

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1227
Tuesday, April 23, 2019, 1:00 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 Back, Vice Chair Ross, Secretary Bond Radney		Wilkerson Ulmer Sparger K. Davis	Swiney, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on April 18, 2019, at 11:12 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 4-0-1 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; none absent) to **APPROVE** the **Minutes** of the April 9, 2019 Board of Adjustment Special meeting (No. 1226).

UNFINISHED BUSINESS

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)**

Mr. Van De Wiele stated that because the Board has heard from many of the interested parties at the previous meeting, he asks there be no repeated statements from the last meeting and because so much of this was heard at the last meeting he is going to limit the applicant to five minutes and each interested party to three minutes. What the Board will be focused on is what has changed and occurred over the last couple of weeks.

Presentation:

Alan Betchan, AAB Engineering, 200 North McKinley, Sand Springs, OK; stated the developer has met with representatives from the home owner's association, and while he does not think there is a resounding vote of support he thinks there are some things that came out of the meeting that there are compromises that may get them going where they want to go architecturally. The garages will be in the rear and all the garages will drive their access from either the adjoining streets and they will not be accessed from a common alleyway. The developer is willing to commit to 75% masonry on the main residence, but if the garages are detached the developer would like for those to be siding which is more in keeping with what exists in the neighborhood. There will be no roof decks and any second story balconies will only be allowed to face Delaware. The developer will construct an eight-foot wooden screening fence with metal posts along the rear property line with the good side facing west. The developer does not want to limit the rear facing windows on the second story to being opaque, because they are residential properties. Mr. Betchan stated that if six two-story houses were built on the subject property, they would not be required to have opaque windows. This is no more intrusive than it would be for any adjoining residential structure as far as visibility into the rear yards. The developer has agreed to construct an eight-foot fence which is in excess to what is required, though the developer would ask that not be a requirement. There has been a request for a double row of shrubs of tree screening. With the same basic principle, this is a residential use that is adjoining and if a two-story house were built it would be no more intrusive than that. Mr. Betchan stated that it is his understanding that there was not much consensus about what the architectural character of the neighborhood is; the developer wants to build a brownstone product which is what has been presented in the elevation but has not fully been detailed and designed at this point.

Mr. Van De Wiele asked Mr. Betchan if when he talks about masonry, is he referring to brick or stone. Mr. Betchan stated that it could be brick or stone. The developer's intent is to use brick and the reason for 75% is from an architectural feature above the windows or from a structural framing standpoint is that it may limit the architectural ability if 100% masonry was committed to on all sides.

Mr. Van De Wiele asked Mr. Betchan if the garage is attached will it be 75% masonry. Mr. Betchan answered affirmatively.

The developer is willing to commit to bring the plans and elevations, as they go forward in design and development of the actual construction documents, to the neighborhood

as a whole but specifically making it subject to their approval is not something they would agree because that is zoning by committee.

Mr. Van De Wiele asked Mr. Betchan if the Board were inclined to agree to the Special Exception and make it subject to the plan being presented today, and if there were any material deviations the plans would need to come back before the Board would the developer be agreeable to that? Mr. Betchan stated that the developer would agree with one exception, the plan presented today does not have the drive accesses coming off Delaware so if that is not considered a material deviation the developer would agree.

Interested Parties:

P. Casey Morgan, 2716 East 14th Place, Tulsa, OK; stated she is the Vice President of the Renaissance Neighborhood Association, and she is representing the association today. Ms. Morgan stated that members of the Renaissance Neighborhood Association Board met with Bob David of CBC Builds last week. Four residents were also present and may or may not address the Board of Adjustment separately on this matter. The proposed duplexes were discussed, and Mr. David agreed to work with the neighborhood on many of the concerns including using brick for the exterior, making efforts to have the style of the duplexes similar to the architecture of the neighborhood, having the garage be behind the duplexes, being aware of the line of sight concerns of the neighbors behind the property, and keeping the neighborhood in the loop along the way by showing the neighborhood drawings and models as they become available. The Board of the RNA has no further objections to this project.

