

**BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 1307  
Regularly Scheduled Meeting  
Tulsa City Council Chambers  
175 East 2nd Street, 2nd Level, One Technology Center Tuesday,  
December 13, 2022, 1:00 P.M.**

**Meeting No. 1307**

| <b>MEMBERS PRESENT</b>                                | <b>MEMBERS<br/>ABSENT</b> | <b>STAFF<br/>PRESENT</b>            | <b>OTHERS</b>   |
|---|---------------------------|-------------------------------------|-----------------|
| Bond, Chair<br>Radney, Vice Chair<br>Brown<br>Wallace | Barrientos                | A. Chapman<br>S. Tauber<br>J. Banes | A. Blank, Legal |

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on November 3, 2022, at 10:06 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

Mr. Bond said Good afternoon, he would make announcements to before we begin. We are normally a five-person board, and we have one number that is unavoidably absent today, you need at least three votes to achieve relief on any given item. And so, with that, we will grant your request for continuance very liberally. If you would like to have a continuance with that, please immediately see Mr. Chapman as soon as possible, let us know. We also have some requests for continuance before we get our regularly scheduled agenda.

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

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## MINUTES

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos “absent”) to **APPROVE** the **Minutes** of October 25<sup>th</sup>, 2022 (Meeting No. 1305).

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## UNFINISHED BUSINESS

### **23435 - Josh Miller**

#### **Action Requested:**

Special Exception to permit a Day Care Use in the RS-3 District (Table 5.020, Table 5-2) Variance to reduce the 12,000 square-foot minimum lot size and 100-foot minimum lot width for Special Exception uses in the RS-3 District (Sec. 5.030-A, Table 5-3); Variance to reduce the 25-foot setback for non-residential Special Exception uses from R-zoned lots (Sec. 5.030-B, Table note [4])

**Location:** 2742 N. Boulder Ave. **(CD – 1)**

#### **Presentation:**

**Cindy Decker**, 2511 East 5th Place, Tulsa, Oklahoma, 75104 and she is the Executive Director of Tulsa educator representing Lisa Fuselier. Thank you for your questions at our September 27 hearing. It really helped us think through this more broadly. Since September 27<sup>th</sup>, we have done several things. We have met with Counselor Hall-Harper and the Planning Office. We met in person with Councilor Bellis We have had email back and forth with Councilor Lakin and Councilor Decter Wright. We have also reached out to neighbor, Ms. Crystal Pearson to schedule a meeting with her and any all interested neighbors to directly hear their concerns so we can think about further mitigating any of them. On November 30, the City Council did vote to initiate a zoning amendment. It had supporting documentation in that agenda item, which is a memo from the Planning Office, which did have a proposed solution in it for large family childcare homes. That would still require a Special Exception, but the lot requirements would be removed. You know way better than me. It takes at least six months for the zoning work to fully go through and be approved by the City Council so we have asked for a continuance giving us a little more than six months, especially given the work really would not commence until 2023. We have requested a Continuance until June 27, 2023. She would add Councilor Hall-Harper, (once this a transparent process has is requiring neighborhood meetings to be happening), wants to hear all the sides of the issue, and we welcome that.

**Interested Parties:**

**Crystal Pearson**, 2741 North Boulder, Tulsa, Oklahoma, 74103, and she unequivocally oppose to Continuing this to June 23. She contacted me three days prior to this hearing. There was no discussion with us about what they are proposing. This is what we have presented. And as far as she knew, and from what has seen, at the last Council meeting, they have not initiated anything just the Council Harper's saying, we will start the discussions about some of the problems or some of the issues regarding family childcare homes. This is another stall tactic, the issue regarding the Special Exception needs to be heard today. That does not need to be procrastinated and prolonged. She did not like it. She stated that she could see straight through this and what they are doing. This is already causing me a lot of harm and a lot of impact in our neighborhood. We came here today to hear that discussion. Under no circumstances do we agree to that. As far as she was concerned it was in bad faith. As she stated, all these discussions with the City Planning Office, we were not invited to that. All of that has been done behind closed doors and without anybody that it is influencing. Not one time have been called and told we are getting ready to start talking about what are some of the things that we might be able to alleviate this situation. No, you did that with the Planning Office and the people in your status. The people in the neighborhood you call three days before the hearing just to make a show. She was appalled. The hearing needs to take place today. There is no need to procrastinate and drag this on to June 23, regarding the Special Exception request, which is what we came here three months ago for. You have already given them three months. She speaks for our neighborhood and our association. We disagree with that.

**Comments and Questions:**

Mr. Bond thanked her for her comments. He thought that would put us into discussion. He would say for the record, he was the one that suggested that we continue this matter, for it to be sent back in front of the Planning Commission, and through the City Council. That was his suggestion. He did not want anyone else to bear the brunt for that. He stands by what he thought then, and he thought it was important. We do not make policy at this Board. None of us were elected officials we are appointed. You need the ability to vote in or vote out people who make policy. That is not what we do. We decided very narrow bailey wick of things that have to do with what might seem like small issues. But we do not go outside our left and right limits on that. He felt then and he feels strongly now that there are policy considerations are at stake, and the people who are in fact elected officials need to be able to put their put their stamp on that.

Mr. Brown seconded what Mr. Bond stated.

Ms. Radney agreed that there is a policy question that is underlying here that needs to be addressed. Did we get anything from the City Council regarding what it is that they are proposing?

Mr. Chapman apologized that it was not in your packet. There is a memo that was referred to what was discussed is amending the lot area requirements to potentially what the discussion around this was if they are going to meet, they can request a Special Exception potentially without needing any additional lot or area size requirements. Potentially, this might come back in six months, as simply a Special Exception requests and not requesting the Variances.

Ms. Radney asked if this modification that Susan is outlining here, is that subject to public comment.

Mr. Chapman stated that it will be.

Mr. Bond stated that he could remember several issues where something has come before us and looked like the City Council was about to weigh in, and we have always postponed that in deference to their zoning making authority that we do not have. And that is why he felt strongly about this. Nothing is done bad faith for the purposes of delay. This is simply how city government works. This is nothing out of the ordinary. Every step of the process, you will have the opportunity to make comment and make your feelings and opinions in a lot of fact consideration that we have in a very diligent and fit packet. And you have the opportunity that as well. But he did not think it was appropriate for this Board to make policy decisions. That is all we are being asked to do today.

Ms. Radney stated that she was not sure that she was in favor of June. She understood the logic behind asking for an extension for that long, but she thought we could get it, we could certainly get an update in terms of the duration that the city has had before that time, or at least an update about the status of those conversations with the community. She could see putting them into the early spring, but she would not want support putting it off that long.

Mr. Bond stated that he would not have an issue if we just had an update on a procedural status for the City. Either of this will be actioned by the City Council or it would not. If it is not, then the law stays the same, it needs to come before us. And we will have to decide at that point. If it is action, then it will come back in a different way. He does not see an issue if we request City Staff to keep us with a procedural update on this matter.

Ms. Radney asked if there was implied expiration date when someone makes an application for a Special Exception or Variance.

Mr. Chapman stated no, but he would not request if we do continue at six months the Board might conditioning that that we re-notice it to make sure that folks are given an

update. There are also homeowners that likely will change in that time who would benefit from notice.

Ms. Radney stated that she would be in favor of requesting the status updates on a regular basis, in 90 days, but she was not in favor of six months. She would be a no on that.

Mr. Brown stated that they would have to be flexible, and we could have an intermediate update of how the discussion is going in three or four months. Then we would know better how to finish things.

Ms. Radney stated that we have had some discussion on this item before. She had some concerns. In terms of policy, she understood that. One of the downsides, to continuing with this long is that there are elements of the neighborhood who considers this to be an active public nuisance. She did not want to see us push it half a year away, if in fact it is a nuisance. That is why she is thinking the into February that are the first of March with a request to get status updates.

Mr. Bond stated that the fact that you said that word, which he would agree with at all. The fact that you said that word further bolsters his opinion that this needs to be dealt with in another format. He would support a motion that would request updates from City Staff on where it is procedurally. Which he knew some of that is not going to be concrete. We are trying to guess on other bodies agenda. There is going to be some guesswork to that. But that and re-noticing it before it comes back up. That would be the Motion, he would like to move forward with it.

Ms. Radney asked if anybody other than me have a preference between February or March.

Mr. Wallace stated that March would be his choice.

Ms. Radney stated that the request for updates, which would just be between us and Staff that does not need to be a part of the motion.

Mr. Chapman stated that he believed that he will be actively involved in any drafting, and he can do that as they come about.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **CONTINUE** until March 14, 2023.

**LT 2 BLK 4,HIGHLAND HILLS AMD , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23442 - Acura Neon**

**Action Requested:**

Variance to permit more than one freestanding sign per street frontage in an R District for a non-residential use (Sec.60.050-B.2.b) **Location:** 7777 S. Lewis Ave. **(CD-2)**

**Presentation:**

Staff suggested moving this to a continuance until January 10, 2023

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

None

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 ((Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **CONTINUE** until January 10, 2023.

**BLK 1 LESS BEG SWC TH N22 SE31.19 W22 POB, ORAL ROBERTS UNIVERSITY  
HGTS , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23447 - Brent Brownlee**

**Action Requested:**

Special Exception to allow a fence or wall to exceed 4-feet in height in the street setback (Sec. 45.080-A) **Location:** 2536 E. 57 St. S. **(CD – 9)**

**Presentation:**

**Brent Bramley**, 2536 East 57th Street in Tulsa, Oklahoma, 74105

Mr. Bond stated that this matter was previously continued and if there are any relevant updates between last time.

Mr. Bramley stated that since our last meeting, he had submitted some more exhibits. He knows there was some questions about the people that built the fence. Exhibit 1 shows commercial contractor, they did build our fence and what we paid for that fence to have it built. We were told by the builder that everything would be built to Code and that we did not have to worry about anything.

Mr. Bond stated that one thing that was an issue was whether the fence was within the front setback.

Mr. Brownlee stated that there was and there was a question about the measurements, and he had submitted exhibits on the measurements also. Exhibit 3 shows where the measurement was made. It was made by myself and my wife that was helping me. Exhibit 4, at the highest part of the fence shows that it is seven foot ten and a half inches. It has been claimed that the fences nine feet, which is not true.

Ms. Radney asked Mr. Chapman to show page 4.6 on the screen. When you said that measured height that where is that on this diagram.

Mr. Brownlee stated that would be right in the middle of the highest part of the fence right in the middle.

Ms. Radney asked how far out is this taper. Our question was whether this fence that is taller than four feet is in the setback.

Mr. Brownlee stated that is it exactly four feet. He had the Exhibits showing those measurements.

Ms. Radney asked where that tapers occurs. Is that at the point that it is at four feet? Is that within the front yard?



Mr. Brownlee stated that it tapers about four feet from the actual end of the fence. At the end of it that you see on the board, the taper comes down. There was about four feet of fence there that is four foot that is on the setback.

Mr. Bond asked if Mr. Brownlee could help guide us to the measurement portion of this if you do not mind. Is there a survey at all on this property?

Mr. Brownlee stated that he had the survey pin that was done when we bought our property. He had a measurement from the edge of the fence at the lowest point to the center of the surveyed pinned in the middle of the road. That measurement is twenty-two, five inches from the center of the road to the survey pin and you will see that in Exhibit 7. You can also see the survey pen in the road.

Mr. Bond stated that what he was asking about last time was when the fence starts at four feet. Where is the 25-foot setback in relation to that?

Ms. Radney stated that on Exhibit 9, we can see the fence from your side of the property line. Our question relates to whether this portion of the fence which is taller than four feet is within the street setback. That is what we need to know. My question is about Exhibit 9. So, when we look at exhibit nine, and we see the portion of the fence that is four feet tall and then it begins to taper up. What we need to know is whether that taper is within what is it a 25-foot setback. If that is within the 25-foot setback in your front yard? That is what we need to know.

Mr. Brownlee stated that the measurement that he made from the center of the road at the survey pin to the edge of the fence is twenty-two feet five inches.

Ms. Radney asked if he had a measurement to where it begins to get higher.

Mr. Bond stated that it could not be above four feet in height for the first twenty-five feet. What we are asking is when it begins to taper up, is that inside that twenty-five feet, or is it outside that twenty-five feet. The Code says generally that you cannot have a fence exceeding four feet height within the 25-foot setback of your front yard. He is not taking issue with the four-foot-tall fence. The question is when it begins to taper off and exceeds four feet in height. That is why last time we suggested if we could get a survey, because that will completely nip any question in the bud for us. A licensed survey. Because without that we are left doing math here and no one wants that.

Mr. Brownlee stated that he thought he turned in a survey at the beginning. Exhibit 2 was our survey that we had. That was on the property when we bought the house. That was a survey that our surveyor gave us.

Mr. Chapman asked if his fence was on your property line. The question is, where does that eight feet start versus the four feet is what they are asking.

Mr. Bond stated that on Exhibit 8, your tape measure goes out to looks like 22.33 feet from the pin to the edge of your fence.

Mr. Brownlee stated that twenty-two feet, five inches is what he measured from the pin to where the fence is set back. That is the actual measurement setback from the middle of the road.

Mr. Bond asked if he knew how long the four-foot section of fences is.

Mr. Brownlee stated that it was four foot before it tapers.

Mr. Wallace stated that what we are saying it is twenty-two foot five inches to the edge of the fence from the centerline of the road based off your measurement and then another four feet before it extends back up which would put us at 26 foot five inches. So, it is as it tapers back up it should be per this information in front of us should be within the twenty-five setback and in compliance.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that if we are comfortable with this math, he has no problem with it. He asked if there was a Letter of Deficiency in here.

Mr. Chapman stated that there was a Deficiency Letter, but they were issued notices from Code Enforcement about it being the street setback.

Mr. Bond stated that had their been interested parties here that had challenges to the measurement, he would have a problem and he would need to see a survey. Surveys cost money they are created to help us. We have had to make decisions over businesses, people invested their life savings into the came down to the inches surveys help us, but they are not required.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all "ayes", no "nays", no "abstentions", Barrientos "absents") to **APPROVE** the Special Exception to allow a fence or wall to exceed 4-feet in height in the street setback (Sec. 45.080-A) per the Conceptual Plan shown on page 4.6 of the Agenda packet and subject to the following conditions that this approval is limited to be the structure as built and presented to us today at this meeting. The Board finds that the requested Special

Exemption 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.

