

**BOARD OF ADJUSTMENT**  
**MINUTES** of Meeting No. 1219  
Tuesday, January 8, 2019, 1:00 p.m.  
Tulsa City Council Chambers  
One Technology Center  
175 East 2<sup>nd</sup> Street

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Van De Wiele, Chair Back, Vice Chair Ross, Secretary Bond Radney		Miller Ulmer Sparger E. Smith	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on January 3, 2019, at 2:56 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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Ms. Ulmer read the rules and procedures for the Board of Adjustment Public Hearing.

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**MINUTES**

None.

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**Mr. Van De Wiele announced that Item #12 on the agenda, BOA-22568, has been withdrawn.**

**There is a relatively full agenda today and one Board member will need to leave at 4:00 P.M. so the Board will try to get through each case relatively quickly so all the cases can be heard with a full Board. The cases that are more contentious will have time limits put into place.**

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## UNFINISHED BUSINESS

22538—AAB Engineering, LLC – CBC Builds, LLC  
(RECONSIDERED FROM 12/11/2018)

**Action Requested:**

Variance to reduce the rear setback requirement in an RS-2 District to permit an existing structure (Table 5-3). **LOCATION:** 2824 East 25<sup>th</sup> Street South (CD 4)

Ms. Miller announced that a letter was received from the attorney for the neighbors asking that this case be stricken from the agenda. Ms. Miller stated that legal staff was consulted, and they counseled that the item should remain on the agenda.

Ms. Radney entered the meeting at 1:07 P.M.

**Presentation:**

**Alan Betchan**, AAB Engineering, 200 North McKinley, Sand Springs, OK; stated the case has been presented based on the lot as it exists today. The request today is for an encroachment to the rear yard that is not obstructed by his client and has nothing to do with the lot split that was previously approved by the Planning Commission. Part of what has made this more complicated is the fact that a lot split has been done at some time in the past, and that it is still under the same ownership. Mr. Betchan stated that there are set timelines of when something can be appealed in a process for that lot split to have been appealed and an objection to have been registered. What is being asked for consideration is whether this Board of Adjustment action should be taken because the property has not changed ownership. The reality is the client is here because there was a Code compliance issue called in, and the remedy to the Code compliance is that the owner requests the rear yard encroachment Variance. The lot split information is not relevant in this application.

Mr. Van De Wiele asked Mr. Betchan if the encroachment in the rear yard he is referring to would be the right lot encroachment in the rear yard by the garage. Mr. Betchan answered affirmatively.

**Interested Parties:**

**Clark Neely**, 2824 East 25<sup>th</sup> Street, Tulsa, OK; stated he is the owner of the subject property. Mr. Neely stated that one day five City Code Enforcement officials showed up on his property and took measurements because his neighbors had filed a complaint about numerous things on the property. That day he was told to apply for a Variance to remedy the setback area for the attached garage. This has been very trying and emotional for him and his wife. He placed the lot he had the lot split for on the market

because at the time the market was very good. He then decided to place the whole property on the market and is moving because he does not want to live next to neighbors that do not like him.

**Andrew Shank**, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, OK; stated there has been a lawsuit filed and notices have been provided attacking the lot split. It is his client's position that the Board lacks the power to hear the case today due to the automatic stay. Understanding that the Board is hearing the case he will move on. Mr. Shank stated the applicant is before the Board and has the burden of proving the multiple elements required for a Variance. The hardships cannot be self-imposed, and while Mr. Betchan referenced a construction that was done sometime in 2003, not by his client, this Variance is a function entirely of the lot split. The applicant would not be before the Board if weren't for the lot split; it necessitates this relief. Because of that it is self-imposed.

Mr. Bond asked Mr. Shank to briefly go over the relief being sought through the court action. Mr. Shank stated the neighbors filed suit against the Planning Commission and the Neelys to summarize the multiple causes of action essentially to say the Planning Commission did not follow its own rules in approving the lot split therefore they did not have jurisdiction to grant the lot split. There is a provision in the Code that states any property owners impacted by someone violating the Zoning Code and regulations can seek to have that violation removed. That is what the law suit is. There are multiple causes of action; one of which comes from the statute that provides an appeal to the District Court from the Planning Commission stays all proceedings and furtherance of the action appealed from. This is a branch off of the root that is the lot split, so he thinks it is a stay.

Ms. Ross asked Mr. Shank if he is looking to stay this request for a Variance until the lot split issue has been determined by the District Court. Mr. Shank stated that he thinks that is what happens as a matter of law. He has made that known in his letters. Mr. Shank stated that his position is that the law does not allow the Board to perform.

**Amanda Neely**, 2824 East 25<sup>th</sup> Street, Tulsa, OK; stated she is also the owner of the subject property. She understands the argument that this is self-imposed, but she would never impose this type of action from the neighbors upon herself or her husband. This is her personal home. Ms. Neely stated that they own a building company and they have built and remodeled many, many house in mid-town Tulsa. She loves mid-town. Her children go to Tulsa public schools, and her children attend school with Mr. Shank's children. She and her husband thought this was going to be their family home, a place where they were going to stay. The actions taken against them by the neighbors, and attack is a good word, has been very difficult and stressful. Ms. Neely stated that she does believe in mid-town and she has made her home here and will continue to make her home here. She would like the Board to consider her intention here, which was never to hurt the community or the neighborhood which she thinks is the argument being made.

Mr. Van De Wiele asked staff if the application was solely for the eastern lot or does it apply to both? Ms. Ulmer stated that per the Tax Assessor it is still one lot, so the legal description comes from the Tax Assessor website, but she believes the request is just for the eastern lot.