Mark Ogan, 1247 South Columbia Place, Tulsa, OK; stated he lives directly behind the subject property. His primary concern with this proposed development is that the granting of the Special Exception is injurious to the neighborhood. Most specifically it is detrimental to the home values of nearby neighbors. Construction of four massive identical two-story duplexes gives the appearance of a quasi multi-family development which are commonly recognized as detrimental to nearby home values. Mr. Ogan stated that when he purchased his house in 2013 his realtor advised him to find out what the zoning was on the properties around him because a large development of multi-family structures would affect his house price negatively. It is his understanding with Mr. David was that the proposed duplexes would be all brick and did not leave the meeting with the understanding that there would be any siding including the garages. Mr. Ogan stated he appreciates Mr. David's reconciliation on the roof decks and second story balconies. The neighbors did ask about the eight-foot fence and screening. Mr. David stated that he was sure the plan would require landscape screening by the City, and he would meet whatever the City required. Mr. Ogan stated that he found out from Mr. Wilkerson this morning that there is no landscape screening required, and it seems that they have no intent to do that. That is very much in a line of sight with his property; there are no other two-story houses or multi-family houses within sight of his property. Mr. Ogan stated that he disagrees that it would be no more intrusive than a single-family residence; this is 30 x 50 structures in addition to the garage that are two story and his house is a 42 x 26 one story which is considerably smaller than the proposal. Mr. Ogan stated that his intent was to ask that the Board of Adjustment make approval not that

the neighbors make approval so the residents can make sure that the final plan meets the requirements of the Special Exception requirements, and that it is in harmony with the neighborhood so that it does not affect property values negatively.

Mr. Van De Wiele asked Ms. Ulmer to display page 2.132 and 2.133 on the overhead projector, and it showed a house in the area that did not have brick all the way up to the top, another house appeared to be all siding, and another house had a mixed-use material. Mr. Van De Wiele thinks that is what the Board is hearing; the standpoint of breaking up the architectural features.

Mr. Ogan stated that the garages were new to him and he did not understand that those were typically sided at all, because there are a lot of brick garages in the neighborhood.

Mr. Van De Wiele asked Mr. Ogan if the proposed style was objectionable to him. Mr. Ogan stated that it looks modern for the neighborhood, but overall, he thinks it is something he could be content with given that there is some line of sight breaks.

Ms. Radney asked Mr. Ogan if he felt he would have more of a line of sight break if the proposed garages had a pitched roof on them. Mr. Ogan stated that it is possible.

Rebuttal:

Alan Betchan came forward and stated it was discussed about using the garage height as a break in the line of sight, but then it does not meet the rear yard setback so there are Variance requirements that would come into play. The developer is asking for what he knows he can meet given all the architectural pieces in what has been presented and requested today. That is not to say that if the developer decides to erect the fully detached garage that they won't put a pitched roof on it if it works with what the adjoining neighbors are requesting. Mr. Betchan believes there is another round of conversations that have to happen as true plans are developed, but the entitlement to do duplexes is really what the developer needs to progress in production. The developer knows he can meet this, and he knows this protects the neighborhood and it meets a lot of the requirements and the desires of the neighbors.

Mr. Van De Wiele asked Mr. Betchan if the garages are detached will they be limited to one story. Mr. Betchan answered affirmatively.

Ms. Radney asked Mr. Betchan where the developer was contemplating to have the garages sitting. Mr. Betchan stated there has been two ways discussed. One of them is to turn the garages toward the interior to focus on a single drive between two duplexes; a shared drive point between two separate units. The other discussion was setting the garage back and separating them, but it becomes a livability space at that point. Until the floor plans are developed the developer can not commit to garage placement.

Ms. Radney stated she is not a fan of multiple curb cuts on Delaware; she likes the idea of seeing people enter and have a space to turn around and then head back out onto

Delaware as opposed to seeing people backing onto Delaware because there is a lot of traffic in the area. Mr. Betchan stated that was the intent of the alleyway but that was consistently objected to by the neighbors.

Comments and Questions:

Ms. Ross stated that she is in favor of the project, and she thinks it will be a nice addition. She does not think this is out of character with the neighborhood.

Mr. Bond stated this is a great neighborhood and it is in the heart of Tulsa; it is worth saving and fighting for. The proposal does not meet a harm level by putting a duplex there based on what has been heard. There has been a lot of give and take and he is in support of this request.

Ms. Radney concurs that she does not inherently believe that duplexes at this location are deleterious to the neighborhood. She thinks the concerns that the neighbors have expressed about the exterior cladding and the style of construction does make sense. It is a neighborhood that is predominately composed of smaller bungalows and ranch style houses, and to be sure there are two-story houses in the area, but they don't predominate. She thinks the concerns of the residents on Columbia Place about the potential height of the structures are valid. Ms. Radney stated that she would be inclined to support the project with some restrictions relating to aesthetics.

Ms. Back stated she was not in attendance at the last meeting, but she has read everything so she is up to speed. She commends the neighborhood for getting involved because that is how the Board knows their concerns. Ms. Back stated she knows the engineer and the architect well and she knows that they do good work. She is not as concerned about the roof pitch on the garages and does not think a pitched roof would go well with the proposed design, but she could go for clerestory windows on the second story but no frosted windows. Ms. Back stated she can support this request with conditions.