**LT 1 BLK 6,SOUTH LEWIS TERRACE AMD , CITY OF TULSA, TULSA COUNTY,  
STATE OF OKLAHOMA**

**23457 - Zach Burrow**

**Action Requested:**

Special Exception to allow a fence to exceed 4-feet in height inside a required street setback (Sec. 45.080-A) **Location:** 5780 S. Peoria Ave. **(CD – 9)**

**Presentation:**

**Heather Johnson**, 10954 South Quebec Place, Tulsa, Oklahoma, 74137 stated that the argument was that we were not able to determine if the sidewalk was the City property or if it was the private from the survey pins and photos. The pins are on the outside of the sidewalk. So, it is determined that the property is private. We just wanted to go forward with the fence.

Mr. Bond asked if we have copied a survey.

Mr. Chapman stated that he was not presented with a survey. They had actual photos of the survey pins that are in the ground and the Board might just condition it that they make sure it is outside of the right-of-way.

Mr. Bond stated that we cannot vacate an easement.

Mr. Wallace stated that he thought this is what we were looking for.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that he did not have any issue with this. He thought that if this is an issue with the City, if they come back later and they find that this is a right-of-way. They will still be able to use it. No matter what how we go today.

Mr. Chapman asked if Mr. Bond meant the city and Mr. Bond stated yes.

Mr. Bond stated just so the applicants clear. This relief will not give you anything if the city comes back and wants to reactivate that.

**Board Action:**

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **APPROVE** a Special Exception to allow a fence to exceed 4-feet in height inside a required street setback (Sec. 45.080-A) per the Conceptual Plan shown on 5.8 and 5.9 subject to the following conditions a fence to be installed outside of the City planned right-of-way.

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.

**PRT BLK 2 BEG SECR TH W282.04 N170.29 E282.04 S170.32 POB & E25 VAC ST  
ADJ ON W,RIVERSIDE SOUTH COMPLEX , CITY OF TULSA, TULSA COUNTY,  
STATE OF OKLAHOMA**

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## **NEW APPLICATIONS**

### **23458 - Cheryl Cohenour**

#### **Action Requested:**

Special exception for parking and/or storage of a recreational vehicle in the street yard on a corner lot (Section 45.150) **Location:** 2809 E 28th St **(CD – 4)**

#### **Presentation:**

**Cheryl Cohenour**, 2809 East 28 St., Tulsa, Oklahoma, 74114, stated that they have an Airstream that we bought five years ago when she retired. We are avid campers. We love to travel in it, and we have it parked in our circle driveway which you will see a picture of up above. We have a pickup truck and a car. That are parked in the garage. This is what it looks like on a regular basis. It is hidden from most view in the spring in the summer with some of our dog woods. When she chose to park that recreational vehicle there, she looked at the city ordinance and felt like that we complied. But on October 5, we got a Notice of Noncompliance on our door. And he had marked that under Recreational Vehicles that we did not meet Item 6-A, which says a corner lot is always deemed to have access to or reasonable access to the yard. And we do not have reasonable access to our backyard or side yards, we have a rock wall around our property, except on the east side, which is not wide enough to park that trailer in and we would have to cut down our neighbor's trees to get it into our backyard. Plus, we do not really have access because of the tree that we have, that would have to get over the curb to get in that backyard. We are here to ask for a Special Exception to allow us to continue to park our recreational vehicle, which we use a lot in our front yard, except in the winter months, we are guilty of not moving a lot through the months of like December, January, and February when it is too cold. But we take a lot of trips on the weekends, and short trips. We are in a quite a bit. We did talk to our neighbors. We had several of our neighbors said that they did not have a problem with it at all. We did have two neighbors that have sent in letters saying that they were mostly concerned that we were allowed a Special Exception that it would free access for anybody to bring in recreational vehicles into the neighborhood the parking in their yards. But we have been there for five years, we have not seen an influx of recreational vehicles being parked in people's driveways.

#### **Interested Parties:**

**Mike Friloud**, 2819 East 29<sup>th</sup> St., Tulsa, Oklahoma 74114 stated that he lived around the corner from Cheryl and her RV. He called Cheryl and talked to the City Planners about it. He is trying to be a good supportive neighbor. He did not personally mind the

RV. If there are no other parties that have an objection to it. Her neighbors that are directly impacted by that view, if they are okay with it, he was supportive of it. He would like there to be a time limit because he did feel like as nice as that Air Stream is he did feel like it would be hard to say that it is not somewhat of an eyesore. He thought our neighbors tolerate it, but he thought that if you ask them, they prefer not to be there be my readout on it. He is newer to the neighborhood, and he wants to support Cheryl and her neighbors do not have to complain about it, he supports it. He did not think it was appropriate to sort of set precedent that it is okay to park R.V.'s in front of your yard. He did not want that to be a habit in the neighborhood. He was uncertain of the origin of how this issue came about if another neighbor complained or somebody else complained about it. But if there are other people, direct neighbors of hers that complained about it, he would support the opposition just in default for the good of the neighbors in the neighborhood.

**David Glenn**, 2818 East 27<sup>th</sup> Place, Tulsa, Oklahoma 74114, stated that they live on the in the same block, but on the north side. We received a notice in the mail and was glad to be given a chance to come here and express our objections. When you are on making a turn on Evanston and you come out there to 28<sup>th</sup>, traffic does not stop going east/west. When the RV is there, and you are trying to make a right or left turn, you are forced to come out the intersection. Usually if you have parked there, so it obstructs the visibility of just seeing oncoming traffic. He did have a concern about the aesthetics, the precedent set, he would not want. He would ask just consideration that the safety, just the visibility, and then just the precedent, it sets for others to have RV's, buses, law long trailers.

**Patrick Coates**, 2808, East 27th Place, Tulsa, Oklahoma, 74114, stated his house was a block to the north of the applicant, and he had an issue with it. He felt it affects property values. It has been there too long. It has been there for five years. It would be one thing if it were there, three weeks, a month, but it is entirely ridiculous for it to be there this long. He thought a lot of the neighbors on my street share that opinion. When he pulled up along Delaware Place that RV does block visibility when he is trying to look down on 28th Street to turn. It does create a little bit of a traffic hazard, especially also when other vehicles pull up and they are parked almost next to the street, because the RV sits where it sits on the driveway, it blocks that other additional vehicle parked behind it blocks visibility as well. So, we would just like to voice our objection to the application.

**Rebuttal:**

**Cheryl Cohenour**, want to thank my neighbors for being part of this today. She appreciated their interest. Aesthetically, she agreed with them. We have a nice neighborhood. It is not overrun with RV's, but there are other RV's in the neighborhood, and she hated to bring pictures. But we did bring some to include in your packet. There is one a block and a half from us. There is a boat, like two blocks from us. She wanted

to point out that they do not have numerous vehicles, we do not have a lot of junky cars parked up in our driveway, we do take a lot of pride in our home and our neighbors, and our neighborhood looks good. Now she disagreed with a it is blocking visibility and causing any sort of hazard because as you see from your from our original application that she took measurements from the RV to the street, and you can see that it is about twenty-one feet. It is parked at the highest point of the circle driveway so that there is plenty of visibility on either end of the driveway to the street. And you should be not having any problems when you pull up there to look and if anything, it would be our dogwood trees that would be producing a block of being able to see what is coming up 28th street, but we do keep those trimmed. If we could get it in our backyard, we would do that.

**Comments and Questions:**

Ms. Radney asked Mr. Chapman when the Code says that a corner lot is always considered to have ready access to the side yard. Is that intended to be the side yard? Or is that referencing to the side yard on the street side? Or, as in this example that is in front of us? Would we be talking about the side yard that is between the two houses?

Mr. Wallace stated that a corner lot is always deemed to have reasonable access to the backyard.

Mr. Chapman stated that the intent is you can always get to the backyard.

Ms. Radney stated that the Code is implying that you would always be able to get access to the rear yard because the property is bordered by two streets. But in this case, there is a pool that would obstruct that kind of access that is assumed by the Code.

Mr. Brown stated that his question was on the west side of the house, there may be concrete or is that grass.

Ms. Radney stated that is the garage where the arrow is. That is the garage. There is a garage door over there and a two-car or three-car garage.

Mr. Bond stated that he was looking at on page 6.6 of the Agenda packet the Code, which is 45.15 L A, its states "other than the purposes of a loading and unloading which must take place within a 48 hour period recreational vehicles located in an AG, GR, R or mixed district and may be parked or stored only in the following locations in a garage within a rear building setback provided that it is setback within at least three feet from all lot lines." He did not see any give. It seems like the Code is clearly intended not to have recreational vehicles parked in front of a house and he does not remember a time sitting on this Board when we allowed that.



Ms. Radney stated that she thought the applicant was arguing under paragraph five, though, for the exemptions around when it can be in the street.

Mr. Wallace stated that there are multiple curb cuts already. There are a lot of things with this site. We also have reviewed, approved, and denied several different people that have done different things because they could not park their RV in front of their house. Working with them and trying to develop a road to get to the backyard and you know how much pavement they had to have. He would not be for it.

Ms. Radney stated that she thought that the applicant was asserting that they meet every one of the tenants of paragraph five so when it is within the street yard which it is, "provided that the development administrator determines that all the following conditions exist." That space is not available or there is no reasonable access to either the side yard or rear yard" she thought the applicant meets that test. "That parking inside the garage is not possible due to the height or width of the recreational vehicle" they meet that test. "The recreational vehicle is parked perfect perpendicular to the to the street lot line. The body of the recreational vehicle is at least twelve feet from the face of the curb or traveled on was that traveling to the street does not extend over a sidewalk" she meets that test "and E more that than one recreational vehicles parked and stored in the street yard." The question here is that she cannot park a perpendicular because of the way our houses oriented on that corner. But it does not meet all the other aspects of where and how you can park an RV on a corner in the street yard.

Mr. Bond stated that he did not think we are here for an appeal from the development and administrators opinion on this. He thought they have spoken. It seems really clear with me this and everywhere within the city of Tulsa that our views are intended to be parked in the back in a building and not for the house for more than 48 hours. Your point is well taken.

Mr. Brown stated that he thought the applicant had made a determined choice to park this vehicle on your property instead of off-site in storage. He could understand how it would be more convenient to prepare for a trip.

Ms. Radney stated that she drives around a lot as a realtor, she sees a lot. That is all she would say. She was inclined to support it, but she could be convinced otherwise. But she did agree with the objections. She did agree that aesthetically that the neighbors have pointed out the fact that it is not an RV parking lot, but it is a corner lot. It has some peculiarities that are unique to it, and we do not have to meet the Variance standard. This is a Special Exemption. She can get there but she would respect the decision of most of the Board.

Mr. Bond stated that the applicant sounds like you are a great neighbor, which we do not get to see very often, as you already seen today. We do appreciate that really do. It

sounds like you went the extra mile, which is worth its weight in gold to us with talking to your neighbors. And having that dialogue. We rarely see that. He thought that the City's Zoning Code is very straightforward on this.

Mr. Brown stated that he thought he would vote yes.

Ms. Radney stated that a tie is denial. Do we want to ask if they want to continue it? Do we have a full board?

Mr. Bond stated to the applicant that with a member who is absent, you need three votes for affirmative relief. And that member could vote yes or no we are not sure we can continue this matter until he is back. Or we can go and vote today. It looks like we have a tie today, which would not grant you any relief so it is up to you if you would like a continuance.

Ms. Cohenour stated that she would agree to a continuance.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Brown, Radney, Wallace all “ayes”, no “nays”, Bond “abstained”, Barrientos “absent”) a **CONTINUANCE** until January 10, 2023.

**LOT 4 BLK 2, THOMAS HGTS ADDN SUB PRT L4 B5 WOODY CREST ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23459 - Crown Neon Signs**

**Action Requested:**

Variance to permit a dynamic display sign within 200-feet of a Residential District (Sec.60.100-F) **Location:** 4609 E 31st St. S. **(CD – 4)**

**Presentation:**

The applicant was not present.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

None

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstinence”, Barrientos “absent”) a **CONTINUANCE** until January 10, 2023.

**S 45 LT 1 BLK 22,MORNINGSIDE ADDN , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23460 - Kimberly McCoy**

**Action Requested:**

Special Exception to permit an addition to existing structure with a non-conforming side setback (Sec. 80.030-D); Variance to reduce the required 50% open space for a non-conforming lot (Sec. 80.020-B) **Location:** 1519 S. Norfolk Ave. **(CD – 4)**

**Presentation:**

**Kimberly McCoy**, 1522 South Norfolk Avenue, Tulsa, Oklahoma, 74120, stated that there is a single-family house, it is a narrow lot, and we are wanting to add an additional bedroom in the back and continue the North line of the wall to be the wall of the new addition and add a master bedroom. This lot is small, and she was not clear on the way it is calculated, but she thought it already is beyond the 50% coverage of the lot. We are adding about 570 square foot in the addition. The lot is forty-five foot wide. We are not exactly sure the relationship of the property line to the location of the house. We will get a survey to confirm everything before any construction. But we do not have that at this moment. This is also in a historic neighborhood. So, we have gone through the Historic Preservation Commission. They were fine with the continuation of that north wall back they thought you could see it from the street. They wanted us to use recovered siding from the back of the house where we are having to do some demolition to connect to and use that siding on the part that you might be able to see from the street.

Mr. Brown asked what the existing siding was.

Ms. McCoy stated that it is wood lap siding.

Mr. Bond asked if she had any conversations the neighbors good, bad, or indifferent.

Ms. McCoy stated that the couple that she had spoken with are fine with it.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that this is the usual historic house on a plat which would not otherwise exist today.

Mr. Brown stated that on the wall of was platted before current zoning codes.

Mr. Bond stated that he would support a hardship on this.

Mr. Chapman stated to continue that setback it is a Special Exception, and they are going to be exceeding the open space requirement is 50% of the lot.

Mr. Bond stated that the Variances is referring to the Special Exception point we look at 8.15. In this neighborhood where many it is the rule, not the exception where most these houses have well exceeded the 50% rule.

Ms. Radney stated that she understood that it is non-conforming. But the hardship is a little self-imposed.

Mr. Bond stated that the platting of the house, which is now being held to modern zoning regulations. But the fact that it was built and platted well prior to when those were in effect is where it was, he sees the hardship.

Ms. Radney stated it was the narrowness of the lot.