**Rebuttal:**

**Alan Betchan** came forward and stated that in the original application the legal description for the eastern lot was used and approved as part of the lot split. This is a non-conformance that regardless of Mr. Shank's opinion the Neely's are not responsible for creating it. The house was a rear yard encroachment whenever the lot was split. Now what is being asked is a period of time beyond which is the appeal period for the lot split. The Neely's are before the Board because a complaint was called in on the lot that was legally recorded, and this is the relief the Neely's were instructed to seek for that complaint. The fact that the lot split is not material to this because this is a legally recorded lot that was created and approved by the Planning Commission. The exact distances to the lines were shown on the exhibits presented. In no way was his client hiding anything. To go back now to say this is non-conforming and there is a problem and they want to pull back the lot split is the very nature of a hardship. It is like any other encroachment. Mid-town is littered with non-conforming structures, and since this one has been brought up it needs to be brought into a non-conformance as approved by the Board and that is the relief that is being sought.

Mr. Van De Wiele stated that to the extent the Board were inclined to grant the relief requested on the eastern lot, if a house were to be built on the western lot it would still be required to have a 20-foot rear yard setback measured off the south line. Mr. Betchan agreed. In the event this were still considered one lot and a person looked at how close that the construction would be overlooking the pool and the rear yard which is the stated concern there is a five-foot rear yard that can go within 120 feet of the western property line if this is considered one lot. Therefore, the height of a structure and what can be visibly seen in the rear yard is worse if the lot were not split. Now no structure can be built within 20 feet of the remainder of the parcel. If this is one parcel that is not the case; it can be built within five feet all the way to 20 feet over to the western line. Essentially there can be no encroachment closer than 20 feet to the south line other than what exists today on either lot by virtue of it's non-conforming. This action would allow what is built today.

Mr. Van De Wiele asked Mr. Betchan if it were his position, assuming the lot split has never happened, the combined parcel would still have the same encroachment issue off of the rear yard to the extent that the south is the rear yard. Mr. Betchan answered affirmatively. Mr. Betchan stated there was never a legal construction permit to build the structure so there was never anything that anyone presented as the rear yard. The encroachment into the rear yard happened whenever the structure was built. The front door and the addressing have always oriented the house to the north, and whenever the illegal structure they truly encroached in the rear yard. There has never been anything that documents that it was not the rear yard.

### Comments and Questions:

Mr. Bond stated he is still where he was when this case came before the Board originally. He feels like the Board is tasked with giving deference to other Boards of this municipality. He thinks one of those Commissions created a lot split. Whether they should or should not have is not an issue before the Board of Adjustment. It is not judicial for this body. This Board cannot over rule, validate or invalidate the lot split; it is not within the power of this body and Mr. Shank is addressing that in another venue. If this were a regular lot split would there be a Variance? Is there a hardship here? It is a non-conforming structure; the lot boundary on this lot is that this lot is of unique shape and because of an existing building would require a Variance. Mr. Bond stated that he is going to give it the regular deference that he would give an existing lot, because he does not have the ability to say whether this is valid or not. There are people that relied on representations made by City Commissions, and when a City Commission tells you that you can or cannot do something a person should be able to take that to the bank literally. When we reach the point where we say we are going to go back and retroactively decide whether the City could or could not do something there is a problem. The very nature of government is dependent on uniformity, regularity, and predictability. Mr. Bond stated that he can support the Variance.

Ms. Radney concurred.

Ms. Ross stated she has concerns about whether or not these proceedings should be stayed. If Mr. Shank's statement is correct the Board is taking action that we may not have the authority to take, then someone will rely on that action. Ms. Ross stated the Board knows there is an outstanding case, the Board has a copy of the petition, and she is concerned about taking action on something that is before the District Court being appealed. If the District Court says TMAPC is wrong and the lot split cannot be had, then the Board granted a Variance that is unnecessary.

Mr. Van De Wiele stated that if this were one entire lot as it were before the lot split, fronted off 25<sup>th</sup>, the garage is encroaching in the rear yard setback. It is encroaching in the rear yard of either the entire lot or the right-hand lot regardless of the lot split.

Ms. Back stated that is a hypothetical situation. If it was one lot, which it was, and it is fronted off Delaware that is the side setback that it was required to use. This is a mess and she is heartfelt for the neighbors because they were blindsided by this, and even if the Board took action today, depending on the outcome today, there possibly are two cases going before District Court. Ms. Back stated she cannot support this request.

Mr. Van De Wiele stated there was an indication in the original lot split that took a piece of the lot to the south that the resulting lot would be fronted or addressed off Delaware Place. That appears to have never gone into full affect. Mr. Van De Wiele stated he was undecided at the last hearing; he is in favor of the Variance. The Board see these types of requests quite often and the Board grants these types of relief all the time. This garage was not self-imposed by this property owner. Mr. Van De Wiele stated that he is not inclined to and does not have the authority to comment on Planning Commission

action. Whether they should or should not have granted this lot split is none of the Board's concern. At this point, and he has confirmed with City Legal, there are two lots here whether there are or will be in the future through Mr. Shank and his client's lawsuit but at the end of the day there is a lot, whether it be part of one bigger lot or all of one larger lot that fronts off 25<sup>th</sup> and has a garage in the rear setback.

Ms. Radney stated that in the last hearing it was stated that it was the property owner's discretion to determine in this particular case where the front yard was. From her perspective she believes the property owner would have been entitled to a Variance on the basis of the fact that the garage was pre-existing. If the property owner had requested the Variance before the lot split, then this would all be moot.

Ms. Back stated this is the Board of Adjustment not the board of forgiveness, and that is her point.

Ms. Radney stated she understands that point, but because the hardship is fact dependent in that way and for all the reasons Mr. Bond had outlined, the property owner had the right to expect the Planning Commission was actually going to give them a legal lot split that they could count on. To come back now and ask for the setback that they would have possibly been entitled to before the lot split it does not persuade her that there is not a hardship. Ms. Radney stated she defers to all the concerns about the legality of the lot split, that is not before this Board but the existing garage which was not permitted and was not self-imposed and given a 25<sup>th</sup> Street address her logic is that they in fact have a hardship that stands up to the request.