Mr. Van De Wiele stated he thinks this can be done the right way and be an asset to the neighborhood. His biggest concern is the idea of giving the architect any leeway. The Board has heard before, that when projects are reviewed at the permitting stage if they believe the Special Exception or Variance is impactful of what is being asked to permit then they stick to it. If it doesn't have anything to do with that which is shown on the plans being asked for permitting, then it doesn't raise that much of an issue. He would like to see something more stringent in the motion that if there is a material deviation from what is being seen on page 2.14 with the exception of shared driveways and the placement of the garage that has to come back to the Board.

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 **Special Exception** to allow duplexes in an RS-3 District (Table 5-2.5), subject to conceptual plan 2.14 of the agenda packet noted not pertaining to drive access. There

are to be no common trash or recycle receptacles allowed on site. The garages are to be located in the rear. The south facing wall of the south garage and the north facing wall of the north garage, if detached, are subject to the 75% masonry requirement on the main residence. There is to be 75% masonry on the main residence. Attached garages are limited to one story and are required to meet the 75% masonry on the main residence. Detached garages are limited to one story and for the south facing wall of the south garage and the north facing wall of the north garage are not required to comply with the 75% masonry requirement. No roof decks are allowed. Second story balconies can face Delaware only. An eight-foot wood screening fence with the smooth side facing west is required along the west property line of all four lots. The Board suggest that the applicant look into architectural use of clerestory windows on the second story west facing walls. Also, referencing the conceptual plans of the agenda packet the structure is to be a brownstone type architectural design. If there is a material deviation to the conceptual plan 2.14 of the agenda packet the applicant is required to come back before the Board of Adjustment to present the architectural changes except the plan does not show the use of the common driveways off Delaware. The term masonry refers to stone or brick. 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 13 THRU 18 BLK 2, HI-POINTE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22614—Teresa Knox

Action Requested:

Special Exception to permit a projecting sign to be located within the City of Tulsa planned street right-of-way (Section 60.020-E). **LOCATION:** 1529 East 3rd Street South (CD 4)

Presentation:

Mir Khezri, Acura Neon, Inc., 1801 North Willow Avenue, Broken Arrow, OK; stated this request is for a sign for a new restaurant located on 3rd Street. The property is unique as there is not much room to place a sign, and there is a neighboring sign that projects into the right-of-way. The proposed sign is a small sign; smaller than 36 square feet. The proposed sign will not project into the street but will be placed in the grassy area in front of the restaurant.

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 **Special Exception** to permit a projecting sign to be located within the City of Tulsa planned street right-of-way (Section 60.020-E), subject to conceptual plans 3.11 and 3.12 of the agenda packet. The Board acknowledges that a license and/or removal agreement is required. 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 20 & 21, Blk 4 , MIDWAY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22616—Sequoyah Industrial Group – Gabe Palacios

Action Requested:

Special Exception to allow an Industrial/High-Impact Manufacturing and Industry/High-Impact Medical Marijuana Processing Facility in the IM District (Section 15.020). **LOCATION:** 1202 South Sheridan Road East (CD 5)

Mr. Van De Wiele recused at 1:49 P.M. and left the room.

Presentation:

Gabe Palacios, 516 South Boston Avenue, Tulsa, OK; stated this project encompasses every aspect of the cannabis industry; cultivation, extraction, culinary, testing lab, retail supply store. The retail supply store takes up about 10,000 square feet of the proposed 140,000 square foot facility. The project will have an impressive impact on the area and Tulsa. Mr. Palacios read and submitted a letter to the Board from Greg Mosley, Thompson Manufacturing Company which is located across the street to the north; the letter was supportive. About 2,000 square feet of the subject building is proposed for ethanol extraction; ethanol is a food grade material, like Everclear. The building occupies an entire city block and has a 300-foot radius within its own property. Architecturally and structurally the extraction room will be surrounded by concrete walls. This will be a state-of-the-art facility operated by some of the experts and leaders of the industry in the nation. When the property belonged to Warehouse Market the chemicals that were stored there were much more dangerous than the chemicals to be used; i.e., Warehouse Market had a 5,000-gallon diesel storage container on site and several pallets of lighter fluid. Mr. Palacios stated that he met with Mr. Paul Ator of City of Tulsa HazMat team, and Mr. Ator toured the facility, looked at all the documentation and said there is no issue with this type of process on site. The extraction process is a closed

loop system where there is no open flame exposure, and when it is stored it is in a freezer unit.