Mr. Wallace stated that since it is in a historic neighborhood, they cannot go up. Assuming that would affect the look of the facade that get pushed back from a second story.

Ms. Radney stated that she thought it was self-imposed.

Mr. Wallace stated that he thought in this whole area, it is that most of these lots exceed the 50% rule. His opinion, which is not something he would want, but that is where this area is going. And it is marketable. It is a 45-foot-wide lot and that is snug.

Mr. Bond stated that is something you could not do today. If this house were located at, 91st and Yale or something like that, with a modern approved plat, they would not have this issue. So that is what he hung my hat on. When we look at it this would be harmful to the neighborhood, he thought that plays into that as a neighbor itself. And she thought we would be challenged to find more than 5% of these houses that are not over built based on the size of their lots, and then as to the hardship, but he did think that is what we have. He was uncomfortable imposing modern regulations built on plats that are designed today on things which are historic in nature and cannot be changed and in his mind that is not self-created. The fact that this house is here. The City has told us in the Code they not only want to not have this house torn down but preserved through strict regulation. All those things get into our checkpoint stuff.

Ms. Radney stated that she only said this because she deeply appreciates that the applicant has addressed all seven points of our Motion. However, as she read it, what that has done is even forced the fact that it is self-imposed. It is in the interest of the Comprehensive Code and the neighborhood to have like continued use. And, you know, in a modern context, and it does appear that it was a small kind of footprint house to begin with, there are limitations in terms of the way that they can continue to add on, it is a non-conforming lot. She could get there on that.

Mr. Bond stated that her points were well taken, if this house were on a cul-de-sac, and they were requesting relief based on the topographical shape of the cul-de-sac, and that not being applicable to everything city wide, we would see a hardship there.

Ms. Radney stated that we get a lot of conversation in the Historic District. She was surprised that we do not have any additional comment. It is an Historic Preservation District, and we get a lot of comments about this stuff. We are not setting precedent at all. She needs to be able to understand having enumerated in her mind and Mr. Wallace is going to do an excellent job with that.

**Board Action:**

On **MOTION** of **WALLACE**, the Board voted 3-0-1 (Bond, Brown, Wallace, all “ayes”, no “nays”, Radney “abstained”, Barrientos “absent”) to **APPROVE** the Special Exception to permit an addition to existing structure with a non-conforming side setback (Sec. 80.030-D); Variance to reduce the required 50% open space for a non-conforming lot (Sec. 80.020-B) per the Conceptual Plans shown on pages 8.7 – 8.13 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.

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 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.”*

**S 45 LT 1 BLK 22,MORNINGSIDE ADDN , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **23462 - Alcorn Services Company**

### **Action Requested:**

Special Exception to modify a previously approved site plan (Sec. 70.120).

Property previously received waivers of screening requirements. . **Location:**  
5524 E. 15th St. (CD – 5)

### **Presentation:**

**Robert Lopez**, 4998 Oak Hill Road and Niotaze, Kansas, 66751, stated that he was with Stantech Environmental, and he was he was representing PSO, Public Service of Oklahoma, and Alcorn Services. We are asking for a special exception to modify and the previously approved site plan sections 70.120. The property previously received a waiver of screening requirements. We are installing an above ground petroleum storage tank, 15,000-gallon petroleum storage tank. It is split to service, half gasoline, half diesel at that facility. We recently removed two 10,000-gallon underground petroleum storage tanks on site and are replacing them with this tank. It is a specially designed Fire Guard tank. It is designed to be put in a facility like this close to other structures. There is a privacy fence that runs to the south end of the property line. Blocking the residential district, but this tank will sit in front of a building, there is a building behind it. There are structures all around it. You can barely see it from the from the access street getting onto the property. This property is a gated property. It is a secure property; you must have badges to even get on the property. The public cannot access this tank. It is for commercial use. It meets all OCC requirements and Fire Marshal requirements.

Mr. Brown asked if he was saying the tank will be above ground rather than buried.

Mr. Lopez stated that it would be above ground and it is eight-foot diameter. It is 509 inches long. It is forty-two feet long.

Mr. Bond stated that he was curious how looking at the Minutes from before, because this is from 22 years ago. Do you know the basis for getting an exception to the screening requirements were then?

Mr. Lopez stated that he did not. When we started the process, we did not even realize it was a waiver at the time. And when we spoke to the City, they said that a fence needed to be around the tank. But this tank sits in the middle of the property. The concern was a fence between the residential and the property in question. But there is already an 18-foot fence back there blocking the residential part. Everything else is commercial.

Mr. Bond asked if that is the only screening that you have.



Mr. Lopez stated yes, other than it is blocked by buildings and in all directions. There are their canopies that they parked their utility trucks under on the east and west side. There is a big building, it is right behind this tank. And their big office building facility is in front and so you really cannot see this tank from residential or street view. It is smack dab in the middle of the facility.

Ms. Radney asked if there was any change in elevation across that southern boundary, in elevation where the southern boundary is where you do you have the screening. You said you have an eight-foot fence in place?

Mr. Lopez stated that there is a slight elevation to where the residential is. But the eight-foot fence covers that.

Ms. Radney asked if the residences are higher or lower.

Mr. Lopez stated that the residence is higher, but the eight-foot fence is higher. It is at that elevation.

Ms. Radney stated that it is on grade at the top of that rise.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Wallace asked what the requirement would be.

Mr. Chapman stated that the current code should require a F1 screen fence, which can be a six-foot privacy fence or masonry wall. As far as that eight-foot fence on the southern boundary, he was not sure if that is theirs or if the neighborhood owns it or how actually divided up. There is a potential they could try to meet that screening if it is their fence, but he was not sure that it is because he thought we have dealt with the same issue on the gas site to the to the east of that property. Because there is probably some screening, but he thought that a lot of those are the fences owned by the residential property owners.

Ms. Radney stated that from the perspective of the Code, we will be talking about a screening requirement that is along the southern edge of the property, not somewhere on the interior.

Mr. Chapman agreed that it is not for the actual tank itself. It is just the Board imposed. If you are going to change cycling, you must come back to get into reapproved at that point.

Ms. Radney stated that she would be curious if the applicant knows whether they do all in fact, own and maintain that barrier on the southern property line.

Mr. Lopez stated that he did not know if we own that fence. He did know that the perimeter of that whole property has an eight-foot chain link fence for security reasons, has barbed wire at the top of it, but he did not know if that privacy fence belongs to PSO. He would have to ask PSO.

**Russell Brister**, 212 East 6<sup>th</sup> Street, Tulsa, Oklahoma, 74119 stated that he worked with PSO. He just got confirmation and that it is our fence. And there are two fences there. So, we have the chain, and then that wooden privacy fence that was put there that, runs continuous. He might also add that the purpose for the above ground storage tank is to get out from under all the environmental concerns of underground storage tanks. It is just more of a safety reasoning as well. It is off the main 15<sup>th</sup> Street, the main service center, it is behind that. Then you have the privacy fence, along with other outback buildings on the south side of it. There is a residential fence line and then our wooden fence line and the distribution poles run in between the two fences.

Ms. Radney stated that it sounded like you do not need relief. She was curious about why you are here.

Mr. Brister stated that they wanted to know that too, and we were told we had to have a Special Exemption for this. So that is why we are here.

Mr. Bond stated that from 20 years ago he could see where just like we have what they want something that was complicated to be reviewed in the future for any changes. We condition that on a lot of things.

Mr. Brister stated that they were not clear. The fact that you cannot even see the tank because there are structures all the way around.

Mr. Chapman stated that if the board is not opposed to them adding that tank, you might just approve the site plan and make it follow up with the permitting. They can demonstrate that they need that screening of private for future projects.

Mr. Bond stated that he normally does not want people to have to come back and like the Vice Chair always pressingly asks why someone is here. Why do they need relief? In this case, he could see it though, because we are talking about 15<sup>th</sup> and Yale, and this is a 50,000-gallon tank. He does want to give the same future Boards of Adjustments that same ability to look and continue that. A good example for the parks, we have exercise careful oversight on changes to their overall plans.

Ms. Radney asked as it relates to the Motion, for what they are applying for today, we do not even have to speak to the screening per se, even though they have had waivers in the past. At this point, if we approve the site plan, as you are saying, just leave it to permit. Is that what you are saying Mr. Chapman.

Mr. Chapman stated that he believed regarding the permitting, there is something they saw that did not meet that screening requirement. If you are comfortable with that fuel tank being added to the site, you might approve the amended site plan. And they might follow up with permitting on the next project and confirm what deficiencies they had in that screening.

Mr. Lopez stated that they went through permitting and now we are here.

Mr. Chapman stated that he asked you to have that conversation about screening, at which point you said you still did not meet the screening.

Mr. Lopez stated that he spoke to Dana Box, and she said it looked fine.

Mr. Chapman stated that then you came back and resubmitted the application. At this point, you need to move on with this request and you are welcome to follow up with me or Ms. Box on that.

Mr. Bond stated that for the record to let everyone know, we let applicants come up when we have questions for them. It is the applicant who is here who has asked to be here. So that is why we will let them come back up to readdress something about which we may not know.

Ms. Radney stated that she was inclined to support it.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **APPROVE** the Special Exception to modify a previously approved site plan (Sec. 70.120). Property previously received waivers of screening requirements per the Conceptual Plans on 9.2 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.

**BEG NWC N/2 NE SW E ON NL TO CNTR L R R SPUR SWLY788.68 SWLY68.2 TO WL N ON WL OF NE SW344.96 POB SEC 10 19 13; N/2 NESW LESS RY & LESS 1.75AC SEC 10 19 13, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

Mr. Brown left the meeting at 2:45 p.m. and returned at 2:50 p.m.

### **23463 - Tom Neal**

#### **Action Requested:**

Special Exception to allow an Accessory Dwelling Unit in an RS-2 District (45.031-D) **Location:** 5978 E. 36th St. S. **(CD – 5)**

#### **Presentation:**

**Tom Neil**, 2507 East 11 Place, Tulsa, Oklahoma 74104, stated that he was again here for an another ADU. This is the simplest case he had brought to you thus far. It is an existing building, tandem garage. The second half the garage is currently used for storage. My client is proposing turning in that that second half, keeping the other part of the garage still for two cars into a small ADU for their daughter to live in while she is going to school. There will be no change in run off, no change in really anything. The footprint is not in any of the required side or rear yards, and it is grandfathered in. It is large but it is grandfathered in. The only relief we need is just a Special Exception for being an ADU.

Mr. Bond asked if he had any issues with neighbors.

Mr. Neil stated that he did not No problem his client did speak to all the neighbors and has said everybody has given the thumbs up. He is on not a cul-de-sac, but it is the end of the property, so it is there is a limited number of immediate neighbors, and he backs up to larger commercial properties to the rear and to the east.

#### **Interested Parties:**

No interested parties were present.

#### **Comments and Questions:**

Mr. Bond stated that he did not have any issues.

#### **Board Action:**

On **MOTION** of **WALLACE**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **APPROVE** the Special Exception to allow an Accessory Dwelling Unit in an RS-2 District (45.031-D) per the Conceptual Plans shown on page 10.7 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.

**LT 33 BLK 1,CHERRY HILLS , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23464-C. Joseph Watt**

**Action Requested:**

Special Exception to permit 2-unit townhouses in the RS-3 District. ( Sec. 5.020-G, Table 5-2.5) Request is to allow three 2-unit townhouses for a total of six dwelling units. **Location:** North of the NE/c of N. Trenton Ave. and E. Virgin St.  
**(CD – 1)**

**Presentation:**

**Joseph Watt**, 16660 South Sheridan, Tulsa, Oklahoma, 74133, stated that they performed a replat of Coot's Addition a couple of months ago for the owners and took this in from three lots down to six lots. They now wanted to put the zero-lot line individually owned homes on these smaller lots. And the only underlying condition is that we need to have a Special Exception on having the internal lot line setbacks

Mr. Bond stated this abuts Booker T. Washington High School.

Ms. Radney asked if he was referring to the spacing between like unit two and unit three unit for unit five and the side yards.

Mr. Watt stated that yes, and the fact that we want to abut unit one to unit two, and then unit three to unit four and the unit size to unit six with the appropriate firewalls between them to meet the Fire Code.

Ms. Radney asked if the subdivision has been done.

Mr. Watt stated that yes, the subdivision was platted in the 30s or 40s, so the infrastructure is there. They have sanitary sewer on the west. There's water on Trenton. Electrical is there and communications are there. It is just that these have been vacant for 60 or 70 years.

Mr. Chapman stated that the new subdivision has not been recorded yet. It is waiting on this part of the approval for that.

Ms. Radney stated that she was curious why you did not just go ahead and rezone it to like a patio home development in the first place.

Mr. Bond asked if they had any issues with the neighbors.

Mr. Watts stated not that he knew of. One of the neighbors abuts this. She is the sister of the gentleman that owned this before he and his wife gave it to their son, and their son is now developing it to this. A lot of the people in this area had been there for generations. The only thing that was concerning to them was if we were giving up the alley. And he said no. All underlying zoning will be met except for these setbacks.

Ms. Radney asked if they did not have a common wall, then they could be patio homes. Is that right Mr. Chapman.

Mr. Chapman stated that there are three terms in our Code, the first being a duplex, which would look for in the street, exactly like this, except for they the two units that are connected would be on the same one. Whereas in this one, there is a lot line running through the building. A patio home is like this, except if it were a true patio home per zoning code that the buildings would be offset so that no building is attached. They could have one side and zero lot line, but it would not be attached to another building. There would be a space in between the buildings.

Ms. Radney stated since there are two simple lots with structures on them that have that are at the zero-lot line, then this is technically a townhouse.

Mr. Chapman stated yes, and it is a two-unit townhouse. It is three two-unit townhouses. Each connection point, which is a townhouse unit. But, for the way that that thirty-five reads it is a two-unit townhouse.

Mr. Wallace stated that each unit is a single-family dwelling.

Mr. Watt stated that the plans are being done by another outfit in Dallas. We are expediting those plans through the permitting process up here for that firm.

Mr. Watt stated that the alley is especially important because it has the sanitary and it also has the communications. PSO is in that alleyway. It is especially important that we maintain the alleyway.

Ms. Radney asked if the alley was not vacated at the corner of Virginia and Trenton

Mr. Watt stated that, it is not. But there is a five-foot easement on all our lots to the east of our lot line. He could go back and check. They did not include as much information on their site plan that we would have included on our **Agis**, so he did not have that in front of me.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that he did not have any issues with this.

