

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1262
Tuesday, November 10, 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 Brown Shelton		Wilkerson Chapman Sparger	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on November 5, 2020, at 10:11 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/COT4/boa-gotomeeting-in-council-chambers-november-10th>

The staff members attending remotely are as follows:

- Ms. Burlinda Radney
- Ms. Jessica Shelton
- 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. Steve Brown
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 4-0-1 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; Brown "abstaining"; none absent) to **APPROVE** the **Minutes** of the September 22, 2020 Board of Adjustment meeting (No. 1259).

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the October 13, 2020 Board of Adjustment meeting (No. 1260) with corrections on page 6 and on page 8.

NEW APPLICATIONS

23029 – Eller & Detrich – Andrew Shank

Action Requested:

Appeal of the Administrative Decision issued in the Letter of Deficiency written September 30, 2020 for permit application **SIGN-070484-2020**, stating that the existing dynamic display off-premise outdoor sign, located in the River Design Overlay (RDO-2), requires a permit and a Variance to replace the tri-fold dynamic display sign with LED dynamic Display (Section 70.140) **OR** in the alternative a Variance from Section 80.060-B.1 of the Code to "update an existing non-conforming tri-fold dynamic display off- premise outdoor advertising sign in a River Design Overlay District to an LED dynamic display sign". **LOCATION:** 9904 South Riverside Parkway East **(CD 2)**

Presentation:

The applicant has requested a continuance to December 8, 2020.

Interested Parties:

Steve Easley, 9640 South 67th East Avenue, Tulsa, OK; stated he is a managing member of River Rose Development that owns the property at 10020 South Riverside Parkway. He is opposed to the continuance request because he thinks the River Design Overlay is clear.

Mr. Van De Wiele asked Mr. Chapman for the basis of the continuance request from the applicant. Mr. Chapman stated the applicant is here today and he would ask her to speak on the continuance request.

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated that Mr. Shank is unable to be in attendance today due to COVID quarantine reasons. Ms. Cornett stated she has also received a couple of inquiries about the project that need to be addressed, so she requests a continuance to December 8th.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for an Appeal of the Administrative Decision issued in the Letter of Deficiency written September 30, 2020 for permit application **SIGN-070484-2020**, stating that the existing dynamic display off-premise outdoor sign, located in the River Design Overlay (RDO-2), requires a permit and a Variance to replace the tri-fold dynamic display sign with LED dynamic Display (Section 70.140) **OR** in the alternative a Variance from Section 80.060-B.1 of the Code to "update an existing non-conforming tri-fold dynamic display off-premise outdoor advertising sign in a River Design Overlay District to an LED dynamic display sign to December 8, 2020 Board of Adjustment meeting; for the following property:

LT 1 BLK 1, KINGS LANDING, City of Tulsa, Tulsa County, State of Oklahoma

23022—Lubarie, LLC – Todd Maxwell

Action Requested:

Appeal of the Administrative Decision denying permit ZCO-067561-2020 for a Medical Marijuana Dispensary (Section 70.140). **LOCATION:** 7315 South Memorial Drive East **(CD 7)**

Mr. Van De Wiele recused and left the meeting at 1:16 P.M.

Mr. Chapman informed the Board that staff is the party requesting the continuance.

Presentation:

Amanda Lowe, Hall Estill, 320 South Boston, Tulsa, OK; stated she represents F5 Industries, and she objects to the continuance, and hopes that the case can move forward today.

Taras Filenko, CEO of F5 Industries, 623-A South Peoria, Tulsa, OK; stated that he objects to the continuance. His competitor has submitted an affidavit stating that he (Mr. Filenko) did not have the rights from the property owner to apply for the permit for zoning and spacing verification. That affidavit has since been retracted in the last couple of hours. Mr. Filenko stated that he spoke with the property owner, and these people have submitted documents that are not truthful and now pulled. He does not see why there should be a continuance. Mr. Filenko stated the competition did not fill out their original application properly and get all the requirements in, so this is not even a timing issue.

Mr. Bond asked Mr. Filenko if his application is being held up because of this process. Mr. Filenko answered no and stated that he has been approved.

Todd Maxwell, Attorney, 1717 South Cheyenne, Tulsa, OK; stated he also objects to a continuance. There was an affidavit distributed to the Board and that was objected to and now rescinded. He is prepared to go forward and he does not need to depend on the affidavit to present his case. Therefore, if the affidavit is the reason for the continuance, he can remove that obstacle.

