

**BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1308
Regularly Scheduled Meeting
Tulsa City Council Chambers
175 East 2nd Street, 2nd Level, One Technology Center Tuesday,
March 28, 2023, 1:00 P.M.**

Meeting No. 1313

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS
Barrientos Bond, Chair Radney, Vice Chair Wallace		A. Chapman S. Tauber D. Wilkerson	A. Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on March 22, 2023, at 10:22 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

Mr. Bond called the meeting to order at 1:00 p.m.

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

MINUTES

On **MOTION** of **Barrientos**, the Board voted 4-0-0 (Barrientos, Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”) to **APPROVE** the **Minutes** of March 14, 2023 (Meeting No. 1312).

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UNFINISHED BUSINESS

Review and approval, approval with modifications, denial, or deferral of the following:

23506 - Nathalie Cornett

Action Requested:

Variance to increase the allowed sign area of 48 square feet for a dynamic display sign in the Central Business District (CBD) (Section 60.080-E) **Location:** 301 N. Boston Ave **(CD 4)**

Presentation:

Natalie Cornett, 2727 East 21st Street, Suite 200, Tulsa, Oklahoma, 74114, stated that they are returning to you from the March 14 Board of Adjustment meeting. They were requesting a Variance to allow a 175 square foot dynamic display wall sign on the Griffin media building or the Channel Six building. At the last meeting, the Board had some questions and concerns. So, they went back to our drawing table huddled up with the property owner to see if we could address any of those concerns. The sign was originally proposed to be on the south facing wall of the building towards the Guthrie Green, we discussed with the property owner if it was possible to move it to the east facing wall to face Martin Luther King Boulevard. She learned during that discussion that interestingly the building was designed to have a sign on the on the south facing wall and they put in internal supports. Sign technology has greatly improved since that time and so those supports are not needed for signs of 2023. We are modifying our request to locate the sign on the east facing wall of the building if Staff could put up her exhibit packet that first photo. This is the proposed location of the sign. Here is a photograph looking at the building across the street from the southeast corner of Martin Luther King. This is further south on Martin Luther King at Reconciliation Way. Again, you can see the building. And this is the direction that the flat side will be facing. So, in this photo facing easterly, this large building is a parking garage. There are no businesses right here. This is Eufhoria Dispensary and Gypsy Coffee House. Then this is a warehousing operation behind it as a vacant lot. This is what the sign will face. On this orientation, the sign will orient traffic to come to the entrance of the Griffin building. On the next slide on Martin Luther King, Jr. Boulevard, it is a one way only street as you pop off the highway and come down. When you get to Cameron Street, Martin Luther King becomes a two way. So, folks coming from the heart of downtown will come up, the sign will be here on this building corner. The visitor parking lot is on the west side. They will have to turn to go through Cameron Street and then park in this parking lot. Behind the building is the employee parking lot. This is a gated parking lot. There is an exit drive coming off on Martin Luther King but there is no entrance into the building from the side. That will help get folks to where they need to be if they are coming off the

highway and cannot see any signage, which there is currently none on the side of the building. The other thing that the Board requested some information on is some context with the BOK center, and the relief that the BOK center was granted. Obviously, we know there is no precedent here. But she did think it was important context. Staff did include a summary of those cases in your Staff report, she just wanted to briefly go through those. There have been multiple reliefs granted to the BOK center. The primary one was in 2018. And they were requesting two Variances; one to allow more than one dynamic display sign and two, for the aggregate display area of all those signs, four total, to be 650 square feet. So that is obviously substantially more than our request of 175. In 2019 or 2020, they came back to allow one more digital signage so that was a total of at least five that they have come to the Board for. In the meeting Minutes of the 2018 case, the Board found that the hardship was the size of the lot the size of the structure, and the use of the facility and the CBD district that warranted all this additional signage. She thought that context is important because if the Board will recall in this case, we have a three and a quarter acre or acre piece of land, it is by my estimation, the largest, one of the largest, if not the largest, privately owned parcels of land in downtown. And that is obviously unique to this property. We also have a 60,000 square foot building that houses seven or eight users. Right now, there is only signage for two or three of them, depending on how you look at it. There is a Griffin sort of monument sign up at one corner. And then there are signs for the CW and Channel Six. The remaining users do not have business signage on the building right now. This sign will allow one sign to provide all that signage instead of filling the building wall with static signs. On the east facing wall, they would be permitted upwards of 600 square feet of static wall signage without any relief from the Board. This is really a streamlined sign to keep from cluttering the wall, give every business, their business signage that they need, and keep it up at large enough to match the scale of the building and the lot. If the Board has any further questions for me, and she would be happy to answer them.

Ms. Radney asked how many tenants are in the building?