Ms. Radney stated that we can approve this as it has been requested, because the final subdivision has not been granted yet. So, it is for the entire property right now, even though it will look it will be platted the way that we have not panned out today.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **APPROVE** the Special Exception to permit 2-unit townhouses in the RS-3 District. ( Sec. 5.020-G, Table 5-2.5) Request is to allow three 2-unit townhouses for a total of six dwelling units per the Conceptual Plans shown on page 11.7.

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.

**LT 14 BLK 6; LT 15 BLK 6; LT 16 BLK 6; LT 17 BLK 6, COOTS' ADDN , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23465 - Himanshu Punjani**

**Action Requested:**

Special Exception to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL district (Sec. 15.020, Table 15-2) **Location:** 9909 E. 46th Pl. **(CD – 7)**

**Presentation:**

**Himanshu Punjani**, 8941 South Lakewood Avenue, Tulsa, Oklahoma, 74137, stated that he would like to say that we already have this site approved and compliant. We have been compliant for multiple years. And we have an additional facility Okmulgee in which we are trying to relocate as that lease is up. He purchased this building this year, about five months ago, the laws change when this type of processing that we will be doing, which is a nonhazardous, low impact, heat and ice only processing was allowed in II Zone, however, it changed about five or six months ago where it had to be an IM property, which is an industrial moderate. And we are just looking for a Special Exemption to use the same material that we already have present at the facility to just take it one step further, without adding any other anything else outside from the plant materials, and water and using heat. We would like to just be able to process the same material at the same facility.

Mr. Brown stated that he wanted to congratulate you on finding a building that is hidden for manufacturing,

Mr. Bond asked if he had any discussions with your neighbors.

Mr. Punjani stated that he spoke to the neighbor to our right. They are never there; they were supposed to lease it to somebody else that lease fell through. So now they are turning starting to do work, the neighbor to the left, it is just a vacant lot that speak to them, but they never really are there. The neighbor across the street was already aware of us having a cultivation and they were had no objection from what my partner's had mentioned. And the neighbors behind us are a cultivation facility. So, they have similar interest.

Mr. Bond asked if they had any issues with smell.

Mr. Punjani stated that no because they are using the same mode of remediation which uses HEPA filters. They are state of the art, they are bigger than the requires a lot of space that we are using. And we also have a second form which has ventilation with the same carbon filters we are currently using. And we have not had any odor issues in the past. He did not see how to change.



Mr. Brown asked if the ventilation system went out the roof or sidewalls.

Mr. Punjani stated that it goes out the roof. But what we do is there is a form of like the way we do our AC units, it is a reheat process. So that ventilation system is all connected. And we must have the filter in there for that process because we reintroduced the same cooling as a heating method. We use that same process which uses the same filters.

Mr. Brown asked if anyone had any complained about the smell.

Mr. Punjani stated that they had not, and this also would not add any additional smell, it would preserve less smell, because the process that we are doing it kind of is if you consider it a cultivation a meat compared to the meat industry, it is more of the raw plant about the raw meat as well as cooked meat. Whereas what we are doing is vacuum sealing and a fresh freezing it. We are freezing the particles which preserves the smell within the bag or the containment unit and because all of it must be contained and never actually gets out of that before the smell is reintroduced in the air.

Mr. Bond asked Mr. Punjani to now walk him through your process.

Mr. Punjani stated that they do not have a processing facility at this place.

Mr. Bond asked if all you are doing here is cultivation right now currently, what do you do when it is harvest time.

Mr. Punjani stated that instead of drying and curing the product. It gets immediately put into a vacuum seal or a fresh frozen process where it is not actually drying. The drying new curing is where the smell and scent is more leaving the plant which enters the atmosphere. And that is really where the odor would come from which we are already doing, which we have had no complaints with. However, now instead of curing it, that process is now brought up to a containment where we vacuum sealant and not allowing any of that to exit because the smell that is exiting is what we as part of what we need for the concentrate that has been created.

**Interested Parties:**

**Richard Pittenger**, 10011 South Braden Ave., Tulsa, Oklahoma, 74107, stated that he was there to ask the Board to please do not make us work in the stinky atmosphere again. Historically, he and his wife bought this building in 1977. A 15,000 square foot manufacturing building at that time and City of Tulsa had a sewage lagoon to the northeast of the plant. Very nicely the City and in the late eighties, early nineties connected water sewer lines to sanitary sewer and fix that problem. A couple of years ago, the president of the company that occupies that building now, his son was playing soccer fifty persons, his half mile south of our building. The atmosphere in that area was

so stinky it smelled like skunks, and they were playing soccer on those twelve fields in a depressed area for storm water management. And those companies that come here, whoever was doing that, it went out of business and the stink went away. Now here we are about to allow a stink from the north side of the street right across the street from our manufacturing building. We object to it. And obviously they are aware of this is a problem because he just discussed ventilation. And he did not know how they do not know specifically how much ventilation he is talking about. The other thing, we have had a certain number of illegal things done in our neighborhood. A few years ago, received a burglar alarm, called the police department called his son and went out there as he walked in the second room, he was hit in the head for it with a baseball bat. He has also had the disadvantage of a pick-up with a boat trailer and boat on it jacked up in the pickup stolen in a boat trailer left. He thought this type of chemical processes of this type tend to attract lawlessness.

Ms. Radney asked where your building is.

Mr. Pittenger stated that it was 9902 E. 46 Place right across the street from 9909.

Ms. Radney asked if they had issues with odor to this point.

Mr. Pittenger stated that he had just described the sewage lagoon before we bought the building. We did due diligence found out about it and decided to take a gamble on it anyway. And then then this recently, the marijuana operation south of the building, about a quarter mile south which when wind is in the south blows a stink of that up in durability. They have gone out of business.

Ms. Radney stated that the question that she was asking him is have you had an issue with odor emanating from this location.

Mr. Pittenger stated no because they have not been in operation.

Mr. Punjani stated that they had been in operation.

**Alexander Ball**, 9902 East 46 Place, Tulsa, Oklahoma, stated that he was the president of the manufacturing company that is there. We have been in continuous operation since 1976. The main concern is the smell. There was an operation in this building the same year ago, six months to a year ago. And it is a safety concern for me, because as a manufacturing facility, we have guys working on heavy machinery. He walks into my shop, and it smells like everybody is smoking marijuana in my shop. Normally, he can go around and look and say hey, somebody smoking marijuana, we need to get you off this machine. He cannot tell the difference. If someone wants to go in the backyard and smoke weed come back to work, he can smell it. It smells like weed. It is overpowering. It is even in my office sitting in there in my office. It is

overpowering. He did not have a chance to talk to him. The place next door had come to us the one that went out of business. There are two places right next to each other and they had a vote on this as well. He said he would not be growing doing anything, no smell whatsoever. They went out of business. So, we did not see what this type of change would bring about. But that is really the thing. He is concerned about safety and this issue, or my guys cannot be high working and when my whole shop smells like marijuana, how do you tell if they are doing that?

Mr. Bond asked if it was the present business that you have any issues with or was it to them went out of business.

Mr. Ball stated that it was the one that about six months ago. This one had not started an operation of which he was aware.

**Rebuttal:**

Mr. Punjani stated that he just wants to touch on the fact that there was a statement made about a chemical. This has no chemical-based processing, it just uses water and heat. As he stated before, we are not introducing any other elements. And we are not actually changing anything the same product that were approved to already produced there. And we are just changing the method of distribution for it and goes away from a smoking product towards a closer to a vapable product, which reduces the smell as well as the odor and the smoke. And we have future to have edibles, which is also a low impact processing method, which also would eliminate the smoke. So, although he completely understands the concerns here, this smell that they are speaking about is from another facility and this facility that we purchased was operational as of two months ago. And that smell was present for the past year and a half. And if it was not as much of a concern, then he was not sure how it is just changed. He understands that there may be employee concerns, he thought that is more of an internal, something to worry about. We have security measures; our job is to protect our business as well. We have two other facilities in Glenpool, Jenks, as well as Okmulgee all our protected by 360 Alarms. We work with acuity cameras; we have cameras at every site. We do everything we can to follow the rules. And we have been compliant for about four years now, throughout this industry, so he is not entirely sure what else he can say. But we are trying our best to mitigate it take everyone's concerns into play. We are sparing no expense to add these filters these ventilation systems with costs a lot. He has spent his life savings into this property to try to do this here. So again, he was not sure what else he could say. But he does appreciate and respect everyone's time and hope we can get an answer here.

Ms. Radney asked if he had an ongoing operation there now.

Mr. Punjani stated that they were not harvesting right now. And we are not growing now. We were waiting because we wanted to see when we get approved for this to change

the plans. We do have an existing compliant. We have everything ready to start to grow back any day of the week that we choose. We are just pausing our own plans to see if that we can incorporate this there. And then we would like to switch the plans of the building to allow the space for this. Otherwise, we will just continue to expand our grow, which is already compliant within that location and permitted.

Mr. Brown asked if the Medical Marijuana Board inspects your facility when we are ready to go.

Mr. Punjani stated yes, and they just inspected the facility as of two months ago as well. And again, we are not adding like they were aware of this, we have a license at another facility, we are just trying to save the rent of two facilities where we just bought this one so that we can transfer that license here. They are aware of what we do. We have been we have been compliant. We have had inspections at our dispensaries, we have had inspections that are on the facility, we have done nothing but cooperate as much as we can.

Ms. Radney asked if we were to approve this, and you were to begin, the process of you would be taking some of the growth facility space offline to do the processing.

Mr. Punjani stated that was correct. We need to have a larger storage area for the fresh frozen product.

Ms. Radney stated that it looks like that will take you from potentially three rooms to two correct.

Mr. Punjani stated it would be growing. We also are getting the roof replaced, which would also repair any sort of leaks that we have. He thought that would also assist a little bit with the odor. He believed we had a leak issue there. We are addressing that currently as well.

Ms. Radney asked if they had changed any of the infrastructure in this facility.

Mr. Punjani stated no.

Ms. Radney asked if the grow rooms that the site plan are so that is on 12.8 is the site plan that was in effect when it was previously operating.

Mr. Punjani stated that was correct. And that processing room was just left as an additional potential expansion for grow. But the full 4200 square feet was combined added approved and permitted for grow.

### **Comments and Questions:**

Mr. Wallace stated that he thought this was the same song different verse for us. By law, they can go in and operate in this facility and continue to grow and add bloom rooms, which, from some of our research that made that may be more of the smell than processing just from what has been presented to us. We do not know firsthand. But this gives an opportunity to put some parameters on things and then have a discussion.

Mr. Bond stated it is not up to us whether medical marijuana is legal in the state. The state has given us regulations, by which we must abide. The City has added some additional regulations on to those. Like any new industry, those regulations change and evolve over time. Where we come in on this is when we are asked to grant relief, in this case, it is a Special Exception. And that is, it is will not be injurious to the neighborhood or otherwise detrimental public welfare. What we have done in the past and not with complete unanimity amongst all of us is, we have imposed a time limit on this and have the applicant come back within a period of years. We have seen a couple come back, and it looks like one with satisfactory results, one with mixed results. That is the only way we can be involved in this. He would be meaningful to us during the same type of review process within some certain number of years. And we have had robust and lengthy debate on this board about people putting their life savings into things like this. And the risk balanced out with what we are trying to achieve here too. So not to rehash old, lengthy discussions at 3:15, but that is where he stood on this topic.

Ms. Radney stated that we try to have some internal consistency. From a business investment standpoint, you need to be able to have some measure of predictability about how we will want to listen to these cases. She was inclined to support it. She had no issue with including an expiration date, based on what you have just described, Mr. Chair. She tends to lean long in terms of that period of five years.

Mr. Bond stated that it would be nice to as for our part, institutional consistency, people roll on and off this Board. He liked the three year just because there will be some memory that hopefully, will at least one of those. You know that being there. There is a lot of money at stake here. But he thought that also is more of an incentive for people to do the right things, he would support three.

Ms. Radney stated that she thought that the processing portion that at least from what we have been told, and this is new to us as a Board, some of these clinical processing systems do tend to be less intense in terms of producing. She was inclined to give them a little bit more time, but she can live with three. We did not look or ask any question about that too, with our applicant, but to the extent they already have an approved grow facility there, she thought three was fine. And within that period, we would hope that the City has a little bit more regularized system of measuring odor and being able to police it. Right now, it is a highly subjective.

Mr. Wallace stated that it is highly subjective. Other processes could be happening that are not related to marijuana that could have a smell that are allowed by right in this area. It is but he thought giving this period allows giving some parameters. If things are not going well, and people are not doing what they say they are going to do, it gives everybody an opportunity to re debate and then hopefully gets technology is advanced or something where we have dogs or something that can measure what is appropriate or not.

Mr. Bond stated that it was the smell test now. Somebody goes out and smells. If they are going to be able to get on that or not. We hope they will be able to. But yes, that is three is comfortable too.

Ms. Radney asked if they need to talk about the site plan. Do we want to limit to a particular areas, or not?

Mr. Wallace stated that his opinion is 12.8.

Mr. Punjani asked that we do not go entirely based on the site plan. This is a proposed site plan; we just must confirm with our gross base that this is exactly how much distance we need from the grow. The material from the grow is not supposed to be within the same room or area as the processing, we need to have clear boundaries and sanitary things measures in place.

Mr. Wallace stated that this is the max that you can do per this approval.

Mr. Chapman stated that it is a conceptual site plan. So, it is just you are not going to get a permit for a processing facility that is larger than that. But if you shrink that down, that is fine.

Mr. Bond stated that the Board will need to see you in three years.

Mr. Punjani asked that they give him a little bit more time there, because it does take time to set up the facility and operate before he would have to come back here again, the four or five years would be a little more lenient there. But if not, then he can persevere with the application on that. We have other businesses as well. So, we will take a few months, at least to get it to where we need it to be. And that alone, it is three to four months on there plus the harvest time, and then we get to process you know, we are not really processing until the middle of the next year, potentially, unless we can speed things up. And that is also bearing everything else goes well.

Mr. Brown stated that given what he said, he thought that four years was acceptable.

