

**BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 1318  
Regularly Scheduled Meeting  
Tulsa City Council Chambers  
175 East 2nd Street, 2nd Level, One Technology Center Tuesday,  
June 13, 2023, 1:00 P.M.**

**Meeting No. 1318**

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

The notice and agenda of said meeting were posted in the City Clerk’s office, City Hall, on June 12, 2023, at 10:37 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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Mr. Bond called the meeting to order at 1:04 p.m.

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

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**MINUTES**

On **MOTION** of **Wallace**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **CONTINUE** the **Minutes** of April 11, 2023 (Meeting No. 1314) to the next BOA meeting on July 11, 2023.

On **MOTION** of **Wallace**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **CONTINUE** the **Minutes** of May 9, 2023 (Meeting No. 1316) to the next BOA meeting on July 11, 2023.

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**UNFINISHED BUSINESS**

**23530 - Nathalie Cornett**

**Action Requested:**

Special Exception to permit a Small (up to 250-person capacity) Indoor Commercial Assembly and Entertainment use in the CS District serving alcohol within 150-feet of a residential zoning district (Sec.15.020, Table 15-2); Special Exception to permit an alternative compliance parking ratio to reduce the required number of parking spaces (Sec. 55.050-K) **Location:** 1330 E. 15th St. **(CD 4)**

**Presentation:**

**Nathalie Cornett**, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, Oklahoma, 74114, stated that she was there on behalf of the applicant. The 1<sup>st</sup> Special Exception pertains to the Lincoln Plaza at the Southeast corner of 15<sup>th</sup> Street and Peoria, where Jason's Deli, Chimi's, and NOLA's are located. On the second floor of NOLA, they want to put an event center. It is permitted there by right because of its' size. However, it is located within 150 feet of RM2 district directly east of it and Marquette School. That has triggered a Special Exception for the event center to serve alcohol. Given the nature of the Lincoln Plaza, and given the fact that alcohol is already served at the large restaurants as well as the nature of Cherry Street, and the existence of bars and restaurants serving alcohol she did not believe this would prove to be injurious to the neighborhood.

The second exception is to permit an alternative parking ratio for the entire Lincoln Plaza. It is to establish 230 parking spaces, which is what currently serves the center. For retail centers like this, your required parking is always a moving target because your parking spaces depend on your use. Each tenant has its own number of parking spaces and that required parking number changes as the tenant changes. This parking lot has had numerous Variances and Special Exceptions granted in the past to address parking in the entire center and parking for individual tenants. So instead of seeking another parking Variance for the center, they would like to establish an alternative parking ratio of 230 parking spaces.

Currently, in the main parking lot there are 150 parking spaces. There is also an adjacent parking lot that serves the center, and it has thirty-three parking spaces. There are additionally thirty-one parking spaces to the east. Quaker Avenue has been closed and vacated, and various parking spaces have been designated to serve the uses surrounding it. Then there are eight spaces on the street, so that totals 230 parking spaces.

This will establish the minimum parking ratio and keep any spaces from being taken away. These spaces could not be removed because anything under 230 would not be in

compliance with the parking ratio. They are requesting that for the entire center, and she was happy to answer any questions the Board might have.

Mr. Bond asked if there had been any issues with neighbors or tenants.

Ms. Cornett stated that she had several neighbors call who are at the meeting, both residential and commercial neighbors. They amended this request for relief, and they sent out a letter to everyone within three hundred feet of the property. The letter explained that this is a small event center and that the parking request is just to establish the status quo. The event center has a parking agreement with ECDC for any event over fifty people. The neighbors were concerned about the parking overflowing onto the neighborhood streets. The event center has an agreement with Marquette School to use their seventy-nine spaces for valet parking.

Ms. Radney asked if Ms. Cornett was saying that they are not talking about changing the ultimate capacity for the center, they were just talking about depending on the assortment of tenants there at any given time.

Ms. Cornett stated that establishing the minimum parking ratio takes away the uncertainty from the property owner and for any new and existing businesses.

#### **Interested Parties:**

**Terry Eichor**, 1601 South Quaker, Tulsa, Oklahoma 74120, stated that he lives directly south of Lincoln Plaza. His concern was that their neighborhood is currently used as a parking lot by the center already. Seven days a week there are people that park to the south and west of their house and walk to the center because it is more convenient for them. He does not see how this is not going to have a further impact on them. The other thing is that there are a lot of employees that work at the Plaza that park in the neighborhood also. With the Valet parking, if there is an event at Marquette going on, that will not be available. Lincoln Plaza had originally wanted to put in a two-story parking garage, and they ran out of money for that before it could be built, and we have suffered due to that. He is highly concerned and not sure that he is in favor of that at all.

