

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1275
Tuesday, June 22, 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 Radney, Vice Chair Barrientos Brown, Secretary		Wilkerson Chapman Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on June 17, 2021, at 8:56 a.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/CityOfTulsa/boa-gotomeeting-in-council-chambers-june-22nd>

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

- Mr. Austin Bond, Chair
- Ms. Burlinda Radney, Secretary
- Mr. Tomas Barrientos
- Mr. Steve Brown, Board Member
- Mr. Audrey Blank, City Legal

Mr. Dwayne Wilkerson, Tulsa Planning Office
Mr. Austin Chapman, Tulsa Planning Office
Mr. Kendal Davis, Tulsa Planning Office
Ms. Janet Sparger, Tulsa Planning Office

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Mr. Bond stated there is still a vacant seat on the Board, but the Mayor's office is working to fill the position. In today's hearing the applicant must receive three affirmative votes to receive approval for the relief requested. Mr. Bond asked if there was anyone who wants to continue their case until the fifth member is appointed to the Board. No one requested a continuance.

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MINUTES

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the June 8, 2021 Board of Adjustment meeting No. 1274 with one amendment in Case BOA-23133 legal description, change Osage County to Tulsa County.

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NEW APPLICATIONS

23146—Wallace Engineering – Mike Thedford

Action Requested:

Special Exception to allow a Public, Civic & Institutional/Governmental Service or Similar Functions Use (Community Center/Caring Center Downtown) in the CBD District (Section 15.020, Table 15-2). **LOCATION:** 305 South Detroit Avenue East **(CD 4)**

Presentation:

The applicant requests a continuance to July 27, 2021.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Special Exception** to allow a Public, Civic & Institutional/Governmental Service or Similar Functions Use (Community Center/Caring Center Downtown) in the CBD District (Section 15.020, Table 15-2) to the July 27, 2021 Board of Adjustment meeting; for the following property:

S80 LT 8 BLK 116, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

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UNFINISHED BUSINESS

23114—Raul Cisneros

Action Requested:

Variance of the required 5-foot side street setback in an RS-4 District for a non-conforming lot (Section 80.020-B); Variance to allow a building to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A).

LOCATION: 1642 North Madison Avenue East (CD 1)

Presentation:

Mallory Massey, 1844 North Owasso Avenue, Tulsa, OK; stated that the subject was a parcel that has been split. The contractor built a house on the wrong property. Instead of building 1636 the contractor built 1642.

Interested Parties:

Stuart McDaniel, 827 North Madison Avenue, Tulsa, OK; stated he is helping Ms. Massey sort through the problems with this project. The builder poured the concrete, erected the framing, and built the house; the third of three houses as opposed to the second house. The contractor built the house too close to the property line, actually past the setback and into the planned right-of-way. Ms. Massey is willing to sign a removal agreement should the City of Tulsa ever need the planned right-of-way. The house as it exists is still quite a distance from the street and the street is not an arterial street. There are older buildings much closer to the street in the area, but the 2020 standards stipulate the house is to be farther back on the property.

Mr. Bond asked Mr. McDaniel what his involvement is in the subject project. Ms. Massey stated that she and Mr. McDaniel are partners. Mr. McDaniel stated he is just helping Ms. Massey.

Mr. McDaniel stated that the City wanting to remove the house is unlikely. The house could sit there for 100 years before it would take place, but it is a risk Ms. Massey has to

take because the house is already built. The City is willing to issue a removal agreement, but it requires the Board of Adjustment approval for both Variances.

Mr. Bond asked Mr. McDaniel to state his hardship. Mr. McDaniel stated the hardship is that the lot is a non-conforming smaller than normal than the rest of the neighborhood. The original property was split into three lots in the 1950s.

Mr. Bond stated that he does not quite understand the setback argument because if the Board were to grant the relief there would still be a setback issue. He does understand the applicant's problem. Mr. Chapman offered clarification of the request. The lot is a non-conforming lot with a 5'-0" side street setback. Originally the request was for relief on the side street setback but then there was the issue of the planned right-of-way. It has been advertised reflecting the Variance request for the side setback and also the planned right-of-way. The Board can act on both of those requests.