Ms. Radney stated four years was good. But however, what we were talking about, though, given this conceptual site plan is that this approval would not extend to any area beyond this, this capacity that is here on this site. Is that correct? That is where we are linking. Yes, that is right.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **APPROVE** the Special Exception to permit Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL district (Sec. 15.020, Table 15-2) per the Conceptual Plan shown on page 12.8 of the Agenda packet, subject to the following conditions that this **APPROVAL** will expire at the end of four years from this date on December 13, 2026 and that the processing area not to exceed the area shown on the site plan presented 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.

**LTS 7 & 8 & E5 LT 9 BLK 6, ALSUMA , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23466 - Roberto De La Cruz**

**Action Requested:**

Special Exception to allow a manufactured housing unit in the RS-3 district (Sec. 5.020, Table 5-2); Special Exception to extend the one-year time limit to allow the Manufactured Housing Unit permanently (Sec.40.210-A) **Location:** 2123 N. Atlanta Ave E. **(CD – 1)**

**Presentation:**

**Roberto De La Cruz**, 1817 North Ironwood Place, Broken Arrow, Oklahoma, 74012. Stated that he was there to mention to all my neighbors that he was planning to move into North Tulsa and instead build a new house he would like to start with a manufacturer double wide home, and therefore required a Special Exception.

Mr. Brown asked if he had any pictures of what you are going to purchase.

Mr. De La Cruz stated that he did not have any pictures because the mobile homes is at the dealer, and they did not provide me any pictures at all. What they gave me is the model is 2003 Bang Harbor.

Mr. Bond asked if he had a chance to talk to your neighbors about this.

Mr. De La Cruz stated that he had not.

Ms. Radney asked if the property was in use now where it is.

Mr. De La Cruz stated that the lot is empty.

Ms. Radney asked if he would be moving into this site, and she assumed he would set it on a foundation and skirt it and put vegetation around it.

Mr. De La Cruz stated yes. It is close to the size of the houses in the neighborhood. His house was going to look like a real home, and everything is going to be freshly painted, a roof and a porch.

Ms. Radney asked how many square feet it is.

Mr. De La Cruz stated that it is forty-four feet by twenty-eight feet.

Ms. Radney asked if he would be pouring into some sort of a driveway.

Mr. De La Cruz stated that the lot has gravel now, but eventually he wants to put some concrete.



**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Wallace stated that his typical response on these that there are sometimes the modular homes can be nice. He just needed to see pictures. Either the pictures or the order of elevation to show what we are proposing here.

Ms. Radney stated that she would like to see at least a site plan. It gives us an idea of where they are going to site it and a picture or two of the of the structure where it sits now so you can see what it looks like. What kind of sighting it has on it what the roofline looks like, all that kind of stuff.

Mr. Bond stated that he would he prefer to see it on this.

Ms. Radney stated that they did have a site plan on 13.8.

Mr. De La Cruz stated that he was sure he could provide some pictures. The siding is wood.

Mr. Bond asked if you did some pictures for us, and you can even take a picture and draw on it about where you put the skirting, things like that

Mr. De La Cruz stated that he had a few pictures on his phone.

Ms. Radney stated that looking at the site plan up 13.8, and it looks like it will face the street.

Ms. Radney asked about an expiration date,

Mr. Bond stated that he did not have an issue with an expiration date. He asked Mr. Chapman when we do that and it expires, do they have to pay any fee to come back?

Mr. Chapman stated that the manufactured home is not the most expensive application we have it is a few hundred dollars and includes re-noticing which is more cost effective than building a new house.

Mr. Bond stated that he would support a review date on this.

Ms. Radney asked given the age, it is 19 years old now.

Ms. Radney stated that she was agnostic about the structure. She thought that it was possible to move a manufactured home onto a lot in such a way that it adds to the neighborhood. So, sticks and bricks do not matter to me, per se, but you know, it does age differently than a standard construction house. So manufactured in 2003, she would be okay with 10 years if you all can look at that.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace all “ayes”, no “nays”, no “abstentions”, Barrientos “absents”) to **APPROVE** the Special Exception to permit a Special Exception to allow a manufactured housing unit in the RS-3 district (Sec. 5.020, Table 5-2); and a Special Exception to extend the one-year time limit to allow the Manufactured Housing Unit permanently (Sec.40.210-A), per the Conceptual Plan shown on page 13.8 of the Agenda packet, subject to the following conditions that this **APPROVAL** will expire ten years from the date of December 13, 2022, and also subject to the condition that the property is set on a permanent foundation, that skirting will be added, and landscaping will be added along the front boundary, and the installation of a driveway and parking.

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.

**LTS 188 & 189 BLK 16, TULSA HGTS , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23467 - Phillip Doyle**

**Action Requested:**

Variance to reduce the required 25-foot rear setback in the RS-1 District (Sec. 5.030-A, Table 5-3) **Location:** 2320 E. 67th St. S. **(CD – 9)**

**Presentation:**

Staff has requested a continuance in this matter until January 10, 2023.

**Board Action:**

On **MOTION of RADNEY**, the Board voted (Bond, Brown, Radney, Wallace “ayes,” no “nays;” no “abstentions,” Barrientos “absent”) to **CONTINUE** until January 10, 2023.

**PT LT 1 BLK 1 BEG NEC S128 NW TO PT ON W LINE 77S OF NWC N TO NWC E TO NEC POB, BRANIFF HILLS ANNEX , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

Mr. Bond left the meeting at 3:42 and returned at 4:10.

## **23468 - Phillip Doyle**

### **Action Requested:**

Special Exception to allow an Accessory Dwelling Unit in the RE District (45.031-D); Variance to permit more than 20% coverage of the rear setback by a Detached Accessory Building/Dwelling Unit (Sec.90.090-C, Table 90-2)

**Location:** 4320 S. Victor Ave. E. **(CD – 9)**

### **Presentation:**

**Phillip Doyle**, 1720 South Newport Avenue, Tulsa, Oklahoma, 74120 stated that his client is wanting to build an accessory dwelling unit to their principal residence in an RE district which is old. It is a large lot. We meet the size of it is fine. It is just slightly over on the amount that is allowed in the rear yard setback. He thought it was ninety square feet. That lot is a little odd in that it was divided up at some point. It is an acre now, but it was an acre and a half or two acres at some time in its life. It was the back half was divided off and it left the principal house close to the rear yard. So, we have shoehorned it in there as much as we can. It is a residence for his mother who is going to come and live with him, and it is a one-story structure.

Mr. Bond asked if he had any discussions or has your client had discussions with any neighbors.

Mr. Doyle stated that his client has not heard any negative things. They previously wanted a two story, so we rethought that and said that it is better for the neighborhood to go back with the one-story structure. The height of the roof is only the highest point is fourteen feet, so it is a low structure back there.

Ms. Radney asked who the property owner of this location.

Mr. Doyle stated that it is Oleg Roytman.

Ms. Radney stated that she wanted to confirm that she did not have any conflicts that she should disclose.

Mr. Doyle stated that the main house sits about one hundred feet off the main road and downhill. It is far back from the road. This structure sits behind it. It is not prevalent on the street front at all.

Mr. Brown asked if the materials match the existing house.

Mr. Doyle stated that the materials, raw materials, the design, or the effective design of the house itself was meant to mimic the existing structure.

**Interested Parties:**

**Dennis Baker**, 4321 South Utica Avenue, Tulsa, Oklahoma, 74105, stated that she was neighbors next to Oleg Roytman at his address at 4320 South Victor. He was there with his wife Wanda. We are objecting to this request to build another detached residence on this property. We object also to the Variance to have more than 20% coverage of your setback. The site plan for these two residence shows that it will be constructed from twelve and a half feet to six feet nine inches of our backyard fence, the current setback is twenty-five feet. Both the zoning code and the covenants, conditions and restrictions for this property prohibit this. And we ask that they be enforced. Mr. Roytman in his application has not shown in need to grant a Special Exception to build another residence on this property. He has not shown the need to grant a Variance either to allow reduction of the setback from twenty-five feet to six feet nine inches. Mr. Roytman's house is to the east of our house. Both our backyard space each other and were separated by a fence. Our house sets twenty-five feet from the fence and on that side of the house, we have a workshop a breakfast area, a kitchen, a living room, and a bathroom. All these rooms are lined with Windows. Majority of them except for the workshop have windows from the ceiling to the floor. Our primary view in our home when we enter to the front door is back to this backyard. It is the focal point of our home. When we first saw our home back in October 2019, our primary concern was a small backyard and how close it was to 4320 South Victor. We have a large patio area in our backyard, and it was important that we could use it with privacy and without being disturbed by noise or neighbors or having to worry about our noise disturbing the neighbors. 4320 South Victor has a swimming pool in their backyard. Most of that swing falls within the twenty-five-foot setback. The fence between the properties is not enough to block noise when people are using the swimming pool. But we accepted that and worried about additional construction. So prior of purchase would review the Bolewood covenants, conditions, and restrictions the CCR's and we reviewed the zoning Tulsa zoning codes for this area. They stated only one detached residence shall be erected on a lot or building site. The Tulsa Zoning Codes said again that they restrict the construction within one residence of a lot, and they protect the established setbacks. It was noted earlier that this residence is intended to be for the applicants mother, so this is indeed another separate residence being constructed on the lot. We chose a Bolewood area for its preservation as an existing neighborhood. That preservation meant that homes there are more expensive and other parts of Tulsa. We have a substantial financial investment in our home. We do not want to see our investment diminished because zoning codes are not being enforced. We also know that if this special exception and various is granted the value of our home will be diminished. Should we decide to sell our home then we would be obligated to help potential buyers of Mr. Roytman's construction. It would deter buyers who would already be concerned about the small size of the rear yard. He wanted to just talk about some of his some of the things that he said to grant his Special Exception.

Ms. Radney asked if he could you show us what the point of where you are on the map up here.

Mr. Baker pointed to the swimming pool and stated that you can see how close that is to the Variance. And the pro side of this residence this new residence will be here in this area, and this is our backyard that faces there. According to the site plan, the fifteen feet high to the roof level, or fence is 60 feet. And that house is going to be within seven feet of our fence, so it is going to be blocking our view from the east. Some of the comments they made about granting this Special Exception. The enforcement of the Zoning Code is necessary to achieve its intended purpose. The proposed new residents will result in that initial detriment to me and undermine the value of my home the use of my patio. The conditions leading to the need for Variance are not unique. My house has the same setback conditions and our neighbor at 4329 South Utica has the same setback conditions. He also argued that the hardship here was self-imposed by Mr. Roytman when he purchased his residence with the current setback conditions and with knowledge of zoning codes in the Bolewood CCR's that prohibit construction of an additional residence or construction within the twenty-five-foot setback. So, he knew this when he purchased the house, just as we knew it and rely on the zoning restrictions to allow us to continue to have privacy within our backyard. Also, the Variance requested is not the minimum relief since Mr. Roytman could choose a building smaller structure that would not violate the setback. He is choosing to build a 1,200 square foot residence that would impede on the setback. He was also going to say that he believes the Variance will alter the essential character of the neighborhood, substantially and permanently impair the use of my property. It will reduce my privacy increased noise level and impair my view to the east, blocking preventing my enjoyment of the sunrise at each morning. The total impact will be a reduction in my property value. The Variance will also impair the spirit and intent of the zoning code which is put in place to preserve and enhance Tulsa single family neighborhoods. The Zone exists to limit development only to the rehabilitation improvement or replacement of existing homes. The Zoning Code is a reason Bolewood homes have retained their value. In conclusion, he was stating that Mr. Roytman has not met the requirements to grant him a Special Exception or Variance to build a residence within six feet nine inches of my backyard. He had full knowledge of the restrictions when he purchased his home. He was asking that the zoning codes be enforced in this request denied.

**Martha Onstott**, 4329 South Utica Avenue, Oklahoma 74105 stated that she had the primary concerns as the previous speaker. She is next door to him. And we both are up against our backyard space his backyard. His swimming pool is now within just a few feet of fence and then this building is going to be. We do have hardly getting privacy in our backyards. He has a big lot, so maybe he could move that forward. She was against it.

Ms. Radney stated that your primary concern mirrors the previous speaker, which is mostly related to the location of the of the structure.

Mr. Baker stated that his objection is not only to the Variance. it is also to the fact that there is going to be a single-family residence built where we do not think that should be either. So, it is two parts his objection to the actual building his separate detached residence on this property, and then the burdens.

**Rebuttal:**

Mr. Doyle stated that he respected their concerns about one sightlines and his house. There is limited air between his house and that backyard. The reason that location has been chosen is because of the location of the drive. It is a way for his mother to get too easy to access to her building. Again, an accessory dwelling unit is this, if you want to call it a single family, residential or accessory dwelling unit, it is the same thing. He knows that is allowed by Special Exception. His mother is coming to live with him, so we are needing to build something to accommodate her. He thought an accessory unit can go within three feet of the fence; we have tried to pull it back. So, we are not right on top of it. And we are only ninety feet over what the square footage is allowed. And that is just getting the minimum footprint work we could for her. The building is at an angle, which is where the numbers worked. We were trying to figure out a way to get ninety, we could not. So that is why we were wanting the Variance because we were so close, this is a little bit over.

Ms. Radney asked if he could elaborate on that.

Mr. Doyle stated that it is just a bedroom, a small sitting kitchen, and another bedroom, and a bath. The way that the numbers work, it is like you take out a bedroom, she has a friend that comes and stays with her so that we reduce the bedroom just now, please do not reduce the bedroom. Can we get you know, trying to try to meet her. She is coming from a large house and we are squeezing her down. So, we are just trying to get the minimum of what she had for her furniture and her base requirements.

2:51:24

Ms. Radney stated that what she is asking you is how tell me how that relates to the 20% coverage for your variance.

Mr. Doyle stated that the minimum size, you can only be so close to the house. There is a 10-foot rule that we cannot push it any closer to the house. We cannot push it any further to the north because in an RE district, you must stay within fifteen feet out. We could push it further to the west even but then we would be over more on square footage. It is just the way the footprint of the house and her minimum requirements for a floor plan worked out. They also count covered area and stuff like that. So not all of that is square footage for a house. Some of it is a covered area. We had been approved for

a prior one that was two-story. This gentleman had an objection to that building for the same arguments that he has today with worried about sight and windows into his house. There was a purpose of thought of okay, let us bring the house down, talking to his mother and doing a 412-pitch roof, not just slamming it against the back fence but trying to give it some relief. He realized nothing there is going to make him happy. But we are needing to build something for his mother. The setback was approved to go from twenty-five, which it currently is to go back to twenty. So, we were we were able to go five feet closer than the twenty-five and allowed to build a two story and elected not to which he thought would have been far more detrimental than the one-story residence that is being proposed. Now, as far as a pool and the pools can be allowed anywhere. He can show you dozens of cabanas and dwelling units in Bolewood. Usually, with those large lots, a of lot of people has accessory units, it is common to the area as far as property values. This is a nice structure. He did not see how that is going to decrease property values.