Ms. Ross asked why the map has the boundary line going through the middle of the building. Mr. Palacios stated that he does not know why it is that way on the map, but the entire building is included. Mr. Wilkerson stated it is there because of the legal description that was provided. Mr. Palacios stated all three parcels were submitted as part of application, so why the boundary line shows in the middle of the building is unclear.

Ms. Back asked Mr. Palacios if he received anything in writing from Mr. Ator about his visual conclusions of the subject site. Mr. Palacios stated that he did not bring it to the meeting, but he could provide a copy later. Ms. Back asked Mr. Ator to provide a copy to INCOG for the case file.

Mr. Swiney stated that the item before the Board today is only for the extraction processing facility; it has nothing to do with the retail section. There is a retail feature that appears on Exhibit 4.10 and there are other requirements of the Zoning Code when it pertains to dispensaries and that is not before the Board right now.

Mr. Palacios stated that the retail he spoke of earlier is actually a grow supply store, i.e., drain trays, lights, soil, etc.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-1 (Back, Bond, Radney, Ross "aye"; no "nays"; Van De Wiele "abstaining"; none absent) to **APPROVE** the request for a Special Exception to allow an Industrial/High-Impact Manufacturing and Industry/High-Impact Medical Marijuana Processing Facility in the IM District (Section 15.020), subject to conceptual plans 4.10 and 4.11 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

BEG 655S & 50W NEC NE TH S635.92 TO N R/W E13TH ST TH W299.27 N235.30 W151 N399.52 TO S R/W E 12TH ST TH E447.57 POB SEC 10 19 13 5.754ACS, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 2:02 P.M.

22617—Jarrett Metzler

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 (Section 45.030-A); 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 an accessory structure to exceed 10 feet in height to the top of the top plate (Section 90.090-C.2).

LOCATION: 7431 East 7th Street South (CD 3)

Presentation:

Jarrett Metzler, 7431 East 7th Street, Tulsa, OK; stated he would like to build a detached garage for his classic cars. When his house was remodeled half of the garage was taken for the kitchen, so there is not really any garage space. There is nine feet on the east side of the house for a driveway for the detached garage and there is a privacy fence all the way around the house.

Mr. Van De Wiele asked Mr. Metzler what will happen to the driveway and the carport that exists on the west side of the house? Mr. Metzler stated that it will remain for his daily used cars.

Mr. Van De Wiele asked Mr. Wilkerson if the advertised request is enough to cover the driveway width.

Mr. Wilkerson asked Mr. Metzler if he had received a Letter of Deficiency from the Permit Office. Mr. Metzler answered affirmatively. Mr. Wilkerson asked Mr. Metzler if he showed the driveway that is existing as well as the proposed driveway to the Permit Office. Mr. Metzler answered affirmatively. Mr. Wilkerson stated there are limitations on driveway widths and how much driveway can be on a lot as wide as the subject lot. Mr. Metzler stated that it was discussed at the Permit Office because the staff wanted to verify the width, and he said he was more concerned about the Variances on the back side.

Mr. Van De Wiele asked Mr. Metzler if the drawing on page 5.12 was given to the Permit Office for review. Mr. Metzler answered affirmatively. Mr. Wilkerson stated that the Zoning Code stipulates that the driveway that is contained within the right-of-way on the size of the lot of the subject property cannot be wider than 26 feet, and the driveway that is in the street setback, which is between the right-of-way line and the building setback, cannot be more than 30 feet. Mr. Van De Wiele asked Mr. Wilkerson about the coverage limitations. Mr. Wilkerson stated there is an open space requirement in that zoning district, but he does not know if that is satisfied because he has not done the calculations. Mr. Van De Wiele asked Mr. Wilkerson to state that requirement. Mr. Wilkerson stated the requirement is 4,000 square feet of open space in an RS-3 District, and open space is everything that is not covered by a building, driveway or a parking area.

Mr. Van De Wiele stated that in looking at the site plan he knows there is an issue with what the applicant is asking to be approved and ultimately what the applicant wants, because it is more driveway than the Board can give. He tends to think there is not 4,000 square feet of open space on the subject lot and that is something the applicant will want to know before he proceeds.

Mr. Van De Wiele asked Mr. Metzler what the building materials will be for the garage. Mr. Metzler stated it is a steel building that will be color coded to the house.

Ms. Back asked Mr. Metzler if there were three garage doors depicted on the plan. Mr. Metzler answered affirmatively.

Ms. Back asked Mr. Metzler if he would be working on the cars to sell them or work on them to maintain them. Mr. Metzler it is for maintenance and the garage will be for personal use.

Ms. Back asked Mr. Metzler what the total square footage of the house is today. Mr. Metzler stated it is about 1,200 square feet.