Ms. Back stated the property owner did not get a lot split and then cause the non-conforming issue, the lot split caused this non-conforming issue. That is her concern.

Mr. Van De Wiele stated that he is not sold on the fact that the lot split created the non-conformity. The garage on the south is the issue, whether it be as one lot or as part of two lots.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 4-1-0 (Bond, Radney, Ross, Van De Wiele "aye"; Back "nay"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to reduce the rear setback requirement in an RS-2 District to permit an existing structure (Table 5-3), subject to conceptual site plan 1.73 of the agenda packet. The Board has found the hardship to be the non-conforming structure in addition to the existing structure, the size and nature of the lot as it exists presently. This approval applies only to the lot shown on site plan 1.73. 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 & N25 LT 2 LESS BEG NEC LT 1 TH W TO NWC S12.2 E TO PT ON EL LT 1 N3.9 POB BLK 8, BRYN-MAWR, City of Tulsa, Tulsa County, State of Oklahoma**

**22546—Miguel Sotelo**

**Action Requested:**

Special Exception to allow a carport in a street setback and street yard (Section 90.090-C1). **LOCATION:** 1524 East 49<sup>th</sup> Street South (CD 9)

**Presentation:**

**Miguel Sotelo**, 9035 East 29<sup>th</sup> Court, Tulsa, OK; stated his client would like to have a 20'-0" x 20'-0" carport on the front of her house.

Mr. Van De Wiele stated that the plan makes the carport appear to be wider than the driveway. If the Board were inclined to approve this the client can not park on the grass. Mr. Van De Wiele asked Mr. Sotelo how close the carport will be to the property line. Mr. Sotelo stated there is 6'-6" from the neighbor's property line. Mr. Van De Wiele asked Mr. Sotelo how close the carport will be from the front property line to the carport. Mr. Sotelo stated the home owner had a single car metal carport in that location before and now she would like to have a two-car carport.

Mr. Van De Wiele asked Mr. Sotelo if the pitch of the carport roof would be taller than the house roof or will it be shorter. Mr. Sotelo stated the pitch will be 512 and the pitch of the house is 612.

Ms. Back asked Mr. Sotelo if the materials for the carport will match the materials of the existing house. Mr. Sotelo answered affirmatively.

Mr. Van De Wiele asked Mr. Sotelo if the shingle roofing for the carport would match the shingle roofing of the house. Mr. Sotelo answered affirmatively.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to allow a carport in a street setback and street yard (Section 90.090-C1), subject to the conceptual plans on 2.17, 2.18 and 2.19 of the agenda packet. The carport is to be a 20'-0" x 20'-0" construction. The construction materials are to match the current residence and the roof pitch is to remain at or below the roofline as it exists today. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

**LT 5 BLK 8,BELLAIRE ACRES ADDN EXT, City of Tulsa, Tulsa County, State of Oklahoma**

**22551—Eller & Detrich – Andrew Shank**

**Action Requested:**

**Variance** to permit a free-standing sign to exceed the maximum permitted height of 50 feet (abutting a freeway) to be installed 75 feet above grade with a 15-foot setback from the freeway right-of-way (Sections 60.080-D & 60.040-B).

**LOCATION:** SE/c of South Sheridan Road East & East Broken Arrow Frontage Road South (CD 5)

**Ms. Miller left the meeting at 1:46 P.M.**

**Mr. Dwayne Wilkerson entered the meeting at 1:46 P.M.**

**Presentation:**

**Nathalie Cornett**, 2727 East 21<sup>st</sup> Street, Tulsa, OK; stated the request is for a static sign not a digital sign to be located at Sheridan and the Broken Arrow Expressway. The property is currently under contract by Sonic. This location is difficult for visibility for signage for multiple reasons. The property is down in a hole; the highway overpass is right there, and it is blocked significantly by the existing structures. Ms. Cornett presented photos and had them placed on the overhead projector showing the location of the proposed sign and the visibility difficulties due to topography and circulation issues.



**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Variance** to permit a free-standing sign to exceed the maximum permitted height of 50 feet (abutting a freeway) to be installed 75 feet above grade with a 15-foot setback from the freeway right-of-way (Sections 60.080-D & 60.040-B), Subject to conceptual plans 3.15 and 3.16 of the agenda packet. The Board finds the hardship to be the abutting hotel height and the car dealership partially blocking the sight view. Also, the topography and the highway overpass create sight distance issues, and the circulation issue due to the use of the existing curb cut. 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:

**BEG 1218N & 75E SWC NW TH E117.67 S207.14 W117.67 N207.14 POB SEC 23 19 13 .560AC, City of Tulsa, Tulsa County, State of Oklahoma**

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**NEW APPLICATIONS**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**BOA-22555 – Gregory Helms**

**Action Requested:**

Special Exception to permit the expansion of a liquor store on a lot within 150 feet of an R-zoned lot (Section 15.020-G); Verification of the 300-foot spacing requirement for a liquor store from other liquor stores, bail bonds offices, plasma centers, day labor hiring centers or pawnshops (Section 40.300-A). **LOCATION:** 1522 East 15<sup>th</sup> Street (CD 4)

**Ms. Ulmer informed the Board that the applicant no longer needs the Special Exception that has been requested.**

**Presentation:**

**Greg Helms**, 424 East Main Street, Jenks, OK; no formal presentation was made by the applicant.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit expansion of the existing liquor store subject to the action of the Board being void should another liquor store or other conflicting use be established prior to the establishment of this liquor store; for the following property:

**N 35' W 100' LT 14 & W 100' LTS 15 & 16 BLK 4, ORCUTT ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8,***

**2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.**

**BOA-22558 – K. B. Enterprises**

**Action Requested:**

Variance of the dustless, all-weather surfacing requirement to permit a gravel drive (Section 55.090-F). **LOCATION:** 4401 South Olympia Avenue West **(CD 2)**

**Presentation:**

**Kenneth Barth**, 4412 South 77<sup>th</sup> East Place, Tulsa, OK; stated he represents the land owner who would like to keep their existing driveway as gravel. The property is a seven-acre lot and the property were deeded to the present owner by the parents. The old house was razed, and a new house was built.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the dustless, all-weather surfacing requirement to permit a gravel drive (Section 55.090-F), subject to conceptual plans 5.5 and 5.7 of the agenda packet. The Board has found the hardship to be the long-time occupancy at the same location and use of the gravel driveway, and the paved approach to the driveway from the public street. 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:

**BEG 637.6N & 318.79E SWC SE NW TH E345.41 N418 NW75 NW CRV LF 180.91 NW TO PT 1579.4N & 50E SWC SE NW TH S248.39 TO PT 50E NWC SE NW SE443.37 SELY297.96 SLY5.30 POB SEC 26 19 12 7.526ACS, City of Tulsa, Tulsa County, State of Oklahoma**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**BOA-22559 – Brett Baldwin**

**Action Requested:**

Variance to reduce the minimum lot area and lot area per unit requirement in an RS-1 District to permit a lot split (Table 5-3); Variance to reduce the minimum required street setback requirement in an RS-1 District (Table 5-3). **LOCATION:** 5220 East 91<sup>st</sup> Street South **(CD 8)**

**Presentation:**

**Brett Baldwin**, 5220 East 91<sup>st</sup> Street, Tulsa, OK; stated he is the property owner of the subject property. The goal for the lot split is to allow the property to more closely conform to the size of the lots in the rest of the neighborhood. The house is located at the entrance to the subdivision, but it is not part of the subdivision. When the subdivision was established about 25 years ago that property owner did not sell to the builders. With a lot split he could sell the property with the house at a lower price, and he is selling the property. A lot split would allow more flexibility. The current house has been on the property for about 15 years and was fronted off 91<sup>st</sup> Street, but it currently fronts off Delaware with a garage and front entrance off Darlington. The resulting lots if the Variance is approved are still larger than most of the lots in the subdivision. The Variance for the minimum setback is needed because of the location of the existing structure.

Mr. Van De Wiele asked Mr. Baldwin what the lot would be going from and going to for the minimum lot area. Mr. Baldwin stated the overall tract currently is 28,098 square feet and with the lot split the north tract would be 10,435 square feet and the south tract

would be 17,600 square feet. A lot of the other lots are about 8,000 square feet that surround it in the RS-3 zoning.

Ms. Ross asked Mr. Baldwin how the rest of the subdivision is zoned. Mr. Baldwin stated the subdivision is zoned RS-3, and there is one other property to the south that was not part of the subdivision and he believes that it is zoned RS-1.

Ms. Back asked the applicant to state his hardship for this request. Mr. Baldwin stated that for the setback there is an existing non-conforming structure. Mr. Baldwin stated he is trying to get the property back into shape and occupied which will happen more expediently with the lot split.

Mr. Van De Wiele asked Mr. Wilkerson if the northern tract were to sell would it have to be from a major access, would it still front of 91<sup>st</sup> or would it be required to come off Darlington. Mr. Wilkerson stated that typically it would come off Darlington for a residential subdivision type development. In this particular instance he is sure that without some access limitations that would be shown on a plat the applicant may still have the right to use the driveway off 91<sup>st</sup> Street.

Ms. Back asked Mr. Wilkerson if the Board were to continue this case, how soon could the applicant appear on a rezoning agenda to get this through the process. Mr. Wilkerson stated the rezoning is 120 days, and he is not sure when the next cut-off date is.

Mr. Van De Wiele stated that the Board is having concerns over is less with the second Variance request to achieve the street back measuring from Darlington, which he would be inclined to vote on today. The minimum lot area is a self-imposed hardship and he is having a hard time with that request.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **DENY** the request for a **Variance** to reduce the minimum lot area and lot area per unit requirement from 13,500 square feet to 10,435 square feet for the North tract; and to **APPROVE** the **Variance** to reduce the minimum required street setback from 35 feet to 24'-9" (Section 5.030-A) along Darlington Avenue for the South tract, subject to conceptual plan 6.9 of the agenda packet. The Board finds the hardship for the approved Variance to be the existing house on a large lot has an existing setback of 24'-9". 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:

**PRT NW BEG 1320W & 50S NEC NW TH S180 E156 N180 W156 POB SEC 22 18 13 .644ACS, City of Tulsa, Tulsa County, State of Oklahoma**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**BOA-22561 – George Anding**

**Action Requested:**

Variance to reduce the required side (interior) setback in an RS-3 District (Section 5.030-A). LOCATION: 1535 South Yorktown Avenue East (CD 4)

**Presentation:**

**Jim Brackett**, 1203 East 25<sup>th</sup> Street, Tulsa, OK; stated his wife has had the subject property in the family for about 60 years. Last spring, they decided to update and remodel the house. This Variance will enable the house to have more bathrooms. The hardship for the request is that the lot is a 50-foot lot which will not accommodate a modern house. The added garage will allow for two cars, and two bathrooms will allow make the living conditions a modern house in a neighborhood that has come a long way in the last 30 years.

**Interested Parties:**

**George Anding**, 2189 North 138<sup>th</sup> West Avenue, Sand Springs, OK; came forward and waited for questions from the Board.