**Denise Da Ros-Voseles**, 1208 East 16<sup>th</sup> Street, Tulsa, Oklahoma, 74120, stated that the problem with the valet parking at ECDC is that right beside them is their auditorium where they lots of sports events. There is spill over when those events happen. Christ the King is a very active church, and they bought a house on the corner of Quincy and 16<sup>th</sup> Street to help with overflow. Parking is an issue all the time there. She respectfully does not think this should happen.

**Jim McCoy**, 2704 East 44<sup>th</sup> Place, Tulsa, Oklahoma, 74105, stated that he is also the owner of Cherry Street Market and the lots to the east that are behind the salon. He submitted three slides this morning from Google Earth taking the most current date and going back two dates to show what is the parking load on the area. If you notice the

availability of parking spaces on any given day during the weekdays, not high occupancy evenings, or weekends. There are very few parking spaces available in the corridor.

The second Special Exception that has been requested for an alternative parking ratio does not consider that if the vacancies became a restaurant, you would significantly more demand for parking put on the whole area. They could make all those vacancies and put in high occupancy uses putting an undue number of parking requirements on the whole area.

He stated that he was fine with the first Special Exception with the use of alcohol. However, putting a blanket on top of all of Lincoln Plaza and asking for the separation of the uses that are currently in the spaces and making sure that the parking requirement or any Variance there of is not tied to what the uses are in each one of the individual spaces. So that the whole thing could not become a restaurant. Thank you for your time.

**Dee Ann Paisley**, 1530 South Trenton Avenue, Tulsa, Oklahoma, 74120, stated that her address is about four blocks away from Lincoln Plaza, but because she is on the corner of 16<sup>th</sup> and Trenton, they experience horrible parking problems. She sees about ten cars parked illegally on her street a day. If we allow this Special Exception to go forward, what is that saying to the community? There is no hardship on the business, you would be putting it on the neighborhood. This would create more problems and further the safety danger to everyone.

She is also concerned about playing with the Zoning Codes and granting Special Exceptions for no other reason than to allow a business that is too large to go into this center. What does that say to the people of Tulsa? Plus, there will be additional noise. There is an event center half a block away that the police have had problems with due to altercations in their parking lot.

How is this Special Exception beneficial to the City of Tulsa? Thank you.

**Shelby Navarro**, 1434 South Quincy Avenue, Tulsa, Oklahoma, 74120, stated that right outside his home window has become an alley and he is acutely aware of the noise issues of this area. He would love to see a comprehensive parking plan for this area to help with some these issues because he loves the neighborhood. He is concerned with the fact that people will be coming into the neighborhood from all around that do not understand that it is a walking neighborhood. He has not heard any safeguards for the issues, and it seems open ended. We walk to their businesses and walk home. They have dump trucks coming in at 2:00 a.m. and 4:00 a.m. and we must live with all the noise and disturbances. There are a lot of things going on that burden the residents,

that do not burden the businesses. This would push the challenges too far. It does seem that it would be injurious and dangerous for the neighborhood.

Mr. Bond asked Mr. Navarro if he would like to see more parking lots along Cherry Street.

Mr. Navarro stated that he would prefer it to be discussed by planners and traffic engineers to sit down, discuss it, and produce a parking plan than to have it decided here. He would rather see a comprehensive plan in partnership with the neighborhood and allows it in a safe way that works for everyone rather than the businesses just taking what they could get. Thank you.

**Rebuttal:**

Ms. Cornett thanked the Chair and stated that 1) The businesses of Lincoln Plaza are part of the fabric of Cherry Street, and they want the safety of their employees, neighbors, and patrons just as much as everyone here does. This is not to “take what we can get.”

She also wanted to verify that this is not a Variance request; this is a Special Exception request. The Code specifically establishes this process for an alternative compliance ratio and here is the reason that it gives, “because the motor vehicle parking ratios are not intended to prevent development and redevelopment, or to make development or redevelopment economically impractical”.

We have a shopping center that has existed on Cherry Street for decades. It has acquired as much parking as the owners have been able to do. That includes additional overflow parking area and working with its other neighbors to make Quaker available for parking. The buildings exist, the tenants exist. For the most part, it is almost maxed out as far as restaurant uses. The vacant spaces are about eight hundred square feet spaces and she doubted they could accommodate a restaurant.

