

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1258
Tuesday, September 8, 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 Bond, Vice Chair Radney, Secretary Shelton		Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on September 3, 2020, at 9:56 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 in person, by videoconferencing and teleconferencing via **GoToMeeting**, an online meeting and web conferencing tool. Board of Adjustment members and members of the public were allowed to attend and participate in the Board of Adjustment’s meeting via videoconferencing and teleconferencing by joining from a computer, tablet or smartphone using the following link:

<https://www.gotomeet.me/CityOfTulsa3/board-of-adjustments-sept-8th>

The staff members attending remotely are as follows:

Ms. Burlinda Radney
Ms. Jessica Shelton, Board Member
Ms. Audrey Blank, City Legal

The staff members attending in person are as follows:

- Mr. Stuart Van De Wiele, Chair
- Mr. Austin Bond, Vice Chair
- Mr. Dwayne Wilkerson, Tulsa Planning Office
- Mr. Austin Chapman, Tulsa Planning Office
- Ms. Janet Sparger, Tulsa Planning Office

* * * * *

MINUTES

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the July 14, 2020 Board of Adjustment meeting (No. 1254).

* * * * *

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today, due to a Board member moving outside the city limits of Tulsa. So, as a requirement that necessitated Ms. Ross’s retirement from the Board and the Mayor is in the process of finding a new Board member. Normally when there is less than five Board members in attendance the Board would entertain a request for continuances but given the time involved in the search and appointment process there may be a few meetings where there are only four Board members, so cases will be dealt with as the Board comes to them if there is an issue. Most motions the Board makes it will require an affirmative vote of three of the remaining four members.

* * * * *

UNFINISHED BUSINESS

22982—Greg Hollinger

Action Requested:

Variance of the required 25-foot rear setback (Section 5.030, Table 5-3); Special Exception to increase the permitted driveway width (Section 55.090-F).

LOCATION: 2103 East 37th Street South (**CD 9**)

Presentation:

Mr. Chapman stated he believes the applicant will be withdrawing the Special Exception portion of the application. The applicant requests a continuance to September 22, 2020.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance of the required 25-foot rear setback (Section 5.030, Table 5-3); Special Exception to increase the permitted driveway width (Section 55.090-F) to the September 22, 2020 Board of Adjustment meeting; for the following property:

PRT LT 2 BEG 112.80SW NEC TH SW155.70 W53.3 CRV RT 66.8 NE106.80 E92.80 POB & PRT VAC TERWILLEGER BLVD BEG 53.3W SECR TH W45.41 CRV RT 82.88 NELY98.05 E52.87 SLY TO POB BLK 6,HIGHLAND PARK EST, LEWIS ROAD ESTATES PRT B6-9 HIGHLAND PARK EST AMD B6-9, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Radney announced that she will need to recuse on Item #11.

Mr. Van De Wiele asked Mr. Daniels if he would like to continue his case to another meeting since Ms. Radney will be recusing. Mr. Daniels stated he is comfortable in having the Board hear his case today.

Mr. Van De Wiele announced that he will need to recuse on Item #4.

Mr. Van De Wiele asked Ms. Lowe if she would like to continue her case to another meeting since he (Mr. Van De Wiele) will be recusing. Ms. Lowe stated she is comfortable in having the Board hear her case today.

NEW APPLICATIONS

22983—John Durkee

Action Requested:

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

LOCATION: 1125 East 49th Place South (CD 5)

Presentation:

John Durkee, 1125 East 49th Place, Tulsa, OK; stated he started putting bricks on his driveway several years ago. He had a carport with a gravel drive beside the house and after his tour in the Army he discovered grass had grown up through the gravel. In the 1970s an official from the City told him he could not park on the grass and that the parking had to be an all-weather surface. That is when he started installing bricks so he

could park off the street. The entire side of Newport is now covered in bricks except for the portion the City cemented in when they repaired the sewer. Essentially the bricks are already laid down and he would like to keep them. Mr. Durkee stated that his driveways are 10'-0" and 8'-0" wide and if the exit on to Newport from what would be a circular driveway, it is another 10'-0" or 12'-0" wide. Part of this area is a flower bed and there are trees are planted there.

Mr. Van De Wiele asked Mr. Durkee if he wanted to increase the existing driveway widths. Mr. Durkee stated that he would like to be able to drive into the driveway and then drive back out on to Newport, and he only needs about 10'-0" to 12'-0" for that. So, the Board would be approving a third driveway.

Mr. Van De Wiele asked staff if the Board was to decide about a new driveway or is the Board to decide about all of the brick or is it a combination of both? Mr. Chapman stated it is everything. Essentially, the driveway is the vehicular travel path between the street and the street setback. Mr. Durkee has paved that with brick and that is what is being called driveway, and it has been used as parking. Mr. Van De Wiele asked if everything the Board is looking at, that has brick, is being looked at by the City as driveway or parking area? Mr. Chapman answered affirmatively.

