Ms. Ross stated that in the last case the discussion was almost a 1,500 square foot Variance and this is 50 square feet for something that looks nice in an area where there are other commercial businesses. Mr. Van De Wiele agreed but this is not a taste standard. Ms. Ross stated the Board is approving things that do not better the community, the Board is approving things that have already been done, the Board feels bad and do not want to make them take it down. Mr. Van De Wiele stated that may a discussion for a Board work session but as to this particular matter and these two particular signs each one has to stand on its own merits. If there is a hardship for having two signs and more than 100 square feet of sign when they are entitled to 38 square feet of signage, they are asking for more than twice the signage looking at it proportionately. Ms. Ross stated the hardships she heard were the downhill slope and once the vacant lot is built on the monument will be seen.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Radney, Ross, Shelton "aye"; Van De Wiele "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to permit two signs on an OM lot with one street frontage (Section 60.060-B); Variance of the allowable display surface area for signs in the OM District (Section 60.060-C), subject to conceptual plans 7.11 and 7.15 of the agenda packet. The Board has found the hardship to be the location near the 31st and Harvard intersection which tends to be on a declining slope, and due to the fact that there is an empty lot that will be notably be built in the next few years and could block the view of the signage for the building. 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:

W124 E540 S320 LESS S40 FOR RD & N163 W15 E416 S208 SE SE SE SEC17 19 13 .858AC, City of Tulsa, Tulsa County, State of Oklahoma

22951—Coast to Coast Motors – Greg Bissonette

Action Requested:

Special Exception to allow for Commercial/Vehicle sales and Service/Personal vehicle sales & rental use in a CS District (Section 15.020). **LOCATION:** 3112 South Mingo Road East (**CD 7**)

Presentation:

Greg Bissonette, Attorney-at-Law, 3112 South Mingo Road, Tulsa, OK; stated he represents Coast to Coast Motors and the owner of the lot. This property used to be operated as a dealership. In 2016 there was a Special Exception and in 2017 it was operated as a dealership until late 2019 and by the time he came aboard the Special Exception had passed and the dealership stopped selling cars at that location. Since that time, the dealership has used the property as a private non-accessory parking lot. Right now, the property has no employees and it does not have a lot of value to the neighborhood or the community. Today he is before the Board to ask for a Special Exception so cars can be sold from the subject location. Mr. Bissonette stated he had received an e-mail from a concerned party about the property being a repo lot. He knows the site plan he submitted has repo storage, but the lot will be used for inventory that comes as for sale and repossessed vehicles that come in. As a used motor vehicle dealer, the repossessed units will be reconditioned mostly on site and then sold in the normal course of business. Another e-mail is concerned about the property being a used motor vehicle dealership because it will allow the property to deteriorate and

continue the decline of the use of the property. Mr. Bissonette thinks that does not make sense. The property is currently is private parking lot with no income and it does not employ any Tulsans. It was commented that this is an area of growth and that is another reason why the Special Exception should be denied, but Mr. Bissonette thinks that makes no sense. Mr. Bissonette stated that by operating the property as a dealership as opposed to the current lot it would be better for the public health and safety and general welfare and it would not be injurious to the neighborhood.

Mr. Van De Wiele asked Mr. Bissonette how much repo work there would be done, how much car repair work would be done, and how much vehicle selling would be done. Mr. Bissonette stated that the primary business would be selling. The second floor of the building has also been renovated in hopes of creating a call center and a finance department. The repo that occurs will be a repossession of sale that occurred at the subject site. Repairs will be done at a different location and reconditioning will done at the site.

Mr. Van De Wiele asked Mr. Bissonette to explain the difference in reconditioning and repair of a vehicle. Mr. Bissonette stated that repair is when something is damaged, and reconditioning is when a vehicle is just trashed but no real damage. Reconditioning would not include body work. Mr. Van De Wiele asked Mr. Bissonette if all of this work would be done indoors. Mr. Bissonette answered affirmatively.

Mr. Van De Wiele asked Mr. Bissonette if his group owned or leased the building. Mr. Bissonette stated he represents both. He represents the lessee, which is Coast to Coast Motors, and he also represents the owner of the property. Mr. Van De Wiele asked if the operator of the building is a tenant. Mr. Bissonette answered affirmatively. Mr. Van De Wiele asked how long is the lease of the property? Mr. Bissonette stated the lease was resigned in January 2019 and it was for 36 months; they will extend the lease if need be.