Mr. Bond stated he believes that the City has questions for applicant and the protestant. Mr. Chapman stated that from a staff perspective some of the issues that were brought forth he feels came very late, and in doing due diligence for the Board he requests a continuance to be able to prepare a staff report that is factual.

Mr. Chapman stated that he personally requested the continuance. Exhibits were received both from Mr. Maxwell and Ms. Lowe and they seem to contradict each other. Staff requests the extra time to sort through the issues regarding timelines and who is actually representing who.

Interested Parties:

None.

Comments and Questions:

Ms. Radney stated she is inclined to support staff's request for a continuance. This sounds like it is going to be contested and she wants to be sure the Board has clear information and understanding of the facts that will be in front of the members.

Board Action:

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Bond, Brown, Radney, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **CONTINUE** the request for an Appeal of the Administrative Decision denying permit ZCO-067561-2020 for a Medical Marijuana Dispensary (Section 70.140) to the December 8, 2020 Board of Adjustment meeting; for the following property:

**LT 2 LESS W40 THEREOF BLK 2, EL PASEO RESUB L2-3 B1 SKYVIEW ACRES,
City of Tulsa, Tulsa County, State of Oklahoma**

Mr. Van De Wiele re-entered the meeting at 1:25 P.M.

* * * * *

UNFINISHED BUSINESS

23015—Tom Neal

Action Requested:

Special Exception to allow an Accessory Dwelling Unit in an RS-4 District (Section 45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-B); Variance to allow a nonconforming lot to have less than 50% open space (Section 80.020-B); Variance to allow more than 30% coverage by an Accessory Dwelling Unit in the rear setback in an RS-4 District (Section 90.090-C); Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C). **LOCATION:** 1129 North Denver Avenue West (CD 1)

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated he has made some changes in response to some of the neighbor's concerns. He also had the opportunity to meet with Ms. Jenkins who was the primary person who had objections. Currently Ms. Jenkins is living in Arkansas and using her house as an AirBnB and she was concerned to have privacy for her guests. Ms. Jenkins is, however, moving back to Tulsa and will be residing in the house but she is still concerned about privacy. In response to Ms. Jenkins concerns he has modified the design and made the porch about half the size and added 8'-0" screening to provide privacy from the north and the south. Mr. Neal stated he has also reduced the height of the proposed structure from 26'-0" to about 23'-8" by reducing the roof slope.

Mr. Brown asked Mr. Neal if he had addressed the window concerns on the south side. Mr. Neal stated those windows are high up on the wall, they are 2-6 by 2'-0" windows so they are primarily to allow light and cross ventilation into the room.

Mr. Brown asked Mr. Neal on the east side. Mr. Neal stated those windows are similar to the ones on the south side; they look into the alley.

Ms. Shelton asked Mr. Neal if she were to stand on the porch would you be able to make eye contact with a person in the back yard to the south. Mr. Neal stated that if a person were to lean over the rail they probably could.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow an Accessory Dwelling Unit in an RS-4 District (Section 45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-B); Variance to allow a nonconforming lot to have less than 50% open space (Section 80.020-B); Variance to allow more than 30% coverage by an Accessory Dwelling Unit in the rear setback in an RS-4 District (Section 90.090-C); Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C), subject to conceptual plan submitted today. The Board finds the hardship to be the plat and the construction of the house predating the Comprehensive Zoning Code of the City of Tulsa, and the existing narrowness of the lot. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

LT 9 BLK 6, THE POWDER AND POMEROY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

23023—Katy Anderson

Action Requested:

Special Exception to allow a Commercial/Assembly & Entertainment/Outdoor Use in a CS District (Section 15.020, Table 15-2). **LOCATION:** 1711 East Skelly Drive South (**CD 9**)

Presentation:

Katy Anderson, 1711 East Skelly Drive, Tulsa, OK; stated she would like to have an outdoor entertainment area and dog park in the back lot of her dispensary. She would have different events in the outdoor entertainment area and dog adoption events. Some of dispensary clients walk or ride their bike and would like to have a place to sit and visit while being a part of the community.

Mr. Van De Wiele asked Ms. Anderson what she has heard from the neighbors about her proposal. Ms. Anderson stated the only thing she has heard from the neighbors are noise concerns. Ms. Anderson stated she wants to have a tranquil environment in the back, so she wants to be able to block out the highway noise with a water feature and other things to keep space calm. Ms. Anderson stated there would be no events or anything past 10:00 P.M. Ms. Anderson stated her concerns are not really on her radar and the City requirements concerning noise do not address anything before 10:00 P.M.