Ms. Cornett stated that she believed there were nine. There are five radio stations, two television stations, and then two media companies. Griffin Outdoor and Channel Six have their outdoor advertising companies there as well. One other point she would make is that the sign will be about 35 to 40 feet high off the ground. The 175 square feet, basically achieves readability from someone on the ground. If they are in traffic, they are traveling at a speed obviously. So, there is a whole sort of table of calculations that the sign people do that are beyond her capabilities. But the size they told her is what will achieve the readability of the sign at that high on a street. A 48 square foot sign, her sign people will tell her are really what we will see on the ground side. The height adds some issues.

Ms. Radney stated that she appreciated the completeness of this presentation. You have certainly addressed nearly every question that she had about the utility of this

sign. She did want to compliment the property owner for being flexible and conservative considering a different location for the site. She personally thought this is far improved in terms of what they were hoping for. And just in terms of the way that it will interact with the public. She thought it would be a lot less intrusive, and she thought it would be more effective. She appreciated the new presentation.

Mr. Barrientos thanked her as well and the owners. Does this signage have an adjustable brightness?

Ms. Cornett stated that the Code requires during the day, something very bright, 65 or 7000 nits. At nighttime, it is from basically 30 minutes before dusk to 30 minutes after dawn, the Code requires 500 nits. And, again, she has consulted the sign people because it is beyond her sort of usual research. But they tell her that is about the brightness is probably less bright than your laptop screen.

Ms. Radney asked what the hardship was.

Ms. Cornett stated that in her mind, the hardship is one, the size of the property and the size of the building. This is a massive building wall, and this wall is even larger than the wall on which it was originally oriented. It is over 200 feet in length. And the need to accommodate multiple users on the sign all of that, in addition to its general location, which she did not think it would be included in the hardship, but she thought it would be a consideration is of are we not detrimental to the spirit of the Code being in the CBD District next to the highway. As far as a hardship, it would be the size of the lot and the size of the building.

Mr. Bond asked how many square feet again the sign is.

Ms. Cornett stated that it was 175.

Ms. Radney asked what the uniqueness of this situation was.

Ms. Cornett stated that the uniqueness about the property is its size. This is probably at least an acre bigger than any of the surrounding lots. There are probably multiple small buildings, small lots, and each of them could have a 48 square foot sign running down the length of a block. In this case, it is one building running longer than the length of a city block. And that is what is unique.

Ms. Radney asked how this the minimum relief is.

Ms. Cornett stated that the 175 feet is the minimum needed for that sign to be readable based on the location on the building about 35 or 40 feet to be readable to the traveling public. And again, there are calculations sort of speed of traffic. We are not on a

highway. So that is why billboards are so big. But we are not on the highway, but we have people coming off the highway, speed of traffic, and then their ability to see the sign, process the information on it, and keep moving. So that is what 175 Square feet will achieve.

Mr. Barrientos asked if she knew if the owner is going to be using the sign for advertising purposes.

Ms. Cornett stated that no, it will be strictly for the businesses in that building. The Code will not allow us to use that for off premise advertising. On Cameron Street, as you turn left on Detroit, this building really blocks any view from this area of Detroit looking westerly. This is like a warehouse that runs diagonally, and it really hits the corner of Cameron and Detroit.

Ms. Radney stated that she can find the need compelling, just the need to get a better sense of an appropriate hardship that is not self-imposed. There is a monument sign that says Griffin on it. It is a short sign. Considering that this is a pedestrian intensive area, it could pose more of a safety hazard to have monument signs that are obstructing the view.

Ms. Cornett agreed and said especially at night when you have people coming to and from their cars from events and things like that. The monument signs obviously are typically on corners. There are probably some different limitations on the size of a monument sign, but it would be constrained here at this location in terms of where you could even put one. There are requirements of where you must be certain distance from the curb for a digital sign. She did not know if that would be achievable anywhere off of the building wall. She thought that the building gets as close as it can in its setbacks. She did not think the sign would be feasible off a wall. The height of the sign and the size of the building wall constitute a hardship.

Ms. Radney asked if Ms. Cornett was saying by right on that east facing wall in theory, you can have eight or nine 48 square foot signs,

Ms. Cornett stated that they could have eight or nine signs. The 48 square foot limitation is only for the digital portion. So we could have a static sign that was 200 square feet or 300. We could have up to 600 square feet of static signage, which would be this basically the size of a billboard.

Ms. Radney asked Mr. Chapman if there would there be allowable to have properly spaced eight or nine properly spaced 48 square foot lighted signs on the eastern wall of this building.

Mr. Chapman stated not without splitting the lot in some manner. And even then, you might be pushing it on that. He did not want to give a solid answer because he did not know the square footage but at least on the number of signs. Potentially if you split that lot and do so many times you could have one on each street frontage. Depending on the math on how small those lots are, it is going to dictate the size of that sign.