Ms. Ross asked Mr. Bissonette what the hours of operation would be. Mr. Bissonette stated they will be 9:00 A.M. to 6:00 P.M.

Ms. Ross left the meeting at 3:55 P.M.

Mr. Van De Wiele the only new thing in the Zoning Code since this was approved in 2016 is language requiring that auto lots be parked and striped like a parking lot. Mr. Bissonette stated that he will not be able to sell cars if the lot looks like a salvage yard, and the lines can definitely be painted.

Ms. Ross re-entered the meeting at 3:58 P.M.

Interested Parties:

Benjamin Whitley, 2311 South 99th East Avenue, Tulsa, OK; stated his concerns are based on the previous approved Special Exception but continuing to use the property as a private parking lot is not adding any value to the neighborhood. He now has a new concern. When he drove by the property today, he saw a for sale sign, and he questions whether this would change the use of the property that is not being represented now or in the spirit with the Board's intent. Mr. Van De Wiele stated the Board's approvals run with the land and not the applicant and that is why the Board often places time limits on the approvals to catch such issues.

Mr. Van De Wiele stated that Mr. Whitley works with an accounting firm with his father and he has had a business relationship in the past with Mr. Whitley, but he does not believe that impairs his judgment on this matter so he will not be recusing himself.

Rebuttal:

Greg Bissonette stated when the Special Exception ran out last year there were questions about how to continue with the property, so the property was put on the market. No one is going to purchase a commercial property during a pandemic so he would much rather operate the property as a motor vehicle dealership. As for selling the property, it could only be sold to another used motor vehicle dealership unless the buyer would have some other permitted use. Mr. Bissonette stated that he does not know of any offers on the property or of any interests in the property, so as far he is concerned it is planned to be operated as a dealership through the end of the lease.

Comments and Questions:

None.

Board Action:

On **MOTION of ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to allow for Commercial/Vehicle sales and Service/Personal vehicle sales & rental use in a CS District (Section 15.020), subject to conceptual plans 8.15 and 8.16 of the agenda packet. The hours of operation are to be Monday through Saturday, 9:00 A.M. to 6:00 P.M. All repairs on vehicles must be inside the structure; no outside repairs are allowed. No outside storage of materials. No auto body work on the property. No junk vehicles are to be stored on the property. There is to be a limit of inoperable vehicles cueing for any kind of repair on site to five vehicles. The approval is limited to five years from today's date, July 2025. 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:

N 250 E 250 NE LESS N 50 & E 50 SEC 24-19-13, City of Tulsa, Tulsa County, State of Oklahoma

22954—Eric Bushnell

Action Requested:

Special Exception to allow an Industrial/Moderate-Impact Manufacturing and Industry/Moderate-Impact Medical Marijuana Processing Facility in the IL District (Section 15.020). **LOCATION:** 9915 East 51st Street South, Suite B **(CD 7)**

Presentation:

Ryan Kuzmic, Viridian Legal Services, 1602 South Main Street, Tulsa, OK; stated he represents Mr. Bushnell. The Special Exception request is for the northern building on the property and Mr. Bushnell currently occupies the entire building. Mr. Bushnell currently has a medical marijuana grow that has been there for over a year and he licensed for that. This process is part of him applying for a processing license. He will do low impact processing at that facility using ice water for processing. The building is located in an industrial park. The Special Exception is being applied for to receive a processing license from OMMA.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow an Industrial/Moderate-Impact Manufacturing and Industry/Moderate-Impact Medical Marijuana Processing Facility in the IL District (Section 15.020), subject to conceptual plans 9.10, 9.11 and 9.12 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

E317 W990 S400 SW SW LESS W126 & LESS S50 E191 FOR ST SEC 30 19 14 1.53ACS, City of Tulsa, Tulsa County, State of Oklahoma

22957—Blazing B's – Brent Barnes

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 7839 East Admiral Place North **(CD 3)**

Presentation:

Brent Barnes, 7030 South Yale, Suite 104, Tulsa, OK; stated he was before the Board about four weeks ago and he was denied on both his cases with mixed results. Blazing B's was initially a Verde Dispensary for about a year. They broke their lease in April and it was incumbent on himself to find a new tenant for the dispensary space. He thought the 1,000-foot spacing verification went with the building but that is not the case; when the name is changed the verification is lost. After being placed on the last agenda a new dispensary went in across the street; they were grandfathered in supposedly. About mid-May the other dispensary placed signage on their space announcing Kind Love. Mr. Barnes has checked with INCOG multiple times to see if they had received their 1,000-foot spacing verification and was always told no. About a week before his hearing Mr. Chapman notified him that Kind Love may be grandfathered in. All this time his tenant is ready to go, has his OMMA license, everything has been submitted except for the Certificate of Occupancy, and he needs today's approval to receive the Certificate of Occupancy.

Interested Parties:

Ontario Berry, 30109 Gale Avenue, Inola, OK; stated he is the owner of Blazing B's. He is originally from Mississippi and received his engineering degree from the University of Mississippi and also received his Master in Business from Louisiana State. He has lived in Oklahoma for several years and he wants to open a dispensary for medical cannabis. His business plan is built around his mission statement which is to establish a first-class medical marijuana dispensary that will combine customer care and quality products to a wide range of patients at an affordable price. It is unfortunate that the other dispensary popped up in the middle of the pandemic when Board of Adjustment meetings were not being held, otherwise he would have been sooner. He is quite aware of the rules and regulations in this industry and he hopes to have the Board's approval today to build his business as a premier and respectable cannabis dispensary.

Ms. Shelton asked Mr. Berry why he chose this space, is there something unique about this space? Mr. Berry stated he has been looking for a location for over a year and when this space became available it was a prime opportunity. He did his homework and there were no other dispensaries within the allowable 1,000 feet and this space fits his business plan.

Ms. Ross asked Mr. Berry if he said that when he signed his lease there was no other dispensary within the 1,000 feet. Mr. Berry answered affirmatively.

Mr. Van De Wiele asked Mr. Chapman if he had any information on Kind Love: when it was licensed and when it opened. Mr. Barnes came forward and stated Kind Love opened ten days after his initial meeting. Mr. Barnes stated that Kind Love was represented by a lawyer at the last meeting and the lawyer stated that Kind Love would

be opening the next day after receiving the Board's approval. It did take Kind Love an additional ten days and that was on top of the 18 months that they sat on their license for their location.

Ms. Radney asked if Kind Love were conducting transactions now. Mr. Barnes answered affirmatively; for the last two weeks.

Mr. Van De Wiele asked Mr. Barnes if he knew what had gone on at the 7948 location. Mr. Barnes stated that it was a dilapidated building with no construction. Kind Love did provide a Certificate of Compliance that had signatures from the Fire Marshal, but if you flip through to the end of the signature pages it says this is just an order for them to get a renewal. They have not actually qualified, and this is not a valid Certificate of Occupancy. Mr. Barnes stated that Kind Love did not start construction until well into 2020. Mr. Barnes submitted the document he had referred to.

Comments and Questions:

Mr. Van De Wiele stated that it appears the dispensary that is causing an issue for Mr. Barnes is 7948 East Admiral. It looks like it had its license before December 1, 2018, but it only opened within the last month. Because of the date the other dispensary received the original license it did not need to be spaced but others needed to be spaced from it.

Ms. Radney asked if the application date for this Variance was May 4th? Mr. Van De Wiele stated May 4th was the zoning clearance plan. Mr. Chapman stated that this Variance request came in around June 10th. Mr. Van De Wiele stated that this property originally came before the Board as a Spacing Verification that was denied. They certainly have been trying to get this location approved no later than May 4th because that is the date of the zoning clearance plan review letter, so theoretically they would have put in an application a week or two weeks before that; late April.

Ms. Ross stated she is in favor of this request. For her the hardship for her is that the location at 7948 being licensed in 2018 and not being opened until 2020 creates an issue; it blocks other dispensaries even though they haven't opened or established one.

Ms. Radney supports the request.

Ms. Shelton stated that she thinks hardships are something physically unique about the property. She does not think confusion of the process or anything related to that is applicable as a hardship.