Interested Parties:

Don Ellington, 7407 East 7th Street, Tulsa, OK; stated he lives four house to the west of the subject property. Mr. Ellington stated he is in favor of the proposed project. He has lived in the neighborhood for 62 years, and he has seen the neighborhood go from a very nice suburban neighborhood, fall into disrepair, and it is now rejuvenating. Mr. Ellington thinks the proposed project will be helpful to the neighborhood and Mr. Metzler is very conscientious in what he wants to do.

Comments and Questions:

Mr. Van De Wiele stated that the Board knows based on page 5.12 that there is at least one additional item of request that is not being asked for on paper but is being contemplated in this request. It may be that the review person looking at the plan was not aware of the 10'-8" drive on the west side was driveway, because the way this is drawn may have confused them. The open space issue is a concern also.

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 **CONTINUE** the request for a **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-A); **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 an accessory structure to exceed 10 feet in height to the top of the top plate (Section 90.090-C.2) to the May 14, 2019 Board of Adjustment meeting; for the following property:

LOT-14-BLK-10, PAMELA ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22618—Charlie Smith

Action Requested:

Special Exception to exceed the allowable driveway width within the right-of-way and within the street setback (Section 55.090-F.3). **LOCATION:** 3003 South Boston Place East **(CD 9)**

Presentation:

Charlie Smith, 1813 North 16th Street, Broken Arrow, OK; stated he would like to widen the existing driveway by five feet to accommodate two cars on the drive and a third in the garage.

Mr. Van De Wiele asked Mr. Smith if the existing driveway is long enough to accommodate cars without the rear of the car being in the street. Mr. Smith answered affirmatively.

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 Special Exception to exceed the allowable driveway width within the right-of-way and within the street setback (Section 55.090-F.3), subject to conceptual plan 6.19 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:

N 20 LT 23 & ALL LT 24 BLK 10, TRAVIS PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22619—Christian Harvell

Action Requested:

Variance to reduce the minimum ground floor ceiling height requirement (Table 10-4); Variance to reduce the minimum ground floor window transparency requirement (Table 10-4). **LOCATION:** **TENANT SPACE** – 1121 South Lewis Avenue East **(CD 4)**

Presentation:

Chad Duren, 1217 – 8th Avenue, Fort Worth, TX; stated the subject building is under construction and permitted, and the project is to finish out the subject building for purposes of a diagnostic imaging center. There will be components such as MRI, CT and X-ray and a couple of other components. The purpose of the requested reduction of window transparency is for privacy. The components that are on the street side is an X-ray room, an ultrasound room, and some dressing spaces. Certain components have been placed so there could be glass, i.e., waiting areas, tech space, break room, reading room, etc. The X-ray room requires lead shielding to shield the sidewalk. The other rooms are primarily for privacy. The ceiling height requirement is fourteen feet too which is unusual, and the shell building is constructed to allow a fourteen-foot ceiling. There are specific rooms that simply would not allow that to be done, i.e., the X-ray room with the overhead supported structure where the components that move will have to be hung and overhead supported. Also, in the rear there is an MRI room that simply would not allow a fourteen-foot ceiling height. The request is for nine-foot or ten-foot ceilings. The glass on the front of the building is set at ten feet, and those locations they were simply matching the glass line.

Mr. Van De Wiele asked Mr. Duren how an MRI machine requires a lower ceiling. Mr. Duren stated it would not be practical to have a fourteen-foot ceiling because the X-ray has overhead support structure so there would be a Unistrut that goes across with a gantry. Mr. Van De Wiele stated that he can see the justification for a taller ceiling but how does that justify a shorter ceiling? Mr. Duren stated that it would require more structure to bring it down.

Mr. Duren stated as the 14-foot ceiling requirement was looked at, generally, that is something that is put in for exposed duct work. To put the duct work in the truss face is not very practical, and he does not think that it is required. In terms of smaller spaces and rooms it is not as functional, so it is not as practical to put air into smaller spaces. Lower duct work will also be a privacy issue; 14-foot ceilings are primarily based on use. All the room ceilings could be at ten feet except for the RNF.

Mr. Van De Wiele asked Mr. Wilkerson if the subject building was in a MX Zone or a build your own zoning designation. Mr. Wilkerson stated it is not a build your own zoning designation, it is very descriptive on first floor heights and the amount of transparency, and where the building is placed in relation to the street, etc. This is not discretionary this is all identified as straight zoning. Mr. Van De Wiele asked if this is a Board of Adjustment issue, or is it a Planning Commission or City Council issue? Mr. Wilkerson stated this is a Board of Adjustment issue; it varies from the required minimum ceiling height of the first floor.