Mr. Durkee stated that in the past there have been cars parked on the bricks and the City issued him a ticket for that, and all those cars have been moved and none have returned except to the driveway in front.

Mr. Van De Wiele asked Mr. Durkee if the driveway he would like to put in will be 18'-0" to 20'-0" wide. Mr. Durkee answered affirmatively.

Mr. Bond asked Mr. Durkee if there were any cars currently parked on any of the brick. Mr. Durkee stated there are no cars parked on any of the brick.

Interested Parties:

Marley Hicks, 4912 South Newport Avenue, Tulsa, OK; stated she lives across the street from the subject property and would not like for this to be extended because she does think there will be more cars parked outside and allow him to work on cars. This will also her view when pulling out of her driveway. Ms. Hicks believes this will affect the resale property values.

Darrell Eckles, 4904 South Newport, Tulsa, OK; stated he also lives across the street from the subject property. Mr. Eckles stated he sent in pictures of activities that have happened in the neighborhood. The neighbor to the north has widen their driveway and if this residence widens their driveway there will almost zero parking on that side of the street for a block. This will affect the property values by not having street parking available. The subject resident already parks vehicles in the street and if they have the driveway that will give them free rein. Mr. Eckles stated that he believes the applicant wants to have his own parking spot. Mr. Eckles stated he has seen Mr. Durkee work on

large grease trap vehicles, and he believes this will make matters worse. Mr. Eckles does not think this will be any good for the neighborhood.

Rebuttal:

John Durkee came forward and stated he has performed vehicle repairs in the past, and he has sold all of those vehicles. He has no intention of working on vehicles in the driveway. The curb has not prevented anyone from driving there and the neighbor across the street has parked alongside of the bricks because there is still an existing curb.

Ms. Shelton asked Mr. Durkee when he started installing the bricks because she sees the word "historical" used. Mr. Durkee stated he started laying the bricks in the 1970s in the back yard and it has evolved through the years to the side of the house.

Mr. Van De Wiele stated that he would propose the case be continued to allow the applicant to come back before the Board with a more defined site plan showing what areas would be removed or what will the area look like, where is there going to be driveway, etc.

Debra Durkee, 1125 East 49th Place, Tulsa, OK; stated the bricks have been going in continuously for the last 15 years. Ms. Durkee asked if a homeowner is not allowed to have bricks in their yards. When they travel, he buys bricks in the little towns that they stop in and that is what the bricks are. Mr. Van De Wiele stated that homeowners are allowed to have brick driveways. The Board needs to know where the landscaping features stop and where does the driveway start, and where does the driveway stop and where does it continue? If there is not something like that then this is all driveway. The Board needs a better-defined plan as to what the homeowner wants.

Comments and Questions:

Mr. Van De Wiele asked staff how this stands in relation to the open space requirements. Mr. Wilkerson stated that there are no open space calculations, but the definition of open space is the area that is not covered by a building or parking or access to parking. If the drawing that has been submitted on page 3.16 is correct it probably meets the open space requirement.

Mr. Van De Wiele asked Mr. Wilkerson if he were saying he could brick over every square inch of a yard. Mr. Wilkerson answered affirmatively as long as no one is driving or parking on those bricks.

Mr. Wilkerson stated that he is under the impression that the applicant has laid pavers down in the street right-of-way and that should not have happened, and whether that is used for parking or flower beds, the City has written the applicant a citation for using it as a driveway. Mr. Wilkerson stated that it appears there is a violation for the driveway without a curb cut.

Mr. Van De Wiele asked if no one parks or drives on bricks is there a zoning issue? Mr. Wilkerson stated the inspector has determined that this is a driveway because of what he saw in the field.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to increase the permitted driveway width (Section 55.090-F) to the September 22, 2020 Board of Adjustment meeting; for the following property:

LOT-9-BLK-15, RIVERVIEW VILLAGE B14-20, City of Tulsa, Tulsa County, State of Oklahoma

22986—Hall Estill – Amanda Lowe

Action Requested:

Special Exception to permit a horticulture nursery use in the CG District (Section 15.020, Table 15-2). **LOCATION:** 10724 East 11th Street South (**CD 5**)

Mr. Van De Wiele recused and left the meeting at 1:48 p.m.

Presentation:

Amanda Lowe, 320 South Boston, Suite #200, Tulsa, OK; stated she represents the property owner. The Zoning Code was recently amended to allow this type of use by Special Exception, and the property was recently rezoned CG. The property has gone through multiple levels of review, both for the Tulsa Planning Commission and the City Council. The business will be conducted entirely indoors, there will be no drug sales to the public, and there will be minimal business traffic. This would not be injurious to the neighborhood or detrimental to the public welfare.

