

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1269
Tuesday, March 23, 2021, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bond, Chair VanDeWiele, V. 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 March 18, 2020, at 2:15 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

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

<https://www.gotomeet.me/CityOfTulsa3/boa-gotomeeting-in-council-chambers-march-23rd>

The staff members attending remotely are as follows:

Ms. Audrey Blank, City Legal
Ms. Burlinda Radney, Secretary

The Board members and staff members attending in person are as follows:

Mr. Austin Bond, Chair
Mr. Stuart Van De Wiele, Vice Chair
Mr. Steve Brown, Board Member
Ms. Jessica Shelton, Board Member
Mr. Austin Chapman, Tulsa Planning Office
Mr. Dwayne Wilkerson, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

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MINUTES

On **MOTION** of **VAN DE WIELE**, 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 March 9, 2021 Board of Adjustment meeting No. 1268 with one name change correction.

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UNFINISHED BUSINESS

23091—Gregg Norris

Action Requested:

Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 3025 South Memorial Drive East (**CD 5**)

Presentation:

Gregg Norris, 6380 East 31st Street, Tulsa, OK; stated he would like to have a dispensary located at the subject address, and there are two other medical marijuana dispensaries located within 1,000 feet. As suggested at the last meeting, a surveyor went to the site and measured from door to door, and it was found that the other dispensaries were over 1,000 feet away but measuring building to building the other dispensaries are closer than 1,000 feet.

Mr. Bond asked Mr. Norris if he knew the footage on the measurement from building to building. Mr. Norris stated that from 2777 South Memorial Drive it is 937 feet and from 3202 South Memorial, Unit 4 is 917 feet.

Mr. Van De Wiele asked Mr. Norris to state his hardship for the Variance. Mr. Norris stated that in regard to the location at 2777 South Memorial there is I-44 between the subject location and them, and 3202 South Memorial is on the opposite side of the street and there is a major intersection very close to that location.

Interested Parties:

Ron Reddy, 11910 South Date Avenue, Tulsa, OK; stated he owns the dispensary located at 3202 South Memorial Drive and he objects to this request because it is not over 1,000 feet. Mr. Reddy stated he followed the City regulations when he received his license, and he thinks everyone should follow those regulations.

Rebuttal:

Gregg Norris came forward and stated he had no rebuttal.

Comments and Questions:

Mr. Van De Wiele asked Mr. Chapman if the other dispensaries are being measured from “door to door” or from the building walls or from the sub-tenant walls? Mr. Chapman stated that INCOG prepared the exhibit that is in the agenda packet and it is the best that could be measured from the tenant location in the building, it is his understanding that the exhibit provided by the applicant today is an accurate representation of what the footage is. Mr. Van De Wiele stated he is struggling with a valid hardship.

Ms. Shelton stated that this may be a moot point because it is within 1,000 feet.

Mr. Bond stated that he does not see a hardship in this case.

Ms. Radney stated she is not persuaded by the hardship presented by the applicant. She thinks it is close, but in this particular case she thinks the hardship is self-imposed.

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-1-0 (Bond, Radney, Shelton, Van De Wiele "aye"; Brown "nays"; no "abstentions"; none absent) to **DENY** the request for a Variance of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) for lack of a hardship; for the following property:

LT 3 LESS BEG SWC TH N32 SE36.02 E175 S12 W205 POB & LESS BEG NWC TH S168 SE APROX 12.73 NW APROX 17.94 N158.08 W9.79 POB BLK 1,GROVELAND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

23094—Brian Henley

Action Requested:

Variance of the 20-foot rear setback and 25-foot street setback in an RS-3 District (Section 5.030-A, Table 5-3). **LOCATION:** East of NE/c of East 2nd Street South & South Urbana Avenue East **(CD 4)**

Presentation:

Brian Henley, 1010 East 2nd Street, Tulsa, OK; stated his client owns the property at the corner of 2nd and Urbana, and he also owns the three lots to the east of that corner. His client would like to have a lot split and then combine the three small lots into one lot to be able to build one single family residence. All the lots along 2nd Street between Yale and Urbana through the years have been chopped into tiny little parcels. If the zoning setbacks were to be adhered to there would be about an 18-foot swath of land through those parcels to build a residence and that is just a little larger than single wide trailer. None of the houses between Urbana and Yale adhere to the City setback requirements. The Variance request is to adjust those and then build a residence.

Mr. Van De Wiele asked Mr. Henley about the houses to the east and the west, certainly the one to the east of the subject property, are they situated similar to today's discussion to the rear? Mr. Henley answered affirmatively.

Mr. Brown asked Mr. Henley why the Board had not received any elevations. Mr. Henley stated the project has not gotten that far because he wanted to receive approval on the Variance request.

Interested Parties:

Kathryn Dyson, 4624 East 2nd Street, Tulsa, OK; stated she is in favor of this request. She thinks it will be an asset to the area, and the proposed house will be consistent to the houses in the area.

Comments and Questions:

Mr. Van De Wiele stated he is in favor of this request and believes there is a hardship that was not created by the applicant or this owner.