Ms. Radney asked why there is a 50-foot planned right-of-way on Reading Street. Mr. Chapman stated that is a standard right-of-way for any non-classified street. When it was originally platted it was about 33 feet, but the standards today put anything within 25 feet of the center of the street is planned right-of-way on minor streets.

Mr. Brown asked how this will not happen again. Mr. McDaniel came forward and stated that he will not allow Ms. Massey to do this again, because otherwise Ms. Massey has to allow for the razing of an affordable house in Tulsa.

Mr. Barrientos asked Mr. McDaniel if the builder had not been informed. Mr. McDaniel stated the architect misinformed the builder. A platted survey was not performed. The right-of-way was understood to be smaller than 50 feet. It is a series of compounding mistakes that was not caught until it was too late. Mr. McDaniel stated he is not here to make excuses; they are actually at the Board's mercy.

Ms. Radney stated that where the house is currently sitting is where it would have been placed if all that had to be dealt with were the setbacks. Mr. McDaniel stated the lot is so narrow that he would have had to ride property line of the neighbor's lot to the south. Ms. Radney asked Mr. McDaniel if there was barely five feet on each side of the house as built. Mr. McDaniel answered affirmatively.

Mr. Chapman stated the original request that was submitted a couple of months ago showed a different set of plans that would have encroached into the setback but not the right-of-way. The house that was built was erected closer than what the plans showed and that is what is before the Board today. Mr. Chapman stated that the house was built about three feet closer than what the plans showed and what permitting sent the applicant to the Board for; it is 21" away from the planned right-of-way.

Mr. Brown stated he does not like that this has happened, but he is much more reluctant to have the house torn down. As long as a removal agreement with the City is obtained and made a part of the motion.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the required 5-foot side street setback in an RS-4 District for a non-conforming lot (Section 80.020-B); Variance to allow a building to be located inside the City of Tulsa right-of-way or planned right-of-way (Section 90.090-A), subject to conceptual plan 2.6 of the agenda packet. The applicant is to obtain a removal agreement with the City of Tulsa. The Board has found the hardship to be the narrowness of an existing non-conforming lot. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

N 33' OF TH N 1/2 OF LT 1 BLK 3, ROOSEVELT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

23142—Una Vang

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:**
12911 East 31st Street South **(CD 6)**

Presentation:

Una Vang, 2400 East 570 Road, Rose, OK; stated that when she went into the lease Dr. Green that is about 650 feet away was closed. About a week later a sign was put up showing a new dispensary was to open in the Dr. Green space. Ms. Vang stated that she has already had minor renovations done and the other dispensary is still not open, and that is her hardship.

Mr. Bond asked Ms. Vang when she received her Certificate of Occupancy from the City. Ms. Vang stated she has not yet received that certificate. Mr. Bond asked Ms. Vang if she knew whether the other dispensary has received their Certificate of Occupancy. Ms. Vang answered no. Mr. Chapman informed the Board that the location previously went through a Spacing Verification before this Board, and it was issued a Certificate of Occupancy. To the best of his knowledge it was operating legally, and they never relinquished their Certificate of Occupancy.

Mr. Bond asked Ms. Vang what steps she took to see if the other dispensary was operating. Ms. Vang stated she drove by it multiple times and there is still a sign stating, "Buzzing Dispensary Coming Soon".

Mr. Barrientos how long after the lease was initiated was the sign seen? Ms. Vang stated that it was about a week. In order for her to proceed she has to receive a Certificate of Occupancy and a Certificate of Compliance, so she needs the Variance approval.

Ms. Radney asked Ms. Vang if she had any photos showing the vacant space and the sign for the dispensary coming soon. Ms. Vang answered no.

Ms. Radney asked Ms. Vang to describe what she saw. Ms. Vang stated there was no cash register, the floors were torn up, nothing in the space and no sign. Ms. Radney asked Ms. Vang if she had contacted the landlord to find out if it was still an active lease. Ms. Vang answered no.