Ms. Shelton stated there are eight units in the commercial strip and she asked where the subject business would be located. Ms. Lowe stated the Special Exception being sought is for the entire building space. Currently only a portion of the space will be used but the applicant would like to have the option to expand in the future.

Ms. Shelton stated that she understands there would be no processing at the subject site because it is a grow facility, and she asked Ms. Lowe if there was any odor with the growing process. Ms. Lowe stated the business is entirely indoors so there should not be any smell. Ms. Lowe stated the applicant will be in compliance with all regulations and statutes and those provide for preventive measures for ventilation and other necessities, so odor should not be an issue.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, the Board voted 3-0-1 (Bond, Radney, Shelton "aye"; "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Special Exception to permit a horticulture nursery use in the CG District (Section 15.020, Table 15-2), subject to conceptual plan tagged as Addendum 1. 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:

Part of the West Half (W/2) of Lot One (1), MINGO VALLEY ACREAGE, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, being more particularly described as follows, to-wit:

BEGINNING at a point 40 feet South and 170 feet East of the Northwest corner of Lot One (1), said point being on the South Right of Way of line of East 11th Street South; Thence East along said Right of Way line for 150 feet to the East line of said West Half (W/2) of Lot One (1); Thence South and along the East line of said West Half (W/2) of Lot One (1) for 260 feet; Thence West for 150 feet; Thence North 260 feet to the POINT OF BEGINNING., City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 1:53 p.m.

22987—Bashir Harfoush

Action Requested:

Special Exception to allow for commercial/vehicle sales and service/personal vehicle sales & rental use in a CS District (Section 15.020, Table 15-2).

LOCATION: 9107 East 11th Street South (CD 3)

Presentation:

Okba Harfoush, 9107 East 11th Street, Tulsa, OK; stated he would like to have a car lot at the subject address. Most of his vehicle sales will be done at the auctions but he has to have an office to be able to receive his license for the business.

Mr. Van De Wiele asked Mr. Chapman if there were to be outdoor auto sales would there be a need for another request. Mr. Chapman stated the Code states that is prohibited within 300 feet of an abutting residential district, and the subject property does not abut a residential district.

Mr. Harfoush stated that ten cars will fit in the building and there is some space in the rear as well. Mr. Harfoush stated he had a Special Exception before, but that dealership was closed, and he opened a restaurant. The restaurant did not do well so he has gone

back to selling cars. Mr. Harfoush stated that his business is closed on Sundays, so his business does not interrupt the church business at all.

Mr. Harfoush stated that his business is to buy and sell cars at the auctions. If there is a car in need of repair, he will then bring it back to the subject site to perform the work, so there will no showing of cars at the subject site. The work at his shop would consist of mechanical or detail work.

Ms. Shelton asked Mr. Harfoush how many cars he has had at the subject site in the past and how many does he plan to have there in the future. Mr. Harfoush stated the maximum number of cars he has had there in the past was four cars.

Mr. Van De Wiele asked Mr. Harfoush if he owned or leased the subject property. Mr. Harfoush stated he and his father own the subject property.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none 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, Table 15-2), subject to conceptual plan 5.19 of the agenda packet. The approval is limited to 10 vehicles outdoor at the subject site, and a 10-year time limit, September 2030. 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:

E19.66 W94.45 LT 37 & E20 W94.4 LT 38 LESS S15 FOR ST BLK 32,CLARLAND ACRES B20-37, City of Tulsa, Tulsa County, State of Oklahoma

22988—Johnny Hoang

Action Requested:

Special Exception to increase the maximum allowable height of 4 feet for a fence located inside the street setback (Section 45.080-A); Variance to allow a fence to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A). **LOCATION:** 5101 and 5151 East Pine Street North **(CD 3)**

Presentation:

John Hoang, 5101 East Pine Street, Tulsa, OK; stated the Special Exception request is so he can raise the chain link fence to six feet in height.

Mr. Van De Wiele asked Mr. Chapman what portion of the fence would the four-foot fence limit be extended to? Mr. Chapman stated that the planned right-of-way is 50 feet and per Code the fence is supposed to be outside of the planned right-of-way. Essentially, if the applicant would be limited to 60 feet from the center.

Mr. Van De Wiele asked Mr. Chapman if he knew how much farther out the fence is now based on that information, and where it could be located by right? Mr. Chapman stated that by right the fence would be ten feet north and currently the fence is 37 feet from the center line.

Mr. Van De Wiele asked Mr. Chapman if this request is approved will the applicant have to get a removal agreement. Mr. Chapman stated that the way he wrote the staff report gives Engineering some flexibility, but the applicant will need either a removal agreement or a license agreement.

Ms. Radney asked if there was a fence on the property previously. Mr. Hoang answered no.

Ms. Shelton asked if the operation was taking place in 5101 East Pine or is it in both buildings. Mr. Hoang stated that currently it is in just the one building, 5101 East Pine but it will be moved into 5151 in the future.