Mr. McCoy has received two parking Variances for their own parking lot. All business owners experience this challenge on Cherry Street and neighbors must deal with it too. We acknowledge that. The nature of Cherry Street has gotten increasingly pedestrian friendly. Parking is shared all up and down Cherry Street. The 230 parking spaces are what exist today and that is the ratio that they are asking for. She has crunched the numbers and the parking ratio produces between two hundred as a minimum and 275 as a maximum. The two hundred that exist today serve as a middle ground between what the fluctuations may be, and they would like to establish that as their required parking. The operator that runs the event center is also the operator of NOLA’s and Kilkenny’s, so he has a distinct understanding of what the parking challenges are. In Lincoln Plaza itself, he does not want to negatively affect the parking for his other

businesses operating there. It really is to acknowledge that parking that we have available.

She knows that the event center is permitted by right. For the Boards information, events will be capped at 120 people and there will not be events larger than that. Any event of fifty people would require valet parking. She was happy to address any further questions.

**Comments and Questions:**

Ms. Radney stated that Ms. Cornett has elegantly stated as it related to redevelopment and the restriction on parking, but every place does not have to be redeveloped to everything all at once. There is already a lot that is being done here that has varying parking loads as point sources. It does imply that on the given uses that are currently there that there is probably an adequate amount of parking there for the current assortment of uses. She does think that the neighbors have a valid point that you are talking about an impulse event and that is going to affect the entire neighborhood when that event is happening. To the extent that within a walking district people park all over the district and walk about. That is one of the things that makes it attractive, but a pulse event that has dropped in a hundred new visitors into an already well utilized neighborhood, but that is a different matter. She is not persuaded that this property owner has met the test of why there should not be a compelling need to accommodate all their tenants on their property.

Ms. Cornett stated that the tenants are currently accommodated on their property. Even with the event center, which requires twenty-six spaces and that is what the Code requires.

Ms. Radney stated that she thought Ms. Cornett was saying that 100% occupancy of the Plaza would not meet Code requirements. She thinks that the property owner must strike that balance themselves. She is not ready to give a blanket Special Exception to just give a blanket Approval when we do not know what they would be. She was in support of the alcohol being served, but the parking has not convinced her.

Mr. Bond asked Ms. Cornett to walk them through when Alternative Compliance was amended into the Code there was a parking study was required and that is no longer part of the mix if he understood correctly. What is the burden here as to being allowed to use the Alternative Compliance before we even get to the Special Exception. He thought that City Legal was interested in saying something.

Ms. Cornett stated that what the Code says is the Board of Adjustment determines that other allowed parking reduction alternatives are infeasible or do not apply. Those reduction alternatives include things like putting in certain amounts of motorcycle parking and things like that. It is her understanding that they have put in as much as

they can such as bike racks and things like that. Those are not available to us. The second one determines that they are not likely to cause material adverse impact of traffic circulation and safety or the general welfare of property owners in the surrounding areas. We have met that burden because the shopping center, despite not being at full occupancy, is intense of use is as intense as it is going to be. There are three large restaurants in Lincoln Plaza and an event center is not going to have as much of a material effect on the activity of the area than is already happening. In addition to addressing parking for events, that has been addressed by the property owner regardless of it being required or not by the Code. They will have valet parking and from the Board's perspective, if fifty people trigger your valet parking that would be twenty-five spaces for parking because most people do not go to an event alone.

Ms. Radney stated that she agreed with that, but it is not just parking, it is also traffic. She was saying that the holding capacity for vehicles that need to get out and park to go to an event is near its capacity for the neighborhood. She concurs that a broader approach to how this district can handle those pulse events is needed. She was not satisfied with what Ms. Cornett presented today to meet the Boards obligation to health and safety. Full disclosure, her mother attends the church across the street, and she knows how long it takes to find a space close enough to let her out, so she does not have to walk far, and her mother is not even parking. Ms. Cornett is not here to solve it; it is a policy issue.

Ms. Cornett asked if they could put a relatively short-term limit on this to see how it works for the area. If it is not working, they should come back to the Board and answer for it.

Ms. Radney asked how space is vacant now.

Ms. Cornett stated that 8,400 square feet is the amount of space vacant and that does not include this space. The upstairs of the event center is about 7,500 square feet; the actual space being used for the event center is 2,500 square feet. The prep rooms and other things will take up the rest of the square footage.

Mr. Bond stated that the Board is usually a five-person body, and we only have three members here today. It takes three affirmative votes to pass, and it might be appropriate to Continue this until our next meeting.