Ms. Radney asked if he would you have been able to try to connect this structure to the existing home in any way and avoid some of this.

Mr. Doyle stated that they have not discussed that. Part of it is trying to get access from that drive to the back without having to go around the north around the sides to have some allow light between the houses and just was a better plan for that backyard. Could you, yes, but it would not be as successful because it would cut off some of the light of the main house. And there is a relationship to the pool needs to happen to come in. It is an architectural thing. We pushed it to as close as we can to the house.

Ms. Radney asked in terms of the size of the house, and the way that you have this site and you said you need to be able to have some space for ingress and egress is does that have to do with accessibility requirements. What is it that motivates it.

Mr. Doyle stated that it is in anticipation of future needs. Yes, she is getting feeble and so the ability to unload off that drive. We looked at doing it on the south side but pouring another drive all the way hundreds of feet of driveway back to that back corner, that back corner slips off, it is just it is not a good area to access. So, trying to find an area that is easily accessible. In the worst-case scenario, we can go back and shave ninety square feet of it and technically not have to be here for the Variance. Because of the way the light was angled itself. This was the best solution for what the program she needed. And we did not think it was damaging to the neighborhood that ninety feet, but at 10% of the building.

Mr. Doyle stated that he was sure they would be happy to raise the height of the fence to or something that is that needs to be a condition. But if that needed to be a condition to help with the sightlines, eight foot would be as tall as the eve is. So that should counter some of the sightline issues.



Ms. Radney stated that Mr. Chapman had put the site plan up on the screen here. How are you proposing that, that you need to have ingress and egress from this site, and which makes this locations so much.

Mr. Doyle stated that it was for the car for the drive and getting in and out on that grade. The site plan does not show it, but it drops significantly to the south when you go to the other side of the house. So having the hardscape of the driveway having a means from the main house, that is the best way to get to the house. And if you are unloading from car, that is where the existing drive is to be able to get egress or indeed to get in and out of the house. If it were down on the other side, it the slope and stuff would require a lot in a new home, a new driveway, and a new retaining walls. So, from the site standpoint, it just made sense. That is the flattest area of it. Part of also separating the houses to because it is on a hill, we are trying to allow for any runoff water that comes through the site. He is just concerned before about when we were doing the previous iteration that he objected to the water that could potentially come off to his site. That is another reason it is detached, just to allow the water as separate means to get to the back and to the south. We are also installed to four-inch surface drains that he got an easement to go to Utica. So those all no water distributes on any of those lawns to the west. They do not they are all distributed to Utica or at least have pipes. He is trying to be a good neighbor in that respect.

**Comments and Questions:**

Mr. Wallace stated that he understands both sides. This neighborhood is unique in the fabric of Tulsa. It does have large front yards. He did think this is holding to the uniqueness and what is allowed in this neighborhood to do what it has done. But he does understand the concerns with the backyard. We grant this often. The other thing is that when they can move it into separate locations, but then we are just adding more side paving for driveways. He absolutely understands the concerns of the neighbors. And it sounds like there may be some discussion that could happen to mitigate some of that. He was in the opinion of approval at this moment. But he was curious to see what my fellow board members have to say.

Ms. Radney stated that she thought that she would have appreciated seeing what conforming additions would look like in this instance. She did not have an issue with the with the proposal to put an accessory dwelling unit in this location she thought that to your point Mr. Wallace, then at least this is about a modern innovation. There are so many families now who really do need to be able to have living these blended living circumstances on their residential lots, it is the wave of the future. It is covering they we are being asked for a Variance she would have appreciated being able to see what compromises would have to be made to be able to be compliant as opposed to having to request the Variance. Our chair has had to recuse, so we are now down to three board members who will be making this decision as opposed to our standard five and

presuming that the chair would still need to recuse later. At this point would need to have a unanimous decision. We can continue with our discussion and see where we are, but she did want to make sure that the applicant is aware of that that circumstance. What do you think Mr. Mr. Brown?

Mr. Brown stated that this is a tough one and he would prefer a continuance or a discussion with your neighbors.

Ms. Radney stated that on 15.11 Mr. Brown, did you look at these elevations. What did you think about the placement of these windows?

Mr. Brown stated that he thought they were okay, but the area has big lumps and big expanses, and houses are far apart. That is the character the neighborhood. This tightness as demonstrated with the site plan is a concern to the neighbor. Even though it is a single story, and he thought it was handsomely done, he would hate to vote no, and turn him down. On a continuance, you could come back and discuss with five members, and maybe some different points of view would be brought up.

Mr. Wallace stated that he was also inclined to support it.

Ms. Radney stated that she was inclined to support it with maybe some additional information. She was sensitive to the fact that that oftentimes, we talk a little bit about glazing on those windows or the height of the windows or placement of windows when they are that close together. But when she looked at this site, or this aerial map, it is as though this lot has been subdivided. Has there been a lot split here in the past?

Mr. Doyle stated that this property was a lot larger originally.

Ms. Radney was wondering if some of what it is that is creating the problem with the RE Zoning is the fact that it is it is in the west.

Mr. Doyle stated that when it was new, this house would have been on the center of the lot. And at some point, and it might be your property as well was part of that property that was at some point subdivided off and before modern zoning laws. He did not know how they determined where that cut off would be, but they made lots to the west as a portion of this. That has happened with a lot with the lots in Bolewood, that west side has been cut off and made into a new lot. But originally it would have sat originally in the center of that lot. It is odd that it is pushed so far back, because there is one hundred feet in front of it. But unfortunately, at an angle and pushed to the back.

Ms. Radney stated that she was assuming that all those decisions in terms of those likely lot splits in the past predated all three of these current owners. Unfortunately, we

are holding all three of these properties to a standard that none of these properties really conformed with any longer. And that that is not self-imposed.

Mr. Doyle stated that none of the windows are taller than eight feet. The house is at grade. If we have an eight-foot fence, there will not be any views from the house to be able to see into the house, because they are the same height as the fence or lower.

Ms. Radney stated that looking at 15.11, there are a lot of windows that are running down the west elevation. Is there no opportunity to make those like clerestory windows.

Mr. Doyle stated that there was a bedroom. So, for egress, some of those would have to meet egress requirements. So, we are clerestory would not work. Not all we could redo some of them in the main living room. If that was a component of that, the living room is on the west. There are two bedrooms and a living room anchored on that west side.

Ms. Radney stated that on the southern end of the new addition, which is where it has its closest approach to the neighbors.

Mr. Doyle stated that is an open porch. Reduction of windows would help ease some concerns; we could certainly discuss that.

Ms. Radney stated that she would recommend that if we can see an option like that, that will help to persuade our missing member moving forward. Privacy really is an issue, especially when we are talking about substantial investments that people have made in the neighborhood.

Mr. Doyle stated that he could understand that. They could potentially lower the windows, reduce the number of them, and ensure that there is an eight-foot fence so that there would not be any sort of ability to see into the property.

Ms. Radney stated that some screening would be helpful, too.

Mr. Doyle stated that the angle with a twelve foot is we could do some plantings or some other stuff as part of the agreement. That would help as well.

Ms. Radney stated that we are looking to continue this. How much time would do you think that you could benefit from if we act now that we have made those asks?

Mr. Doyle stated that we could show you the different elevation in no time. If you want to be for the next hearing date, which is January.

**Board Action:**

On **MOTION** of **BROWN**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos “absent”) to **CONTINUE** until January 10, 2023.

**PRT LT 2 BEG SECR TH W160.28 N204.39 NL ELY198.34 NEC SLY CRV RT 154.67  
SLY45.33 POB BLK 8,BOLEWOOD ACRES , CITY OF TULSA, TULSA COUNTY,  
STATE OF OKLAHOMA**

Mr. Wallace left the room at 4:30 and returned at 4:32.

**23469 - Nathalie Cornett**

**Action Requested:**

Variance to reduce the required 4,000 square feet of open space and to reduce the required 60-foot lot width in the RS-3 District to permit a lot split (Sec. 5.030-A, Table 5-3) **Location:** 1512 E 33rd St. **(CD – 9)**

**Presentation:**

**Nathalie Cornett**, 2727 East 21st Street, Suite 200, Tulsa, Oklahoma, 74105 stated that they were requesting two Variances; one to reduce our lot width from sixty feet to fifty feet, and the second to reduce our open space from four thousand square feet to 3500 square feet, both to facilitate a lot split of the property. The property is located on a 33rd street directly south of Zink Park. It is comprised of thirty feet of lot for all of lot three and twenty feet of Lot two. That is important because if this were simply lot three, and lot four, or were just two platted lots, we would not be here today asking for any relief. They would be non-conforming lots. And what we are requesting is to fall in line with the non-conforming provisions of the zoning code. The property is currently in an unkempt state.

This is a photograph of what the subject property looks like today. It is under contract for sale to be purchased and cleaned up. This is a copy of the plat of Paramore Addition and these lots were originally platted as 50-foot lots. Here is lot three, it is fifty feet wide. And then they are comprised of the east thirty-feet of lot two and the west 20-feet of lot four. These lots are fifty feet except for these and lots right here. Today that condition exists in the same condition. The lot lines have shifted around so they do not land exactly on the platted lot lines anymore. Most of these lots are sixty feet, this one is 50 These two are still 50 And then as you head west, all the lots on the west side are Rockford. Those are all 50-foot platted lots and Mr. Banes will you put up page 16.11. There is our property. All of these are 50-foot lots to the west here. These are all 50-foot lots, and then you can see sixty foot to our east. We are requesting to return the property to and status to 50-foot-wide platted lots because lot lines have shifted slightly, and we are one platted lot two parts of two other plant have lots that is why we are here today. Additionally, we are requesting to reduce the open space of each of those lots of 3,500 square feet that will permit the construction of two single family residences. The Code requires currently for a minimum of four thousand square feet of open space. If this were if this property were to be developed as a single home, they would only need four thousand square feet in our request even though each lot will have less open space. That will be a total of seven thousand square feet of open space on the property. The Board did receive some letters late either this morning or last night if you received them at the same time. She would tell you as far as what a listing agreements states about what a lot frontage is, or what the INCOG zoning map appears to say. This Board has historically and consistently relied on what the plat says as far as lot frontage is, and are we have one hundred feet of frontage currently, as the property sits. Any drainage concerns, this Board is also aware that all that is as far as making sure you

comply with the City's requirements for runoff. Any builder would be held to that standard. East 33rd Street slopes downhill going west. There is this one lot we have not heard from these neighbors of which I am aware. She had spoken with this gentleman here and he had no issues with that. And he also spoke with his neighbors over here. She had not heard from them, but he shared our discussions with them. She would just give one additional exhibit because she knows the Board likes picture and this is just a conceptual drawing of what a residents built on these lots would look like.

Mr. Brown asked if there are any other 49-foot lots.

Ms. Cornett stated that they are not requesting forty-nine feet requesting fifty feet to split this this is the lot is currently one hundred feet wide and we are requesting to split it to be two 50-foot-wide lots. We will end up with two lots that are less narrow than, the current lot is more of the size of an RS-1 lot. We are zoned RS-3 which requires 60-foot-wide lots and requesting to reduce that to fifty. 50-foot lots are common all along 33rd Street as well as in this part of the Brookside neighborhood on North Brookside. These lots are originally planted as fifty feet lots.

Mr. Bond asked what the hardship is.

Ms. Cornett answered that the hardship is that we are they we have platted 50-foot lots but because lot lines have just slightly shifted someone has taken ten foot and added it here and that is reduced it in other places. A 50-foot lot is standard. The Code requirement that we comply with what a 60-foot lot would require would not apply to lot three at all. If it was a standalone lot as a non-conforming lot. Fifty foot lots will comply with all the setbacks requirements of an RS-3 except for our open space which we will comply with the non-conforming 50% requirement. And we will have more open space from a percentage standpoint than a 60-foot lot would. The lot is currently not a non-conforming lot, the platted lots are non-conforming. This lot is comprised of portions of a lot of lots. In the sense that the lot to our east or west was not entirely platted lot, they would not be here to ask for relief. If we were all of lot three, and all of lot four, we would not be asking for relief. We would not need to get a Variance for the lot width, and we would not need to get a Variance for the open space.

Ms. Radney stated that she would confess to being confounded. This lot as is currently composed, includes part of lot two, all of lot three, and part of lot four. If they had not been in this mashup, and had simply been lots, two, three, and four, your thesis is that they will exist as they were originally intended at the time of the subdivision plat, which was that they would be 50-foot lots, in their own stead. But because you want to divide a property which can is composed of three original lot district descriptions, you are proposing that the hardship is that to require some different lot spacing in terms of the frontage width is an inappropriate hardship because the subdivision was intended to have lots with fifty feet of frontage.

Ms. Cornett stated that but for having a sliver of lot two and a sliver a lot four, we would still be entitled to have that. She apologized. She had failed at my job because, she thought this was straightforward. If she had not communicated that to the Board, please continue to ask me questions. To her, the hardship is that we have one hundred feet of frontage, and we would like to return it to its original platted state of 50-foot lots

Ms. Radney stated separate and apart from their legal descriptions, you would like to have two 50-foot lots.

Ms. Cornett stated that the shifting of lot lines. There is a long history of it. She knew that down the street this to the west along 33<sup>rd</sup>, this Board has approved almost exact same relief as recently as 2019 or 2018 to split 100-foot lot into two fifty feet lots and all along 33rd Street that were not already existing as 50-foot lots.

Ms. Radney asked in approving that you would by having two lots of fifty feet in width, each would have thirty you are requesting that each would have 3500 square feet of open space, which would create a total of seven thousand feet of open space between the two lots. Whereas currently, if someone were to put an exceptionally large structure there it would only have four thousand square feet, we would not need relief for that.