Mr. Van De Wiele asked Ms. Anderson what days of the week does she intend to have the entertainment portion of the business to be open? Ms. Anderson stated her business is open 10:00 A.M. to 10:00 P.M., seven days a week. Mr. Van De Wiele asked her if that would be the same hours for the entertainment and the dog park. Ms. Anderson stated the dog park may be shut down earlier so she does not need to worry about people being in the back area, but the hours would be 10:00 A.M. to 10:00 P.M.

Mr. Van De Wiele asked Ms. Anderson about the lighting for her entertainment area. Ms. Anderson stated she has had issues with homeless people, and she intends to

install lighting and cameras to monitor the area. None of the lights would extend past her property line so she does not see any issues.

Mr. Van De Wiele asked staff if a dog park fit under commercial assembly and outdoor entertainment? Mr. Chapman stated that when the Permit Office reviewed the application, he believes what they looked at was the most comparable thing would a bar or restaurant that has outdoor seating, that is what the City is equating this to.

Mr. Brown asked Ms. Anderson if there would be alcohol served in her entertainment area. Ms. Anderson answered no and stated she does not have a liquor license.

Ms. Radney asked Ms. Anderson if she just wanted to use the outdoor space for her clients and not create an event center. Ms. Anderson answered affirmatively. Ms. Radney asked Ms. Anderson if her clients would be the only ones to have access to the space while the business is open. Ms. Anderson answered affirmatively stating the area would be an extension of the dispensary because the industry is moving in this direction.

Mr. Van De Wiele asked staff if there were restrictions or regulations relating to the use of the products that are being purchased at the dispensary on premises, is it allowed or not allowed? Ms. Anderson stated the use of products is not allowed inside the dispensary. Mr. Van De Wiele asked Ms. Anderson if it is her intent that the use would be allowed outside the dispensary on the subject portion of the property? Ms. Anderson answered affirmatively. Mr. Van De Wiele asked staff if that was an issue under City Zoning Ordinances? Mr. Chapman stated that it is his understanding is that the product can be consumed in a similar fashion as consuming tobacco. If you can smoke at the facility you can consume marijuana. Mr. Chapman stated that the Board would potentially see a bar or restaurant for similar use depending on how big the area is compared to their principle brick and mortar restaurant is; it is a 50% threshold that would push it into requiring a Special Exception. Ms. Blank stated there was a similar situation with a dispensary that had an outdoor courtyard and that was allowed.

Interested Parties:

Ron Sage, 1703 East Skelly Drive, Tulsa, OK; stated he has an office next door to the subject property and Ms. Anderson did inform him of her proposal. In doing so it was mentioned that there would potentially be a stage and light music. In addressing the light music, he has an office that is ten feet away from the property line and during working hours live music could be disruptive to his tenants that are next to the subject property. He would like to see a consideration to a time limit or an hourly restriction and have the music kept to a specific decibel because music could be disruptive during business hours. On the topic of smoking outdoors, if the designated could be placed farther east so if there is smoking during business hours it would be preferable to have that done farther away; his business is west of the subject site. Mr. Sage stated there is also a church and residents north of the subject property who have concerns.

Mr. Van De Wiele asked Mr. Sage what types of tenants he has in his building. Mr. Sage stated there are various tenants, there is insurance, payment companies, real estate, video editing company, architectural business, and a commercial appraisal company. The businesses are all professional businesses that have clients coming in and out.

Marty Newman, 5012 South Victor, Tulsa, OK; stated he and his brother recently purchased property on this block; he now owns over half of the block including all the land that abuts the subject property to the north. Mr. Newman spoke to Ms. Anderson and she knows that he has no problem with what she wants to achieve programmatically, but what she is attempting to create is a permanent change that will exist after she is no longer operating her business. He would suggest limits on the noise because Ms. Anderson's proposal does affect the development of his property.

Mr. Van De Wiele asked Mr. Newman where he found the 65 decibels that he quoted in his e-mail for the noise level limit. Mr. Newman stated he called his real estate prioritized lawyer as to what is appropriate and fair. Mr. Van De Wiele asked Mr. Newman what business is conducted on his adjoining pieces of property. Mr. Newman stated that currently there are no businesses. Mr. Van De Wiele asked Mr. Newman if the properties are commercial properties. Mr. Newman stated the property is zoned OL.

Mr. Brown asked how the 65-decibel limit is enforceable. Mr. Newman stated that he did not know. He is just hoping that the property will not end up with loud rock bands in the future when Ms. Anderson sells the property in the future.