Mr. Van De Wiele asked Mr. Anding if one of the two over-sized documents the Board has is an existing site structure plan, and if the other one is a proposed site plan. Mr. Anding answered affirmatively.

Mr. Bond asked Mr. Anding what year the house was built. Mr. Anding stated that he thinks it was built in the early 1920s or the late teens.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Variance to reduce the required side (interior) setback from 5'-0" to 3'-0" in an RS-3 District (Section 5.030-A), subject to conceptual plans 7.16 and 7.18 of the agenda packet. The Board finds the hardship to be the narrow lot width. The approval is subject to the following conditions: the side setback shown is approximately three feet. 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 10 BLK 1, MAYWOOD ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not***

***have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**BOA-22562 – 918 MVP**

**Action Requested:**

Variance to allow a detached accessory structure to exceed 500 square feet or 40% of the of the floor area of the principal structure to be increased from 500 square feet to 1,152 square feet (Section 45.030-B); Variance to allow stairs to be located in the required side (interior) setback (Setion 90.090-C); Variance to allow a detached accessory building to exceed 30% coverage of the floor area in the rear setback to be increased from 300 square feet to 360 square feet (Section 90.090-C); Variance to allow a detached accessory building to exceed 18 feet in height to 22 feet and to exceed 1-story to 2-stories in the rear setback in an RS-3 District (Section 90.090-C). **LOCATION:** 816 South Jamestown East **(CD 4)**

**Presentation:**

**Izael Quezda**, 8107 East Admiral Place, Tulsa, OK; stated he represents 918 MVP. There was a one-story garage structure on the property which a tree fell onto. The home owner would like to have a two-story garage which exceeds the allowable 500 square feet.

Mr. Van De Wiele asked Mr. Quezada how many of the garages between 7<sup>th</sup> and 8<sup>th</sup> Streets, and between Jamestown and Harvard are two-story? Mr. Quezada stated that the only one he is familiar with is located on 7<sup>th</sup> Street, which is two houses east of the subject property.

Mr. Van De Wiele asked Mr. Quezada who would be living in the two bedrooms that are shown on the proposed garage site plan. Mr. Quezada stated the client uses one of the two bedrooms within the existing house as his office, and he would like to have the additional two rooms above the garage for family.

Mr. Van De Wiele asked Mr. Quezada if there were any intentions on the proposed living area to become a stand-alone rental or a VRBO. Mr. Quezada stated that he is not aware of any plans like that.

Ms. Back stated that the design of the garage is not in keeping with the design of the houses in the neighborhood and she asked Mr. Quezada if he had thought about that. Mr. Quezada stated that none of the garages actually have brick. Ms. Back stated she is referring to the style. Mr. Quezada stated that the garage he referred to on 7<sup>th</sup> Street has hardy plank. Ms. Back stated that she wishes that the design had gone more in keeping with the style of the neighborhood as opposed to just designing something that



looks like it is in south Tulsa. This design is not in keeping with the character of the neighborhood.

Mr. Van De Wiele asked Mr. Quezada how the height of the proposed garage and the height of the existing house compares to one another. Mr. Quezada stated the existing the peak of the existing house should be about 20 feet and the proposed garage is 22'-10".

Ms. Back asked Mr. Quezada if the plans the Board has before them are the same plans that have been presented to the City. Mr. Quezada answered affirmatively.

Mr. Van De Wiele stated that the number one comment on the Letter of Deficiency (LOD) has been marked through, but it states the second dwelling unit language. The way he reads the LOD someone said that what is being proposed in the plan is a second dwelling unit. Mr. Wilkerson stated he does not know who marked out that line, but it was part of the LOD that originally came from the Building Permit Office. Mr. Van De Wiele stated that if that is going to be done then a written statement describing the use has to be provided. Mr. Wilkerson stated that he knows that in the past the Building Permit Office has allowed a statement saying that an area is to be used by family members.

**Interested Parties:**

**Tom Neal**, 2507 East 11<sup>th</sup> Place, Tulsa, OK; stated he specializes in these types of units. He has been before the Board of Adjustment before and had a City Attorney affirm that the Exception for the second dwelling unit for legally or blood related family or domestic staff is still an option.

**Jerry Deem**, 3403 East 8<sup>th</sup> Street, Tulsa, OK; stated this is not going to be a VRBO. He just wants a small space for his mother to stay in or an office and is thinking about making it a one-bedroom area.

**Comments and Questions:**

Mr. Van De Wiele stated that he does not have a problem going back with a detached garage, but he thinks this is going to be an apartment and a VRBO.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Variance to allow a detached accessory structure to exceed 500 square feet or 40% of the of the floor area of the principal structure (Section 45.030-B); Variance to allow stairs to be located in the required side (interior) setback (Section 90.090-C); Variance to permit an accessory building to exceed 30% coverage of the floor area in the rear setback (Section 90.090-C-2); Variance to allow a detached accessory structure to exceed 18 feet in height and exceed 1-story in the rear setback in an RS-3 District (Section 90.090-C), subject to conceptual plans 8.9, 8.10 and 8.11 of the agenda packet. The accessory building is not to be used as a rental for short term or long term as defined in the City

Code. The Board has found the hardship to be the existing small lot and a structure that predates the Comprehensive Zoning Code. 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 7 BLK 1, BRADEN HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

Ms. Radney asked if the motion, as it is stated, would prohibit the front house being used for a short-term rental, and would the motion apply only to the accessory building. Mr. Bond stated it is an accessory building, but he would think the existing Zoning Code would require a permit. Mr. Van De Wiele stated it would prohibit the whole property from becoming a short-term rental. The accessory building cannot be rented separately and apart from the principal residence.