Board Action:

On **MOTION** of **VAN DE WIELE**, 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 Variance of the 20-foot rear setback and 25-foot street setback in an RS-3 District (Section 5.030-A, Table 5-3), subject to conceptual plan 3.10 in the agenda packet noting that the owner and applicant intend on combining the tracts for a development of a single family home. Finding that these lots to be developed have left little usable building area if all the current setbacks were applied and this is a hardship that was not created by this applicant or the owner. 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 467 BK 2; LT 468 BK 2; LT 469 BK 2, RODGERS HGTS SUB, City of Tulsa, Tulsa County, State of Oklahoma

23095—Alfredo Perez

Action Requested:

Special Exception to permit medical marijuana cultivation (Agricultural/Horticulture Nursery Use) in the CH District (Section 15.020, Table 15-2). **LOCATION:** 3216 East Admiral Place North **(CD 3)**

Presentation:

Anthony Rodriguez, 1314 East 35th Place, Tulsa, OK; stated there will be carbon filters, security cameras and motion sensors. There will be no street signage to indicate that this is a cultivation operation. There will be no foot traffic. After the cultivation is harvested and dried the product will be taken to the dispensaries to be sold.

Mr. Bond asked Mr. Rodriguez if he had spoken with the neighbors. Mr. Rodriguez stated that he did speak with one of the neighbors and she in attendance today.

Mr. Van De Wiele asked Mr. Rodriguez if his entire operation is intended to be on the second floor, using page 4.16 as a guide. Mr. Rodriguez answered affirmatively. Mr. Van De Wiele if the operation on the first floor will continue as it currently is. Mr. Rodriguez answered affirmatively.

Mr. Brown asked Mr. Rodriguez where he would be accepting deliveries. Mr. Rodriguez stated that once the plant is harvested there will be a transportation vehicle that will transport the product to a dispensary.

Ms. Shelton asked Mr. Rodriguez if the parking designated on the plan 4.15 and 4.16 serves the entire building. Mr. Rodriguez answered affirmatively stating there is an auto mechanic in the same strip and they also utilize the parking spaces.

Ms. Shelton asked Mr. Rodriguez how many people will on his staff and if they too will be utilizing the same parking area. Mr. Rodriguez stated he has two employees, maybe a maximum of three for the parking area.

Interested Parties:

Crystal Hale, 3211 East Admiral Boulevard, Tulsa, OK; stated she lives south of the subject property. Ms. Hale stated that after speaking with the applicant she is fine with the proposal, especially since there is not going to be any signage or foot traffic.

Comments and Questions:

None.

Board Action:

On **MOTION** of **SHELTON**, 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 medical marijuana cultivation (Agricultural/Horticulture Nursery Use) in the CH District (Section 15.020, Table 15-2), subject to conceptual plans 4.15 and 4.16 in the agenda packet. The proposed tenant is to use the appropriate air filtration systems to prevent, as much as possible, aromas outside of the building. There is to be no exterior signage tied to the Special Exception use. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

ALL LTS 3 4 & W25 LT 5 BLK 1, UNIVERSITY PARK, City of Tulsa, Tulsa County, State of Oklahoma

23096—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to increase the permitted driveway width (Section 55.090-F.3).

LOCATION: 4647 South Columbia Place East **(CD 9)**

Presentation:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated the subject property is a corner lot, the corner of Columbia Place and 47th Street. This is a newly constructed residence, and the front of the house is oriented toward Columbia Place

and the garage will face 47th Street. The property owners would like to have two parking areas, one is the driveway into the four-car garage. At the right-of-way, the driveway will be at 27 feet, however, it widens to match the width of the four-car garage, so it starts to exceed 30 feet within the right-of-way. In addition, the homeowner would like to have a parking pad at the front of the residence which would have a path into the front entry; the parking pad would be 21 feet wide, both in the right-of-way and in the building setback.

Mr. Van De Wiele asked Ms. Cornett if the parking pad would be for two cars or for three cars. Ms. Cornett stated the pad would be for two cars.

Mr. Brown asked Ms. Cornett if the parking pad was simply a pull in surface. Ms. Cornett answered affirmatively stating that it is so people can get off the street because Columbia and 47th are narrow streets. Ms. Cornett stated there are no sidewalks in the area and there are drainage ditches on both sides of Columbia.

Ms. Cornett stated that along Columbia there are circle drives with two drive-way entrances and a few pull over parking areas. Ms. Cornett had Mr. Chapman show pictures on the overhead projector of the area and the proposed project. Directly across the street from the subject property there is almost an identical situation, a parking pad, and a driveway next to each other.

Ms. Shelton asked Ms. Cornett if the parking pad is to serve guests. Ms. Cornett answered affirmatively.

Interested Parties:

William Douglas Gibbons, 4631 East 2nd Street, Tulsa, OK; stated that he opposes the proposed request because the area floods. He has had water in his house because the church filled in a pond and built on the area.

Mr. Bond asked Mr. Gibbons if he lived on 47th Street or Columbia Place. Mr. Gibbons answered no stating that he lives on 2nd Street and he is here for the four parcels on 2nd Street.

Mr. Bond informed Mr. Gibbons that the case he is interested in has already been heard and voted on because no one stood up when he asked for any interested parties. Mr. Gibbons stated he is hard of hearing and did hear that request.

Mr. Bond offered the Board's apologies and informed Mr. Gibbons that the case on 2nd Street had been approved.

Mr. Chapman offered to speak with Mr. Gibbons after the meeting.

Comments and Questions:

None.