Rebuttal:

Katy Anderson stated that the layout is to have the dog park closest to Mr. Sage's property so people would not congregate or smoke in that area. Ms. Anderson stated that she is a very respectful neighbor and keeps everything very clean and is aware of things going on around her business. In regard to the 65-decibels, the only reason she has an issue with that because the highway noise is louder than 65 decibels. That would be really hard to measure 65 decibels in this area because of the highway noise.

Mr. Van De Wiele asked Ms. Anderson her opinion about the suggestion of no amplified music. Ms. Anderson stated that she will probably need to amplify her sound to be heard over the highway noise.

Mr. Van De Wiele asked Ms. Anderson to explain her dog run. Ms. Anderson stated that it will be a fenced in area where a dog can be taken, let off the leash to play and run with other dogs and the dog can be left in the area for an extended period of time.

Ms. Shelton asked Ms. Anderson if she would consider moving the fence line back farther away from the adjacent offices if the Board were to approve this request. Ms. Anderson stated there is a space between the fences now, so she is not sure.

Ron Sage stated that if the objective is to be louder than the highway noise then there is more interest in live music than is maybe being let on. The fact that the music is needed to be amplified to get over the highway noise concerns him.

Comments and Questions:

Ms. Shelton stated that any of these uses would give her concern if she heard the proposal was up against a quieter use such as residential or professional office uses. It put her at ease a little bit when she heard the office owner was okay with most of the requested uses, because even using the dog run as a screening device, she would not consider that screening because make noise. The only thing that bothers her about this request is the amplified noise.

Mr. Van De Wiele stated that dogs barking would be a problem for him. As a downtown worker in an office right next to Mayfest, amplified music is lovely and fun other than when you are trying to work or be on the telephone.

Mr. Bond stated he would have more concerns if the Board had heard from the neighbors, because there are offices and residential surrounding the subject property. The fact the property abuts Skelly Drive makes it a uniquely situated property.

Ms. Radney stated that she is not particularly concerned about this request, but she will say that as a person who lives within walking distance from the Mother Road, the experience of having a gathering space in her neighborhood has started to change her understanding of the dynamics of sound and parking and traffic around local neighborhood gathering spots. Ms. Radney stated that whether it be music or dogs this will be noisy even the applicant says she wants the environment to be calming and relaxing. Ms. Radney stated her concern is about the time period for the Special Exception and how much duration the Board may want to grant.

Marty Newman was recognized by Mr. Van De Wiele. Mr. Newman stated that he wanted to remind the Board that one lot away from the subject property is residential in two directions and a retirement home in one direction.

Mr. Brown stated that he has a friend that lives two blocks from Skelly By-Pass and sitting on his back porch there is an effort to hear. Traffic noise is loud, more than he would have expected. He thinks that placing a time limit on the approval would be penalizing the residents, and amplified music concerns him.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a Commercial/Assembly & Entertainment/Outdoor Use in a CS District (Section 15.020, Table 15-2), per conceptual site plan on 5.21 of the agenda packet. There is to be no amplified music on the premises. The lighting is to be directed away from the neighboring properties. The approval is for five years, November 10, 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:

**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**

23024—David Reed, AIA

Action Requested:

Variance to increase the permitted height from 35 feet to 47 feet in a RS-3 District (Section 5.030, Table 5-3). **LOCATION:** 12150 East 11th Street South (**CD 6**)

Presentation:

David Reed, 4144 Dogwood Lane, Tulsa, OK; stated this request for East Central High School. A new basketball arena has been designed and part of the requirement for a basketball arena is to have a certain amount of clearance and height over the basketball court. In order to do that this building requires it to be 47'-0" tall. The project is adjacent to the existing East Central High School which is a four story building in the center, over 60'-0" tall, and the auditorium is toward the front near 11th Street which is 50'-0" tall, and the old gymnasium on the back is 50'-0" tall. The new arena will be west of the existing high school and will meet the minimum height requirement above center court.

Ms. Shelton asked Mr. Reed if his elevations on the site plan showing 47'-10" and she asked if that figure would be revised to read 47'-0". Mr. Reed answered affirmatively.

Mr. Van De Wiele asked Mr. Reed where East Central currently played basketball. Mr. Reed stated there is currently a single gym on the south side of the main facility that was built with the original high school over 60 years ago.