Mr. Bond asked staff if the Certificate of Occupancy means that a business is open conducting business and is there a process for the Certificate of Occupancy to be revoked? Mr. Chapman stated a business owner can cancel the Certificate of Occupancy but at the point in time that it has been issued there is not a mechanism that it expires. In this situation he cannot speak to that but considering the timeline it sounds like the next dispensary already had a lease agreement in place or some type of understanding that there was going to be another dispensary in the space.

Ms. Radney asked if the Certificate of Occupancy goes with the space or does it go with the business that has applied for it. Mr. Chapman stated the Certificate of Occupancy goes with the space. Ms. Radney asked if the Board is measuring between issued Certificates of Occupancy authorizing dispensaries? Mr. Chapman answered affirmatively stating for the purposes of the City and the Certificate of Occupancy Dr. Green and Buzzing are an established dispensary. The only thing that needs to be

done through the City is to obtain the OMMA license update to receive a State dispensary license.

Mr. Bond asked Mr. Chapman if an applicant looked at the OMMA website would the website still reflect that there was still a licensed dispensary in the other location? Mr. Chapman stated that if prior to this if he had been contacted it would have been his statement that there is still a dispensary at the Dr. Green location because he would have no evidence otherwise.

Ms. Radney stated that what is interesting to her is if Dr. Green does not exist as an entity that has a license to sell marijuana, she is not sure why a person would be required to measure from one building to another building that also does not have a license to dispense marijuana. Just because the building has a Certificate of Occupancy does not necessarily mean that the spacing measurement step has been satisfied.

Mr. Bond stated that according to the City there is a COO for Dr. Green and the Board has also used the COO as a ruling point, but it sounds like there is a change of ownership that would have been required to require additional OMMA license. Ms. Radney stated she learned last week that a license can be purchased and transferred to a new entity if one of the owners moves along with the sale of the license. It sounds to her that what was an existing enterprise dissolved, but it struck that in the spacing language there is language about the spacing between buildings or businesses. Mr. Bond stated the question for future applicants will be who does the applicant contact to discover the 1,000-foot radius and he thinks it will be the City. He does not think that would negate the business's COO. Ms. Radney stated that it is her understanding that the City only issues the Certificate of Occupancy if, and only if, the spacing measurement is satisfied so if the business goes away there is no spacing between businesses even though it has not been effectively cancelled. It has in fact become void because there is no business to measure between. That has always been one of the vague points of this Ordinance, that there is a measurement between existing businesses and it all being void in the event that a pre-existing business within the 1,000-foot boundary were discovered at a later date. Mr. Bond stated he believes that is a question for the City and Legal, what negates the COO?

Ms. Blank stated that Mr. Chapman described what the current process is accurately. Once the Certificate of Occupancy is issued to the place not to the business, many times a business is sold, and a new owner comes in if the business is the same and there is a Certificate of Occupancy it carries forward the new owner is allowed to have that type of business there still.

Mr. Bond stated that in other words the thumbnail for the 1,000-foot spacing is still going to be there because the license still exists.

Interested Parties:

Mac Shayya, 3305 West Oakland Street, Broken Arrow, OK; stated that Dr. Green and the landlord had a disagreement, and he had a shop next door and he agreed with the landlord to take over the Dr. Green space as soon as it was vacated. He signed the lease, received his tax identification number and the other paperwork, and he just finished the Certificate of Occupancy. He is waiting for the OMMA license which takes about 30 days.

Ms. Radney asked Mr. Shayya if he had to apply for a new Certificate of Occupancy with the City as a new business. Ms. Shayya answered affirmatively stating because it was a new business, and he did not want to take over the Dr. Green OMMA license.

Mr. Chapman asked Mr. Shayya if he had received a Certificate of Occupancy or a Certificate of Compliance? Mr. Shayya stated he received both for the location because he cannot receive the OMMA license without a Certificate of Compliance from the City.