Mr. Van De Wiele stated that what he is hearing on the ceiling height sounds like a financial issue; that it is going to be easier, faster, cheaper for the developer to build nine foot walls, run the duct work just above the walls, drop them down into individual spaces rather than having fourteen feet. That is not a hardship the Board can approve.

Mr. Duren stated there has been no discussion about the financial impact of this project. This is the typical way a diagnostic procedure facility is constructed. Mr. Van De Wiele stated that he has not yet heard a hardship that is not self-imposed or financial as to why there is a need to lower the ceiling height from fourteen feet to ten feet.

Mr. Duren stated that he does not think a patient would want to go into a room where there was an exposed ceiling or exposed structure for an RNF room; it is not practical in terms of exposing the structure. The acoustical paneled ceiling is going to reduce sound for privacy as opposed to a really bright space.

Ms. Ross asked Mr. Duren if his client leased or owned the building. Mr. Duren believes it is a lease. Mr. Duren stated another group has designed the shell structure and it is under construction.

Mr. Van De Wiele asked Mr. Duren to explain that if the bottom of the trusses is at fourteen feet and it is a privacy issue why can things not be placed at the fourteen feet? Mr. Duren stated the ceiling has a little bit of depth, and then to put components in the ceiling requires a little more depth so that would automatically lower the ceiling below fourteen feet; just to install the light fixtures, diffusers, and the ceiling tiles in place. Beyond that, in order to install the duct work in the ceiling would be lowered even more. Typically, three feet is allowed from the truss to the lay-in ceiling to get the duct work in place.

Mr. Van De Wiele stated that what he is hearing is that the building was either built too short or that nobody will be able to finish out a space in it. He is not getting this.

Ms. Radney stated that she believes the Code was developed around the theory that these buildings are going to be sidewalk facing businesses. She thinks the issue is more that the developer is retro-fitting a use that wasn't originally intended in this particular setting. So, the building owner has built the building according to what the mixed-use Code requires, and what the developer is trying to do is retro-fit a use. Mr. Wilkerson stated that the mixed-use Zoning is very sensitive to how a building approaches the street. The zoning was not necessarily contemplating any particular user, it is about how the building looks adjacent to the street. The fourteen feet ceiling is a minimum height on the first level, and the builder has met that minimum requirement.

Ms. Back stated that the area was recently rezoned and prescribed for the look and character of the area across from Mother Road, so this particular area is going for the pedestrian scale look. If that is how the City gets there, through MX-2 zoning, she is concerned about the type of glazing being proposed because there is to be a transparent pedestrian look. Ms. Back stated that she is not hearing a hardship.

Mr. Duren stated that obviously this is a permitted use, or the developer would not have suggested the proposed use. The function that is being proposed does not lend itself in

terms of a 14-foot open air exposed duct work. As a permitted use the developer wants to use it as such. The requirement and the use are in conflict here.

Mr. Van De Wiele stated that in the Board's discussion they are going to need to come up with a hardship for the Variances, and the hardship cannot be self-imposed, and it cannot be financial in order for the Board to approve the two Variances requested. He is having a hard time coming up with what is the hardship, what is unique about the building or the lot that prevents the developer from complying with the 14-foot ceiling height.

Mr. Duren stated this is not a financial decision, it was never discussed. As for the hardship, it would be privacy. Mr. Van De Wiele asked Mr. Duren to state a hardship as to why the ceilings have to come down by four or five feet. Mr. Duren stated the broken-up space is required for the more complex duct work because it does not make sense to expose that duct work, as opposed to a covered duct work system that is attractive and viable. Mr. Van De Wiele asked Mr. Duren if that was not a financial hardship and self-imposed? It is the developer's decision to cut this building into different rooms or it is more expensive to engineer the duct work and the lighting. Mr. Duren stated the walls would go up to the bottom of the truss for privacy purposes. Regardless, all the walls are going to go to the bottom of the truss, a gypsum board ceiling would be less expensive, there would be brighter spaces, the equipment makes noise so it is going to echo through the room more so there would be more sound transfer bouncing off the walls. As for the exposed duct work concept, there will be more transfer of sound through the ducts. In a drop ceiling there is more acoustical value to dampen sound as it goes upward into the ceiling space. The MRI room is a wood frame copper enclosure that is meant to keep radio frequency from reaching the space; that is built first and then the space is finished out with a drop ceiling so the duct work can be installed; it is literally a room within a room and takes it out of the practical reality of a 14-foot ceiling. No one will see this room except for the person on the scan table. The RNF room equipment has to be mounted at a certain level.