Ms. Shelton asked Mr. Reed if there was something specific to this site that made it necessary to request a Variance to be able to build this. Mr. Reed stated this is for the East Central High School basketball and volleyball teams. The basketball goal is 10'-0" and add 15'-0" above that, then there is the structure for a free-standing building which is about 12'-0" places it at 47'-0", and then there is the parapet to protect the workers on the roof.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; "nay"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to increase the permitted height from 35 feet to 47 feet in a RS-3 District (Section 5.030, Table 5-3), subject to conceptual plan submitted today. The Board finds the hardship to be the unique use of the educational facility. 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:

TRACT 1:

**From GENERAL WARRANTY DEED, Recorded in Book 2979 @ Page 43;
The Northwest Quarter of the Northeast Quarter (NW/4 NE/4) of Section Eight (8),
Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and
Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey
thereof.**

LESS AND EXCEPT

**From DEDICATION DEED Public Highway, Recorded in Book 3678 @ Page 19;
All that part of the E/2 E/2 NW/4 NE/4 of Section 8, T-19-N, R-14-E of the Indian Base and
Meridian, Tulsa County, Oklahoma, more particularly described as follows, to-wit:
Beginning at the Northeast Corner of said E/2 E/2 NW/4 NE/4; Thence S0°10'30"E along
the East Boundary of said E/2 E/2 NW/4 NE/4 a distance of 682.66 feet; Thence
N24°47'42"W a distance of 0.00 feet; Thence to the right along a curve of radius 330.00
feet a distance of 141.80 feet; Thence N0°10'30"W parallel to and 30.00 feet from the
East Boundary of said E/2 E/2 NW/4 NE/4 a distance of 545.27 feet to a point in the North
Boundary of said E/2 E/2 NW/4 NE/4; Thence Due East a distance of 30.00 feet to the
Point of Beginning, containing 0.439 acres.**

ALSO LESS AND EXCEPT

From DEDICATION DEED Public Highway, Recorded in Book 5323 @ Page 2387;

The South 25.25 feet of the North 50 feet of the following described tract of land: The Northwest Quarter of the Northeast Quarter (NW/4 NE/4) of Section Eight (8), Township Nineteen North (T-19-N), Range Fourteen East (R-14-E) of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof.

TRACT 2:

From GENERAL WARRANTY DEED, Recorded in Book 6003 @ Page 142;
Property situated in the NW/4 of Section 8, T-19-N, R-14-E of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the U.S. Government Survey thereof and being more particularly described as follows:
The East 130 feet of the North 660 feet of the NE/4 NE/4 NW/4 of said Section 8, less and except any roadway dedication thereof.

TRACT 3:

From GENERAL WARRANTY DEED, Recorded in Book 6003 @ Page 142;
Property situated in the NW/4 of Section 8, T-19-N, R-14-E of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the U.S. Government Survey thereof and being more particularly described as follows:
The North 300 feet of the NE/4 NE/4 NE/4 NW/4 of said Section 8, less and except the East 130 feet thereof, and less and except any roadway dedications thereof.

ALSO LESS AND EXCEPT

From WARRANTY DEED, Recorded in Book 2190 @ Page 12;
West Twenty-five feet (25') of the East Half (E/2) of the Northeast Quarter (NE/4) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of the Section Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and Meridian, according to the Government Survey thereof.

ALSO LESS AND EXCEPT

From GENERAL WARRANTY DEED, Recorded in Book 2190 @ Page 14;
The North Fifty (50) feet of the East One-hundred and Seventy-five (175) feet of the West Two-hundred (200) feet of the East Half (E/2) of the Northeast Quarter (NE/4) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of Section Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and Meridian, according to the Government Survey thereof, for the express purpose and to be forever used as a public thoroughfare and/or street and highway, and for no other purpose.

TRACT 4:

From WARRANTY DEED, Recorded as Document Number 2019017271;
Part of the West Two-hundred (200) feet of the East Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (E/2 NE/4 NE/4 NW/4) of Section Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows, to-wit: Beginning 300 feet South of the Northwest Corner of above tract; Thence South 65 feet; Thence East 200 feet; Thence North 65 feet; Thence West 200 feet to the Point of Beginning.

LESS AND EXCEPT

From WARRANTY DEED, Recorded in Book 2190 @ Page 12;
West Twenty-five feet (25') of the East Half (E/2) of the Northeast Quarter (NE/4) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of the Section Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and Meridian, according to the Government Survey thereof.

TRACT 5:

From WARRANTY DEED, Recorded as Document Number 2018091252;

A tract of land more particularly described as follows: Beginning at a point 365 feet South and 25 feet East of the Northwest Corner of the West 200 feet of the East Half of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (E/2 NE/4 NE/4 NW/4) of Section Eight (8), Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, Thence South 55'; Thence East 175'; Thence North 55'; Thence West 175' to the Point of Beginning.