Mr. Van De Wiele asked Mr. Hoang to state his hardship for the Variance request. Mr. Hoang stated that if he were to move the fence back it would be next to impossible to park because it would cut the parking lot in half. The medical marijuana facility has to be protected and his trash bin would have to be behind the gate.

Mr. Bond asked Mr. Hoang if the City's right-of-way is running through the parking lot. Mr. Hoang answered affirmatively. Mr. Hoang stated that when he purchased the property the surveyor placed the sticks showing the right-of-way and he went four feet behind that and three feet behind the markers on the side.

Mr. Hoang stated that he has to have the ability to close the gate before a drop off or a pickup can take place for security reasons and a four-foot fence would not give any protection.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to increase the maximum allowable height of 4 feet for a fence located inside the street setback (Section 45.080-A); Variance to allow a fence to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A), subject to conceptual plans 6.15 and 6.16 of the agenda packet except for the gates. The gates for the fence are to be approved by the City of Tulsa through a removal or license agreement. The Board has found the hardship to be the existing location of the building and the parking lot in relation to Pine Street. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

BEG 50E SWC SW TH N920.50 TO PT ON SL RR ROW NE926.56 SE193.51 SE139.70 SE62.80 S858.63 TO PT ON SL SW W1282.97 POB LESS BEG 50N & 50E SWC SW TH N28 SE39.59 W28 POB SEC 27 20 13 28.290ACS, City of Tulsa, Tulsa County, State of Oklahoma

22989—Joseph MacDonald

Action Requested:

Special Exception to allow for commercial/vehicle sales and service/personal vehicle sales & rental use in a CS District (Section 15.020, Table 15-2).

LOCATION: 1310 and 1320 East 58th Street South (**CD 9**)

Presentation:

Joseph MacDonald, 1310 East 58th Street, Tulsa, OK; no formal presentation was made but the applicant was available for questions from the Board.

Mr. Van De Wiele asked Mr. MacDonald how many vehicles will he have for sale on the property? Mr. MacDonald stated he would have ten to twelve at any one time. Mr. Van De Wiele asked Mr. MacDonald if there would be any repair work performed on the site. Mr. MacDonald answered no.

Mr. Chapman informed the Board that there is currently a repair shop on the site and that it will remain on site.

Mr. Van De Wiele asked Mr. MacDonald if the vehicles being repaired at the repair shop are the same vehicles that are to be sold. Mr. MacDonald answered no.

Mr. Van De Wiele asked Mr. MacDonald if he owned or leased the property. Mr. MacDonald stated he leases the property on a yearly lease.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none 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, Table 15-2). The approval has a time limitation of five years, September 2025. There is to be a limit of 15 vehicles at any one time involved in the sales portion of the business. Those vehicles are to be parked on a hard all-weather surface that is striped in accordance with the parking and design standards. None of the 15 vehicles on the subject lot shall be inoperable and they are not to be associated with the existing repair shop operations. 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:

W106.62 E120 LT 7; E40 W170 LT 7, SOUTHLAWN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22990—Wallace Engineering – Nicole Watts

Action Requested:

Variance of the screening requirement between office use and residential zoning districts (Section 40.260-D). **LOCATION:** 5750 East 15th Street South (CD 5)

Presentation:

Nicole Watts, Wallace Engineering, 123 North Martin Luther King, Jr. Boulevard, Tulsa, OK; stated the property is owned by One Gas and has been IM zoning for numerous years; there has been an existing facility, office and yard on the property. In the past 10 to 15 years the subject property has been leased to the Tulsa Fairgrounds where they have stocked dirt piles for different events. When the lease with the Fairgrounds lapsed One Gas decided to build a training facility on the subject property. The site sits in a “bowl” and the surrounding properties to the south and to the west are 10 to 14 higher than the subject property. The majority of the fences in the area are wood screening fences. Because this is a proposed industrial use One Gas would like to erect a chain link fence to provide security around the property. Because of the differences in the topography there is already a natural screening from activities of the office facility.

Mr. Van De Wiele asked Ms. Watts who has maintained the grassy slope, and how will the care and maintenance be taken care of between two fences? Ms. Watts stated that in the past 10 to 15 years the property was maintained by the Fairgrounds and it was not maintained well. Now that it is One Gas property One Gas will maintain the property and it will be under contract with a lawn service to be maintained weekly. The maintenance of the property and maintenance between the two fences will be One Gas and it will not be on the homeowners.

Mr. Van De Wiele asked Ms. Watts if she knew the size of the gap between the two fences. Ms. Watts stated that currently it will about two feet, but it is still be worked out in the field. Currently there are a lot of old landscaping that One Gas does not want to interfere with; old trees for example.

Mr. Van De Wiele asked Ms. Watts if she knew where the power line poles are located in relation to the property boundaries. Ms. Watts stated the power line poles are located on the One Gas property, on the west side.

