

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1226
Tuesday, April 9, 2019, 2:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Van De Wiele, Chair Ross, Secretary Bond Radney	Back, Vice Chair	Wilkerson Ulmer Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on April 4, 2019, at 11:44 a.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.

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

MINUTES

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Back absent) to **APPROVE** the **Minutes** of the March 26, 2019 Board of Adjustment Special meeting (No. 1225).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. Any motion will require an affirmative vote of three of the remaining four Board members to approve any motion that is made. When there is less than a full Board the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board may be present. If an applicant or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. Mr. Van De Wiele also informed the audience that he will be recusing from agenda Item #7, which will leave three Board members and it is

his understanding that the applicant is willing to continue with three Board members. The audience nodded their understanding and no one came forward to request a continuance.

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UNFINISHED BUSINESS

None.

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NEW APPLICATIONS

22607—Louise Thompson

Action Requested:

Variance to reduce the minimum frontage requirement in an RM-1 District;
Variance to reduce the minimum lot width requirement in an RM-1 District to permit a lot-split (Section 5.030). **LOCATION:** 2535 East Archer Street North (CD 3)

Presentation:

Louise Thompson, 553 North Tacoma Avenue, Tulsa, OK; stated she would like to use the property as it currently exists by utilizing the existing access off North Atlanta Place, which is an alternative to an additional curb cut access off Archer Street. The preservation of the historical house, which is over 100 years old, will maintain the neighborhood. The smaller lot size in the area is supported by the market and the City of Tulsa has no objections.

Mr. Van De Wiele asked Ms. Thompson to explain to the Board her hardship for the Variance. Ms. Thompson stated the area is in the lower income bracket, and property of the size of the subject property is not common in the area. The Habitat for Humanity is in the area building affordable housing, and at this time she is converting a garage into a single-family home which is what the area will support.

Mr. Van De Wiele stated that the gravel drive will need to be paved or asphalted before a final approval can be given, because if the smaller house in the rear were to be rebuilt it would likely necessitate transforming the existing gravel drive into a concrete or asphalt drive.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele clarified that the request on the lot width is to go from 50 feet to 43.98 feet, but the rear lot line is 60 feet so the 43.98 feet the Board sees in the application is basically a mathematical average of lot width given the long panhandle.

Ms. Radney stated that she agrees with the split making the lot conforming with the neighborhood, but she is not quite sure she can see what the hardship is.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Back absent) to **APPROVE** the request for a **Variance** to reduce the minimum frontage requirement in an RM-1 District from 30 feet to 13.6 feet on Tract A; **Variance** to reduce the minimum lot width requirement in an RM-1 District on Tract A to permit a lot-split (Section 5.030), subject to conceptual plan 2.26 of the agenda packet. The Board has found the hardship to be the large lot size being much larger than the surrounding lots. 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 90 S OF NWC TH S13.6 E50 S190 E96 N204.35 W146 TO BEG BLK 8, CHEROKEE HGTS 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22609—Bob Keathley

Action Requested:

Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS District (Section 15.020); **Variance** to allow

outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A). LOCATION: 3402 East Pine Street North (CD 3)

Presentation:

Bob Keathley, 5309 East 161st Street, Bixby, OK; stated this site will be very low volume sales only and there will be no rentals or storage; the car sales would extend to the west on the subject site. Mr. Keathley stated he owns the building and does not want to erect a fence or keep cars on the site overnight.

Mr. Van De Wiele asked Mr. Keathley to explain his hardship for his Variance request. Mr. Keathley stated that he will not be selling enough sales volume to warrant renting a facility some place else. Mr. Van De Wiele stated the hardship cannot be financial in nature.

Mr. Van De Wiele asked Mr. Keathley if the display of vehicles would be visible to the houses in the rear of the subject property. Mr. Keathley stated the cars would be seen. Mr. Van De Wiele asked Mr. Keathley if he would be keeping the cars on the lot overnight. Mr. Keathley stated that he would not because he does not want to erect a fence to keep the cars safe.

Ms. Radney asked Mr. Keathley where he will be storing the cars overnight since he is not keeping them on the subject property overnight. Mr. Keathley stated that he and his partner take the cars home.