Mr. Wallace stated that he was in the middle at this point, and he thought a Continuation would be good. If there was more information provided, he did not know what that would be. There is not a shared philosophy in parking in this area from his personal experience. There needs to be a comprehensive look at this whole district. There are some things that need to be done to make it right with the neighborhood.

Mr. Bond stated that he would like in a Continuance to see what else can be done here with this request. His problem is that when you are talking about parking, he does not know what the answer is as he is not a parking engineer or City Planner. He is loath to do something which is going to cause somebody to tear down houses and put up more grey space or put up a parking garage on the corner of 15<sup>th</sup> and Peoria. The concept of Special Exceptions is to give us leeway in cases like this. He would push for a Continuance and ask the applicant to do the impossible. Let them see what else they can do here for more parking.

Ms. Radney stated that the vast amount of people coming to this area are not from the neighborhood and we know that already. Ms. Cornett is a very bright attorney, and she may be able to produce a good alternative, but Ms. Radney just could not see what it would be.

**Board Action:**

On **MOTION** of **Wallace**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **CONTINUE** the Special Exception to permit a Small (up to 250-person capacity) Indoor Commercial Assembly and Entertainment use in the CS District serving alcohol within 150-feet of a residential zoning district (Sec.15.020, Table 15-2); Special Exception to permit an alternative compliance parking ratio to reduce the required number of parking spaces (Sec. 55.050-K) until the July 11, 2023 Board of Adjustment meeting.

**Lots Three (3), Four (4), Five (5) and Six (6), Block Six (6), AMENDED PLAT OF MORNINGSIDE ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof; -AND- Lots One (1) through Sixteen (16) inclusive, Block Eight (8), and the vacated alley lying within said Block Eight (8), ORCUTT ADDITION, an Addition to the City of Tulsa, Tulsa county, State of Oklahoma, according to the Recorded Plat thereof;- AND-The West Half (30') of Vacated Quaker Avenue lying adjacent to the East line of Block Eight (8) from 15th Street to 16th Street, ORCUTT ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof;-AND-The West Fifteen (15) feet of Lots Nine (9), Ten (10) and Eleven (11), Block Seven (7), ORCUTT ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, AND the East Half (E/2) of Vacated South Quaker Avenue between 15th Street and 16th Street lying adjacent to the West line of said Lots 9, 10, and 11, Block 7.**



\* \* \* \* \*

## **NEW APPLICATIONS**

### **23533 - Tom Neal**

#### **Action Requested:**

Variance to reduce the required 20-foot street setback and 5-foot side setback in the RS-4 District (Sec. 5.030-A, Table 5-3) **Location:** 2216/2218 E. Archer St. N (**CD 1**)

#### **Presentation:**

**Tom Neal**, 2507 East 11<sup>th</sup> Place, Tulsa, Oklahoma, 74104, stated that he was there to represent Ms. Flores. This is a 1930's house on a very non-conforming lot, forty-four feet wide by 115 feet deep and the lot runs sideways on an alleyway. It has been added on to through the years. It was non-conforming from the beginning as far as the setback. Ms. Flores unfortunately had a contractor do substantial work on her house without advice from the city or a permit. The work is done, and they want to find an appropriate and graceful compromise. The front porch is basically how it was originally, and they would like that to continue. The side yards have been built out with concrete to the property line. According to Jeff Taylor with the City, the rebuilding of the formerly wood porch with concrete is acceptable standards, however the porch that is over it is not. We are looking for relief for the porch on the east which is substantial will remain though there will have to be alterations because it will not meet fire safety standards in terms of it being three feet from the property line. What we propose is that we allow her to keep her porch, but they would have to cut it back so that they have that clearance.

On the west side, there is also a porch that is built out to the property line, but because that is an alleyway, we may have some grace there because the required fire setback is different when it is on an alley. All of this was done before he was hired to handle the situation. It was a wood porch before, but it did go all the way to the property line. They added a ramp to the rear of the east side.

Ms. Radney asked if the work that was done was just an improvement of what was already built because it was not as durable as concrete.

Mr. Neal stated that even though it is elevated on both sides which does not have to have permission to leave it in place although it would be nice.