Interested Parties:

Chris Krohn, with A-Max Signs, 9520 East 55th Place in Tulsa, Oklahoma, 74145, stated that in regards to the square footage, he thought that was three to one that they are allowed. It is a 200-foot building facia that they are working with, and it was split into the lights, we would be allowed 65 plus square foot per tenant. What they tried to do as a signing company, obviously, they want to put something that is tasteful, not overbearing, they were kind of basing it on 48 Square feet, even at the 48 square feet, we could probably have up to 400 plus square feet for the message center. Again, not necessary for the viewing distance that we're limited to there. Because obviously, you know, we are in a downtown district, you are pretty close to the building. So hence, why this size of the 170 square feet. They are only asking for about half of what we would be allowed per code, per se, if we were not talking a dynamic display. If that helps, in that regard, he just wanted to add that part.

Comments and Questions:

Ms. Radney stated that she believed that she could concur that inside the CBD, that this being one of the largest parcels, that does make it unique. And because of the size of the volume that is produced that has been built there. And its utility for multiple tenants, and the fact that it's on a very large lot. And those tenants do need to be able to have signage. She thought she could get there on the fact that this is unique, and although the structure could have been built differently, and it could have been divided differently, is it predates this and she did not think in that regard, it is self-imposed things. It is convoluted, but she thought she could get there. Particularly since it is it is substantially less intrusive, the way that it is located, and she also thought a better accommodation to meet the needs that have been described to us. So being able to provide signage for those businesses that are in the interior of this building. 200 and some odd feet, might be is a long distance to go to travel on a one-way street and not know where you are going. She thought that was valid. From the standpoint of public safety, wayfinding and directing traffic in vehicular traffic in a pedestrian intensive zone, that this seems like a very useful accommodation that is not self-imposed.

Mr. Wallace stated that he would vote no, because he could not get there on the hardship be there are several multi-tenant buildings that are larger than this throughout downtown, and he could not get there on that justification. He did appreciate the moving it to the side, he thought that was a better source. With this being a hardship, he was still not able to get there. He thought there are still some other creative solutions to what they could do. He could picture the Williams Building, or 320 South Boston with a

billboard on it, advertising their tenants, and it just does not give him a good feeling. So that is just where he was.

Mr. Barrientos stated that he was inclined to supporting it due to the size of the building and the size of the lot.

Mr. Bond stated that his issue is the City Council through legislation, and the Mayor said that they differentiated between dynamic display signs and regular display signs. And they specifically said it was with the lesser amount of the 45 square. And that was where he could not get around. He has been in votes for applications where it was more than that. It was a non-dynamic display signs, because of the reasons that the council has very easily, particularly the size of the building wayfinding the size of a lot. His problem is there is this extra requirement here for 48 square feet, or the lessor. There are people that can tell me that he is wrong. He thought one of them that would make me feel better about this is some direction or amendment to the amount of square feet allowed for a dynamic display place that he did not have. With that, he was going to be in no. We have had two of the most experienced attorneys and experienced members of the sign community here today. He still could not get there. He did not think with the current legislation that was there that he could.

Ms. Radney asked Mr. Chair a questions on background. We considered something it seems like it was a dynamic display that was for something artful. She did not remember the size that it was. But she did remember as having a conversation that it was, it was along the lines of something that has been done in Austin or someplace like that. It was a dynamic display that changes. She did not remember where it was. She did believe they did approve it. She wondered if we were not talking about a sign that is advertising the presence of the tenants, but it were like an artistic display, would they have a different response about this? In that regard, she thought that the nature of signage, the electrified signage, and that inside the CBD is changing. And perhaps the City has not caught up with that. But she thought that we have begun to already sort of diverge from that originally intent of that original ordinance. It is inside the CBD. She recognized in this conversation that she was completely reversing myself from two weeks ago, about this sign, but she did actually feel that having moved it has changed the nature of what it is. She wanted to say that on the record that, that she thought that a lot of what they were talking about in terms of the accommodation for the tenants is about the tenants. She thought that this sign is about advertising more than it is about tenants. If they decided that they wanted to use artistic displays, and had pitched it that way, then we probably would have approved it.

Mr. Wallace stated that he did not fully disagree, either. He thought there was still some other opportunities here.

Mr. Bond stated that on the previous one, they were not going to display a corporate logo, or anything else like that. If they wanted to use it for artistic expression, and maybe once a year with a separate permit from the City. But he did not think when you have art for the sake of the art that has been described federal, the quantum of case law, he did not think that they had the ability to regulate that here. This is a commercial sign though and it would be no different than the ones that are right next to it. What he was concerned about here is on the top, if they change the BOK sign to a giant, LED sign. He did think the code has done a good job of keeping up with the advancements and LED technology. When he was first on this Board, we had to decide on the time when it was on or was off and the brightness. They do not do that anymore, because the Code takes that into account. There is a clear legislative intention here. When they limit specifically the amount of size for the display side. He was a fan of LED signs under the Code. He thought our Code has done a very good job of making much less bright, much safer signs that are there. They serve a lot of purpose. They I think they even minimize the number of large billboards and things like that the City often regulates. On this, he did not feel comfortable with the left and right limits of them, we have this Board of going that far.