Mr. Van De Wiele asked Ms. Watts to explain the landscaping requirements for the subject property. Ms. Watts stated that part of the screening requirement is six-foot wooden privacy fence with trees every 25 feet, or a six-foot masonry fence and there is a Variance request for the entire screening requirement.

Mr. Van De Wiele asked how tall will the office building be? Ms. Watts stated that it will be a 14-foot tall building; a one-story office building.

Interested Parties:

Sue Lackey, 1721 South Fulton, Tulsa, OK; stated the building has been built and the neighborhood was never notified of any construction. When Public Service installed the power lines and the new poles they ran a road right beside the fence, almost three feet straight down, which knocked the fence posts loose because of the disturbance to the ground so the wood fences are leaning in all directions. When Public Service filled the road back in the former walkway behind the fences for yard maintenance was completely taken away because the hill down goes straight down from the fence. Oklahoma Natural Gas has had the property for over year now and they have not taken care of the property; they never take care of the top of the hill. The hill is not a natural barrier because it projects the sound, you can hear people talking and the noise is loud and constant. The neighbors have a problem with the weeds and noise. Ms. Lackey stated she cannot trust them to come back and take care of the property if they have not done so in the past year since the change. Ms. Lackey asked the Board to consider this request not justified.

Ms. Radney asked Ms. Lackey if she thought trees planted along the barrier would make any difference in noise dampening. Ms. Lackey stated that if the trees were put two or three feet out there is such a drop there that trees would not make a difference.

Ms. Radney asked Ms. Lackey if she would want the terrace at the top of the hill replaced. Ms. Lackey answered affirmatively. Ms. Radney asked Ms. Lackey if a masonry wall would be appropriate in the absence of the chain link? Ms. Lackey stated that she does not want to speak for some of her neighbors because some of them have four-foot chain link fences so she would not want to say that a masonry wall would be agreeable with those neighbors. Ms. Radney asked Ms. Lackey if she thought a masonry wall would be helpful in the noise mitigation. Ms. Lackey answered affirmatively.

Clarence McCawley, 1727 South Fulton, Tulsa, OK; stated he concurs with most of what Ms. Lackey has said except for the fencing. The main concern is the new fencing being installed right next to the residence's fencing especially if the new fence is taller than the existing fencing. Mr. McCawley believes a new fence would affect the resale values of the houses. The hill is about a 45-degree angle and it will be difficult to maintain even with a ZTR lawn mower. Mr. McCawley does not understand why One Gas does not want to install the new fence along the edge of the parking lot because they would still be able to take care of the hill, and that would still afford One Gas the security they need.

Mr. Bond asked Mr. McCawley if he thought One Gas should be required to fulfill the screening requirements between the residential neighborhood and the office. Mr. McCawley stated that he is not sure, but he does know that he does not want the screening at the top of the hill where the residence cannot maintain the vegetation.

Shelly Gallaway, One Gas, 15 East 5th Street, Tulsa, OK; stated the subject property has been occupied by the Fairgrounds for the last 15 to 20 years, but she does not

know how the property was maintained during that period of time. Currently the property is a construction site and are doing everything possible to maintain the site. Ms. Gallaway stated that One Gas has notified and spoken with PSO regarding the poles and those issues are being worked through. One Gas is willing to meet with the residents to listen to their concerns about the right-of-way. The biggest concern about the fencing is not necessarily aesthetics but it is safety. One Gas has fencing standards that require chain link for security. The fence is to keep the One Gas property safe and also keep others on the property safe as this is a training site. There will be a truck and a backhoe on the site, and One Gas wants to make sure the public is safe from the site because of the history of vandalism and other crimes. The construction site can be noisy at times, but it is temporary.

Mr. Van De Wiele stated that he wants One Gas to understand that neighbors are here today complaining about the maintenance of the subject property, and he understands that the property has not always been used by One Gas, but it has been used by One Gas for a year or so. What the Board is hearing is the neighbors are saying effectively One Gas is not cutting the grass all the way to the fence. The Board wants to make sure One Gas is hearing that and acknowledging that it is One Gas's obligation to do so. Ms. Gallaway stated she understands, and because this is a new property that One Gas is now maintaining they have to get their contracts extended with the lawn care service and those are now in place and One Gas is now able to maintain the property. Ms. Gallaway stated the plan is to get the One Gas fence as closely as possible to the fence line leaving a strip between the two fences and One Gas will maintain that.

Mr. Van De Wiele asked Ms. Gallaway to guess as to how wide that strip will be. Ms. Gallaway stated that it is anticipated to be two feet, it depends on the survey and the clearing needed, but One Gas wants to make sure they take care of the existing residential fences. With the elevation change there is a bigger issue and potential concern from One Gas's standpoint of maintenance on both sides of the fence and safety concerns.