Mr. Bond asked Mr. Keathley if he would be expanding either the building or the parking lot onto the lawn area to the west. Mr. Keathley stated that he has no such plans.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Back absent) to **APPROVE** the request for a Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS District (Section 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A), subject to conceptual plan 3.13 of the agenda packet. The Board has found the hardship to be the existing building will shield the abutting residential district. There is to be no overnight vehicle storage, and there is to be a maximum of three vehicles for sale to be stored on the subject property at any given time. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public

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

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

LTS 19 & 20 BLK 2, HARRIS HGTS, City of Tulsa, Tulsa County, State of Oklahoma

22610—AAB Engineering, LLC

Action Requested:

Special Exception to allow duplexes in an RS-3 District (Table 5-2.5). **LOCATION:**
NW/c of East 13th Street South & South Delaware Avenue East (CD 4)

Presentation:

Alan Betchan, AAB Engineering, 200 North McKinley, Sand Springs, OK; stated this request is to allow two-story duplexes on the northwest corner of 13th and Delaware. This tract is unique in that it is surrounded by RS-3 zoning, but as a person travels north on Delaware there is an existing church then a school so there are no true single-family residential properties on the west side of Delaware. This would be an extension of that area of what is non-conforming to the RS-3 zoning. The subject site is an existing six lots that have been combined, and the request is for four duplex units. The property was combined with the church parcel as one single parcel, so there are six underlying lots that were originally platted in this tract. In an effort to minimize the number of drive cuts on Delaware it was decided to have a common access to rear entry garages. In reviewing the initial letters and input he is comfortable with doing common drives off Delaware instead of an alleyway in the rear.

Mr. Van De Wiele asked Mr. Betchan if he changed the plan would there still be rear loading garages. Mr. Betchan answered affirmatively. Mr. Van De Wiele asked if there would be eight driveways or four driveways. Mr. Betchan stated there would be four driveways with dual access to the rear loading garages.

Mr. Betchan stated the specific architectural design of the duplexes is in process and will not be finalized until it is decided whether the duplexes will be allowed. It is anticipated that each unit will be 3,000 square feet per duplex, 1,500 square feet per side, which would allow a two-car garage at 20 feet for each one without exceeding the 40% ratio and that is if it is detached. If the common drives are utilized it is not necessary to detach the garage because they could actually be contiguous to the units. The fundamentals are that this is an area that is a very eclectic part of Tulsa. There are many different uses and a lot of different architectural styles and a lot of duplexes in the area. He is asking to have the most density out of the parcel in an area where it is supported by the proximity to Tulsa University and the demand for rentals in the neighborhood.

Ms. Ross asked Mr. Betchan if he has discussed with the client about the neighborhood being very eclectic and that it does have a certain type of design throughout the area. Mr. Betchan answered affirmatively.

Mr. Betchan presented a drawing of a potential idea for the proposed duplexes on the overhead projector and stated the layout would change with the rear entry garages. The idea for the rear entry garages is that it would make it more walkable because it is anticipated to be a walked area due to the proximity to Tulsa University and 11th Street; this is an area where there is a lot of pedestrian activity.

Mr. Van De Wiele informed the audience that the Board has received a substantial amount of correspondence, including a letter from Councilor McKee, regarding this project.

Interested Parties:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated he is a member of the Renaissance board, for 20 years now, and there are four members of the Board in attendance today including the President and Vice President. There have been two emergency meetings as a Board and also with neighborhood representatives, particularly with those most directly impacted. His first request would be to ask for a continuance because there has been minimal information provided. There is a site plan which is no longer a valid site plan, and he has just seen the rendering. There is a general preference, particularly representing the views of people on 13th Street and on Columbia Place to see this developed, as can be done by right, as six individual homes done in a fashion appropriate to the neighborhood with almost exclusively rear garages on the east side of Delaware. That would be the first preference for the neighborhood if a continuance is not an option. The neighbors want to avoid structures as seen on the old Chapman Marshall property on 21st Street, as the general consensus is that they are ugly. Mr. Neal stated he agrees with Mr. Betchan in that the area is a very eclectic neighborhood

and that there are a significant number of renters, the neighbors just want this to be appropriate to the neighborhood.