Ms. Radney stated that she thought that was a fair observation. She was saying this for the record, because it strikes her that to the extent that we have that there is a lot more latitude inside the CBD. It is like an incubator for change as it relates to Code. As she was listening and thinking about it and weighing the comments of my fellow Board members, it just hit her that maybe we are thinking about this more in terms of traditional business signage, and less in terms of a dynamic downtown center, which is what she thought it was from the beginning. But that was not what was presented to us. She just wanted to have that conversation while we were flushing this out. But yeah, she thought they were ready for a vote.

Mr. Bond stated that he thought of LEDs and signs right now. The square in Tokyo is LEDs, and Times Square is now giant LEDs. They do a lot of great things, including the display of information. He could imagine where in an emergency situation, Channel Six, which does a great job of community service saves untold number of Tulsans lives by getting great weather information, and Amber Alerts, he would be supportive that. If we open the door to this, he did not know what the limit is on LEDs for especially large tall buildings.

Ms. Radney asked that as she was in support is it better for someone who does not need to make the motion in terms of future opportunities for the applicant.

Board Action:

On **MOTION** of **Wallace**, the Board voted 2-2-0 (Bond, Wallace, “ayes”, Radney, Barrientos “nays”, no “abstentions”) to **DENY** a Variance to increase the allowed sign

area of 48 square feet for a dynamic display sign in the Central Business District (CBD) (Section 60.080-E)

THE MOTION FAILED

On **MOTION** of **Radney**, the Board voted 2-2-0 (Barrientos, Radney “ayes”, Bond, Wallace “nays”, no “abstentions”) to **APPROVE** a Variance to increase the allowed sign area of 48 square feet for a dynamic display sign in the Central Business District (CBD) (Section 60.080-E), finding the hardship to be the location of the lot the size of the light and its utility for multiple tenants.

In granting the **Variance** the Board finds that the following facts, favorable to the property owner, have been established:

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

THE MOTION FAILED

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NEW APPLICATIONS

23505- Felisha Mims

Action Requested:

Special Exception to allow an accessory dwelling unit in an RS-3 district (Sec. 45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6) **Location:** 2145 N. Quaker Ave. **(CD 1)**

Presentation:

Felicia Mims, 7106 Charleston Drive, Rowlett, Texas 75089, stated that she asking a Special Exception to allow an accessory dwelling unit at her property at 2145 North Quaker Ave., Tulsa, Oklahoma. She purchased this property in 2016 at the Tulsa County Tax Auction. She has made tremendous updates to the house, in addition to the neighborhood. You will see is on the handout the before and after of what she has done to this house in this neighborhood. The first before and after is in front of the house. Now she is wanting to add an additional small dwelling unit to the east side of the detached garage. So going back to these pictures, you will see the before and after of the front, the before and after the detached garage. This is the bathroom inside the before and after. The last picture is the yard that is on the east side of the of the garage. It is a nice size yard that I want to play an additional dwelling accessory dwelling unit there. She and her assistant, Marcy Love, have gone door to door to my adjacent neighbors to discuss her plans.

Mr. Barrientos asked what the purpose of this Additional Dwelling Unit was.

Ms. Mims stated that she has a couple Airbnb units in North Tulsa. It will be a smaller unit for that purpose.

Ms. Radney asked what the square footage was of the existing structures.

Ms. Mims stated that it was right under 800 square feet. It has two bedrooms and one bath. It was built in 1945.

Mr. Barrientos asked what the hardship for the variance was.

Ms. Mims stated that on the east side of the house it looks like a total separate yard. So, there was extra space. She was just wanting to use that extra space because there is nothing there.

Ms. Radney asked the Staff if there would be an opportunity to build something there by right.

Mr. Chapman stated not currently. The existing garage is taking up their square footage allowance. This portion right here, that is eating up all their allowance for a second, either ADU by Special Exception or just another garage unit, shed or whatever you want to call it. That is not a dwelling unit. Unless they were to connect the house to this garage somehow, at which point it would just increase that allowance.

Ms. Mims asked if including a walkway, something that connects the house and the garage.

Mr. Chapman stated that he was not necessarily suggesting that but if this house and this garage were a combined unit, this would be allowed by right as far as just the size. It would still need an Exemption for a dwelling unit. They would not be asking for relief on the size. That is determined that you are allowed either a minimum of 500 square feet, or you can go up to 40% of the square footage of the principal structure. If that garage was connected to that house, it would be considered a principal structure.