TRACT 6:

From WARRANTY DEED, Recorded as Document Number 2018091253; Lot One (1), GEMO ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof. (Plat #4407), City of Tulsa, Tulsa County, State of Oklahoma

23025—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a medical marijuana grower operation

(Agricultural/Horticulture Nursery Use) in the CH District (Section 15.020, Table 15-2). **LOCATION:** 6934 East 11th Street South (**CD 5**)

Presentation:

Nathalie Cornett, 2727 East 21st Street, Tulsa, OK; stated this property is for a grow operation on the property located on the south side of 11th Street east of Sheridan. The property is located in a heavy commercial light industrial area. The proposed grow operation will be in the existing building on the property, 5,400 square foot warehouse. The grow operation will have two or three employees. They will have a couple of odor control mitigation measures in place; the first one will be the activated carbon filters particularly in the flowering rooms. The second odor mitigation is Oda-Gel which is a gel that attaches to odor molecules. There will be a security system in place. The grow cycle will take about six months and then harvest will occur about every nine weeks. There will be a third party transport service used to take the product to wherever it is going. The building will not be open to the public and there will be no signage; there will be no customers coming to the property. The property has an existing perimeter security fence and the only access is a gated access to the rear of the property.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit a medical marijuana grower operation

(Agricultural/Horticulture Nursery Use) in the CH District (Section 15.020, Table 15-2), subject to conceptual plan 7.7 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 4 BLK 2 & VAC. SERVICE ROAD ON N. SHERIDAN INDUSTRIAL DISTRICT,
City of Tulsa, Tulsa County, State of Oklahoma**

23026—Tom Neal

Action Requested:

Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (Section 45.031-D); Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate (Section 90.090-C); Variance to allow the floor area of an Accessory Dwelling Unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2 and Section 45.031-D6.a). **LOCATION:** 1523 East 35th Street South **(CD 9)**

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated he resubmitted the drawings a little past the deadline and the project has substantially been changed, so neither of the Variances are needed and he will withdraw those requests. His client has done an exceptional job in communicating with their immediate neighbors and have addressed some of the concerns. The existing garage will be replaced with slightly larger single car garage and a dwelling unit for Mr. Welch who is 90 years old to maintain independence in his life while maintaining a close proximity to his daughter. Brookside is mixed use with some World War II vintage smaller homes and a lot of McMansions being built in the area, there are also duplexes and garage apartments in the area.

Mr. Van De Wiele asked Mr. Neal if the exterior finishes would be in keeping with the primary residence. Mr. Neal answered affirmatively and stated that he will reuse the native stone that is around the existing garage currently.

Interested Parties:

Robert Lopez, 1526 East 35th Street, Tulsa, OK; stated this is the first time he has seen the revised plans, and his concern is that this greater than just a garage apartment because it is a second home. This lends itself to a property that could turn into a rental. This will become a 60-foot wide lot with two full sized homes on it and that was not the intent of the City.

Phillip Johnson, 1524 East 35th Street, Tulsa, OK; stated that by approving this Special Exception will lead to more of these types of dwelling structure being built and used as rentals in the future which is a major concern.

Sue Welch, 1523 East 35th Street, Tulsa, OK; stated she is one of three original homes in the neighborhood, and her house is 80 years old. The house is not accessible for her father, so she is tearing down the old two-car garage and rebuilding a single car garage with a small efficiency apartment for her father. The garage is not larger than her house and it will sit 100 yards back. Ms. Welch stated that she thought the zoning allowed for this and that is her use.

Ms. Radney asked Ms. Welch if it was her intention to just use the living quarters as an accessory dwelling for family members, or will it be for income in the future? Ms. Welch stated that it is her intention to have the unit for family members, and she does not know what the future will hold.

Mr. Van De Wiele asked staff if there were any safeguards or restrictions on dwelling units being converted into something other than for extended family. Mr. Wilkerson stated the Zoning Code does not make a distinction between a rental unit and owner-occupied use; it is just an accessory dwelling unit.

Mr. Van De Wiele asked Mr. Wilkerson if the unit is being used for a family member is that accessory use, but if it is being used as rental is that still accessory use? Mr. Wilkerson stated that is an update to the Zoning Code that allows an accessory dwelling unit, so that is a component that is built into the Code, so both of those uses are accessory dwelling unit uses. Mr. Wilkerson stated that the concept behind the accessory dwelling unit is that it would typically be smaller in scale than the principle residence on the lot, or it can be integrated into a garage structure. An accessory dwelling unit was routinely done in the 1920s and in certain circumstances it makes sense for that to be allowed in the older parts of the City.