Ms. Ross asked Mr. Neal if there was any one group of duplexes that everyone could eventually agree to or is the issue that it is duplexes. Mr. Neal stated it depends on who is speaking; there are some neighbors that would prefer to see no duplexes of any kind. Mr. Neal presented ideas of what the existing duplexes in the neighborhood look like.

Mr. Van De Wiele asked Mr. Neal how large of an area does Renaissance cover. Mr. Neal stated the whole neighborhood is one mile wide, from Lewis to Harvard, and ½ mile north from 15th Street to 11th Street; about 1,000 households.

Angela Flax, 1230 South Delaware Place, Tulsa, OK; stated she is the Renaissance Neighborhood Association President, and she has owned a house in this neighborhood since 2004 and is in the 300-foot radius of the subject property. Ms. Flax stated that she likes the neighborhood so much that she purchased another house located at 1234 South Birmingham Avenue. She strategically sought this neighborhood because she moved from another part of Tulsa and moved to this neighborhood specifically because of the quaint charm and vintage style of the houses and the potential for walkability. Ms. Flax stated that she has met with several of the neighbors to hear their concerns regarding the development in the Highpoint Addition. The documents received from AAB show four square boxes reflecting the duplex housing with no design, and then four smaller square boxes reflecting the potential for garages. This does not show adequate information to represent a design for a proposed building. As residents we will be directly impacted by what comes into the neighborhood. This developer is taking advantage of the neighborhood brand; our marketability and sales potential of the Renaissance mid-town neighborhood. By taking advantage of the marketability he is leveraging that for his own profit and as a resident of the neighborhood she would like to have input in the design since he is using the neighborhood marketability.

Mr. Van De Wiele stated that he wants everybody to be careful about the existence or the lack of your property rights in this piece of property, because he daresay none of the neighbors had input in the design of other houses. Be careful on that aspect because we don't have the ability to design a house for this applicant and nor do the neighbors.

Ms. Flax stated that she would hope that the neighbor's viewpoint as a collective neighborhood would be heard and appreciated by the builder or developer. The residents will be neighbors to whomever chooses to live in the single-family house or duplexes. Ms. Flax stated that she is requesting, as the Board President, that the developer at least consider the current resident's input into the design of the proposed structures. There has been precedent's set in mid-town neighborhoods before, where the neighborhood community did have input for new builds, i.e., the CVS located at 15th and Utica. Ms. Flax presented several photos on her cell phone of different buildings in the area where the residents had input in the design. Ms. Flax stated the residents have not received enough information on what the proposed build will look like, and they are asking for a hold on the approval on the requested Special Exception. The style in

the Renaissance neighborhood reflect houses from the 1920s, 1930s and 1940s. Ms. Flax presented a set of photos from her cell phone of duplexes that were erected in the Chapman location that do not fit into the neighborhood, and she understands it is the same developer for today's request.

Weydan Flax, 1230 South Delaware Place, Tulsa, OK; stated he would respectfully request the Board deny the Special Exception. The Comprehensive Plan states that an existing neighborhood is intended to preserve and enhance Tulsa's existing single-family neighborhoods and does call for some infill projects. By the nature of the Special Exception he thinks it goes against the nature and the grain of the existing neighborhood and the area of stability. The concept of stability and growth is specifically in line with the unique quality of the older neighborhoods that are looking for new ways to preserve their character and quality of life. His concern is that this is a half block area for duplexes that could bring up to 16 vehicles and 24 to 32 people in the area if there are eight units built.

Mr. Van De Wiele asked Mr. Flax if it was the use as a duplex or is it the potential lack of architectural compatibility, or both, that has him most concerned. Mr. Flax stated the most concern is the lack of compatibility then on top of that is the number of cars and people that could be within a half block.

Ms. Radney asked Mr. Flax if Renaissance had a small area plan that applies to it. Mr. Flax answered no. Ms. Radney asked Mr. Flax if Renaissance was working on a historic overlay. Mr. Flax stated they are working on a special overlay. Ms. Radney stated that she is intimately aware of what the first speaker spoke about, she was part of an adjoining neighborhood, Terrace Drive Neighborhood, and many people know that neighborhood was adamantly opposed to the CVS structure. This particular site does not impact her directly and she does not have a relationship with the Renaissance residents, but she wants the audience to be aware of the fact that her neighborhood is aware of Renaissance.