Ms. Radney stated that she would not need the variance, but she would still need the Special Exception.

Mr. Barrientos stated that he was assuming that for the ADU you will have a separate driveway.

Ms. Mims stated that it will be the same driveway. There was a gate that separates that as well.

Interested Parties:

No interested parties were present.

Comments and Questions:

Ms. Radney asked what is the historical significance of not allowing Accessory Dwelling Units in an RS-3 District.

Mr. Chapman stated that has been a part of the Zoning Code for most of the existence of the Code. It is a single-family neighborhood. The thought is to have a single dwelling unit on the lot. In all single-family neighborhoods, it requires a Special Exception. He thought that it was probably pre-war, it would be a lot more common to see secondly

units on a lot whether it may be rental units or they were for family members or for you know people that you use that stuff a house, you would see kind of those quarters. Post war there was an emphasis just generally across the country on single family residential, and kind of putting a clear divide in what is the single-family neighborhood and the multifamily neighborhood for better or for worse.

Mr. Bond stated that the first zoning code in Tulsa was in 1953. The non-self-imposed hardship that he always kind of internally cite when we deal with ADU is, was it was platted in the modern context of the current zoning code going forward. Once you had that moving forward, he thought builders were on notice to build this house in such a way that you are not going to be able to add an accessory dwelling unit. He thought for a lot of these houses, and it would not surprise him if this house had, at some point, an additional accessory dwelling unit. He thought a lot of them in that neighborhood do attach to the garage or not attach to the garage. Even the one next door to the south, looks like that's some kind of accessory dwelling unit probably got attached later on. That was the non-self-imposed portion of the hardship for him is that when the house was built, they had no control over that the design of the house. They clearly did not build it. And that it was built without the idea that we were going to come in and really regulate accessory dwelling units.

Ms. Radney stated that to your point, looking at the property that is at the corner of Woodrow and Quincy, on the north side, that that is lightly connected to comply more with the Code than necessarily the original need of the homeowner.

Mr. Bond stated that the requirements here for the Special Exception. He thought this is something that in his mind would be clearly beneficial to the neighborhood.

Mr. Wallace stated that he agreed with everyone. He knew that across the street from Peoria across from Pine, there are half units and ADU's. He thought the applicant had done a great job on this house. It is something to be of it for our City. He was inclined to support it.

Mr. Bond stated that with the Comprehensive Plan, which is a living document, which is important to keep in mind with ADU's. He thought that has been updated for more density or infill that creates a more walkable city. Things like that encourages more community as opposed to just expanding constantly.

Board Action:

On **MOTION** of **Wallace**, the Board voted 3-1-0 (Bond, Radney, Wallace all "ayes", Barrientos "no", and no "abstentions") to **APPROVE** a Special Exception to allow an accessory dwelling unit in an RS-3 district (Sec. 45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor

area of the principal residential structure (Section 45.030-A, 45.031-D.6), finding the hardship to be the house and plot predate the current comprehensive plan for the per the Conceptual Plans shown on page 3.14 of the Agenda packet.

In granting the **Variance** the Board finds that the following facts, favorable to the property owner, have been established:

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

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, for the following property:

LT 1 BLK 3, WOODROW PARK ADDN , CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

23507 - Oscar Garcia

Action Requested:

Special Exception to permit Personal Vehicle Sales in the CS District (Sec. 15.020, Table 15-2); Variance to permit the outdoor storage and display of merchandise in the CS district within 300-feet of an abutting R District (Sec. 15.040-A) **Location:** 12430 E. 11th St. S. **(CD 6)**

Presentation:

Oscar Garcia, 12430 East 11th Street South, Tulsa, Oklahoma, 74128, self-requesting on changing the zoning codes.

Mr. Barrientos stated that the Board could hear Special Exceptions and Variances but were not able to change a Zoning Code.

Mr. Bond asked if this was going to be a car lot and sales, or other commercial services.

Mr. Garcia stated that it was auto sales, wrecker service and selling just multiple vehicles outside and then having no personal tow trucks coming in and out.

Ms. Radney asked if he wanted to be able to tow onto the lot vehicles that will be attached to the business. Is that basically what it is not as available to the public for hire for towing. But you need to be able to park that vehicles, the towing vehicle on the site as well.

Mr. Bond asked if Mr. Garcia was familiar with the Route 66 Overlay.

Ms. Radney asked if he had an opportunity to speak with any of the residents that are to the south of where this is located.

Mr. Garcia stated that he had not. They really have a dealership on 50th and Peoria. We are trying to expand.

Ms. Radney asked how many cars he will have.

Mr. Garcia stated that there would be about 15 to 20. They will all be up front in front of the building.

Ms. Radney asked if they would enter the lot from 124th Avenue. So ideally you want to if this is approved, and you would want to move forward so that you don't have to enter this business from the residential neighborhood. You want to come off with 11th Street, correct?