Mr. Van De Wiele asked Ms. Gallaway why One Gas would not put the fence at the bottom of the hill around the parking lot if it is a security issue. Ms. Gallaway stated there have not necessarily been issues along the fence line, but One Gas has had issues on the south side of the property with people occupying the property. Mr. Van De Wiele asked Ms. Gallaway when she states "occupied" is she talking about adverse possession or is she talking about homeless people living on the hillside. Ms. Gallaway stated she is talking about residents being on the other side of the fence that use the area as additional yard storage or buildings.

Rebuttal:

Nicole Watts came forward and had a picture placed on the overhead screen and described how the fences and the overgrown trees on the south side of the property which causes issues. The fences that are on the plateau are on One Gas property as well, so One Gas wants to be able to control their property for safety. Mr. Van De Wiele

stated this is an issue that has to be resolved. Ms. Watts stated she understands, and One Gas wants to be a good neighbor for both sides.

Mr. Bond stated he is struggling to see what is there to say that a wooden fence is not needed. Ms. Watts stated that when looking at the Code and look at the requirements for a wooden privacy fence, what is the fence there for? Is it there for visual screening of the office use? If that is what the intent of the Code is, she believes that when looking at the site that because of the elevation is between 10 to 20 feet below the residential housing the residents still have their privacy in their back yard. If a six-foot person is standing at the office building, they cannot look into the back yard and that is how she interprets the Code. Mr. Bond asked Ms. Watts if she thought an opaque screening wall would be better than a chain link fence. Ms. Watts stated when the construction is complete the structure will be an office building and the yard will probably be used four times a year. If this was going to be a heavily used area sure, but with the use it is a very minimal lowkey volume.

Ms. Radney stated that One Gas has already stated the yard will be used for training purposes, is the backhoe part of the equipment that personnel will be trained on? Ms. Watts stated there will be a dig site to the east of the building where personnel will learn how to dig lines and how to provide safety. Ms. Radney asked if there would still be construction type noise happening in the yard, even though it may be only four times a year. Ms. Watts stated there will be a backhoe.

Comments and Questions:

Mr. Van De Wiele stated the subject property is zoned as industrial moderate property. In Section 35.070-B it states manufacturing and industrial uses, that as part of their normal operations generate noticeable off-site impact in terms of noise, smoke, particulate matter, odors and vibration, there is some amount of that. Some of that is not only expected but is it fair to say, "by right"? Is it fair to say that a site can be a little loud, a little noisy, a little stinky on an IM piece of property?

Mr. Bond stated that even a quiet office park, if it abuts a residential back yard that is part of the intent and why there are screening requirements. This is a complicated area with the topography, but he not past the point where he wants to lessen the screening requirement for a lot of reasons, one being principal.

Mr. Van De Wiele stated that if this were already wood screened, and the wood screening fence is there but it is the residents screening fence it is not the office or commercial user. Who has to maintain it? The closeness of two fences, whether they are wooden, or chain link are both going to have a maintenance issue. Somebody is going to have to figure out where you put that. The elevation has been seen as a basis for a hardship for a Variance on the screening requirement. He does not know whether it is the same situation on the south side because the pictures depict some four-foot fences. Mr. Van De Wiele stated he is undecided.

Ms. Radney stated she thinks some of the hardship is self-created because this could possibly have been mitigated with engineering before the building was built. The Board is assuming that there was nothing that could be done about the steep topography but that is not exactly true; we're stuck with looking at it now. She is unconvinced, she personally thinks there needs to be vegetation and see a terrace at the top of the hill for safety purposes and the proper maintenance of the fence line.

Ms. Shelton stated she is less concerned with the visual screening in this case because of the topography and more concerned about the sound dampening. She agrees the trees will grow into larger trees and they will help the sound in the future. She also does not agree that there should be a tree every 20 feet on this particular property, it is way too many trees and terracing is a huge cost burden. She has no problem with the chain link fencing, but it is the vegetation. Ms. Shelton thinks the Board should ask for a site plan that is a compromise and shows how the sound mitigation issue will be addressed in the areas of concern, as opposed to an approval or denial.

Ms. Watts stated she has spoken with the owner and they are agreeable to the vegetation if they can install a chain link fence on the south side; the west side has mature trees and a wooden privacy fence.