#### **Interested Parties:**

**Stuart McDaniel**, 827 North Madison, Tulsa, Oklahoma, 74106, stated that he is the property owner of the house to the east of this parcel. The nine months of unpermitted work that just kept going on has been frustrating. We get nailed to putting a window and

they are putting in thirty yards of concrete daily. It is a self-imposed hardship. There is room for grace. He wants to build a multi-family unit on the corner, and he would not be able to build to zero lot line on his. By allowing theirs it could potentially force his building to accommodate for their space. Their porch roof can be cut back and that may negate some of those issues. The gravel driveway that they use every day is his. It is not a great arrangement. Multiple permits should have been put on this property. Electrical has not been done and there are several things that were not permitted on this property. He wants some level of forgiveness here because he knows there is a language barrier. Short of putting a fence up, he cannot stop them from parking on his property. They have gotten away with adding onto the front of their property little by little since about 2008.

Mr. Chapman stated that with the current zoning and conditions that Mr. McDaniel has, he would not be able to build up to the lot line. You would be in the predicament that they are. In terms of the Fire Code, relying on the statement that Mr. Neal said, they are addressing the roof line issue. From what he is hearing, Mr. McDaniel will need additional relief with multi-family zoning.

Mr. McDaniel stated that the concrete he was reasonably less concerned about because it is non-combustible, but the roof line must be pulled back to the lot line limits of that zoning.

Ms. Radney stated that it was germane that this is a non-conforming lot, and the house was built prior to the existing code, which is categorically different from infill building on an improved lot. She is sensitive to the concern, but in this part of town, this type of situation is everywhere.

### **Comments and Questions:**

Mr. Bond stated that the neighbor had some valid concerns, but this was already a non-conforming structure from the 1930's. There is no relief the Board could give that would allow anyone to go over their property line that would in any way go against the Fire Code. He looks at it as this property is unique not self-imposed. We give a lot of these to older homes, historical homes, homes that predate the comprehensive zoning code.

Mr. Wallace commends the owner for cleaning up the property. It is a safer property but there are codes that we are not able to give relief on.

Mr. Bond asked Mr. Chapman how far back they are going to have to bring the roof back for the Fire Code.

Mr. Chapman stated that the representatives from the permit department were in the audience. He asked Mr. Whitehead if it was three feet that the roof needed to come off the property line.

Mr. Whitehead confirmed that was correct. The eaves themselves could be closer, but they would have to use fire blocking and methods that are non-combustible to assure that.

**Board Action:**

On **MOTION** of **Wallace**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **APPROVE** a Variance to reduce the required 20-foot street setback and 5-foot side setback in the RS-4 District (Sec. 5.030-A, Table 5-3), per the Conceptual Plans shown on page 4.10, with the following condition that this is pending final review by City Code Officials. Finding the hardship to be that this is a non-conforming lot, and the house predates the existing comprehensive zoning code.

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:

**W44 LTS 1 2 3 4 & 5 BLK 3, EASTLAND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **23534 - Robert McMurtry - McPride Roofing**

### **Action Requested:**

Special Exception to permit a carport in the street setback and yard with modifications in the increase the allowed height (Sec. 90.090-C1) **Location:**  
2342 S. Florence Pl (**CD 4**)

### **Presentation:**

**Robert McMurtry**, 6598 East 25<sup>th</sup> Place, Tulsa, Oklahoma, 74129, stated that he had been hired to build a carport on Ms. Jackson's house. We knew there had to be a permit to do the work. He was very close to being with the build lines. Making this large enough for Ms. Jackson's vehicles puts them just over the build lines. When he came down for the permitting process, they printed a neighborhood plat. It showed the 30' setback from the center of the street instead of the 25' setback that Ms. Jackson got when she was closing on the house. This build line Variance makes it to where he cannot build a car port large enough to accommodate a vehicle, so he is asking for a Variance so he can make it large enough for her vehicles. He will be beyond the build line by three feet. The drawing shows that he is still forty-six feet and three inches from the center of the street. This will not be any obstructed views from up or down the street. This will be tied into the existing house and will look just like the rest of the house.

Ms. Radney stated that she could see on the satellite view on 5.4 so this carport will not extend any further than the trunk of that tree or beyond where it shows a car parked.

Mr. McMurtry stated that it will not extend past the sidewalk that goes up to her front door.

Ms. Radney stated that she was concerned that it would block the view of that street.

### **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 any time that you have something coming off the house and going into the street setback, you must have a Special Exception just to be there.

Mr. Wallace asked if 5.11 showed a twenty-five-foot building line and have we clarified that it is a thirty-foot building line.

Mr. Chapman stated that he was not certain of what he was referring to. He may have had some conflicting information. This is RS 3, which is twenty-five feet. There was a

typo, and it is just modification to increase the height. They are allowed eight feet close to the side lot line, thirteen feet at the ridge, and nine feet at the top plate of the roof. Anytime it is in the street setback or in the street yard, he must get a Special Exception.