Mr. Garcia stated that was correct.

Mr. Bond asked if he had addressed the need of the screening requirements and things like that, for automobile sales.

Interested Parties:

Christian Bengal, 13173 East 29th Street, Tulsa, Oklahoma, 74134 stated as the District 6 Councilor, for this area and obviously you have expressed the Route 66 Overlay. Based off what he had heard so far, he thought common sense dictates you are not going to approve this. One of his other colleagues and he sit on the Route 66 Commission. This is one of the discussions that we have here is especially along Route 66 with the Centennial coming up. And you know further west in Tulsa along Route 66, we have enough of these dealerships. This abuts to a residential neighborhood. He was not sure of any mitigations disturbing property. This looks like an undeveloped greenery. He not sure Mr. Garcia had come forward with a good plan in place. This just does not serve the community. There are other preexisting properties such as at 11th at 129 East Avenue on the southwest corner that already has a preexisting facility that would fit his need, but to take this green space into going into a wrecking service and another car lot just does not do East Tulsa any good. He was confident the Board here will deny this application. Thank you.

Rebuttal:

We cannot move the dealership over to the corner that he is talking about, because that place has already been purchased. He went ahead and purchased that new property. That was completely abandoned. No one is doing anything with it. We are looking for a chance to expand.

Ms. Radney asked if he had talked with anyone about the intrusion of the floodplain into this lot.

Mr. Garcia stated that he was aware, but he had not talked to anyone about that yet.

Ms. Radney asked if he had any comments about what you think this lot would potentially be better suited for. If it were not a car lot given that it does have this potential for flooding? But for your business model, that was not a problem for you.

Mr. Garcia stated that it was not a problem.

Comments and Questions:

Mr. Bond stated that in situations like this, we would normally ask the applicant, if they if they would be amenable to a continuance to familiarize themselves with the overlay, some flooding issues, there was going to be an egress issue onto 11th, as well. And

while that option is there, if someone wants to propose it, he would say he did not know that he was going to be moved with additional information on this. He thought we had heard a lot of input from this part of town, not just for this City Councilmember, but for his predecessors about this, and he thought everyone is relatively on the same page within the overlay.

Mr. Barrientos stated that he would vote no.

Ms. Radney stated that she was a not a straight no, but she agreed with him and his observations about the overlay. But the representatives of this district are quite vocal, and they were not there. She acknowledged the presence of the Councilor, but we do actually get adjacent residential neighbors, and it is not uncommon for us to actually have the public want to weigh in, the broader public want to weigh in about these matters. She would agree that the applicant would need to have an application that was a little bit better fleshed out. But not holding that against them that there have been lots of people who appear before us in that position. Absent hearing that, she would not necessarily say that she was a no, but she would not prevail in terms of what appears to be the majority on the Board.

Mr. Wallace stated that a continuance sounded fair to him at this present form. But he understood the Board's opinion might be different. As he was looking around this property, this does not seem out of character currently. He knew that there were plans for moving forward and so forth, but he just did not see it as out of character.

Ms. Radney stated that she did not see it as out of character. She saw it as being a difficult to program site.

Mr. Bond stated that the hardship on this, you know, for outdoor storage. In his mind, those are generally a massive vertical gain or loss, or something in between the shelters beyond a privacy fence for residential area to the commercial area, and that that was why he would say it would be really tough for him to overcome his observations on the site. He would be happy to entertain a Continuance. It is something we do for applicants. He wanted to certainly lay his cards on the table.

Mr. Wallace stated that a continuance going both ways too. It should give you both sides.

Mr. Chapman stated that he wanted to jump in quick regarding the mention of a wrecker service. That was not a part of this application. Hearing that he did not think that was something the Board can approve today regardless. Depending on the scale of that, that was something the Board might not be able to approve, regardless, and it might not that he believed it would be successful, but you would have to pursue rezoning on.

Mr. Bond asked if the applicant had said that.

Mr. Chapman stated that this was the first time he was aware that he said it in his presentation. That was the first time he had heard that being a part of this.

Mr. Bond stated that the Staff is extremely knowledgeable, they take their jobs very seriously. They are a great resource for a lot of these things. So, he would certainly encourage the applicant to reach out to them and go over some of these concerns.

Board Action:

On **MOTION** of **Barrientos**, the Board voted 4-0-0 (Barrientos, Bond, Radney, Wallace all “ayes”; no “nays”; no “abstentions”) to **CONTINUE** a Special Exception to permit Personal Vehicle Sales in the CS District (Sec. 15.020, Table 15-2); Variance to permit the outdoor storage and display of merchandise in the CS district within 300-feet of an abutting R District (Sec. 15.040-A) until the April 25, 2023, Board of Adjustment Meeting.