Mr. Barrientos asked Mr. Shayya when he signed the lease. Mr. Shayya stated it was about five months ago stating that his sign went up three days after Dr. Green left.

Mr. Brown asked Mr. Shayya if any construction had started. Mr. Shayya answered no because the space was already set up as a dispensary and all he had to do was get his business name and license number on the space.

Mr. Bond asked Mr. Shayya for the date on his new Certificate of Occupancy and the Certificate of Compliance. Mr. Shayya stated it was May 17, 2021 and it was for the Certificate of Occupancy. Mr. Chapman stated the paperwork is for a Certificate of Compliance and asked Mr. Shayya if he had a separate application for a Certificate of Occupancy. Mr. Shayya answered affirmatively stating that it is was dated April 14, 2021. Mr. Chapman stated that Mr. Shayya did not receive a new Certificate of Occupancy, he updated the information, but Mr. Shayya did receive a Certificate of Compliance which is what is necessary for the State OMMA license.

Ms. Radney asked if the permit performed the 1,000-foot spacing when they issued the Certificate of Compliance. Mr. Chapman stated that presumed they would, but they also would have relied on evidence provided them by Mr. Shayya, and to everyone's knowledge there were no other licensed dispensaries with a Certificate of Occupancy.

Mr. Bond asked Ms. Vang asked her if she was in the application process now. Ms. Vang stated she cannot be in the application process until she receives approval for her Variance request and that is the hardship for this request. Ms. Vang stated that when she noticed Dr. Green was no longer open, she signed the lease, did some minor renovations, and then noticed the Buzzing sign for "Open Soon". At the time she started this she did attempt to contact Mr. Chapman a couple of times, but she was told they were moving, and she was not able to speak to Mr. Chapman. At that point in time, to the best of her knowledge, she assumed there was no longer a dispensary at the Dr. Green location.

Mr. Barrientos asked if there was any place online where a person could search for other dispensary locations. Mr. Chapman stated that at the time this application was taken a person could have gone through the Tyler Energov System at the City, but due to the ransom ware attack it is unavailable, but a person could check to see what permits had been issued on a specific property which would have reflected the Dr. Green location and that there was a Certificate of Occupancy.

Ms. Radney asked Ms. Vang for the day she executed her lease. Ms. Vang stated that it was March 30th.

Mr. Bond asked Ms. Vang for the date she made her application with the City. Ms. Vang stated she owns other dispensaries that are not located in Tulsa, so she knew she had to receive the Certificate of Occupancy and the Certificate of Compliance before proceeding so she has not done anything yet. She knew that when she saw the sign, she had to receive approval for a Variance in order to proceed.

Mr. Shayya came forward and stated that he signed a lease on February 25th, and the sign went up within a week of that date.

Comments and Questions:

Mr. Bond stated the Board is starting to see more applicants in similar situations, so this is not the last case to be heard. His thoughts are that the City is the entity that regulates this, the City is the entity that informs the Board where there is a COO, and he understands the applicant's thought process. This is a heavily regulated industry. The state legislature has told the public that marijuana is legal for the sale of medicinal purposes, so the City decided to regulate the locations. There are a few locations within the City that were grandfathered in before the Ordinance was passed. There is a permitting process in place and the Board needs to respect that.

Ms. Radney stated that she thinks regulations should be discernable and understandable. She does not think that people need to be specialists to understand how to be compliant. To the extent that the interested party that represents the new business coming into the former Dr. Green location understood or at least proceeded as though he understood that he would be receiving a new Certificate of Occupancy; that would have been her understanding as well. Ms. Radney asked if the original language that used to be read as part of a motion still existed. Mr. Chapman read from minutes for a former case, "we accept the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary". Ms. Radney asked what is meant by the terminology "established"? The fact that there used to be a dispensary established in a location that went through the proper channels and received a Certificate of Occupancy but dissolved, that only relates to Dr. Green. Now new entities are being discussed that are trying to establish a business and by what method should the Board expect a regular citizen to approach that task? Mr. Chapman stated that a person needs to contact the

Permit Office and confirm through the application of a Zoning Clearance Permit at the bare minimum, which would secure the spot. Applicants have also come to the INCOG offices, just because his name was mentioned he does not know what Ms. Vang is speaking of about the offices changing because the INCOG offices have been in the same location for 10 years. He takes pride in being available to the public but for these purposes if the Board is to approve a Variance, he does not know what process the Board expects if a person is not going to go through the Permit Center first to receive the clearance before leases are signed.