Mr. Bond asked Mr. Flax if he has had an opportunity to sit with the developer and discuss the subject plans. Mr. Flax stated that he has not.

Tina Crawford, 2744 East 13th Street, Tulsa, OK; stated she lives directly across from the subject property and has lived there since 1993. When she moved into her house there were three residential lots on the church property including a church youth building. Currently there is a small driveway that led to the church building that was on the property; since then the three houses have been razed. When Albertson's was first put in at 15th and Lewis some of the houses were moved onto Columbia and made them larger homes, and that developer actually spoke with the neighborhood about bringing those houses in from Albertson's. Some of those residents are the ones directly impacted, the ones living along Columbia, as well as herself. The residents main concern is that no one spoke to them. She took a picture of the sign that was erected on the subject property on March 26th and this hearing is on April 9th, there is no time when neighbors could be spoken to or any Board. Ms. Crawford stated the residents

are not opposed to single family dwellings; she would like to see residential development more so than commercial development. Tulsa University, over the years, when they build something new the resident's property values go up and she feels that if duplexes are erected on the subject property the property values will go down. The duplexes that were shown today are on the west side and close to Lewis; on the Delaware side of Renaissance there are mostly single-family dwellings with two churches and a school. Ms. Crawford stated that she is glad the proposed alleyway is off the table because that would be directly across the street from her house.

Mark Ogan, 1247 South Columbia Place, Tulsa, OK; stated he purchased his property in 2013. He did research on property values before moving into the neighborhood, and especially did research on the six empty lots behind him. At that time there were six individual single-family residential lots and they were zoned that way. He is confused whether it is six single-family lots or if it is platted as one lot or four lots. Until he spoke with the developer last night, he did not realize that the agent for the property that is advertised is actually the owner agent of the property. Mr. Ogan stated that he wants to request a continuance so the neighborhood can get answers to their questions; how many lots are there, who is the actual owner, has the purchase already been made or is it a contingency? Mr. Ogan stated if a continuance cannot be had he wants to see the property remain single-family residences. There is a single-family structure located at 1307 South Delaware that was constructed in 2015 and it sold very quickly. Mr. Ogan stated he did speak with the developer and told him he would like to see the property remain as single-family residences, and the developer told him that given what he paid for the property he cannot make any return on the investment that way. Mr. Ogan stated that tells him the developer spent too much on properties zoned single family. The residents very much like the character of the neighborhood and want to maintain the single-family residence in the portion of the neighborhood where they live. His first concern is duplexes; the neighbors want single-family dwellings. His second concern would be the architecture; the neighbors would like to see something in character with the neighborhood.

Ms. Radney asked Mr. Ogan if he meant in terms of massing and scale, or is he talking about architecture aesthetic when he states he wants to see something in character with the neighborhood. Mr. Ogan stated he means massing and scale.

Mr. Ogan presented a picture of a house located south of 13th and Delaware on the east side of Delaware; the house has a carport. He spoke with that homeowner and the homeowner told him that when she purchased the house, she was told there was room for a garage to be built if she wanted. This is the sort of thing the residents would like to see continue.

Destiny Peterson, 1227 South Columbia Place, Tulsa, OK; stated her property backs up to the subject property. She stands with her neighbors, and first and foremost would like to see this developed as zoned which is currently for single-family houses. She does not believe the significant desire for rentals in the neighborhood necessitates a duplex being built. Ms. Peterson stated that her house was a rental for many, many

years before she purchased it. She does not think the desire to maximize the ability to increase their income from renters necessitates the property being rezoned to a duplex to meet rental demand in the neighborhood. Everything that butts up to the subject property are single-family houses. Ms. Peterson stated that her concern is the two-story structure which is surrounded by single story houses.

Ms. Ross asked Mr. Wilkerson if duplexes were considered part of single-family residential neighborhoods or are, they a different classification? Mr. Wilkerson stated that it is not unusual for duplexes to be mixed into a neighborhood setting, but that is the reason they are required to come before the Board of Adjustment to meet that requirement.