For the following property:

LT 2 BLK 1,EAST CENTRAL PLAZA, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Action Requested:

Variance to allow a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure in an RS-3 district (Sec. 45.030-B); Variance to allow a detached accessory building to exceed one story or 18 feet in height (Sec 90.090-C); Variance to reduce the required 35-foot setback from an arterial street in the RS-3 Zoning District (Sec. 5.030, Table 5-3)

Location: 1263 E. 29th Pl. S. (CD 4)

Presentation:

Deborah Cherny, 1263 East 29th Place, Tulsa, Oklahoma, 74114, stated that she was there because they are asking for a Variance on three different things. We just redid some things in our home and added about 300 square feet, which precipitated us now needing a garage because we took over our one car garage. They are now married, and they want to stay in the Maple Ridge area and also to enhance our property because they are right on the corner of 29th place in South Peoria. Our home is very different than every other house on our block. Every other house in our block has a detached garage. They wanted to do the same thing. They are asking for a two-car garage with a little bit taller loft and the Variance such is that they are asking for approximately 38.4 square foot more on the pad that they are going to build for the garage. They also want five foot more on the height. And the reason that they want that is twofold. One, she is on total disability and our current attic is not very tall. And the only way to get up there is by an opening just like this. And there is nothing really to hold on to, you cannot really get up in there. They are asking for something where we could build our two-car garage, have stairs inside of it, and have handles on it so she can get up in there, so she can stand. The other part of the Variance is that it states and correct her if she is wrong, that the front of our garage since it faces an arterial street must be 35 feet from the center of Peoria, or a certain amount from our property line. Well, she had some pictures that she had given to this Mr. Chapman, that shows the building that is right behind our fence. They are 20 feet from the center of Peoria, and they have a two-car garage. Now granted, their two-car garage is not as tall as we want. And they have built a living quarters on the back of that. But they really do not care one way or the other on that. But they are just showing that right behind us is the same setback that we're asking for. Another reason is we plan on trying to make our corner blend in more with the people that live on our street, because everybody's house looks very different than ours. They all have detached garages. They do not. Also, the existing driveway that we have, because of her disability, she used to have to pull straight back onto Peoria. We are proposing a circular drive a small one but a circular drive. But it is in it is in where it does not need a Variance. So those are the things they are looking at. They are looking at totally decimating the backyard, rebuilding it, and making it nicer. They are in the first house right into Indian Woods, and then on into Maple Ridge. They have always taken pride in our home with lots of flowers and things like that. When playing on their two-car garage, looking the same way with winter boxes with flowers and things like that, just to make sure that we meld in more within with our area. They

sent the letter that you have in your packet to approximately 35 of our neighbors. They got a nice email back from a lady that lives on the next street. She was all for it. They have had people come by our house that know us and are excited for us. Nobody that they know of unless somebody has emailed Staff has said that they are not going in with it. They love the idea.

Mr. Wallace stated that for Staff, maybe he was not looking at this, right, it looks like there was a new proposed driveway as well.

Ms. Cherny stated that they were only going to have to have this by right, they are only going to have to do a curb cut on that one side. They are going to make it wider. But they are going to bring it around. And it is going to come out the existing drive that she has there, which is smaller. They are in compliance there. And then they are going to have new landscaping, new fences, and new indoor lighting everything.

Mr. Chapman stated that Staff put a comment on there that was just informational to the Board to the applicant. City Engineering depends on a lot more view when you curb cut into an arterial street like Peoria and so just make sure you follow those access management standards when you actually go to get that. Whatever contractor you use, they absolutely need a permit right-of-way permit to cut into that.

Interested Parties:

No interested parties were present.

Comments and Questions:

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

Ms. Radney stated that it was already a preexisting nonconformity. Is that language, correct?

Mr. Chapman stated that it was for setback.

Ms. Radney stated that they want relief from that looks like from 35 to 20 feet on the setback requirement. And they want some minor relief on the amount of square footage.

Mr. Wilkerson stated that one place that he would like to add to the thought processes was that he thought it was important for the Board to have an understanding that if that driveway is not approved, does this even work? And is it something that they would want to continue to move forward with. That is three driveways on Peoria is just within a few feet of each other and he thought that he did not want to let the City Right-of-Way department to think that the Board is encouraging something when they are not. So just tread lightly in that thought process. The typical thing except with an asterisk that says,

the idea is, okay, but if that driveway is not there, they just need to know that that is not going to function like you have seen.

Ms. Radney stated that to your point, they would not be they would not have any impediment to potentially petitioning to widen the existing driveway, rather than adding another curb cut. It does not necessarily make it nonfunctional, but this is certainly a lot more elegant, the way it is depicted here on this diagram.