**Board Action:**

On **MOTION** of **Radney**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **APPROVE** a **Special Exception** to permit a carport in the street setback and yard with modifications to increase the allowed height (Sec. 90.090-C1), per the Conceptual Plans shown on pages 5.10 – 5.13 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, for the following property:

**LT 2 BLK 3, WIL-REY TERRACE, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23535 - Midwest Used Auto Sales, LLC c/o Haley Wiggins**

**Action Requested:**

Special Exception to permit Personal Vehicle Sales in the CS District (Sec. 15.020, Table 15-2) **Location:** 3637 N. Lewis Ave. E. **(CD 1)**

**Presentation:**

**Haley Wiggins**, P.O. Box 480920, Tulsa, Oklahoma 74148, stated that they are requesting to add Personal Vehicles Sales onto their auto salvage yard. We will be using an overflow parking area for that purpose. The owners of this property own a lot of the property in that area.

Mr. Bond asked if on page 6.6 of the Agenda packet was if he was looking at the existing property.

Ms. Wiggins stated that was correct and the auto salvage yard already has a 10-to-12-foot privacy fence, and they want the used auto portion fences in as well.

Mr. Wallace asked if this property had been a car lot prior to this.

Ms. Wiggins stated that lot is in the CS zone. They brought a Special Exception to the Board a couple of years ago to move the zoning for the salvage lot from CS to Heavy Industrial, but it did not include this lot. Before they owned it, it was a halfway house, and the rest was vacant.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that there had been some that were controversial for salvage yards recently, and he does not see that controversy here. He did not think it would be detrimental to the neighborhood.

**Board Action:**

On **MOTION OF Radney**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **APPROVE** a Special Exception to permit Personal Vehicle Sales in the CS District (Sec. 15.020, Table 15-2), per the Conceptual Plans shown on page 6.7 of the Agenda packet; for a term of 10 years June 13, 2033.

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:

**The W 200 of of the following: BEG 351N & 50E SWC SW TH E200 N475 E385 S620  
W85 S25 W488.2 N55.02 W12 N116 POB SEC 17 20 13 CITY OF TULSA, TULSA  
COUNTY, STATE OF OKLAHOMA**

## **23536 - Waltherbach Properties**

### **Action Requested:**

Variance to reduce the minimum required drive aisle width of 24-feet (Table 55.090-D) **Location:** 1140 S. Quincy Ave. **(CD 4)**

### **Presentation:**

**Tim Waltherbach**, 1011 North 4<sup>th</sup>, Broken Arrow, Oklahoma, 74012, stated that the address of this lot is situated between two 1930 era apartments. Parking is on the street. The hardship is that there is a sewer line that runs through half of the lot. He thinks this is a good solution for this lot.

Mr. Bond asked if Mr. Waltherbach was talking about building a townhouse or apartment structure.

Mr. Waltherbach stated that they want to build a three-bedroom townhouse with a garage that will be entered into through the alley. We plan on it being a three-story building. The infill overlay is what makes this possible.

Mr. Chapman stated that in our code there are parking standards. There are geometrics when you are parking on how it faces. The Code says when you have a situation where the parking faces the drive isle, there is supposed to be twenty-four feet of width to navigate out.

### **Interested Parties:**

**Laquhinnia Lawson**, 1 East 20<sup>th</sup> Place, Tulsa, Oklahoma 74114, stated that he owns the building directly north of this lot. Development is always a good thing, but one of his concerns is what he is showing on his plot plan a three-foot lot line to the north and he understood from the Code that the setback needs to be ten feet.

Mr. Bond stated that the issue before the Board was only the driveway.

Mr. Chapman stated that the property was within the neighborhood overlay and there is a three-foot side setback. They will have to go through fire review, and this is only zoning.

### **Comments and Questions:**

Mr. Wallace asked what the hardship would be.

### **Board Action:**

On **MOTION** of **Wallace**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **APPROVE** a Variance to reduce the minimum required drive aisle width of 24-feet (Table 55.090-D), per the



Conceptual Plan shown on 7.16 of the Agenda packet. Finding the hardship to be the existing utility structure running along the southern edge of the property.