Dyan Lewis, 1235 South Columbia Place, Tulsa, OK; stated she agrees with all the neighbors, but one aspect since she has moved to the neighborhood is that her car has been broken into multiple times; she has a privacy fence and a gate with a permanent lock on the gate. There are people camping at the church and police have been called several times, and with the alleyway it would encourage people to congregate in that area. Ms. Lewis stated that today is the first time she has seen the two-story proposal which she hates because she has a pool in her back yard. She expects little houses to be built and certainly not an alleyway behind her fence.

Kyle Casper, 1235 South Atlanta Place, Tulsa, OK; stated he has dual graduate degrees in architecture and in real estate finance and development. His mother was in Kaiser Rehab and he went to this neighborhood everyday and had lunch with her. Mr. Casper stated that he is the guy that tried to put six modern townhouses next to the lighthouse, and he did talk with the contractor because he wants to respect all of his rights. Mr. Casper thinks if the neighbors would sit down for a discussion, he thinks all of this would vaporize. Mr. Casper asked the Board to explain what is specifically needed for a Special Exception to be approved so the duplexes can be built.

Mr. Van De Wiele stated the standard is that the project is in harmony with the spirit and intent of the Code, and non-injurious to the neighborhood or otherwise detrimental to the public welfare. Mr. Van De Wiele stated that from a density standpoint, he does not want to live in a neighborhood where he rubs elbows with his neighbor. However, it is not only the current gist of the Tulsa Zoning Code and Comprehensive Plan, but infill is the move to getting people back to the neighborhood. Mr. Casper stated he knows it will be a pedestrian lifestyle because people want to be able to walk on the street. He thinks it is in everyone's best interest to have a meeting to talk.

Rebuttal:

Alan Betchan came forward and he thinks some of the problems that are being seen, is what is the typical style of the neighborhood. An eclectic neighborhood is a very diverse range. The reality is that the developer has the right to build six of the ugly garage facing houses today, that is exactly what they don't want. What is being asked for is to be able to build duplexes and place the access in the rear. There is an opportunity for the neighbors to have input. The question that is before the Board is are duplexes

injurious to the neighborhood in that location in that spot? The reality is the area to the north is not used as single family currently on Delaware on that side of the street. This is the place that infill, getting that density, make sense and that the Comprehensive Plan supports. This is where that actually works. This proposed plan is more conforming than the other options that actually provided additional density. The reality is this is a Special Exception in RS-3 zoning that fits. It boils down to the fact that a portion of the neighborhood does not think duplexes are appropriate and his client does, and that is why he is here.

Mr. Bond asked Mr. Betchan what his time frame is for the project. Mr. Betchan stated that dirt would be turned tomorrow if they had the plans completed and building permits in hand.

Ms. Ross asked Mr. Betchan what the rental range would be for a unit. Mr. Betchan stated that they would rent for \$1,500 to \$2,000 per month; about \$1.40 per square foot outside of the garage.

Ms. Radney asked if the units would be held as a bundle or if they would be owned individually. Mr. Betchan stated the Code will require they be split individually in lots, so their intent is to have four individual structures on their own individual lots.

Comments and Questions:

Mr. Van De Wiele asked Mr. Wilkerson if Delaware is a major thoroughfare. Mr. Wilkerson stated that Delaware does not have an arterial designation, it is a residential collector.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Back absent) to **CONTINUE** the request for a Special Exception to allow duplexes in an RS-3 District (Table 5-2.5) to the April 23, 2019 Board of Adjustment meeting; for the following property:

LTS 13 THRU 18 BLK 2, HI-POINTE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22611—Steve Easley

Action Requested:

Variance to reduce the required street setback (Table 5-2); Variance to reduce the minimum lot-width requirement (Table 5-2); Variance to reduce the minimum lot area and lot area per unit requirement (Table 5-2). **LOCATION:** 2611 East 41st Street South **(CD 9)**

Presentation:

Steve Easley, 9640 South 67th East Avenue, Tulsa, OK; stated there has been multiple discussions with staff, and when he goes through the history of the land, he thinks it will be clear why he has confusion at this point. Mr. Easley stated he purchased the subject property in December 2016, and prior to purchasing the property he met with INCOG staff and inquired about the potential to split it and he was advised that the staff could not see any reason that he could not split the property. When he purchased the property, he realized there was a 20-foot section to the west that had been given up in a tax sale for \$18.00. He researched that purchase and then purchased the 20-foot strip for \$4,300.00 and did a lot combination. The lot combination was done in March 2017, then in October 2017 he was approved for a lot split, splitting the property from the north 100 feet. There in lies the confusion in the Variances. The Variances are to ask for a lot split and he feels he already has a lot split.