Mr. Wilkerson stated that he thought that any of the right-of-way standards are up to the discretion of the engineering department in the city arterial right-of-way. The right-of-way group may not even concede to the idea of widening the driveway. He would not consider that as a possibility. He thought that is more complicated there than the typical driveway discussion that we would have.

Mr. Wallace asked if it was just approval pending Traffic's approval.

Mr. Wilkerson asked that in that instance, would you be saying that the additional floor area and building height would not be approved unless they got the driveway. Is that what you are thinking that just be clear with that?

Ms. Radney stated that she would not support that. So maybe we need to flesh it out a little more, because she would just approve it as written with the caveats that Mr. Wilkerson was talking about, and let it go. Because otherwise it would almost be that we need to continue it until they can get that permit.

Mr. Bond stated we could just approve it with the caveat that we not granting the relief, affirmative or negative or providing any guidance on the approval or disapproval of curb cuts, and then let them work the process out. When they do get that they do not have to come back to us. Or if they do work something else out, that does not affect the location and square footage of the new garage, that they would have to come back either. But that is what he suggests.

Ms. Radney stated that she thought we already have a consensus of the Board that we would say we support what they are currently asking for. What we cannot give you relief on is anything pertaining to the driveway. But what we acknowledge is that if it would be advice of Staff is that it is much less workable, without a plan about how ingress and egress from this in from this arterial street. So, we are just not going to speak to that. We are just going to speak to it now. We are not giving any support up or down in terms of the way the City wants to proceed with that.

Ms. Blank asked then you are planning to approve the Variances or potentially, but you are not going to condition in any way. But you are going to limit the usefulness of the site plan to just the footprint of the garage, its size, and its location, but nothing else.

Ms. Radney stated that if they do not reference the site plan at all, she thought that was where we were headed.

Ms. Blank stated that the Board was not going to design this. Do not reference the site plan.

Ms. Radney stated that if we do not reference the site plan, let's put some numbers on here. So, the Variance would be to potentially allow a detached accessory build into a exceed one story or 18 feet? Did we have a number of what that height is? She understood that it is 23 feet. So, is the Board comfortable with 23 feet not to exceed 23 feet. Then on the setback, would we be comfortable with limiting that relief to a reduction to 20 foot setback from 35. And then on the relief in terms of the square footage, she thought it was 676. We would have 680 for the square footage, not more than 23 feet on the height of this detached accessory building, and a reduction in the required setback to no more than 15 feet. The hardship being that the existing structure preexists existing Code. It is the preexisting nonconformity. And the use of the property preexists the current Code and no Conceptual Plan and any additional conditions?

Ms. Bond stated that it just be that any curb cuts or other driving modification be approved by the city.

Ms. Radney stated that we are not providing any relief, or any improvements that would be to be in the City right-of-way.

Ms. Blank stated that the recital of the facts for the Variance for the setback, you had been discussing the 20-foot setback, because that is what their diagram shows. But you read it as fifteen. She just wanted to point that out.

Radney stated that Ms. Blank was right, she said it both ways. It looks like it is drawn at 20 feet. And so, then she turned around and said, a reduction of no more than 15 feet from the 35-foot setback.

Board Action:

On **MOTION** of **Radney**, the Board voted 4-0-0 (Barrientos, Bond, Radney, Wallace all "ayes"; no "nays"; no "abstentions") to **Approve** a Variance to allow a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure in an RS-3 district and a Variance to allow a detached accessory building to exceed one story or 18 feet in height, and a Variance to reduce the required 35 foot setback from an arterial street in the RS 3 zoning district. Finding the hardship to be that the existing structure is a preexisting nonconformity and that the improvement that is requested is one that is necessary given the programming of the site pre predates the existing Code; subject to the following condition that the relief on the square footage shall

not exceed 680 square feet in terms of total additional square footage, that the maximum height for the detached accessory building shall not exceed 23 feet, and that the Variance to reduce the required 35-foot be reduced to no less than 20-feet.

In granting the **Variance** the Board finds that the following facts, favorable to the property owner, have been established:

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

For the following property:

LT 1 BLK 1, INDIAN WOODS AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

OTHER BUSINESS

Mr. Chapman stated that the Mayor has chosen a new Board member and so they are on Council Committee tomorrow, and then there will be on City Council vote on the 12th of April. So potentially by the 28th we will have a new member, Whitney Stauffer.

NEW BUSINESS

None

BOARD MEMBER COMMENTS

Mr. Bond asked if we could discuss appointing a new secretary at the next meeting.

There being no further business, the meeting adjourned at 2:35 p.m.

Date approved: John Bond
Chair

Date approved: 4/25/23
Chair

TULSA CITY BOARD OF ADJUSTMENT
CASE NO. _____
OFFICIAL RECORD EXHIBIT
ENTERED IN THE 4/25/23
MINUTES OF THE TULSA CITY BOARD
OF ADJUSTMENT