Ms. Radney asked if this use is allowed by right. Mr. Wilkerson answered affirmatively and stated that it is allowed in any of the MX zoning classifications. Ms. Radney stated that the MX zoning classification requires the applicant's client to build out the space, which he is allowed to use by right, in a manner that is inconsistent with the industry standard for a lot of reasons, not the least of which being noise suppression, privacy, proper use of the equipment, etc.

Ms. Ross stated that this space just screams retail and restaurant because it is in an area where the City wants pedestrians walking around, even though the applicant's use is allowed by right. She does not think the owner intended for this space to be used to shut the public out. That is where she is having an issue because she feels that it is self-imposed. Medical facilities construction is very specialized because there are certain needs that must be met, and this particular zoning classification she does not think is set up properly for the needs of the medical community even though the use is allowed by right.

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 **CONTINUE** the request for a Variance to reduce the minimum ground floor ceiling height requirement (Table 10-4); Variance to reduce the minimum ground floor window transparency requirement (Table 10-4) to the May 14, 2019 Board of Adjustment meeting; for the following property:

LTS 15 - 21 BLK 4, BOSWELL'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22620—KKT Architects – Nicole Watts

Action Requested:

Variance to permit a dynamic display sign to be located within 200 feet of a residential development area (Section 60.100-F). **LOCATION:** 8418 South 107th Avenue East (CD 7)

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated Union Public Schools is in the process of rebranding all their signs for elementary and middle schools, which pertains to the next four cases. Those schools in Tulsa are not in the correct zoning, they are in residential zoning or they just do not comply so that is the reason for the Variances in each of the next four cases. This first case is for Thomas Jefferson school and it is located in a CO District, and there is a residential subdivision across the street that is also in the CO District. There is an existing sign that is being proposed to be replaced with the digital sign, and the new sign will be placed in the exact same location. The hours of operation would be 7:00 A.M. to 9:00 P.M. Ms. Watts stated the hardship for this case is that it is an odd shaped lot with residential homes in CO zoning, and the school needs to meet the need to provide digital information to parents in quick manner.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, 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 dynamic display sign to be located within 200 feet of a residential development area (Section 60.100-F), subject to conceptual plans 8.9, 8.10 and 8.11 of the agenda packet. The Board has found the hardship to be the unusual shape of the lot and the need to translate timely information to the neighborhood and the Union School constituents. The hours of operation are to be 7:00 A.M. to 9:00 P.M. The Board finds that the following facts, favorable to the property owner, have been established:

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

LT 1 BLK 1, UNION ELEMENTARY NO 13 ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22621—KKT Architects

Action Requested:

Special Exception to allow a dynamic display sign to be located in an RS-3 District (Section 60.050-B); **Modification** of a previously approved site plan (BOA-17832).

LOCATION: 3656 South 103rd East Avenue (CD 7)

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated this sign is for Roy Clark Elementary School and it is located in RS-3 zoning. The existing sign will be replaced with a digital sign and the new sign will be placed in the same location as the existing sign. The new sign will have a lower profile than the existing sign. The hours of operation will be 7:00 A.M. to 9:00 P.M.

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 dynamic display sign to be located in an RS-3 District (Section 60.050-B); **Modification** of a previously approved site plan (BOA-17832), subject to conceptual plans 9.17, 9.19 and 9.20 of the agenda packet. The hours of operation are to be 7:00 A.M. to 9:00 P.M. The Board finds that the requested Special Exception and Modification will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

PRT NE SW BEG 1263.43E & 1739.62N SWC SW TH N551.53 E674.85 SE509.47 SW45.87 SW220 NW70 SW465 POB SEC 19 19 14 8.69ACS, City of Tulsa, Tulsa County, State of Oklahoma

22622—KKT Architects

Action Requested:

Special Exception to allow a dynamic display sign to be located in an AG District (Section 60.050-B); **Modification** of a previously approved site plan (BOA-15374).

LOCATION: 9015 East 79th Street South **(CD 5)**

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated this request is for German Elementary and it is located in AG zoning. The existing sign would be replaced with a new digital sign and the location would be moved from the existing sign location. The new sign would be moved toward 79th Street. The digital sign will be 5'-6" in height with a total height of about 9'-0". The hours of operation will be 7:00 A.M. to 9:00 P.M.

Interested Parties:

Jeff Hartman, 7912 South 90th East Avenue, Tulsa, OK; stated he lives about three houses from the subject site and he thinks Ms. Watts answered most of his concerns already. Mr. Hartman stated he is concerned about moving animations on the proposed sign.

Mr. Van De Wiele stated that the sign will be a red lettering sign and the red does not project outward as much as some of the other signs in Tulsa. Mr. Van De Wiele stated

that the Code has written into it that there will be no flashing, blinking, twinkling, etc. for the sign but that condition can be stated in the motion.