Mr. Brown stated that as for the City, Dr. Green's dispensary even if its no longer there is still a dispensary. He thinks that leaves the Board considering the 1,000-foot spacing for an additional dispensary.

Ms. Radney stated she is going to be in support of the Variance request because she does not believe there is an established business at this moment. In her opinion there is a dissolved business, so she thinks the measurement is from a dissolved entity as opposed to an established entity.

Mr. Barrientos agreed with Ms. Radney. He thinks there is so much room for error.

Ms. Radney wonders what entity is the first and the last resort for information about dispensaries.

Mr. Bond stated the Board debated as a body in the past and had considerable input and advice that was taken from the City and City Legal. What was decided is that it is when the City puts their seal of approval on a location and issues the Certificate of Occupancy.

Mr. Bond again informed the applicant that the Board is normally a five-person body, and he wants to give people a chance to request a continuance, because he is surmising that today's vote be a 2-2 vote which would deny the request. From what has been heard from the City, the COO never lapsed, tied to the place not the business creating the 1,000-foot bubble. Mr. Bond asked Ms. Vang if she wanted to discuss a continuance or would she want the Board to make a motion?

Ms. Radney stated that she has not heard is whether there is still an existing license for Dr. Green, that would make a difference to her. Ms. Radney stated that if the Board were to grant this applicant this Variance, then almost assuredly the Board would have to grant the dispensary a Variance. Mr. Chapman stated the opposing dispensary does not need a Variance, he has already gone through the City process and is waiting on his OMMA license. Mr. Radney asked Mr. Chapman if he was saying that since the opposing party has his Certificate of Compliance he is done. Mr. Chapman answered affirmatively.

Mr. Brown stated he is leery of setting a precedent of the reduced distance putting the Board in a difficult situation.

Ms. Radney stated that she appreciates that argument, but she finds the Board is good at looking at each case individually. She has confidence in the Board's ability to be discernable.

Ms. Vang came forward and asked for a continuance.

Board Action:

On **MOTION of RADNEY**, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** 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) to the July 27, 2021 Board of Adjustment meeting; for the following property:

**LT 1 LESS BEG SECR TH W194.96 CRV RT 47.17 N5 SE41.74 E194.97 S6 POB
BLK 1, SOONER ACRES, City of Tulsa, Tulsa County, State of Oklahoma**

23143—Keith Robertson

Action Requested:

Variance to allow a drive-through lane on a street-facing side of a property (Section 55.100-C.2). **LOCATION:** 11240 East 17th Place South **(CD 6)**

Presentation:

Robert Wright, 7225 South Columbia Place, Tulsa, OK; stated he is the developer for the subject project and Keith Robertson is the Architect. The Variance request is to allow a drive-thru lane at the subject. Everyone overlooked the last line of the requirements for drive-up window, that line says "no residential street" so now he is before the Board.

Mr. Bond asked Mr. Wright if the neighbors had been spoken to about the proposed project. Mr. Wright stated there was a call for meetings for the Zoning and only three people attended but there were no objections.

Mr. Bond asked Mr. Wright what type of establishment is requesting the drive-up window. Mr. Wright stated that it is a private pharmacy.

Mr. Brown asked Mr. Wright if there would be any customers walking into the building. Mr. Wright answered affirmatively stating that there will be walk-in customers and drive-thru customers.

Mr. Bond asked Mr. Wright to state his hardship for the Variance request. Mr. Wright stated that if the building layout were to be flipped there would be cross trafficking with the drive-up traffic.