Mr. Van De Wiele stated that it is his understanding that the lot split deeds have not been filed. Mr. Easley stated that is correct. The only requirement of the lot split was to designate the sewer line amendment and how to bring sewer to the second lot, the lot farther south. Mr. Easley stated the neighborhood as it sits right now is unplatted, consists of both RS-1 and RS-2 houses, and has RS-1 houses that do not meet the RS-1 requirements. What he is asking for in the first Variance is simply to have a build line that puts the house in line with the other houses on 41st and returns the build line to where the previous house had sat.

Ms. Ross asked Mr. Easley if Tract B, the one that is farther south, abuts 41st Street South, and that is where the house is to be built facing 41st Street? Mr. Easley stated he would like to face the house toward Birmingham. If he cannot do that then the house could face 41st Street having 140 feet of frontage. Mr. Easley stated that the subject property still extends to the middle of 41st Street, the right-of-way was never taken.

Mr. Van De Wiele asked Mr. Easley if the first Variance he is requesting is for a setback from the right-of-way line. Mr. Easley answered affirmatively. Mr. Van De Wiele stated he discussed this matter with INCOG staff and that looks like it would put the building setback even with or within about five feet of the houses on the west and on the east side. Mr. Easley stated that is correct.

Mr. Easley stated the lot size of the house immediately to the east is 12,966 square feet and that is prior to all the setbacks. Their lot requirement is substantially less than his, so he is asking not to have a burden beyond what that lot has. Mr. Easley stated that Lot B is substantially larger than Lot A that fully qualifies for RS-1. The water easement runs down 41st Street but that is actually grass curbed lawn.

Interested Parties:

Elizabeth Crews, 3880 South Birmingham Place, Tulsa, OK; stated she is the house directly north of the subject property. She bought in the neighborhood in 2000 and it was the lot sizes that attracted them. All of the houses in the neighborhood have ½ acre lots and that is the attraction to the neighborhood. When she and her husband

purchased their house there was a single house on the subject property and it has since been removed. In the 1980s the neighbor across the street was very involved in getting the neighborhood zoned RS-1 and that was to keep the lot sizes large, not split the lots. Ms. Crews stated that she has had a lot of conversations with the neighbors over the weekend, and all the neighbors agree that splitting the lot would not be consistent with the neighborhood aesthetics and the integrity of the neighborhood, and they do not want the subject property split. Mr. Easley has stated that he does not live in the neighborhood nor has he lived in the neighborhood and he will not live there afterwards so he will not be impacted by the aesthetics of having two houses on the subject property. The neighbors are also concerned that this will set a precedent. There are currently two empty lots that she thinks if this passes the Board will also hear from them also.

Ms. Ross asked Ms. Crews if it was her understanding that this is more of an investment opportunity. Ms. Crews stated she does not know, but what was a single-family lot is now going to become two lots.

Ms. Easley stated that lot as it exists now is unsightly, but the neighborhood does not need a gateway to the neighborhood. The neighborhood is a lovely neighborhood, and two 5,000 square foot houses on that subject property will be a detriment and will not improve the value of the neighborhood houses. Ms. Easley stated that she wants to see only one house on the subject property not two houses, because she is the most directly affected in the neighborhood. Ms. Easley requests the Board deny this request.

Doug Crews, 3880 South Birmingham Place, Tulsa, OK; stated the subject property is on Birmingham Place not on Birmingham as previously stated. Mr. Easley stated he grew up in the neighborhood on 38th Street and moved back to the neighborhood because of its beauty, the lot sizes, the size of the houses, and it is a wonderful mid-town neighborhood. Mr. Crews stated that his background is that he is a fourth generation Tulsan, he is in the housing, lumber industry and land development and he has an extensive background in that industry and retired from it. Mr. Crews stated that Judge Brightmire purchased the subject property with a house on it and used it as rental property. The 20-foot easement section that is on the west that was split off was intended to have a lot split with a re-entry drive. The RS-1 zoning was granted in 1982 after going to District Court, and that has been protected fiercely as most recently for the lot on 36th Street that was denied a lot split going from RE to RS-2. Mr. Crews stated he knows the City has been in negotiation with all the unplatted property owners in the neighborhood to purchase the right-of-way, and he would assume that Mr. Easley has already received compensation for his right-of-way. Mr. Crews stated that Mr. Easley has only spoke to two people and the Zoning Code encourages applicants to reach out to the neighbors to discuss potential plans. Mr. Crews stated that he went to INCOG and did some research on the subject property and was told that it was not a confirmed lot split because the deeds had not been filed, and Mr. Easley has approached house numbering and actually has tentative house numbering for the two pieces of property that are not deeded. Mr. Crews stated the Variance being granted will not meet the criteria of Section 70.130.H, a through g. Under Section 206, in the