Mr. Van De Wiele stated he is struggling with this one. He thinks the result, if this were to be granted, does not necessarily bother him but he is struggling with the hardship. The relationship to a property that had a license but by all outward appearances was not actively pursuing the full opening of its property. That may be a hardship, but he is generally not inclined to see a failure to fully grasp the law as an excuse or a hardship for a Variance.

Ms. Radney stated that you need to think about what a business is, and as the Board used to read the spacing language the Board was granting the spacing measurement subject to the fact that it was demonstrated that there was an existing business within the 1,000 feet that it would be void. What measure of publicly available information constitutes determining whether there is a fact an established business. If there is a building that has a license hanging from it but there is no public indication that business is being transacted then in this case the hardship would be that on the basis of all the information that was publicly available at the time of application that this applicant made a good faith effort to satisfy all the requirements for spacing and was denied on a technicality when in actual fact is now asking for a Variance because it was a technicality.

Mr. Van De Wiele stated the Zoning Code is full of technicalities. The other part is the inaccurate belief that a certain facility was licensed for being a dispensary. There has to be a license attached to you, it doesn't just go to the place where you work. That feeds to the issue that Ms. Shelton has raised, what is unique about this facility?

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Radney, Ross, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). The Board has found the hardship to be that at the time the applicant made application for a Spacing Verification there were no established dispensaries within 1,000 feet of the proposed dispensary, or the applicant had no ability to discern whether there was an established dispensary within 1,000 feet. This Variance approval is only granted from Herbal Junction dispensary located at 7498 East Admiral Place. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

LT 5 LESS S30 & LESS BEG NWC LT 5 TH S408 ELY126.68 N419 W126 POB FOR STS, BLOOMFIELD HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22958—Crown Rx – Brent Barnes

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 7435 East Admiral Place North **(CD 3)**

Presentation:

Brent Barnes, 7030 South Yale, Suite 104, Tulsa, OK; stated this request is very similar to the prior request. The owner of this dispensary currently owns Crown Spirits Liquor Store. He has dead space in his building, and he would like to have a dispensary in that space. He has a farm in west Tulsa and that farm is producing harvest, and now he has a need for his own dispensary to sell his product. Mr. Barnes presented pictures of improvements made to the subject property; there will be a security fence erected on the west side of the property. The fence will help alleviate problems with the homeless people that stay in that area. There are security lights installed in the rear of the property as well. The property has been improved significantly.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Radney, Ross, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). The Variance is granted only from the Herbal Junction Dispensary as identified on page 11.2 of the agenda packet. The Board has found the hardship to be that there was no discernable way for the applicant to determine that there was an established dispensary within 1,000 feet of the proposed dispensary. 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:

PRT LT 13 BLOOMFIELD HGTS & A TRACT OF LAND BEG 30N & 30.5E SWC LT 13 BLOOMFIELD HGTS TH W126.5 N225.77 TO S R/W EXPY TH NE ALG R/W 126.53 TO PT 30.5E WL LT 13 TH S229.26 POB SEC 2 19 13 .50AC, BLOOMFIELD HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22960—Elton Fernandez

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 6030 South Peoria Avenue East **(CD 9)**

Presentation:

Aaron Bruner, 6440 South Lewis Avenue, Suite 100, Tulsa, OK; stated he represents Elton Fernandez. On March 31st Mr. Fernandez purchased the subject property to use as a medical marijuana dispensary. The building has been used as a dispensary for quite some time and it is currently used as a dispensary. When Mr. Fernandez purchased the building eviction proceedings had already been initiated by the landlord against the previous tenant, Jennifer Fralick dba Top Shelf Dispensary due to her failure to pay rent. However, due to Covid the courts were closed, and that process has gone on for quite some time; Ms. Fralick is still in the building. As a result, Top Shelf has been in wrongful possession of the premises for over six months without paying any rent to Mr. Fernandez. In the interim, Top Shelf has obtained verification to establish a dispensary within 1,000 feet of the subject building. Consequently, without this Variance Mr. Fernandez is going to be prohibited to set up a dispensary in the building he purchased. When Mr. Fernandez purchased the property there were no other dispensaries within a 1,000 feet and the sole reason, he purchased the property was to operate a dispensary at the subject location. The building has been used and is currently operating as a dispensary and granting the requested Variance would allow the premises to be used in a manner that is both economically viable for the City as well

as consistent with the current and continued use of the property and will have no noticeable differences in the neighborhood.