Rebuttal:

Tom Neal came forward and stated the actual dwelling area is 538 square feet. The garage is about 240 square feet with some storage; the total square footage is 960 square feet, and the main house is about 2,400 or 2,800 square feet.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow an Accessory Dwelling Unit in an RS-3 District (Section 45.031-D), subject to conceptual plan submitted today. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

W. 25 OF LT-18 ALL OF LT-19-BLK-2, PARRAMORE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23027—Tom Neal

Action Requested:

Variance to allow more than 30% coverage of the rear setback for a detached accessory building in an RS-3 District (Section 90.090-C.2). **LOCATION:** 1601 South Detroit Avenue East **(CD 4)**

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated his client would like to add two additions, one of which can be done by right.

Mr. Van De Wiele asked Mr. Neal if the northeast corner is staying in place, looking at the drawings. Mr. Neal answered affirmatively. Mr. Neal stated that the west section is by right because it is in the allowable building area, but the south section is putting the project over. The actual garage is too much coverage of the required rear yard and the non-conformity is being increased.

Mr. Van De Wiele asked Mr. Neal if that increase would give the building more depth for bigger cars and some additional storage. Mr. Neal answered affirmatively.

Mr. Brown asked Mr. Neal if he was preserving any of the existing garage. Mr. Neal stated that all of the existing garage is going to be preserved. The south wall of the garage would be opened up to add a bump out that would accommodate one vehicle, and the bump out to the west would be in the back yard and used for the storage of lawnmowers, bicycles and big boy toys.

Mr. Van De Wiele asked Mr. Neal if the height would be changed. Mr. Neal answered no.

Ms. Shelton asked Mr. Neal if the roof pitch would match the existing residence. Mr. Neal answered affirmatively and stated that he is trying to mimic the bracket details, the tear-drop siding, etc. in hopes that it will look like it has always been that way.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for an

Variance to allow more than 30% coverage of the rear setback for a detached accessory building in an RS-3 District (Section 90.090-C.2), subject to conceptual plans 9.20 and 9.21 of the agenda packet. The Board has found the hardship to be the historic nature of the home and the accessory building predating the Comprehensive Zoning Code as well as the nature of the existing 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:

LT 12 BLK 5, MAPLE PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23028—Jack G. Arnold

Action Requested:

Special Exception to increase the permitted driveway width on the lot inside the street setback (Section 55.090-F). **LOCATION:** 2797 South Columbia Place East (CD 4)

Presentation:

Jack Arnold, 7310 South Yale, Tulsa, OK; stated the site plan speaks for itself and he does not think it impacts the neighborhood. Mr. Arnold stated he sent a letter to the surrounding properties and he has had nothing but support.

Mr. Van De Wiele asked Mr. Arnold if this request was to improve the area designated as the motor courtyard on the site plan. Mr. Arnold answered affirmatively. The width of both driveways exceeds 20 feet, and this proposal fits into the neighborhood and works well.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to increase the permitted driveway width on the lot inside the street setback (Section 55.090-F), subject to conceptual plan 10.8 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:

PRT LTS 3 & 4 BEG 35W LT 2 BLK 1 THOMAS HEIGHTS ADDN TH W165 N77.58 NELY CRV RT86.36 SE214.41 SW32 W20 S82.30 TO POB BLK 5, WOODY-CREST SUB, City of Tulsa, Tulsa County, State of Oklahoma

23033—Aaron Cissell

Action Requested:

Variance of the required 25-foot rear setback in the RS-2 District (Section 5.030, Table 5-3); Variance to allow a nonconforming lot to have less than 50% open space (Section 80.020-B). **LOCATION:** 1360 East 27th Street South (**CD 4**)

Presentation:

Aaron Cissell, 3804 West Broadway, Broken Arrow, OK; stated he purchased the property with the objective of trying to maintain the historic character of the original structure. It was quickly determined that he was limited by the non-conformance of the lot. The lot was platter prior to the Zoning Code so the challenge is that he is at 75% of the square footage of the lot, and even more restrictive is the fact that it is only about 2/3 of the standard width in zoning designation. In the design he added two car storage to the back of the property which requires the Variance request. With that the length of the driveway is cannibalizing the open space thus the second Variance request. Mr. Cissell thinks this compliments the aesthetics of the neighborhood. He has had correspondence with the immediate adjacent neighbors and there are no objections.