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:

**LTS 19 20 BLK 3, ORCHARD ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23537 - James W. Heath**

**Action Requested:**

Special Exception to permit a carport in the street setback and yard with modifications in the increase the allowed height and dimensions (Sec. 90.090-C1) **Location:** 9417 E. 38th Place. **(CD 6)**

**Presentation:**

**James Heath**, 9417 East 38<sup>th</sup> Place, Tulsa, Oklahoma, 75145, stated that he had a carport constructed not knowing that he needed a permit. The City Inspector for the area has inspected the area and stated that the materials and construction are well within the Code. The setback was not far enough from the center of the street. He has written statements from his neighbors that they are not impacted, and they have no problems with the carport. He said that he provided examples of carports in the neighborhood that show a pattern of tolerance that are within the same setback that his is.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that it was not out of character with the other carports in the neighborhood.

Ms. Radney stated that she appreciated the neighbor's signatures as well.

**Board Action:**

On **MOTION** of **Radney**, the Board voted 3-0-0 (Bond, Radney, Wallace "ayes", no "nays"; no "abstentions", Barrientos, and Stauffer "absent") to **APPROVE** a Special Exception to permit a carport in the street setback and yard with modifications in the increase the allowed height and dimensions (Sec. 90.090-C1), per the Conceptual Plans shown on 8.10 in the Agenda packet.

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

**LT 21 BLK 7, BRIARWOOD SECOND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

## **23539 - Hunter's Precision RX, LLC**

### **Action Requested:**

Special Exception to permit a Convenience Goods (Pharmacy) with a Drive-through facility in the OM district (Sec. 15.020, Table 15-2); Variance to allow drive-through facilities to be located on the street-facing side of the property (Sec. 55.100-C.2) **Location:** 6111 E Skelly Dr **(CD 5)**

### **Presentation:**

**Ross Mash**, 10001 North Broadway, Oklahoma City, Oklahoma 73114, stated that Hunter Precision RX, LLC is part of the Hunter Care Health Family of companies. They are an Oklahoma City based organization that has been providing clinical pharmacy services since 2004. They have grown to encompass pharmacy, laboratories, and software companies designed for the behavioral healthcare industry. The location in question is going to be part of Grand Mental Health's Tulsa campus. Grand has twenty clinics across twelve counties in Oklahoma. They have become a national standard for mental health services.

The patients that are treated here are some of the most vulnerable in our population and they have a broad spectrum of behavioral healthcare issues and needs. Our pharmacy deals specifically with their needs and the challenges that they face. We are set up as an amenity for those patient services.

They are here today for two specific zoning requests. Our business does not have a retail component. They will not function as a CVS or Walgreens. It is specifically designed for those patients who are visiting this pharmacy. This space has more than 430 parking spaces on over four acres. No residential areas will be impacted by their use. The drive through will be to serve many of their patients that have mobility issues. It will be located at the rear of the property away from Skelly Avenue.

They provided a traffic plan study for your review. They will have two to three patients utilizing the drive through an hour. The walk-in component will only be for patients of Grand Mental Health and other medications will not be available. They do some compounding, but it is specifically for these patients. It will be a closed-door pharmacy and not open to the general public. There will not be methadone distribution there.

The hardship is if they do not have the drive through it will affect the patients that have mobility issues. There is not any other place they could put this realistically, because this serves the population that goes to Grand Mental Health specifically for that treatment.

### **Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Mr. Bond stated that the hardship addresses the code and does not face an arterial street. There is not a place that would be better on the lot, and this addresses the topographical uniqueness of this lot.

**Board Action:**

On **MOTION** of **Radney**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **APPROVE** a Special Exception to permit a Convenience Goods (Pharmacy) with a Drive- through facility in the OM district (Sec. 15.020, Table 15-2); and a Variance to allow drive-through facilities to be located on the street-facing side of the property (Sec. 55.100-C.2), per the Conceptual Plan shown on 9.13 of the Agenda packet. Finding the hardship to be the unusual shape and proportion of this lot.

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

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

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 1, TULSA SCOTTISH RITE SUB AMD RESUB PRT TULSA SCOTTISH RITE,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**23540 - Aaron Spahr**

**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:** 8181 E 41st. **(CD 5)**

**Presentation:**

**Aaron Spahr**, 164 Bent Tree Drive, Palm Beach Gardens, Florida, 33418, stated that he and his partner, Adam Rosenberg, acquired this property, 8181 East 41<sup>st</sup> Street, last month. We went through a zoning change to go from IL to CH with the intention of turning the property into affordable housing. This property was contiguous to 41<sup>st</sup> Street, was split up, and the front section was converted into condominiums. Prior to this it was an extended stay hotel. There are four office buildings there. When that happened, the parking was split in an uneven ratio. The subject property lost spaces and the front property gained spaces.