Board Action:

On **MOTION of BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance of the screening requirement between office use and residential zoning districts (Section 40.260-D) to the September 22, 2020 Board of Adjustment meeting; for the following property:

A TRACT OF LAND THAT IS THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER (NW/4 SE/4) OF SECTION TEN (10), TOWNSHIP NINETEEN (19) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:BEGINNING AT A POINT THAT IS THE NORTHWEST NORNER OF SAID NW/4 SE/4; THENCE NORTH 88°17'08" EAST ALONG THE NORTHERLY LINE OF SAID NW/4 SE/4 FOR 155.50 FEET; THENCE SOUTH 01°16'30" EAST PARALLEL WITH THE WESTERLY LINE OF SAID NW/4 SE/4 FOR 568.50 FEET; THENCE SOUTH 07°36'48" EAST FOR 92.43 FEET; THENCE NORTH 88°13'28" EAST FOR 18.00 FEET; THENCE SOUTH 01°41'56" EAST FOR 301.00 FEET; THENCE NORTH 87°53'51" EAST FOR 259.06 FEET; THENCE SOUTH 01°45'25" EAST FOR 360.40 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID NW/4 SE/4, THE SAME BEING A POINT ON THE NORTHERLY LINE OF LOT THIRTY-SIX (36), BLOCK THREE (3), GLEASON VILLAGE, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE SOUTH 88°18'26" WEST ALONG THE SOUTHERLY LINE OF SAID NW/4 SE/4, AND ALONG A NORTHERLY LINE OF SAID BLOCK 3, FOR 448.00 FEET TO THE SOUTHWEST CORNER OF SAID NW/4 SE/4, THE SAME BEING THE NORTHWEST CORNER OF LOT 43, BLOCK 3, OF SAID GLEASON VILLAGE, AND ALSO BEING A POINT ON THE EASTERLY LINE OF LOT TWO (2), BLOCK ONE (1), WEDGWOOD, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE NORTH 01°16'30" WEST ALONG THE WESTERLY LINE OF SAID NW/4 SE/4, AND ALONG THE EASTERLY LINE OF SAID BLOCK 1, WEDGWOOD, AND ITS NORTHERLY EXTENSION THEREOF, FOR 1319.92 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; City of Tulsa, Tulsa County, State of Oklahoma

22991—W Design, LLC

Action Requested:

Variance to allow a drive through on the street facing (Skelly Drive) side of the property (Section 55.100-C2). **LOCATION:** 3866 South Sheridan Road South (CD 5)

Presentation:

Meenakshi Krishnasamy, W Design Architects, 815 East 3rd Street, Tulsa, OK; stated the subject building is at the intersection of Sheridan Road and Skelly Drive. Currently the building has an existing Domino's Restaurant on the northern end cap, and the remainder of the spaces are empty. The clients are looking at the south end cap and that space was originally designed to be a sitting restaurant space, but his client would like to have a Daylight Donuts shop on the south end. The request has been through the permit process and it was discovered that the drive-thru cannot be on the street facing side of the building but the property has three sides that are street facing, and the back side abuts residential. His clients would like to install the drive-thru facing Skelly Drive. There is enough stacking area from the menu board and enough parking for the drive-thru to be on the street facing side.

Mr. Van De Wiele stated the site plan shows the traffic is going one way west at the north end of the property but in the rear of the property it is one way going north, why is it one way going north and not south? Mr. Krishnasamy stated that it is going north on the one end for the pick-up window for Domino's. Mr. Van De Wiele asked Mr. Krishnasamy where a Domino's customer going through the drive-thru where do they order and where do they pick up? Mr. Krishnasamy stated Domino's has just a pick-up window, they do not have any order or menu board.

Mr. Van De Wiele stated the plan looks like a carousel and he is surprised the City would allow this. Mr. Wilkerson stated there is a provision in the Zoning Code that has a certain amount of queuing distance from a menu board and there is nothing in the Code that addresses the configuration. With this exhibit it appears to illustrate that they meet the standard of having three cars from the menu board. Mr. Van De Wiele stated he is not worried about that but the site plan shows eight cars in the queuing, and if the eighth car pulls up too far and a ninth car pulls in behind him now the car at the window is stuck. Mr. Wilkerson stated the Code only regulate to the third or fourth car and City Traffic does not regulate what happens on private property. Mr. Krishnasamy stated the client plans to clearly mark the pavement to keep it clear so there is the ability to exit from the window.

Interested Parties:

Michael Balch, Dynamic, 19 South Main Street, Tulsa, OK; stated he is invested in the potential build of the property. He has been doing construction for about 35 years for McDonald's, Mazzio's, Bank of Oklahoma, etc. He evaluated the property to find the best way to make the business work. Mr. Balch stated that he has done this style of drive thru. The alley is meant for utility usage for trucks to use and if it is impeded, and

he did look at that, but it was not able to be done with the way the alley is configured. If the traffic is controlled within the parking lot by blocking the area that will let traffic flow in in front of the building they will be able to get access by stopping before the hash marked area before getting to the window.

Brian Letzig, W Design, 815 East 3rd Street, Tulsa, OK; stated one example in Tulsa of a similar drive-thru situation is the Coney Islander located at 31st and Sheridan. The other issue is that the area abuts a residential property to the west, so they would need an additional 10-foot buffer and right now there is a 7-foot buffer for the lane.

Comments and Questions:

None.