Mr. Van De Wiele asked Mr. Bruner if his client owned property on Peoria. Mr. Bruner answered affirmatively. Mr. Van De Wiele asked Mr. Bruner if Ms. Fralick is a tenant and your client is in the process of evicting her. Mr. Bruner answered affirmatively. Mr. Bruner added that Ms. Fralick had obtained verification to operate a dispensary at another location within 1,000 feet.

Ms. Ross asked Mr. Bruner if Ms. Fralick was operating both dispensaries. Mr. Bruner stated that Ms. Fralick is supposed to shut down the current location whenever she moves to the other spot, but she has not moved yet. Presumptively Ms. Fralick is going to stay as long as possible, and the court date is set for September 3rd.

Mr. Van De Wiele asked Mr. Bruner if his client purchased the building this year. Mr. Bruner answered affirmatively. Mr. Van De Wiele asked Mr. Bruner if the building has only been as a dispensary by Ms. Fralick. Mr. Bruner answered affirmatively. Mr. Van De Wiele asked if that had been for a couple of years more or less. Mr. Bruner answered affirmatively. Mr. Van De Wiele asked Mr. Bruner if when the landlord tenant dispute started Ms. Fralick had a Spacing Verification granted around the corner. Mr. Bruner answered affirmatively.

Ms. Ross asked Mr. Bruner in what month did Ms. Fralick become deficient in paying the rent. Mr. Bruner stated it was in March. Mr. Bruner stated that prior to his client purchasing the building the process had already been initiated by the prior owner.

Interested Parties:

Jennifer Fralick, 517 E Street, Jenks, OK; stated that what is being said is partially true. Ms. Fralick stated that the building was sold without her knowledge while she was still under lease; the lease was not up until May 31st and the OMMA license was not expiring until June 4th. As soon as she found out the building was sold, she purchased the building next door that is approximately 200 feet from her current building. As soon as the courts opened, she did her proper paperwork to have the zoning for the new building. Ms. Fralick stated she has done as much of the paperwork as she could so she could move to the new building, but due to Covid she could not get anything approved. Ms. Fralick stated that her dispensary has been established in that location since last year and the lease was not up until May 31st. Ms. Fralick stated she has no intentions of shutting down her dispensary. The previous landlord had told her that he would sell the building to her and because he lied that is why we are in this situation. When she found out the building had been sold, she immediately secured a new location and did everything she could to establish a new location in the same area so her clients could keep coming to her dispensary.

Ms. Ross asked Ms. Fralick when she established the spacing for her new building. Ms. Fralick stated her spacing was approved at last month's Board hearing on June 14th.

Mr. Van De Wiele asked Ms. Fralick where she is operating today. Ms. Fralick stated she is operating at 6030 South Peoria and everything should be approved to move to the new location at 1135 East 61st Street within the next two weeks. Mr. Van De Wiele asked Ms. Fralick if she was operating out of both locations. Ms. Fralick stated that she is not operating the new location as of yet because she is still waiting for the City to approve the Certificate of Occupancy.

Rebuttal:

Aaron Bruner came forward and stated that probably all of that was relevant and this is probably not the proper venue to get into all of that so he won't, but he thinks it underscores the inability to obtain control of the premises and underscores the hardship of the situation.

Ms. Shelton asked Mr. Bruner if there is something unique about the property giving rise to the need of a Variance. Mr. Bruner stated the building was designed and has been used as a dispensary and that was the intent in the purchase. Ms. Shelton asked if the building was a former pawn shop. Mr. Bruner stated that right now it is a dispensary.

Jennifer Fralick stated the building was designed as a dispensary because she designed it as a dispensary. She branded it, she built the business, she built out the entire inside of the building, she did all the advertising and it is only a dispensary because of her and her family's hard work. Prior to the dispensary it was a church and prior to that it was a Mexican food restaurant.