Many of our projects we have converted other properties in other states like this and there will be one space per unit. Most of the property is studio apartments and some one bedrooms. There is a small handful of two bedrooms. The focus of this project for us is to deliver high quality and affordable prices. It may have some voucher-based portions which are Section 8 here. The whole place will be affordable housing. We would put more parking spaces if we could, but we know this enough with the current Code requirements. There are about eighty-six parking spaces on the site now and we will be adding twelve more parking spaces for about ninety-six parking spaces.

Mr. Bond asked what their estimate of tenant was.

Mr. Spahr stated that there are ninety-six units.

Ms. Radney asked Mr. Chapman what the ratio of code was.

Mr. Chapman stated that it varies by the number of bedrooms, and they are about twenty spaces short. In the neighborhood use overlay it is one space per unit.

**Interested Parties:**

No interested parties were present.

**Comments and Questions:**

Ms. Radney stated for the record that she is a proponent of affordable housing, and she would like to see what they expect the mix to be. This is out of the boundary for concessions the Board has made with other properties. She did not see how the target market here was different than River West. She is inclined to support it but would like more details in the future.

Mr. Bond stated that alternative parking was new to the city and new to us. When they had the requirement for parking study there was no metric on what that exact study was. As far as consistency is concerned, he felt like the Board has had similar request for other places.

Mr. Bond stated that he thought that a 10-year term limit would be appropriate.

Mr. Wallace stated that he did not know if that was the appropriate number. This is an industrial sliver off the Broken Arrow Expressway, and he thought 15 years would be more appropriate.

Ms. Radney stated that she could back a 15-year term limit.

Mr. Wallace asked Ms. Radney what strain it puts on the neighborhood that would not put more on the property owners.

Ms. Radney stated that it would put more of a strain on the residence. They are also going to need to affirm with the underwriters that this has been resolved with an appropriate timeline. Most lenders would be satisfied with twenty and probably fifteen years.

**Adam Rosenberg**, 1012B West Grove Avenue, Nashville, Tennessee, 37203, stated that he has been part of the Nashville development community for many years now. They are moving towards zero parking requirements especially when it comes to workforce development housing. They are passionate about finding affordable housing for people that are being forced out of their city because they cannot afford housing. Typically, a loan is thirty years and we have never come across this type of exception before. We are sensitive to people's lifestyle and want to create that here in Tulsa.

Mr. Wallace stated that he really appreciated what they had presented to the Board. The other thing is that if you were to sell this, the agreement is tied to the property, not to your company.

Ms. Radney stated that she is inclined to go with fifteen years and that the parking ratio does not go below this amount of one space per unit.

**Board Action:**

On **MOTION** of **Radney**, the Board voted 3-0-0 (Bond, Radney, Wallace "ayes", no "nays"; no "abstentions", Barrientos, and Stauffer "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 Plan shown on page 10.11 of the Agenda

packet. With the following conditions that there be one parking space per unit and it will be a fifteen-year term ending 6-12-2038.

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

**PRT LT 3 BEG SECR LT 3 TH W39 N187.86 W57.95 SW19.16 NW34.53 W104.50  
NW36.82 W48.71 N392.92 E337.86 S578.87 POB BLK 1, BOND SECOND ADDN AMD,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**



**23541 - Twister Concrete Work**

**Action Requested:**

Special Exception to increase the permitted driveway width in a Residential District (Section 55.090-F.3) **Location:** South of the SE/c of E. Tecumseh St. and N. Xanthus Ave. (CD 1)

**Presentation:**

The applicant was not at the meeting.

**Interested Parties:**

**Comments and Questions:**

**Board Action:**

On **MOTION** of **Radney**, the Board voted 3-0-0 (Bond, Radney, Wallace “ayes”, no “nays”; no “abstentions”, Barrientos, and Stauffer “absent”) to **APPROVE** a Special Exception to increase the permitted driveway width in a Residential District (Section 55.090-F.3) per.

For the following property:

**W 140 OF S 200 LT 8 & E 60 OF S 200 LT 9 BLK 5, CONSERVATION ACRES SUB,  
CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA**

**OTHER BUSINESS**

Mr. Chapman stated that Tulsa Planning was moving to the City of Tulsa as of July 1, 2023, and Sherri Tauber is going to stay with INCOG to work with the County Board of Adjustment. This will be her last meeting with the City Board of Adjustment.

Mr. Bond thanked Ms. Tauber for her work and she would be missed.

**NEW BUSINESS**

**BOARD MEMBER COMMENTS**

**ADJOURNMENT**

There being no further business, the meeting adjourned at 3:57 p.m.

Date approved: 8.8.79

Art Bond

Chair