**Interested Parties:**

**Brad Heckenkemper**, 1517 East 34th Street, Tulsa, Oklahoma, 74105, stated that he lives on the south side of the applicants lot. He agreed with the applicant when she said that she thought this was a clear case. What they are attempting to do is just take one hundred foot, or he thought it was ninety-eight foot submitted evidence ninety-eight foot and reduce it to two lots. She had a lot of hypotheticals and what ifs, and none of those are applicable. This is part of three lots. It is 98 not 100 feet wide. She is asking to have it reduced to two 50-foot lots. He did take exception because there are a lot of lots on those blocks that are not fifty foot. His is seventy-five and the one just to the east of hers is eighty foot. The one next to the west of him is 75 or 80-foot, so they are not all 50-foot lots. She wants to go back and try to shoehorn this in to 50 years ago when it was originally platted. We are way past that. The zoning code says this RS-3 and that requires 60-foot minimum width, and she is asking for over 16% reduction in each of the lots. The Variance is not allowed under the Code. It is not going to be in harmony with the Code because it is going to be up to a 50-foot lot not a 60-foot lot. It is self-imposed because they are buying the property with knowledge of what the lot line is. If the Variance is not granted, they will not go through with the lot. The builders are just trying to get two lots for the price of one. He was asking that the Variance not be granted because it does not meet the Code requirements. The Board understands it is empowered by state law granting Variances due to hardships and there is no hardship here. They can build a great house on 100-foot lot.

**Ann Cooper**, 1501 East 34 Street, Tulsa, Oklahoma, 74105, stated that she was not directly behind this 98-foot lot, she is one over from it. She felt like that the RS requirement is they want to do a 60-foot lot and they are only dealing with 98-foot lot. She was against it. The hardship will be for the community that the neighbors that are surrounding that house and creating drainage that will affect quite a few houses and then also it is on 33rd Street. That street is right up there in the house, it is right across the two houses they want to build would be right across from Zink Park and that street right is so congested. She could not imagine all the construction that would be dealing with but then also having a second home with other dwellers congesting that 33rd Street. They already have speed bumps right there now because of the problem. Then also limiting the green space, she felt like that would be a hardship for the neighbors that have to put up with any drainage that might come from these two bigger homes. She did realize that 50 years ago, they were little bungalow houses that had a plot of fifty feet. But like Brad said, most of the houses are within a 60-foot lot or seventy, or sometimes larger lots. You talked earlier about not wanting to create a precedent on some other issue that you all had, well, if you did do this, you would allow for a home to be built on a 49-foot lot and that would create problems on down the line. She would appreciate it if you would consider the ninety-eight foot and not what they are saying the one hundred foot because that is what the tax records show

**Susan Edwards**, 1524 East 34th Street, Tulsa, Oklahoma, 74105, stated that on the photos you see a lot of trees. So that was really my concern is by dividing this lot. All those trees are going to go away. It is just a problem that there no green space in Brookside, we just want to save our green space. You said earlier you when you all make these proposals, you say is it detrimental to the neighborhood or you say something at the end of each case. She thought that this is detrimental to our neighborhood. We love our neighborhood, and we love our trees, and we do not we know that this house is going to come down and we know something is going to replace it. According to this plan, it looks like not very much space in between the two houses. And it looks like a lot of concrete.

**Bradley Smith**, 1513 East 34th Street, Tulsa, Oklahoma, 74105, stated that he lives directly behind the subject property. He has lived there for 29 years. Hopefully, you got my email on Monday. He was opposed to the Variance on the 60-foot lot or the 4000-foot square foot open space or zoned RS-3 for a reason. It appears that lots have been that way since 1905. According to the property records, which is how long the house has been there. We already have a ton of traffic problems in Brookside, Zink Park has four parking spaces for the entire park and then on the opposite end of the park, everything else is on street parking most of it on 33<sup>rd</sup>. When you add more houses, you add more people. He saw no hardships for these people. They are doing it purely as a profit driven motive. They just want to split the lot make some cash and get out. They are not going to live there. He asked that the Board deny the Variance.



**Rebuttal:**

Nathalie Cornett stated that she would briefly address that the size of the current lot is not consistent with the zoning code or RS-3 Zoning. The current lot is much larger than an RS-3 lot. The proposed lot size is far more in line what RS-3 zoning considers. As far as this being in spirit with the with the zoning code, it was her opinion based on the lot size and how the conceptual site plan shows and this is just conceptual for zoning purposes and these were not building permit plans, but on 16.8 we comply with all the setback requirements of an RS-3. We are not asking you to be in any rear side or front yard setbacks and we are also in line with the current existing lot sizes all along 33rd Street not just on this block but all the way down on the further block both on 33rd Street to the south and on 33rd Place and going further into the Brookside neighborhood. Allowing for obviously lots that vary in sizes between from fifty feet up to one hundred feet in Brookside based off one hundred years of lots being adjusted and lot lines being shifted around. These are consistent with existing lots and existing home sizes in this portion of Brookside. To that end it is not causing any detriment to the neighborhood that as it exists today. Our hardship is that if not for the shifting of lot lines, we would not need any relief to develop to 50-foot property lots right here. There is no other configuration that this property could be to achieve the required bulk and area requirements and an RS-3 district. Absent purchasing an additional twenty feet so that we could have two 60-foot lots.

**Comments and Questions:**

Ms. Radney asked which takes precedence, the original subdivision, or the pattern of development in this subdivision. If the pattern of development is such that there are made particularly in these two blocks, or in this section that is between what is it Rockford and Trenton, they deviate from sort of the pattern around to the east to the west have that. They have always been a little bit weird. She had read the legal description and Ms. Cornett makes an interesting argument about the fact that this is a convoluted legal description and if they were just shifted thirty feet to the west, we would not be having this conversation. But there is something to be said for the fact that the neighborhood has developed with this kind of variation in lot size. She did not know at this moment whether she thought that the emanation of this lot from something that is wide to something that is, that is narrower, even if it is conforming with the original intention around the neighborhood makes sense. She was torn and she did not know that she could support it. She did not necessarily see the hardship. She saw the logic of it, she just did not know that she perceived that logic as an actual hardship.

Mr. Bond stated that he saw the argument , but he did not think as far as what they can do with the land use as being as being self-imposed.

Ms. Radney stated that she could get past it being self-imposed, she did not know that she agreed with that. She did not know that she was convinced that there is in fact, a

hardship. There is a peculiarity but just because it is peculiar does not mean that it creates an undue hardship on the property owner.

Mr. Wallace stated that the thing he was trying to get over is how the city is full of these dated antiquated plats, that property lines have moved and shifted over time. There are arguments both ways, there are downtown developments that are large, giant commercial properties that still are subdivided in a residential subdivision according to their plat. That information is out there can be used for situations like this. It totally makes sense to him on paper, and he was struggling with the hardship as well. It looks like a great investment opportunity.

Ms. Radney stated that she almost looked at the zoning as far as RS-3 as being like a concession to the character of the neighborhood, but not having been appropriate to the underlying original plat. You have 50-foot lots that should have been RS-4. But the character of the neighborhood and the lifestyle of those who enjoy these properties, they deeply prefer to be RS-3. It is peculiar in terms of the distribution of the size of these lots. She did find the observation that Ms. Cornett has made, was a compelling argument.

Mr. Bond stated that he felt it was a unique case and other some related decisions we have made. He understood the hardship. It sounds like we are going to have a tie on this. He would let the applicant decide if she would like a Continuance when Mr. Barrientos is present, or if they would like for us to vote now.

Ms. Radney asked if the existing structure over one hundred years old.

Ms. Cornett stated that she did not know how old the existing home is on the property. She was going to see if her clients were interested in a Continuance.

Mr. Brown stated that he would be in support of a Continuance.

Ms. Radney stated that if that building was built one hundred years ago or more, that creates a compelling argument around and how this is an oddball lot, which was where its dimensions were or built around something that was an oddball, you know, in the in the existing neighborhood? If it really is that old, and it is derelict and coming down. She would be inclined to support it because it has persisted with this size and these dimensions, because it was an unusual, property in the neighborhood, even at the time that the neighborhood was being developed. And if it came down, then the opportunity to make it more conforming would make sense but conforming to the original subdivision plat. But other than that, she is not inclined to support it. This is tough. She was in favor of making money and building houses.

Mr. Wallace stated that he was on the fence. One of the points that Ms. Radney made was if there is going to be seven thousand square feet of open area between the two

properties. But if they were to build one single family, they could only have four thousand. He was a “no” today. With the knowledge of the neighborhood, they showed up, and we thank everybody that comes here and provide your thoughts on this. He thought that a Continuance makes sense at this stage with only four of us and we could have a fifth to have an additional perspective. Also, that would give us the opportunity to have additional information and conversation.

Mr. Brown stated that the whole area has gone through a lot of change in the new versus old is prevalent in this neighborhood. It is a good area.

Mr. Bond stated that it is a great area and people care. It was a great area one hundred years ago and it is going to be a great area another one hundred years.

Ms. Cornett stated that they would be in favor of a Continuance at this point.

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos “absent”) to **CONTINUE** until January 10, 2023.

**E.30'OF LOT-2-&-ALL LOT-3-&-W.20'LOT-4 BLK-1,PARRAMORE ADDN , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## 23470 - Stuart Van De Wiele

### Action Requested:

Special Exception to permit alternative compliance parking ratios to reduce the required number of parking spaces for an apartment/office use in the CH District (Section 55.050-K; Section 55.020 Table 55-1) **Location:** 901 N. Elgin Ave. and 415 E. Independence St. **(CD – 1)**

### Presentation:

**Stuart Van Willie**, 320 South Boston, Suite 207, Tulsa, Oklahoma, 74103, stated that he represents the Housing Authority of the City of Tulsa which was more commonly referred to as the Tulsa Housing Authority or T.H.A., in connection with this application. Jeff Hall, the Vice President of Development Services at THA with him as well if there are questions that he could not answer. Tulsa Housing Authority has owned and operated the Pioneer Plaza apartment facility on the subject track apartment complex. You cannot really tell from this, but there is a ramp located on the northern half of the subject track was built in the late sixties. THA administrative offices are here on the southern portion. Those were built in 1970. So, they have been there for fifty plus years. From inception, the apartment facility has served a vital role in providing senior and disabled housing under THA's management. The facility has 191 units, all of which are single bedroom units for no more than two individuals. Tulsa Housing Authority is in the process of applying for and obtaining significant financing to provide some much-needed renovations for the apartment facility. And that financing required a lot split that created two lots. You see that in your packet, there is a property line it is not shown on the upper hand, which runs east west, north of the admin office, south of the apartment track for the financing aspects of the transaction. And that land separation caused the technical review of zoning aspects of the property so that Tulsa housing authority can verify its compliance with zoning to its lender. In short, what we are asking for is a Special Exception to satisfy the parking requirements for the northern tract and the southern track by means of the alternative compliance procedure that set forth in the code to require seventy parking spaces on the north track, and seventy on the southern track. And those are slightly less than what is in existence by just a few on each track but wanted to leave some breathing room for counting and property lines and restriping. He would note that some of the parking on the southern track, the property line is this curved line here. Some of the parking sits outside the property line in what is shown on the assessors map as city right-of-way, our surveyor believes and there is a note on here that it is an abandoned right away, but they could not locate the abandonment paperwork on it. But this facility has been here for 50 years, if needed after approval if approval is granted if we need to clean up that that issue to seek formal abandonment of that right of way we can. But the real driver of the application was the northern tract from a timing standpoint with the financing. It is something that we can clean up if we need to. If it were a right-of-way, which he was not convinced it still is, it dead ends here there is a significant terrain drop off there. He did not think that is going to be an issue. He would also note that there is not an expansion of the footprint, the building is not

getting bigger; we are not adding units. This is a rehab renovation, not an expansion. One other thing from a parking standpoint that he would note is there is a Tulsa transit stop on THA's property right adjacent to the apartment facility. Many of the residents rely on public transit as their primary mode of transportation. The amount of parking that is currently there has worked for decades and decades, really, what we are seeking to do is just to confirm the status quo, to pave the way for the financing that hopefully will be forthcoming. So finally, he would ask for your approval, just by noting that there is not a one size fits all approach to parking. The operations on this property serve a unique function in the city that are significantly different from other commercial properties or other multifamily properties. It is not injurious to the neighborhood or to the public welfare, but it will be of a great benefit, and it is in serious need of happening.

Ms. Radney asked if he was anticipating that there would be any change in the demographics and like the tenant mix after the renovations are done.

Mr. Van De Wiele stated it would be same service is just a rehab of the property, but same service function.

Mr. Brown stated that he was a little uncertain where the two-lot split.

Mr. Van De Wiele stated that you can see it on the other server constant name. The apartment facility sits on the northern piece. There is a bit of a circle drive, there is a retaining wall that kind of serves as the natural break here. But it splits down between the apartment facility and the southern portion of its parking lot. The administrative office and the northern portion of its parking lot 50/50, right down between the two.

Mr. Brown ask how many spaces would be changed.

Mr. Van De Wiele stated that there are 150. That part of the parking spaces is not changing, and this is just a confirmation of zoning and a clean-up on zoning so that when they make their applications for financing, that they can affirmatively say the zoning complies.

Mr. Wallace stated that it says approximately 74/74, to 70/70.

Mr. Van De Wiele stated that they And we are not we are not reducing the parking. If they are 74 on a lot, and he was saying seventy, he just wanted to give them some breathing room there just in case there is a miscount on a survey.

Mr. Wallace stated that you are asking for 70/70 on each side

Ms. Blank stated that there is an amended motion in your packet that is at the very back of what is on the desk and finding if you look there. There are findings that the

ordinance calls for and if you look, you can see it is on that it is a one-page sheet. One page sheet in what has been put on the desk.

Mr. Chapman stated that is standard language, he just neglected to put it on the Staff Report for this specific request.

Ms. Radney ask if he was expecting any change in the intensity of like office in the administration facility.

Mr. Van De Wiele stated not at all.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that he did not have any issues with this.

Mr. Chapman stated that there is not actually a parking study. Per of the Code, It is not required anymore. But he does have a description on 17.8 and then also the surveys have the parking spots listed.

Mr. Wallace stated that he did not have any issues with this. Reading this language reminds me of why we have to the parking ratio counts and there are not really neighbors adjacent that would overflow that they are not going to be working with OSU and so forth. So again, he did not have any issues with this.

**Board Action:**

On **MOTION** of **WALLACE**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos “absent”) to **APPROVE** a Special Exception to permit alternative compliance parking ratios to reduce the required number of parking spaces for an apartment/office use in the CH District (Section 55.050-K; Section 55.020 Table 55-1) per the Conceptual Plans shown on 17.6 – 17.11 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. The other allowed parking alternatives section 55.050 are unfeasible or do not apply and the reduced parking ratios, pros are not likely to cause material adverse impacts on traffic circulation and safety or on the general welfare of property owners and residents and the surrounding area.