Comments and Questions:

Ms. Ross does not think the fact that whether the rent was paid or not matters, however, court action had been instituted to evict Ms. Fralick from the property. Had Covid not occurred that would have likely been finished before the applicant purchased the property and it would not have been issue because Ms. Fralick would have been evicted before the end of March. Because there were delays, and there are still delays, she does think Ms. Fralick would have gotten the second venue established in time. Ms. Ross stated she is in favor of the Variance request because it is a unique hardship because there is no control over court dates being set and the fact that there is a six-month delay in eviction actions.

Mr. Van De Wiele stated this is a strange case. If a person buys something that is built out specifically to be a dispensary, does that give a uniqueness to the property?

Ms. Radney agreed with Ms. Ross.

Mr. Van De Wiele stated that the applicant knew there was an established dispensary there because it was in the building he was purchasing and would have knowledge that there was not another dispensary within a 1,000 feet. To him there is a level of uniqueness here with this building, and the circumstances relating to its use and justifying the Variance.

Board Action:

On **MOTION of ROSS**, the Board voted 3-1-0 (Radney, Ross, Van De Wiele "aye"; Shelton "nay"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). This Variance is granted only from 1135 East 61st Street as identified on page 12.3 of the agenda packet. The Board has found the hardship to be the unique situation regarding the property in that there were no other established dispensaries within 1,000 feet of this location at the time the property was purchased for use as a dispensary. 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:

S45 LT 7 & ALL LT 8 & N30 LT 9 LESS E18 THEREOF BLK 8, BROADVIEW HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22962—Clare Ashby

Action Requested:

Special Exception to permit a fence to exceed 4 feet in height inside the street setback in a residential district (Section 45.080-A). **LOCATION:** 1831 East 27th Street South (**CD 4**)

Presentation:

Clare Ashby, 5550 South Lewis Avenue, Suite 103, Tulsa, OK; stated she is a landscape architect and her clients purchased the subject property about 2 ½ years ago. The clients would like to build a portion of the fence to exceed four feet tall. On the

front property there is an existing five-foot tall black chain link fence with overgrown hollies. There is also an existing six-foot tall custom steel fabricated fence panels and automatic gate. Ms. Ashby stated that to her knowledge no Special Exception was granted for those things. Her clients would like to remove the black chain link fence and the hollies and enclose the entire front with the custom steel that would match the existing. There are two hardships for this request. The west portion of the lot is open, and it has a totally different character than the east portion. The west portion is very park like, very heavily wooded and it slopes about 12 feet from the front to the back, and since that portion is out of sight from the house it poses a safety risk. The other area is the side to side slope; from the east to the west there is almost 14 feet of fall. In keeping with the existing design of the fence she feels like the fence needs to be stepped down so that the lower portion will be four feet tall but by holding it level as the ground levels it would be capped at six feet tall. The house to the east has a six or seven-foot tall solid masonry wall along the front. The fence is well behind the property line and she does not think that it is out of proportion with the estate size of the lot.

Mr. Van De Wiele stated that Mr. Richard Groendyke used to be a shareholder at Hall Estill, where he works, but he retired before he started with Hall Estill, so he does not see this being a conflict.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to permit a fence to exceed 4 feet in height inside the street setback in a residential district (Section 45.080-A), subject to conceptual plans 13.6 and 13.9 of the agenda packet. The fence is to be constructed with a similar material as shown on page 13.6 and 13.9 of the agenda packet, and the side portion of the fence can be a black chain link fence. 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 BEG NWC LT 1 TH E93.68 SE95.76 S148.23 SWLY CRV LF 89.08 SELYCRV RT 18.67 S3.53 W120.63 N163.25 NW130.26 POB & BEG NEC LT 2 TH SE130.26 S163.25 NW96.25 N58.28 N144.34 POB BLK 1; PRT LTS 1 & 2 BEG 86.98W & .16N SWC LT 1 TH N199.85 E120.63 S201.70 TH ON CRV LF128.37 POB BLK 1, FOREST HILLS, City of Tulsa, Tulsa County, State of Oklahoma

22963—W Design

Action Requested:

Variance of the minimum open space requirement from 6,600 square feet to 6,000 square feet for a 33-unit apartment building in an RM-2 District (Section 5.030-A, Table 5-3). **LOCATION:** 3320 East 37th Street South (**CD 9**)