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

## **BOA-22563 – Shane and Frances Bevel**

### **Action Requested:**

Variance to allow a detached accessory structure to exceed 500 sq. ft. or 40% of the floor area of the principal structure (Sec. 45.030-B); Variance to reduce the required side (interior) setback in an RS-3 district (Section 5.030-A). **LOCATION:** 816 South Jamestown East (CD 4)

**Ms. Back recused and left the meeting at 2:45 P.M.**

### **Presentation:**

**Shane Bevel**, 816 South Jamestown, Tulsa, OK; stated his request is similar to the 8<sup>th</sup> Street project. Mr. Bevel stated his house has one bedroom and he has two children and are quickly approaching critical mass where another bathroom is going to be needed. Mr. Bevel stated his garage, 18'-0" x 18'-0", is in terrible shape so he is going to raze it and build an 18'-0" x 26'-0" two-story structure. The new area above the garage will not have a living room; it is an open space with a bathroom and a closet.

Mr. Van De Wiele asked Mr. Bevel if this was not for use otherwise independent from his family. Mr. Bevel answered affirmatively; he wants no one else living on his property.

Mr. Bevel stated he has tried his best to match the style of the house; a 12/12 pitch roof on the front with shed dormers on both sides. The shed dormers on both sides will have three window groupings matching the window groupings on the front of the house. The new garage will have the same style windows with three divided lights upstairs.

### **Interested Parties:**

There were no interested parties present.

### **Comments and Questions:**

None.

### **Board Action:**

On **MOTION** of **ROSS**, the Board voted 4-0-1 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; none absent) to **APPROVE** the **Variance** to allow a detached accessory structure to exceed 500 square feet or 40% of the floor area of the principal structure to be increased from 500 square feet to 898 square feet (Section 45.030-B); **Variance** to reduce the required side (interior) setback from 5'-0" to 4'-2" in an RS-3 District (Section 5.030-A), subject to conceptual plans 9.12, 9.13, 9.14, 9.15 and 9.16 as well as the photos submitted by the applicant at today's hearing. The Board finds the hardship to be that the structure sits on a very narrow lot and the current or prior garage was dilapidated and falling apart; the structure also predates the current Zoning Code. The garage is to be for family use only in conjunction with the principal

residence. 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 27 BLK 7, BRADEN HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Back re-entered the meeting at 2:52 P.M.**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**BOA-22566—Tom Neal**

**Action Requested:**

Variance to reduce the required street (rear) setback in an RS-3 District (Section 5.030-A); Variance to allow an accessory structure to be located less than 3 feet from a side interior lot line (Section 90.090-C.2); Variance to allow a detached accessory structure to exceed 500 square feet or 40% of the of the floor area of the principal structure (Section 45.030-B). **LOCATION:** 4618 East 14<sup>th</sup> Place South **(CD 4)**

**Presentation:**

**Tom Neal**, 2507 East 11<sup>th</sup> Place, Tulsa, OK; stated his client has begun construction on the project and there are several challenges; one is the function of being in between two streets having in essence two street yards. His client built a little too large and slightly too close. His client has poured a concrete pad and started metal framing; the intention is for the building to be metal clad. The pad is two feet from the fence, both on the west side and on the 15<sup>th</sup> Street side. The building is 24'-0" x 26'-0". The building is a storage building accessing from an existing gate in the backyard fence. The largest problem he has he faces on 14<sup>th</sup> Place, and he has a street yard and backs up to 15<sup>th</sup> Street across from the old County Health Department. His client has a massive required 35-foot street yard in the back. Mr. Neal stated he is here today to beg for forgiveness and find an appropriate compromise.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Variance to reduce the required street (rear) setback in an RS-3 District from 35'-0" to 2'-0" (Section 5.030-A); Variance to allow an accessory structure to be located less than 2'-0" feet from a side interior lot line (Section 90.090-C.2); Variance to allow a detached accessory structure to exceed 500 square feet or 40% of the of the floor area of the principal structure to be increased from 536 square feet to 624 square feet (Section 45.030-B), subject to conceptual plan 10.8 of the agenda packet. The Board finds the hardship to be the size of the lots when this old mid-town subdivision area was created, and fronting both on a non-arterial street and an arterial street really condensing the lot based on the street setbacks. 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 7 BLK 3, ADAMSON HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**BOA-22567 – KKT Architects – Nicole Watts**

**Action Requested:**

**Special Exception** to allow a Bed and Breakfast with on-site events in a RS-3 District (Sections 5.020 & 40.060). **LOCATION:** 2210 South Main Street West (CD 4)

**Ms. Back recused at 2:58 P.M. and left the meeting**

**Presentation:**

**Nicole Watts**, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated her clients purchased the Harwelden Mansion in 2017. During meetings with the City and other parties it has been determined that the facility has been operating not in compliance for many years; probably for the past 50 years. There have been non-profit offices, events held, etc. with no paperwork ever completed. When her clients purchased the facility, they planned to continue the use, and during that time they decided to convert it into a high-end bed and breakfast allowing the uses of events continuing on site. There are enough parking spaces on site per Code to park the facility.

**Ms. Radney left the meeting at 2:59 P.M.**

Mr. Van De Wiele asked Ms. Watts if she knew what type of events would be held and how many events would be held in a year's time. Ms. Watts stated the number of

events would depend on booking, and the type of events would be weddings, wedding receptions, non-profit fundraisers, etc.

Mr. Van De Wiele asked Mr. Wilkerson if the applicant would need to have a permit to hold outdoor events on the lawn. Mr. Wilkerson stated there is a long history on this site for special events, and special events have had to come to the Board of Adjustment for certain things but that is no longer the case. Mr. Wilkerson thinks the standards identified in the Zoning Code for weddings and customarily allowable uses for a bed and breakfast there will not add any additional requirements from the Board.