**BOA-23470 Legal Description**

**Northern Tract: A TRACT OF LAND THAT IS PART OF BLOCK 1 AND BLOCK 2 OF AMENDED PLAT OF "DAVIS-WILSON HEIGHTS", AND THAT PORTION OF JASPER STREET THAT HAS BEEN VACATED LYING WITHIN BLOCK 1 AND BLOCK 2 OF AMENDED PLAT OF "DAVIS-WILSON HEIGHTS", A SUBDIVISION IN THE SW/4 OF SECTION 36, T-20-N, R-12-E, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE NORTHEAST CORNER OF LOT 8 IN SAID BLOCK 1; THENCE ALONG THE EASTERLY LINE OF SAID LOT 8, AND A SOUTHERLY EXTENSION OF THE EASTERLY LINE OF LOT 8 S 01°05'43" E (CALLED S 00°13'05" E) A DISTANCE OF 476.41 FEET; THENCE S 88°56'04" W A DISTANCE OF 112.43 FEET; THENCE S 00°54'41" E A DISTANCE OF 42.80 FEET; THENCE S 88°59'43" W A DISTANCE OF 16.46 FEET; THENCE S 01°01'21" E A DISTANCE OF 15.72 FEET; THENCE S 88°51'19" W A DISTANCE OF 86.55 FEET; THENCE N 01°05'43" W A DISTANCE OF 43.33 FEET; THENCE S 88°53'51" W A DISTANCE OF 78.31 FEET TO A POINT ON THE WESTERLY LINE OF SAID BLOCK 2 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 08°33'47", AND A CHORD BEARING AND DISTANCE OF N 09°05'15" W 44.79 FEET; THENCE ALONG SAID WESTERLY LINE AND SAID NON-TANGENT CURVE TO THE RIGHT AN ARC DISTANCE OF 44.84 FEET TO THE END OF CURVE; THENCE N 04°48'22" W A DISTANCE OF 75.11 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 1; THENCE ALONG THE WEST LINE OF SAID BLOCK 1, N 01°05'43" W (CALLED N 00°13'05" W) A DISTANCE OF 371.00 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 1; THENCE ALONG THE NORTHERLY LINE OF SAID BLOCK 1, N 88°39'43" E (CALLED N 88°30'17" E) A DISTANCE OF 305.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND AND CONTAINING AN AREA OF 151,720 SQUARE FEET OR 3.48 ACRES OF LAND, MORE OR LESS.**

**Southern Tract: A TRACT OF LAND THAT IS PART OF BLOCK 2 OF AMENDED PLAT OF "DAVIS-WILSON HEIGHTS", A SUBDIVISION IN THE SW/4 OF SECTION 36, T-20-N, R-12-E, CITY OF TULSA, TULSA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE NORTHEAST CORNER OF LOT 8 IN SAID BLOCK 1; THENCE ALONG THE EASTERLY LINE OF SAID LOT 8 AND A SOUTHERLY EXTENSION OF THE EASTERLY LINE OF LOT 8 S 01°05'43" E (CALLED S 00°13'05" E) A DISTANCE OF 476.41 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE S 01°05'43" E (CALLED S 00°13'05" E) A DISTANCE OF 251.27 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID BLOCK 2; THENCE ALONG THE SOUTHERLY LINE OF SAID BLOCK 2, S 88°54'17" W (CALLED S 89°46'55" W) A DISTANCE OF 10.00' TO THE POINT OF CURVATURE OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 75°57'45", AND A CHORD BEARING AND DISTANCE OF N 51°21'01" W 369.24 FEET; THENCE ALONG THE SOUTHERLY AND WESTERLY LINE OF SAID BLOCK 2 AND ALONG SAID TANGENT CURVE TO THE RIGHT AN ARC DISTANCE OF 397.74 FEET;**

THENCE N 88°53'51" E A DISTANCE OF 78.31 FEET; THENCE S 01°05'43" E A DISTANCE OF 43.33 FEET; THENCE N 88°51'19" E A DISTANCE OF 86.55 FEET; THENCE N 01°01'21" W A DISTANCE OF 15.72 FEET; THENCE N 88°59'43" E A DISTANCE OF 16.46 FEET; THENCE N 00°54'41" W A DISTANCE OF 42.80 FEET; THENCE N 88°56'04" E A DISTANCE OF 112.43 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND AND CONTAINING AN AREA OF 49,390 SQUARE FEET OR 1.13 ACRES OF LAND, MORE OR LESS.



**23471 - Mark Capron**

**Action Requested:**

Special Exception to permit alternative compliance parking ratios to reduce the required number of parking spaces for an apartment use in the CH District (Section 55.050-K; Section 55.020 Table 55-1) **Location:** 6402 E. Pine St. N.  
**(CD – 3)**

**Presentation:**

**Carl Fritschen**, 123 North Martin Luther King Jr. Boulevard, Tulsa, Oklahoma, 74103, West, which was approved for alternative compliance for a similar issue several months ago. It is our understanding there was no issues reported with that approval. This is going to be a project that will be targeting lower income individuals. There is a housing shortage for across the board, but particularly for lower income people. This type of product will offer that type of housing for those individuals. It was his understanding through Mark that there was a meeting held with Susan Miller at INCOG and she had expressed no concerns with the action to try to get alternative compliance for the parking. By allowing this reduction, it does give up more of the area for some landscaping and green space as opposed to more pavement and parking. So hopefully we can all kind of be on board with that. Some research through the Journal of Transportation and Land Use published a study in 2018 that looked at lower income projects and how many cars they might have compared to a suburban type of apartment complex. They did find that typically these individuals that live in these units do not have and own as many cars or vehicles. Lower income populations are also more sensitive to life changing events that affect their car ownership, such as marriage, divorce, poor health, and things like that. There are a couple of factors in play here that it is difficult to compare those apples to apples with a lot of apartment projects you might see in our more suburban areas.

Mr. Brown asked how many total units can be built.

Mr. Fritschen stated that there are 127. He understands they will be four story.

Mr. Bond asked if this alternative parking would have an adverse impact on traffic circulation or safety or the general welfare to the population, the owners and residents in the surrounding area.

Mr. Fritschen stated that he would not think so. The circulation pattern, the way the slides laid out, the reduction in the parking should not affect how the drive aisles work or the circulation patterns, or how fire access can get to these property or units.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated we do not need a traffic study anymore, so there are two determinations we must make. The parking alternatives have not been feasible or do not apply. The applicant would say that they reduce the amount of parking increase on green space and the light will have a positive impact on the intended residences. This is the type of housing we need in Tulsa right now.

Mr. Brown stated that he was okay with that as well.

**Board Action:**

On **MOTION** of **WALLACE**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos “absent”) to **APPROVE** a Special Exception to permit alternative compliance parking ratios to reduce the required number of parking spaces for an apartment use in the CH District (Section 55.050-K; Section 55.020 Table 55-1) per the Conceptual Plans shown on page 18.8 of the Agenda packet.

The board advises the requested Special Exception will be in harmony with the spirit intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. That the other allowed parking alternatives section 55.050 are infeasible or do not apply and the reduced parking ratios proposed are not likely to cause material adverse impacts on traffic circulation safety or the general welfare of property owners and residents in the surrounding area.

**A portion of Lots One (1), Two (2), Three (3), Four (4), Block One (1), EXCHANGE ACRES ADDITION to Tulsa County, State of Oklahoma, according to the recorded Plat No. 525, more particularly described as follows, to-wit: BEGINNING at the Southeast corner of Lot Four (4), Block One (1), said point being on the West Right-of-Way line of North Sheridan Avenue; THENCE due North along said line, a distance of 300.0 feet to the Northeast corner of Lot Two (2), Block One (1); THENCE North 89°51' West along the North line of Lot Two (2) a distance of 150 feet; THENCE due North parallel to the East line of Block One (1), a distance of 100 feet to a point on the North line of Lot One (1) and on the South Right-of-Way line of East Pine Street; THENCE North 89°51' West along said line a distance of 56.0 feet; THENCE due South along a jog in the Right-of-Way line of East Pine Street; a distance of 25.0 feet; THENCE North 89°51' West parallel to the North line of Lot One (1) and along the South Right-of-Way line of East Pine Street, a distance of 150.0 feet to a point 44.0 feet East of the West line of Lot One (1); THENCE due South parallel to the West line of Lots One (1), Two (2) and Three (3), a distance of 225.0 feet; THENCE South 89°51' East parallel to the North and South lines of Block One (1), a distance of 6.0 feet; THENCE due South parallel to the West line of Lots Three (3) and Four (4), a distance of 145.0 feet to a point on**

**the North Right-of-Way line of East Oklahoma Place; THENCE South 89°51' East along said Right-of-Way line, a distance of 90.0 feet; THENCE due South parallel to the East line of Block One (1), and along a jog in the Right-of-Way line of East Oklahoma Place, a distance of 5.0 feet to a point on the South line of Lot Four (4), Block One (1); THENCE South 89°51' East along the South line of Lot Four (4) and along the North Right-of-Way line of East Oklahoma Place, a distance of 260.0 feet to the POINT OF BEGINNING. AND The East Half (E/2) of Lot Twelve (12), Block One (1), EXCHANGE ACRES ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat No. 525. AND The West Fifty (50) feet of Lot Four (4), LESS AND EXCEPT the South Five (5) feet thereof, and the West Fifty (50) feet of the South Half (S/2) of Lot Three (3), Block One (1), EXCHANGE ACRES ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat No. 525. AND The West Forty-four (44) feet of the South Ninety-five (95) feet of Lot One (1) and the West Forty-four (44) feet of the North Fifty-five (55) feet of Lot Two (2) and the West forty-four (44) feet of the South Forty-five (45) feet of Lot Two (2) and the North Fifty (50) feet of the West Forty-four (44) feet of Lot Three (3) and the East Fifty-five and Five Tenths (55.5) feet of the South One Hundred Ninety-five (195) feet of Lot Five (5), Block One (1), EXCHANGE ACRES ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat No. 525.**

**23473 - Danielle Bell**

**Action Requested:**

Special Exception to permit a Small (up to 250-person capacity) Assembly and Entertainment Use serving or selling alcoholic beverages to be located within 150-feet of a residential zoning district (Sec. 15.020-G, Table Note [2])

**Location:** 5029 N. Peoria Ave. (Tenant space: 5013) **(CD – 1)**

**Presentation:**

**Danielle Bell**, 4809 North Wheeling Avenue, Tulsa, Oklahoma, 74130, stated that she wants to open an Event Center and the use of alcohol for weddings and small concerts and personal parties. This is not a club. The name of it will be Ella Mae's Lounge and Event Center in Northridge Shopping Center.

Mr. Chapman stated that this site plan was received today. The north, the south, and the west are all residential and that triggers that requirement that she get a Special Exception. McClain High School is also in residential zoning.

Ms. Blank asked Mr. Chapman on the Legal Description for this one there are seven buildings on this property but is she only going to use only going to use one. Is that correct? In the Motion, we need to specify that it is just for that one building because otherwise be approving it for all the buildings.

Mr. Chapman stated that he thought it had a separate address and they can put a condition on that this applies to 5013 N. Peoria.

Mr. Brown stated that this property has a history of being denied Special Exceptions.

Ms. Bell stated that this would be more family based and not a club.

Ms. Radney asked if Ms. Bell would be the only unit on this property with a 250-person capacity.

Ms. Bell stated that there was no other at this time. There is a church next to her and there used to be a day care facility.

Ms. Radney stated that she was inclined to support this, she knew that when you are serving alcoholic beverages there needs to be spacing between those businesses.

Mr. Brown stated that in the past the Board has required the noise levels to stop at 11:00 p.m.

Ms. Radney asked if Ms. Bell would be willing to limit the hours. Ms. Bell stated that she would like to be open until 1:00 a.m. for people to have enough time to clean up. She can put limitation on teenage and young adult parties as well.

Mr. Wallace stated that what she was proposing sounded good, his concern was the adjacency to a public school and people lingering.

Ms. Bell stated that it would be available for Friday evenings, all day Saturday, and closed by Sunday at 6:00 p.m. Their rentals start out at about \$250.00 or \$75.00 an hour.

Mr. Bond stated that he supports it, but he does not feel there needs to be a restriction on hours.

Ms. Radney stated that they should look at an expiration date, five years.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

None

**Board Action:**

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Brown, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos “absent”) to **APPROVE** a Special Exception to permit a Small (up to 250-person capacity) Assembly and Entertainment Use serving or selling alcoholic beverages to be located within 150-feet of a residential zoning district (Sec. 15.020-G, Table Note [2]) per the Conceptional Plan that presented at this meeting and subject to the following conditions that this **Approval** is limited to the tenant space that has been referred to as Unit 5013 and that this **Approval** would expire at the end of five years from this date which will be December 13, 2027.

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.

**LT 1 BLK 1, NORTHRIDGE CTR AMD RESUB L1-3 & PRT L4 B1 NORTHRIDGE CTR,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

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**OTHER BUSINESS**

**Review and approval** of changes to the City of Tulsa Board of Adjustments Policies and Procedures.

Mr. Bond stated that he did not have any issues and wanted the thought of the other Board members.

Mr. Brown stated that he would like this to be said at the beginning of the meetings so that we can have standardization so that people are aware.

Mr. Bond stated that this states five minutes for speakers and today he gave them three minutes. The Board has seen when we have had packed chambers.

Ms. Blank stated that there is more information about the public meeting procedures because the applicant is not to exceed fifteen minutes, plus ten minutes rebuttal. She would like to know if they feel that is too much or do you want to think about it decide if they want to modify it in some way.

Mr. Bond asked if the Board wanted Mr. Barrientos to have a chance to weigh in on this.

**Board Action:**

On **MOTION** of **WALLACE**, the Board voted 3-0-1 (Bond, Brown, Wallace all “ayes”, no “nays”, Radney “abstained”, Barrientos “absent” to **CONTINUE** the Review and Approval of changed to the City of Tulsa Board of Adjustments Policies and Procedures until January 10, 2023.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

None.

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There being no further business, the meeting adjourned at 5:23 p.m.

Date approved: 1/24/2023

  
Chair