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated this request is to reduce the minimum open space requirement from 6,600 square feet to 6,000 square feet. It is 200 square feet per dwelling unit and there are 33 dwelling units; a reduction to about 282 square feet per unit. The Board previously approved a parking ratio for this property and as part of that approval the property is allowed to have an alternative landscape plan, but it does not reduce the open space requirement. The perimeter of the property, both street facing lot lines have overhead utilities. Because of that the Fire Marshal is not able to get aerial access from either street so the drive aisle in the parking lot is required to be expanded. The width of the parking lot had to be expanded to 26 feet to allow fire truck access in through the parking lot. If that were not required the parking aisle would have been able to be 22 feet wide, and that additional space amounted to approximately 640 square feet that would have otherwise been open space. Due to this unique condition of the property it presents a hardship unique to this property. On the project, that have not been included in the existing open space calculation, is dumpster enclosure which is 130 square feet. Also, are the breezeways that run through the property and they are open airways allowing the residents to get through to access the units. The footprint of the breezeways is over 700 square feet and if each floor is calculated it is over 2,300 square feet of area in between the buildings and the apartment units. Those have not been calculated as part of the existing open space that is on the site, but she feels that they operate and fulfill the intent of open space as defined in the Code.

Mr. Van De Wiele asked Ms. Cornett if the building has not changed in size or footprint but the parking lot has become wider. Ms. Cornett answered affirmatively.

Ms. Shelton asked if the sidewalks could be included in the open space. Ms. Cornett stated the sidewalks are being built in the right-of-way. Ms. Cornett stated that driveways, parking areas and buildings are not calculated as open space so walkways would be included. Ms. Cornett stated that Permitting does not consider the breezeways inside and between the buildings as walkways.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a

Variance of the minimum open space requirement from 6,600 square feet to 6,000 square feet for a 33-unit apartment building in an RM-2 District (Section 5.030-A, Table 5-3), subject to conceptual plans 14.18 and 14.19 of the agenda packet. The Board has found the hardship to be the location of overhead utilities forcing the drive aisle to be wider than it would have been otherwise. 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 24 BLK 2; LT 23 BLK 2; N10 LT 21 & ALL LT 22 BLK 2, 36TH STREET SUBURB, City of Tulsa, Tulsa County, State of Oklahoma

22964—Joshua Roegiers

Action Requested:

Variance to allow more than one accessory dwelling unit per lot in an RM-2 District (Section 45.031-D); Variance to permit the aggregate floor area of accessory buildings on a lot in an RM-2 District to exceed 40% the floor area of the primary residential structure (Section 45.030-B); Variance to permit a detached accessory structure to cover more than 30% of the rear setback (Section 90.090-C.2); Variance to permit a detached accessory building to exceed one story or 18 feet in height and 10 feet to the top of the top plate (Section 90.090.C) and to be located less than three feet from the rear lot line (Section 90.090-C). **LOCATION:** 1515 South Carson Avenue West (**CD 9**)

Presentation:

Joshua Roegiers, 1515 South Carson Avenue, Tulsa, OK; stated he is the homeowner and the builder of the structure, and after sitting here all afternoon he would like to apologize to the Board for doing this process backwards because he did not know the

process until the City stopped him on May 13th. The hardship for the request is the age and era of the house, it was built in 1916, and the size of the lot and how the existing structures are situated on the lot. Where the garage is built is where the asphalt parking lot was for 30+ years. The structure is matched to the existing 1916 house as well as possible. Mr. Roegiers stated he used reclaimed materials when possible. There are several existing accessory dwelling units up and down the alley.

Mr. Van De Wiele asked Mr. Roegiers if the structure opened into the alleyway. Mr. Roegiers answered affirmatively.

Mr. Van De Wiele asked Mr. Roegiers if there were other garages up and down the alleyway. Mr. Roegiers answered affirmatively. Mr. Van De Wiele asked if they were of similar size and scale. Mr. Roegiers stated there are two-car garages, single car garages, rental units, homes, shacks, homeless people, and many other things imaginable up and down the alley.

Ms. Ross asked Mr. Roegiers if the alleyway had been judicially vacated. Mr. Roegiers stated the alley is property of the City, it was deeded over in 1917 from the original developers of the neighborhood. All the electric services, stormwater, sewer, and the City easements are through there.