**Interested Parties:**

**Susan Day**, 2211 South Main, Tulsa, OK; stated she is not here to speak for or against having a bed and breakfast because she does not have enough information. Her concerns are about the property and how it will be used, and the parking. Ms. Day stated there are more parking spaces marked on the site plan than actual parking spaces. Ms. Day stated that as she understands it the property is to be used as the Designer Showcase Home in April and May. She is concerned about shuttling a thousand people there every day; where are people going to park and how is she going to keep people from parking on her lot. She would like to know about the long-term plans for the property because she walks her dogs in the area five or six times a day. Also, there are many, many dead trees on the property; she bought her property so she could look at the Harwelden Mansion and have a beautiful view of trees. Ms. Day would like to know if the applicant intends to run a bed and breakfast after the zoning is changed and after the Designer Showcase is finished, or if they are using the Designer Showcase to sell the property as a bed and breakfast.

**Ms. Radney re-entered the meeting at 3:01 P.M.**

**Rebuttal:**

**Nicole Watts** stated that currently her clients are looking to make the Harwelden a bed and breakfast. Historical Preservation tax credits are being applied for, and there will be a historical lease signed stating that nothing can be done to the facility and that it will stay intact as a historical building. Designer Showcase will be done in April and May, it is for the Tulsa Foundation as a fundraiser and after that it will be a bed and breakfast that will be run by her clients.

Mr. Van De Wiele asked Ms. Watts how the Designer Showcase parking is handled. Ms. Watts stated she does not know how it is planned for this showcase, but in the past at different locations people park in the public streets. Ms. Watts stated that her parking site plan has been surveyed and the plan is from a licensed surveyor.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **ROSS**, the Board voted 4-0-1 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; none absent) to **APPROVE** the Special Exception to allow a Bed and Breakfast with on-site events in a RS-3 District (Sections 5.020 & 40.060). 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 LESS BEG NWC TH E129.30 TH ON CRV LF 135.39 SE178.88 W20.80 NW298.88 NWLY39.44 POB BLK 1, HARWELDEN RESUB B4 RIVERSIDE DRIVE ADDN, RIVERSIDE DRIVE ADDN THIRD AMD, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Back re-entered the meeting at 3:07 P.M.**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**22569—Red Bud Elixirs, LLC**

**Action Requested:**

Special Exception to allow an Industrial/Moderate-Impact Manufacturing and Industry/Moderate-Impact Medical Marijuana Processing Facility in the IL District (Section 15.020). **LOCATION:** 5903 South 107<sup>th</sup> Avenue East **(CD 7)**

**Presentation:**

**Virgil Richmond**, 610 South Fir Court, Broken Arrow, OK; stated he represents Red Bud Elixirs. Mr. Richmond stated that he is a retired chemical engineer with 40 years' experience in chemical processing and refining. His son has been a financial advisor for 15 years. Mr. Richmond stated that he and his son has worked in conjunction with INCOG beginning in October 2018. He has provided information on the various types of extraction processes, while they have worked with him to understand the zoning requirements. Red Bud will utilize CO2 extraction equipment which is the safest form of processing to concentrate central oils. It is the same chemical that is used in fire extinguishers to put out fires or in soft drinks to carbonate the drinks. Lavender oil uses the same type of extraction and the same type of equipment to do the extraction of the oil. Processors using this method of extraction offer a safe working environment and as required by low impact zoning requirements do not, as a part of normal operation,



generate noticeable offsite impact in terms of noise, smoke, particulate matter, odors or vibration.

**Virgil Richmond, II**, 610 South Fir Court, Broken Arrow, OK; stated that extraction is something that is not quite as familiar as cultivate. In looking at the low impact zoning requirements it states there is five criteria; noise, smoke, particulate matter, odors and vibrations. Red Bud Elixirs will have no noticeable off-site impact in term of noise; the noisiest piece of equipment is the diaphragm compressor which is about 80 decibels which is the same as a hair dryer. There will be no open flame used so there will be no smoke. Particulate matter because meticulous care is taken in handling cannabis materials, and everything delivered comes in sealed containers; everything leaving the premises is also in a sealed container. Odors generated from the handling of cannabis material and the resulting oils will be captured inside of the facility with no noticeable odor outside; the facility will utilize carbonated filters. There is no equipment used that will generate high vibrations.

Mr. Van De Wiele asked Mr. Richmond, II what is done with the waste product. Mr. Richmond stated that he gets in is the plant material that is ground down and then the extraction is from that. The waste product that comes out of the machine has nothing left in it because it is a dry mass, but it is mixed with sawdust or grass trimmings. The state will tell us how to get rid of the waste.

Mr. Richmond came forward and stated that he has made an effort to talk with the neighbors in a wide area. He has tried to work within the system and be as transparent with INCOG and the neighbors as possible. The one concern that he heard was the use of CO2 now and changing it in the future; the City of Tulsa is going to do inspections regularly.

Mr. Bond asked Mr. Richmond if that was a park located to the east of the subject property. Mr. Richmond stated that it is a detention pond.