Mr. Van De Wiele asked Mr. Cissell if this was an addition to the existing and not a tear down. Mr. Cissell answered affirmatively and stated that the single car garage that is toward the front of the property would be razed to allow for side-loading garage at the rear of the property. Instead of a rear yard there would be a courtyard.

Mr. Van De Wiele asked Mr. Cissell how close to the rear lot line would the building be. Mr. Cissell stated that it would be ten feet instead of 25 feet.

Mr. Van De Wiele asked Mr. Cissell how close to the rear property line are the two detached garages on the properties on either side, using the plan on 12.11. Mr. Cissell stated that he does not know the exact footage but he the utility easement is 10 feet and the two garages immediately adjacent to the subject property appear to be right up against that easement.

Mr. Van De Wiele asked Mr. Cissell to state his hardship for the two Variance requests. Mr. Cissell stated the hardship is the narrowness of the lot relative to comparable properties in the neighborhood; the subject property has about 2/3 of the width of a standard lot. The subject property is very narrow and very deep; 50'-0" x 135'-0".

Mr. Van De Wiele asked Mr. Chapman what the minimum lot width is for an RS-2 lot. Mr. Chapman stated that it is 75'-0". Mr. Van De Wiele asked Mr. Chapman what the open space requirement is for a conforming lot. Mr. Chapman stated that it is 5,000 square feet for a typical lot and 50% of the lot in this case.

Interested Parties:

Jacqueline Bowman, 1384 East 26th Place, Tulsa, OK; stated she has concerns about the setbacks on the south side being 10'-0" and the west side being 7'-0". This is a very large structure for a small lot. She also has concerns about water drainage and fire safety. Ms. Bowman stated her next-door neighbor had a plan similar to this approved and it affects her. When a large house is built on a small lot and she has concerns for the neighborhood.

Rebuttal:

Aaron Cissell came forward and stated that he respects Ms. Bowman's comments and concerns, but he did receive approval from the City's planning office on the WSD plans which included the drainage. He understands the concerns about the size of the dwelling relative to the lot size, but it is relative to the lot size. A number of the other residences in the area take up a similar percentage of the overall lot square footage. He does not think this is out of harmony and thinks this affords him the highest and best use of the lot. This will be a three-bedroom house and two of three bedrooms have to be located above the garage, so he does not have the luxury of going wide.

Mr. Van De Wiele asked Mr. Cissell if the front line of the proposed house will line up with the existing houses. Mr. Cissell answered affirmatively.

Ms. Shelton asked Mr. Cissell about the windows on the second story and the ST3 drainage review. Ms. Shelton stated that it has been her experience that ST3 is a review during construction for erosion control and drainage but not necessarily look at the future use of the property, so she would like to hear how the drainage will be taken from the back of the lot down to the street. Mr. Cissell the windows are required for ingress/egress for fire. The neighbors have had a chance to review the plans including the elevations and they seemed to be amenable to what was designed. As for the drainage, he is not a drainage expert, but he has had to mitigate drainage issues and he

has been successful with French drains. The house does have a basement that is 100 years old and it does take on water, so he is anticipating a budget item to take drainage away from the house; the plans to mitigate that will be aggressive.

Mr. Bond asked Mr. Cissell how much of the new roof will be seen from the street. Mr. Cissell stated the new roof should not be seen from the street, based on the length of the lot and the subtle elevation changes.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Bond, Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for an Variance of the required 25-foot rear setback in the RS-2 District (Section 5.030, Table 5-3); Variance to allow a nonconforming lot to have less than 50% open space (Section 80.020-B), subject to the conceptual plan 12.3 of the agenda packet and the conceptual plan submitted today.

The Board has found the hardship to be that the original platted lot is non-conforming for today's Zoning Code, and in order to retain the historic character of the existing house and extended driveway is required which reduces open space. 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 11 BLK 2, SUNSET VIEW ADDN, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Ms. Radney stated that she truly appreciates all of the citizens and interested parties that come to the Board of Adjustment meetings to express their concerns over matters being presented. Even though the Board cannot always defer to whatever is being requested it certainly does help the institutional memory of the Board to know that people are interested in the kinds of things that people are interested in. It certainly does inform her thinking and helps her to apply that knowledge when reviewing cases.

Mr. Van De Wiele agreed with Ms. Radney and stated that it is always best when the Board has people trying to work their issues out ahead of time, it makes everyone's life more pleasant.

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

Date approved: 12/8/2020

Chair