Board Action:

On **MOTION of BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for Variance to allow a drive through on the street facing (Skelly Drive) side of the property (Section 55.100-C2), subject to conceptual plan 9.17 of the agenda packet. The Board finds the hardship to be the location of the property and its abutment to a freeway. 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:

BEG 150.74N & 50W SECR NE SE TH N250 W135 S363.23 TO N R/W SKELLY DR TH NE ALG R/W POB LESS N25 FOR ST SEC 22 19 13 .878AC, City of Tulsa, Tulsa County, State of Oklahoma

22992—Shirley Ferguson

Action Requested:

Special Exception to allow a carport in the street yard and street setback in an RS-3 District with modifications to its allowable dimensions (Section 90.090-C.1).

LOCATION: 1634 South Delaware Avenue East (**CD 4**)

Presentation:

Shirley Ferguson, 1634 South Delaware Avenue, Tulsa, OK; stated she would like to extend the existing attached carport by eight feet because it does not cover the cars.

Mr. Van De Wiele asked Ms. Ferguson if any of her neighbors had any concerns about her request. Ms. Ferguson answered no.

Interested Parties:

Kent Ferguson, 1634 South Delaware Avenue, Tulsa, OK; stated the new carport would have a 20-foot setback.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a carport in the street yard and street setback in an RS-3 District with modifications to its allowable dimensions (Section 90.090-C.1), subject to conceptual plans 10.14 and 10.17 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 1 BLK 5, GLENDALE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22993—Duane Daniels

Action Requested:

Variance to reduce the required 15-foot side street setback for an accessory building in an RS-2 District (Section 5.030-A, Table Note 3). **LOCATION:** 5302 East 9th Street South (**CD 5**)

Ms. Radney recused and left the meeting at 3:49 P.M.

Presentation:

Duane Daniels, 5302 East 9th Street, Tulsa, OK; stated he has made the accessory building a little smaller and relocated it closer to the house eastward to make a request of 2'-6" difference on the side setback. Mr. Daniels stated his hardship is that there is no

true side yard to the east or to the south, and there is a gas line running through the property.

Mr. Van De Wiele asked Mr. Daniels how tall the proposed building would be and what type of materials does he propose to use to build the building. Mr. Daniels stated the side walls will be ten feet with a 4/10 pitch. There will be a six-foot privacy fence around the building so the top portion of the building will be the only thing seen by the neighbors. He will have a cedar shake on the end gables and the exterior of the building will be painted to match the house giving the building more of a carriage house look to keep it from being an eyesore in the neighborhood.

Ms. Shelton asked Mr. Daniels if the exterior walls of the house were ten feet. Mr. Daniels stated the house walls are the standard eight-foot tall walls but with the crawl space they are about nine feet tall.

Interested Parties:

Nicolette West, 917 South Darlington, Tulsa, OK; stated she thinks will bad for the neighborhood and will affect home values in the area. Even though the building is now smaller and moved toward the owner's house she still thinks it will detract from the neighborhood.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Shelton, Van De Wiele "aye"; no "nays"; Radney "abstaining"; none absent) to **APPROVE** the request for a Variance to reduce the required side street setback for an accessory building in an RS-2 District (Section 5.030-A, Table Note 3), subject to the conceptual plan dated August 27th. The Board has found the hardship to be the unique shape of the lot and the location of the house on the lot. The top plate is to be 10'-0" in height and the roof pitch is to be a 4/12 roof pitch to conform with the existing house as well as the color and design is to be consist with the existing house. The gables on the building are to be shake cedar like the existing house. The accessory building is to be built within a 6'-0" privacy fence. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;

- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LOT 12 LESS S 100 BLK 27, WHITE CITY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22994—Raul Cisneros

Action Requested:

Variance to reduce the 20-foot setback for a street facing garage (Section 5.030-A, Table Note 3); Variance to increase the maximum coverage area of the rear yard setback for a detached accessory building (Section 90.090-C.2, Table 90-2).

LOCATION: 1347 North Boston Place East (CD 1)

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to reduce the 20-foot setback for a street facing garage (Section 5.030-A, Table Note 3); Variance to increase the maximum coverage area of the rear yard setback for a detached accessory building (Section 90.090-C.2, Table 90-2) to the September 22, 2020 Board of Adjustment meeting; for the following property:

LT 1 BLK 2, ADAMS RESUB L5-19 B1 & L1-17 B2 CLINESS CREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22995—Raul Cisneros

Action Requested:

Variance to allow the floor area of detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A). **LOCATION:** 3727 East Pine Place North **(CD 3)**

Presentation:

The applicant was not present.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Variance to allow the floor area of detached accessory buildings to exceed 40% of the floor area of the principal residential structure (Section 45.030-A) to the September 22, 2020 Board of Adjustment meeting; for the following property:

LOT-19-BLK-1, LOUISVILLE HGTS ADDN B1-8, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 4:05 p.m.

Date approved: 10/27/2020



Chair