**Interested Parties:**

There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the Special Exception to allow an Industrial/Moderate-Impact Manufacturing and Industry/Moderate-Impact Medical Marijuana Processing Facility in the IL District (Section 15.020), subject to conceptual plans 13.14 and 13.15 of the agenda packet. Subject to the following conditions of those that already exist in statute ordinance, specifically 35.070.B2. 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:

**LTS 1 & 2 BLOCK 1, EWING IRRIGATION RSB PRT L 15 & 16 B1 GOLDEN VALLEY ADD, GOLDEN VALLEY, City of Tulsa, Tulsa County, State of Oklahoma**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

**22570—Encinos 3D Custom Products & Signs**

**Action Requested:**

Variance from requirement that dynamic displays not be located within 200 feet of an R District (Section 60.100-F); Variance from the requirement that dynamic displays not be located within 20 feet of the driving surface of a curb/roadway (Section 60.100-E). **LOCATION:** 1442 South Quaker Avenue East **(CD 4)**

**Ms. Radney recused and left the meeting at 3:24 P.M.**

**Presentation:**

**Christian Ortiz**, 9810 East 58<sup>th</sup> Street, Tulsa, OK; stated the proposed sign is located in a unique area on Cherry Street. The proposed sign is very similar in dimensions and height to the existing sign on the subject property. The existing will be reused for the new sign; the only thing will be an updated look and the addition of the LED for the dynamic display. The existing pole and sign are currently twelve feet from the curb, but in front of the curb is designated parking spaces; it is not a driving surface. On the other side of the designated parking spaces is 24 feet so the 20-foot requirement is exceeded. Mr. Ortiz stated that he spoke with Mr. Bob Kolibas at the City and he was not sure and said to request the Variance. The residential zone is 198 feet from the sign and that area is a parking lot. The LED board will be equipped ambient light sensors that adjusts the brightness of the board as the light changes. There is also a building between the sign and the residential area so it will block the light from the sign.

Mr. Van De Wiele asked Mr. Ortiz if the new sign would sit no closer to 15<sup>th</sup> Street than the existing sign. Mr. Ortiz answered affirmatively.

Ms. Ross asked if the sign would have animation or is it strictly an announcement type board. Mr. Ortiz stated that it is a static announcement board.

Ms. Back stated that her concern is that the sign is very close to a lighted intersection where it is very busy and pedestrian. She likes the new design of the sign, but the dynamic display portion is what she is having a hard time with.

Ms. Ross stated that there have been people killed and severely injured crossing 15<sup>th</sup> Street because people are not paying attention.

Mr. Bond agreed and stated that it is one of the heavily pedestrian trafficked areas in Tulsa. It is also heavily congested with traffic all the time.

Mr. Ortiz stated that the Cherry Street Home Owners Association gave the sign a thumbs up and stated they have no problem with the proposed sign. The main purpose for the board is to provide messages to be read. Currently there is a reader board which is done manually by hand in changing the copy. The intended purpose in this case is to create the same kind of messages that are going to be read and not an advertisement and it eliminate the need to go outside to change letters. The church has had to add a guard to keep the public from adjusting the letters and to prevent the theft of the letters.

Ms. Ross asked Mr. Ortiz if he knew of any businesses on Cherry Street that have a dynamic display sign. Mr. Ortiz stated that CVS located at 15<sup>th</sup> and Utica. Ms. Ross asked if he knew of any business between Peoria and Utica. Mr. Ortiz stated that he could not think of any.

**Interested Parties:**

**Kathy Brown**, Pastor, St. Paul United Methodist Church, 1442 South Quaker, Tulsa, OK; stated her congregation has talked about this sign and she would like to make it very clear that the sign will not be used for “bells and whistles” because the church is a very traditional service. The church would like to have something that fits with the Cherry Street image because the current sign is very outdated and is an eyesore for Cherry Street. The church just wants a sign that will deliver messages. Rev. Brown stated that all the businesses are on the sidewalk and there is no place for an LED sign, and the church at least has the 24 feet.

**Comments and Questions:**

Mr. Van De Wiele stated that the Board is not being asked for a Variance to have a dynamic display, they don't need that. It is where the dynamic display is located. As to the first request it is only two feet. The R District is 198 feet away instead of 200 feet and it is a parking lot. The second request is that it cannot be located within 20 feet of the driving surface, and it sounds like there was discussion with Mr. Kolibas about the curb side parking counting as driving surface, and he would guess that it probably does count. Cars that are pulling in that area to park are probably going to be less distracted by the sign so he would be in favor of the sign.

Ms. Back stated that she is not in favor of the dynamic display being as close to the road as it is. Years ago, a similar sign was denied around 91<sup>st</sup> and Yale because it was

too close to the intersection and too close to the lights, and it would draw the attention away from people looking at the stop light.

Mr. Bond stated this is a very compact area, heavily pedestrian traffic area at all hours not just nine to five. The traffic is horrible, and he does not want to start a trend on Cherry Street for dynamic display signs. This is an amazing church and is a vibrant part of Cherry Street, but he does not want a dynamic display sign on Cherry Street for safety reasons because it will alter the essential character of the neighborhood.

**Board Action:**

On **MOTION** of **BOND**, the Board voted 3-1-1 (Back, Bond, Ross "aye"; Van De Wiele "nay"; Radney "abstaining"; none absent) to **DENY** the Variance from requirement that dynamic displays not be located within 200 feet of an R District (Section 60.100-F); Variance from the requirement that dynamic displays not be located within 20 feet of the driving surface of a curb/roadway (Section 60.100-E); for the following property:

**LT 4 LESS W3 & LT 5 BLK 1, BROADMOOR HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

**Ms. Radney re-entered the meeting at 3:44 P.M.**

***Subsequent to the January 8 meeting, it was discovered that notice of the New Applications was not published as required. Consequently, the Board did not have jurisdiction to make a decision on each New Application at its January 8, 2019 meeting. The Board will make its decision on each New Application at a future meeting upon compliance with notice requirements.***

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**OTHER BUSINESS**

None.

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**NEW BUSINESS**

None.

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**BOARD MEMBER COMMENTS**

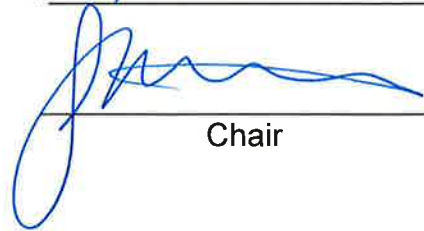
None.

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There being no further business, the meeting adjourned at 3:45 p.m.

Date approved: 2/14/19

  
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Chair