Tulsa County zoning, it is stated that a lot shall not be divided in two or more lots unless the lots resulting from such divisions conform to all applicable regulations of the Zoning District in which they are located. Mr. Crews stated that to him this should not have even gotten this far under those guidelines. Mr. Crews stated he strongly objects to the Variance that would create this lot split.

Rebuttal:

Steve Easley came forward and stated the majority of the lots are usually between .29 and .38 not ½ acre lots. He appreciates the Crews coming forward and he has been a good neighbor. Mr. Easley stated he has received no compensation for anything from the City in regard to the setbacks.

Ms. Ross asked Mr. Easley if one of the lots were going to be for his personal residence. Mr. Easley stated that he and his wife will be moving in the next two years whether it is to the subject property or to another project that he is proposing.

Comments and Questions:

Mr. Van De Wiele stated the lot split was approved by the Planning Commission and the City of Tulsa, but the deeds have not been filed so at this point is it just one lot. There is an argument for that being the hardship although it is his understanding from testimony from the applicant that the property was purchased in 2016 and split it in 2017.

Ms. Ross asked if the Variances are not granted then the applicant does not receive the lot split. Mr. Van De Wiele thinks that is correct.

Mr. Van De Wiele asked staff if the lot split has been granted but not complete. Mr. Wilkerson stated that the lot split as it was presented does not meet the subdivision regulations for requiring the right-of-way to be dedicated. He believes that even though the Engineering Department did not require that during the process the deed would not be stamped until that was resolved. Mr. Wilkerson stated the applicant could not receive a building permit until the right-of-way is dedicated for Tract B, but he could receive a building permit for Tract A.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Back absent) to **APPROVE** the request for a Variance to reduce the required street setback (Table 5-2); Variance to reduce the minimum lot-width requirement (Table 5-2); Variance to reduce the minimum lot area and lot area per unit requirement (Table 5-2), subject to conceptual plan 5.24 of the agenda packet. The Board has found the hardship to be the taking of the right-of-way by the City thereby reducing the building area available on the lot, and the pending lot split that has not yet been approved, and the size of the lots to the east being of similar size to the lot size the applicant is requesting today, subject to the condition that the 50'-0" right-of-way shown on page 5.24 is dedicated to the City of Tulsa prior to the building permit being granted on Tract B. 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:

S242 E/2 S/2 W/2 W/2 SE SW LESS W20 & LESS E25 FOR ST SEC 20 19 13 .666AC; W20 S242 E/2 S/2 W/2 W/2 SE SW LESS S50 THEREOF FOR RD SEC 20 19 13 .088AC, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Bond left the meeting at 3:20 P.M.

22612—Keith Construction Company

Action Requested:

Verification of the 300-foot spacing requirement for a liquor store from other liquor stores, plasma centers, day labor hiring centers, bail bond offices or pawnshops in the CH District (Section 40.300-A). **LOCATION:** 3135 East 15th Street South (CD 4)

Mr. Bond re-entered the meeting at 3:22 P.M.

Presentation:

Will Keith, Keith Construction Company, 1711 East Skelly Drive, Tulsa, OK; stated he is the contractor hired to renovate 3135 East 15th Street. The Bird family owned and operated a liquor store about ¾ of mile west of the subject property. Their desire is to renovate the building on 15th Street and move their liquor store into the facility. There are no other liquor stores in the 300-foot radius and no other conflicting businesses.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Back 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 the 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:

LT 13 & 14 BLK 10, EAST LAWN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22613—Hall Estill

Action Requested:

Special Exception to allow an Industrial/Low-Impact Manufacturing and Industry for medical marijuana processing in the CBD District (Section 15.020). **LOCATION:**
TENANT SPACE – 15 East Mathew Brady Street North (CD 4)

Mr. Van De Wiele recused and asked Mr. Bond to chair this matter, and he left the meeting at 3:24 P.M.