Ms. Radney asked Mr. Wright if the subject lot was already zoned commercial. Mr. Wright answered affirmatively. Ms. Radney asked Mr. Wright what the use was previously. Mr. Wilkerson stated that when the applicant first came to the office the subject site was zoned OL and the Planning Commission and City Council supported the request for CS zoning. Ms. Radney asked if there was always ingress to the subject property from 17th Place. Mr. Wilkerson stated that it has been an empty lot for decades and is not sure if it has ever been built on. Mr. Wright stated the ingress/egress from 17th Place and Garnett existed.

Mr. Barrientos asked Mr. Wright if there would be any fencing between the business and the residential area on the west side. Mr. Wright answered affirmatively.

Ms. Radney asked Mr. Wright about the hours of operation of the pharmacy. Mr. Wright stated that he did not know.

Mr. Brown asked Mr. Wright how tall the fence would be. Mr. Wright stated that it would be a solid six-foot fence and there would be a fence on the south side also.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to allow a drive-through lane on a street-facing side of a property (Section 55.100-C.2), subject to conceptual plan 4.19 of the agenda packet. The drive-thru hours of operation are to be 7:00 A.M. to 9:00 P.M. The Board finds the hardship to be that a different orientation would cause more incoming traffic flow onto 17th Place and would create cross traffic creating a safety hazard and would also impede the ability for other large vehicles to service the site. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

LT 1 BLK 1, WENDY ACRES, City of Tulsa, Tulsa County, State of Oklahoma

23144—Mark Wayne

Action Requested:

Variance to reduce the minimum lot width in the AG District to permit a lot-split (Section 25.020, Table 25-2). **LOCATION:** 18518 East 11th Street South **(CD 6)**

Presentation:

Mark Wayne, 29425 South Oak Road, Catoosa, OK; stated his father is the owner of the subject property and he wants to pass the property on to him and his brother now and would like to split the property. There was a survey performed and the fence is where the split would be. The hardship is the frontage. He paid to have the property surveyed twice, in 2005 INCOG told him the property could be split once but not twice because of the road frontage. There is 165 feet of frontage on each lot as opposed to the required 200 feet.

Mr. Bond asked Mr. Wayne if he had heard from any of the neighbors. Mr. Wayne stated that he has heard no opposition to this proposal.

Mr. Brown asked Mr. Wayne why is the west half of the property maintained and the east half of the property is not? Mr. Wayne deferred to his father.

Interested Parties:

Mark J. Wayne, 18518 East 11th Street, Tulsa, OK; stated he lives on the west half of the property and where his grandparents lived. His grandparents lived there and gave it to him. His grandparents had a house on it, he has a house on it, and the east half had a block building on it that had people living in it before his grandparents moved there. The subject five acres was deeded to a freed slave, and he had it for quite some time. Mr. Wayne stated he has lived on the property for about 65 years.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce the minimum lot width in the AG District to permit a lot-split (Section

25.020, Table 25-2), subject to conceptual plan 5.6 of the agenda packet. The Board has found the hardship to be the scale of the original platting of the land and the original breadth of the undivided lot with a reduction to 165 feet being regarded as the most equitable way to divide the property into two lots. 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:

W/2 NW NW NE SEC 12 19 14, City of Tulsa, Tulsa County, State of Oklahoma

23148—Wallace Engineering – Mark Capron

Action Requested:

Special Exception to modify a previously approved site plan for a school in a RS-2 District (BOA-13745-B); Variance of the dustless, all-weather parking surface requirements for a parking lot (Section 55.090-F). **LOCATION:** 6363 South Trenton Avenue East **(CD 2)**

Presentation:

Mike Thedford, Wallace Engineering, 123 M. L. King, Jr. Boulevard, Tulsa, OK; stated this request is for a modification to a previously approved site plan. The temporary buildings are going to be classrooms, Metro has had influx of new students. The plans are to eventually erect a new building which fund raising is being currently done.

Mr. Brown asked Mr. Thedford what the use of the parking lot would be. Mr. Thedford stated it would be for facility staff and kitchen staff primarily.