Mr. Van De Wiele asked Mr. Roegiers if he was going to use the unit as a rental property. Mr. Roegiers stated there is a mix. There is an existing accessory dwelling unit, which was the original carriage house, that he rents and one parking space is for that tenant and the other parking space is for himself. His plans are to have his parents live in the main house and he will live in the unit above the garage.

Mr. Van De Wiele asked Mr. Chapman if there were three houses on the subject lot. Mr. Chapman stated that is the request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Variance to allow more than one accessory dwelling unit per lot in an RM-2 District (Section 45.031-D); Variance to permit the aggregate floor area of accessory buildings on a lot in an RM-2 District to exceed 40% the floor area of the primary residential structure (Section 45.030-B); Variance to permit a detached accessory structure to cover more than 30% of the rear setback (Section 90.090-C.2); Variance to permit a detached accessory building to exceed one story or 18 feet in height and 10 feet to the top of the top plate (Section 90.090.C) and to be located less than three feet from the rear lot line (Section

90.090-C), subject to conceptual plans 15.22, 15.23, 15.24, 15.25, 15.26, 15.27, 15.28, 15.29, 15.30, 15.31, 15.32, 15.33, 15.34, 15.35, 15.36, 15.37 and 15.38. The Board finds the hardship to be the unique character of the neighborhood and the history of development and lot line adjustments in the neighborhood and on 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:

N 35 LT 9 S 25 LT 10 BLK 2, STONEBRAKER HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22965—Xeng Chang

Action Requested:

Variance of the required frontage in the AG and RE Districts from 30 feet to 0 feet to permit a lot line adjustment (Section 25.020-D, Table 25-2 & Section 5.030, Table 5-3). **LOCATION:** Northwest of the NW/c of East 21st Street South and South 177th Avenue East (Approximately 16900 East 21st Street South) (**CD 6**)

Presentation:

Xeng Chang, 13306 East 36th Street, Tulsa, OK; stated he purchased the subject property about 20 years ago and now that he is ready to build, he discovered he has no access to any utilities or an easement. He wants to purchase 30 feet of land on the west side from his uncle to have access to his property for utilities. He can access the property from 21st Street on an allocated easement on the west side.

Mr. Chapman stated the tract exists now without any frontage so Mr. Chang came to the office to adjust the lot line so he could connect to the water line, but staff could not any

evidence of a Variance to have zero frontage so he does not know how the tract was created.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; "abstaining"; Bond absent) to **APPROVE** the request for a Variance of the required frontage in the AG and RE Districts from 30 feet to 0 feet to permit a lot line adjustment (Section 25.020-D, Table 25-2 & Section 5.030, Table 5-3), subject to conceptual plans 16.9 and 16.10 of the agenda packet. The Board has found the hardship to be that the lot has existed in its current state for many, many years and the landowner is trying to access utilities. 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:

Part of the West third of the West half of the Southeast Quarter (W/2 SE/4) Section Eleven (11), T19N, R14E, Indian Base & Meridian, Tulsa County, Oklahoma, City of Tulsa, Tulsa County, State of Oklahoma

22966—Wallace Engineering – Mike Thedford

Action Requested:

Modification to a previously approved site plan (BOA-21326). **LOCATION:** 3101 West Edison Street North (**CD 1**)

Presentation:

Mike Thedford, Wallace Engineering, 123 Martin Luther King, Jr. Boulevard, Tulsa, OK; stated this similar to a previous application that is on Will Rogers. There will be an addition of lights, another building and bleacher modifications.

Ms. Shelton asked Mr. Thedford if one of the nearby homeowners would be able to see the bulb from one of the lights. Mr. Thedford did not think a homeowner would be able to see the bulb, but they would probably see the glow of the light. The lights will be on for sporting events or other school events.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Modification to a previously approved site plan (BOA-21326), subject to conceptual plans 17.8, 17.9, 17.10, 17.11, 17.12, 17.13, 17.14, 17.15, 17.16, 17.17, 17.18 and 17.19 of the agenda packet. The Board finds that the requested Modification 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:

Govt. Lot 3 and NW/4 of SE/4, Sec. 33, T-20-N, R-12-E, City of Tulsa, Osage County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 5:55 p.m.

Date approved: _____

9/8/2020

Chair