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 dynamic display sign to be located in an AG District (Section 60.050-B); Modification of a previously approved site plan (BOA-15374), subject to conceptual plans 10.11, 10.12 and 10.13 of the agenda packet. The hours of operation are to be 7:00 A.M. to 9:00 P.M. There is to be no twinkling or moving graphics on the display. The Board finds that the requested Special Exception and Modification will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

LT 1 BLK 1, MEADOWBROOK ESTATES UNION SCHOOL, City of Tulsa, Tulsa County, State of Oklahoma

22623—KKT Architects

Action Requested:

Special Exception to allow a dynamic display sign to be located in an RS-3 District (Section 60.050-B); Modification of a previously approved site plan (BOA-20954-A). **LOCATION:** 10202 East 62nd Street South **(CD 7)**

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated this sign request is for Grove Elementary and it is located in RS-3 zoning. The existing sign will be replaced with the proposed digital sign and it will be in the same location as the existing sign. The hours of operation will be 7:00 A.M. to 9:00 P.M.

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 dynamic display sign to be located in an RS-3 District (Section 60.050-B); Modification of a previously approved site plan (BOA-20954-A),

subject to conceptual plans 11.20, 11.21 and 11.22 of the agenda packet. The hours of operation are to be 7:00 A.M. to 9:00 P.M. The Board finds that the requested Special Exception and Modification 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 THRU 4 LESS BEG NEC TH W169.66 SE243.74 N174.67 POB BLK 5, UNION GARDENS, City of Tulsa, Tulsa County, State of Oklahoma

22624 – AAB Engineering, LLC – Krista Ann Bendana

Action Requested:

Special Exception to allow a fence to exceed 4 feet. in height within the required street setback (Section 45.080). **LOCATION:** 1809 East 41st Street South **(CD 9)**

Presentation:

Alan Betchan, AAB Engineering, 200 North McKinley, Sand Springs, OK; stated this request is to allow an eight-foot fence height, but the height is actually for the masonry columns that are being built. The fence is an Ameristar Fence with masonry columns placed at 25-foot intervals.

Mr. Van De Wiele asked Mr. Betchan how tall the fence will be overall. Mr. Betchan stated the columns will be a maximum of eight feet with the fence being less than eight feet.

Ms. Back asked Mr. Betchan if the height is from the very top of the cap. Mr. Betchan answered affirmatively.

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 Special Exception to allow a fence to exceed 4 feet. in height within the required street setback (Section 45.080), subject to conceptual plans 12.16 and 12.17 of the agenda packet. The fence materials will be wrought iron in appearance with stone veneer columns. 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:

ALL LT 5 & LT 6 LESS BEG SWC TH NE171.9 NEC LT 6 SLY164.68 W52.57 POB & PRT LT 3 & 4 BEG SECR LT 4 SW230.1 NW85 NE147.3 E120.94 S31.7 POB LESS BEG SWC LT 3 TH NW85 NE47.42 SLY76.56 POB BLK 13, HIGHLAND PARK EST, City of Tulsa, Tulsa County, State of Oklahoma

22625—Mark Capron

Action Requested:

Modification of a previously approved site plan (BOA-15854 & BOA-16838).

LOCATION: 4825 East 36th Street South (CD 9)

Presentation:

Mark Capron, Wallace Engineering, 200 East Mathew Brady, Tulsa, OK; stated he represents the existing bank located at the corner of 36th and Yale. The bank has been in place for quite some time by the approval of a Variance from the Board of Adjustment. This modification is to allow the bank to move the ATM machine to the east side of the building and to add a lane. There has been landscaping added to the subject site and there will be ADA accessibility added. There has been a dumpster enclosure added to the site on the northeast side. The building is not increasing in size, it is just exterior improvements to the site.

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 Modification of a previously approved site plan (BOA-15854 & BOA-16838), subject to conceptual plan 13.21 of the agenda packet. The Board finds that the requested Modification 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:

BEG 40N & 24.75W SECR S/2 S/2 SE NE TH N140 W177.25 S140 E177.25 POB SEC 21 19 13 .57AC, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

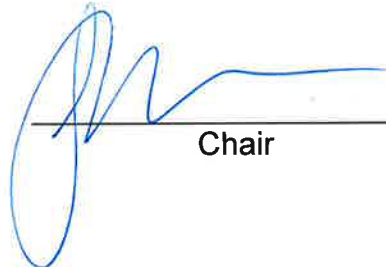
None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 3:40 p.m.

Date approved: 5/14/19



Chair