Presentation:

Amanda Lowe, 320 South Boston Avenue, Suite 200, Tulsa, OK; stated the request is for the production of medical marijuana edibles at an existing currently closed commercial kitchen. The production would be in the back portion of the building. Currently the commercial kitchen produces regular candies and chocolates. Ms. Lowe stated that her client would also be producing candies and chocolates but with the added ingredient of cannabis oil. The cannabis oil would be processed at an offsite location, brought to the kitchen, and the liquid cannabis oil formed, mixed and baked into the chocolates, and the end product edibles would then be sold to dispensaries around the Tulsa area. Ms. Lowe stated that her client's use would be in line with the current and continued use of the property, and there would be no noticeable or observable changes to the neighborhood or in the perception of the general public.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Bond, Radney, Ross, "aye"; no "nays"; Van De Wiele "abstaining"; Back absent) to **APPROVE** the request for a **Special Exception** to allow an Industrial/Low-Impact Manufacturing and Industry for medical marijuana processing in the CBD District (Section 15.020), subject to conceptual plans 7.11 and 7.13 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 3 BLK 28 & E10 VAC ALLEY ADJ ON WL, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 3:27 P.M.

22615—Bradley Anderson

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: TENANT SPACE – 1615 South Memorial Drive East (CD 5)

Presentation:

Bradley Anderson, 1563 North Frankfort Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele stated that the Board has the applicant's spacing verification exhibits on pages 8.11, 8.12, 8.13 and 8.14.

Mr. Anderson stated that he has spoke with the people in the strip mall and they seem to be happy, and people have been stopping by as he is setting up the shop.

Interested Parties:

Shellie Clark, 8126 East 16th Street, Tulsa, OK; stated she is the manager of the apartment complex behind the strip mall. The apartment complex parking lot is right behind the subject building to the east. A bar went into the shopping center and there have been shootings there, and she has had to install a gate to keep people from parking in the apartment's parking lot. The club does not close until 4:00 A.M. and she has heard that the dispensary is not going to close until 2:00 A.M.

Mr. Van De Wiele stated the Board will ask the applicant about his hours of operation, but the dispensary use is a use by right in this zoning classification. The only thing the Board is here to determine is whether there is another dispensary within a 1,000 feet of the requested dispensary.

Rebuttal:

Bradley Anderson came forward and stated that he will be closing his dispensary at 8:00 P.M. He has installed cameras so if there is activity happening and it is caught on the camera, he will give it to the Police. He has installed panic buttons so the Police can be called quickly. Mr. Anderson stated that he is willing to work with Ms. Clark to help her if there is any problem.

Mr. Van De Wiele stated that Mr. Bradley may be the most gracious neighbor that the Board has seen here today, and he wishes that he had been on the agenda first so he could have said, "remember the applicant that came up first, that is the spirit that is sadly lacking", and he appreciates it.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Back 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 a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LTS 2 3 & 4 BLK 1, RILL ADDN RESUB L3 B4 O'CONNOR PARK, O'CONNOR PARK, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

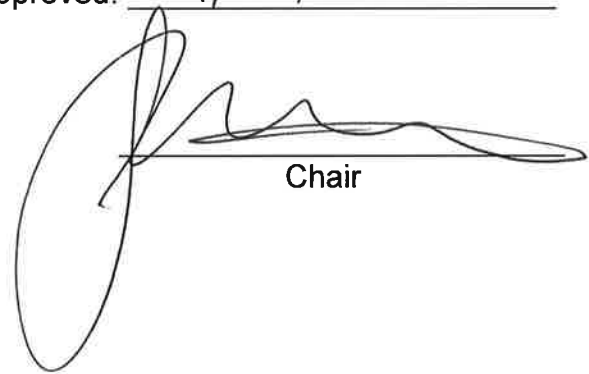
None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:35 p.m.

Date approved: 4/23/19


Chair