Mr. Bond asked Mr. Thedford if he had heard from any of the neighbors. Mr. Thedford stated there have been no comments and no concerns.

Ms. Radney asked Mr. Thedford if there was a site plan for the proposed building. Mr. Thedford stated there is a site plan, but the actual plans have not been developed. The temporary building is the only thing that has been fully developed and permitted. Ms. Radney asked Mr. Thedford what the timeline for the entire development would be. Mr. Thedford stated there are no funds available so it would depend on the donors, but he would guess three years for fund raising and two years to build.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of BARRIENTOS**, the Board voted 4-0-0 (Barrientos, Bond, Brown, Radney "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to modify a previously approved site plan for a school in a RS-2 District (BOA-13745-B); Variance of the dustless, all-weather parking surface requirements for a parking lot (Section 55.090-F), subject to conceptual plans 7.21, 7.22 and 7.23 of the agenda packet. The approval has a time limit of five years, June 2026. The Board finds the hardship to be the temporary nature of the excess building area. 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:

Part of the Southeast Quarter of the Northwest Quarter (SE/4 NW/4) of Section Six (6), Township Eighteen (18) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to wit: BEGINNING at the Northeast corner of said SE/4 NW/4; thence South 89° 45' West a distance of 1319.6 feet to a point, said point also being the Southwest corner of Valley View Center Addition to the City of Tulsa; thence South 0° 13' East, a distance of 847.2 feet to a point; thence North 89° 44' East a distance of 100 feet; thence South 0° 13' East a distance of 50 feet; thence South 89° 44' West a distance of 100 feet; thence South 0°13' East a distance of 325 feet; thence North 89° 44' East a distance of 100 feet; thence South 0° 13' East a distance of 100 feet; thence North 89° 44' East a distance of 225 feet; thence North 0° 13' West a distance of 100 feet; thence North 89° 44' East a distance of 150 feet; thence South 0° 13' East a distance of 100 feet; thence North 89° 44' East a distance of 844.6 feet to the Southeast corner of said SE/4 NW/4; thence North 0° 13' West a distance of 1321.8 feet to the Point of Beginning; LESS AND EXCEPT the East 225 feet of the West 325 feet of the South 100 feet and the West 475 feet of the North 100 feet of the South 200 feet of the S/2 SE/4 NW/4 of said Section 6.

-AND-

Part of the Southwest Quarter of the Northeast Quarter (SW/4 NE/4) of Section Six (6), Township Eighteen (18) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to wit: BEGINNING at a point in the westerly boundary of said SW/4 NE/4 350.00 feet from the Northwest Corner thereof (which Point of Beginning is the Southwest corner of Southern Hills View); thence N 89° 57' 29" E along the Southerly boundary of said Southern Hills View a distance of 585. 03 feet to a point 735. 03 feet from the Easterly boundary of said SW/4 NE/4; thence S 00° 03' 33" W a distance of 580.00 feet; thence S 89° 57' 29" W a distance of 585.05 feet to a point in the Westerly boundary of said SW/4 NE/4; thence N 00° 03' 41" E along the Westerly boundary of said SW/4 HE/4 a distance of 580.00 feet to the Point of Beginning, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

Mr. Chapman stated per the conversation, TMPAC did formally vote to continue remote meetings so the Board of Adjustment will follow suit, and he is working with City IT and looking at the budget to possibly get a new system.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

Mr. Brown asked about the reading of the findings for every motion made at a meeting, which was asked about at the last meeting. Ms. Blank stated that it is necessary that the finding be read for each motion so there is no question as to what the motion encompasses.

There being no further business, the meeting adjourned at 2:54 p.m.

Date approved: 7-13-21

Arthur P. Bond
Chair

TULSA CITY BOARD OF ADJUSTMENT
CASE NO. _____
OFFICIAL RECORD EXHIBIT _____
ENTERED IN THE _____
MINUTES OF THE TULSA CITY BOARD
OF ADJUSTMENT