

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1232
Tuesday, July 9, 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 Ross, Secretary Radney Shelton	Bond, Vice Chair	Wilkerson Chapman Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on July 3, 2019, at 8:35 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.

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

MINUTES

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the June 11, 2019 Board of Adjustment Special meeting (No. 1230).

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the June 25, 2019 Board of Adjustment Special meeting (No. 1231).

UNFINISHED BUSINESS

22668—1 Architecture, LLC

Action Requested:

Special Exception to allow a High-Impact Medical Marijuana Processing Facility in an IM (Industrial-Moderate) District (Section 15.020). **LOCATION:** 1316 South Sheridan Road East **(CD 5)**

Presentation:

The applicant has requested a continuance to July 23, 2019.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Special Exception to allow a High-Impact Medical Marijuana Processing Facility in an IM (Industrial-Moderate) District (Section 15.020) to the July 23, 2019 Board of Adjustment meeting; for the following property:

BEG NEC SE NE TH W200 S280.93 E200 N280.93 POB LESS N30 & E50 FOR ST SEC 10 19 13 .864AC, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today; Mr. Bond is out of town. Most motions the Board makes it will require an affirmative vote of three of the remaining four members. 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. Mr. Van De Wiele asked if there were any applicants or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. The audience nodded their understanding and no one came forward to request a continuance.

* * * * *

UNFINISHED BUSINESS

22626—Barbara Carson

Action Requested:

Variance to reduce the required street setback in an RS-3 District (Table 5-3). **LOCATION:** 252 South Quebec Avenue East **(CD 4)**

Presentation:

Barbara Carson, 624 South Denver, Tulsa, OK; stated she has received the report from the Engineer, and in deference to the Board it makes no claim one way or the other as to the structure. She did not want to muddy the waters, but she did not think there was any point in giving the report to the Board because there is no useful information in the report.

Mr. Van De Wiele stated that he will defer to the applicant's judgement as to whether the report should be made part of the record or not. In the absence of the report, Mr. Van De Wiele asked Ms. Carson to tell the Board what the hardship would then be to reduce the street setback.

Ms. Carson stated that she has been able to verify the addition was installed to the main house over 25 years ago. Mr. Van De Wiele asked if that pertained to the front portion that was added and to the covered area on the side of the house. Ms. Carson stated that the side addition will be removed, so the only thing that needs to be focused on is the frontage which goes over the setback line.

The addition has been on the house for over 25 years, and if it is removed the house footprint will cut almost in half. The front addition is over a third of the footprint of the entire house. Ms. Carson stated her client lives in California and wants to come back to Tulsa, but in the interim he bought this piece of property to rehab and then rent it until he makes the move Tulsa, and when he does come back, he will live in the subject house.

Ms. Ross asked Ms. Carson if her client has any intentions of installing new siding on the front addition to match the rest of the house? Ms. Carson answered affirmatively. Ms. Carson stated her client has been working with the neighbor next door to let him know that he plans to remove the side addition and her client wants to make the outside of the house to look better because he does not think the house outside looks good either. Ms. Carson stated that her client does not want to remove the front addition because it is a large living space for the house.

Mr. Van De Wiele stated if the request being discussed because of a slight encroachment, where the front of the house was literally being brought out, and the roof line came out to match it and it had a traditional front entry he would be more sympathetic with the applicant's cause. What is holding him up is that this addition is fairly unsightly in his opinion. He cannot support this request knowing that this would be the end product. Ms. Carson stated she understands Mr. Van De Wiele's statement, however, it has been the product in the neighborhood for over 25 years. Ms. Carson stated that she does not know what prompted a zoning violation as soon as her client purchased the subject property.

Mr. Van De Wiele stated he too does not know what prompted the zoning violation, but if the applicant would provide plans it might help the Board in their decision. One of the

things that the Board looks at is how that stylistically matching up with the house. If it was never legally non-conforming, then it is not legally non-conforming now. Mr. Van De Wiele stated he is having a hard time finding a hardship to approve this request.

Ms. Carson stated there is no definition for hardship in the Zoning Code, and she asked the Board for a definition. Mr. Van De Wiele stated that a hardship cannot be self-imposed, they cannot financial, so making the house smaller and thus not rentable at a higher rate is not a hardship the Board could consider. Ms. Carson asked if the client were to remove the front addition and then found out the house is not large enough to move his family into the house, is that a hardship? Mr. Van De Wiele stated that the size of a family is partially a self-imposed hardship.

Ms. Ross stated that she sees the hardship as an individual who purchased a house, and this is how it has existed for 25 years, she finds that to be a hardship. If that front addition is needed for a family that creates a hardship. Ms. Ross stated that she feels that the owner is meeting the Board part of the way by agreeing to remove the carport. Ms. Ross stated that she agrees that a front door in the front of the house would be helpful and seeing the plans for renovation for the house would be nice. The fact that the addition has been there for 25 years and then receives a zoning violation two days before the purchase of the house, or a Letter of Deficiency, is not self-imposed.

Ms. Carson stated that her client did everything properly when he closed on the house. These violations are not found in the title work, and her client found out about the violation four days after he closes.

Mr. Van De Wiele asked Ms. Carson if her client found out about the violation before the closing. Ms. Carson answered no. Ms. Carson stated the violation was posted four days prior to closing, the property was bank owned due to foreclosure, and her client purchased the subject property from the bank, and no one was living in the house. Her client signed the paperwork in California with the closing company and he was never noticed of the violation. Her client saw the posting on the door when he came to look at the property.

Ms. Radney asked Ms. Carson when the survey was done. Ms. Carson stated the closing was February 22nd and the original posting of the zoning violation was February 18th. Ms. Radney asked if the survey that is shown on page 3.1 was provided by Fannie Mae because if the survey provided was in the abstract the buyer was informed. Ms. Carson answered no and stated that it is another one. Ms. Carson stated that her client found someone that had done the survey and he paid for a copy of that survey performed in November 2018, because her client did not want to pay for a new survey.

Mr. Van De Wiele asked Ms. Carson what the owner's name is. Ms. Carson stated that the owner is Dave Thompson.

Ms. Radney asked Ms. Carson who performed the structural inspection. Ms. Carson stated that it was Knox Inspection.

Ms. Radney asked Ms. Carson if the original footings for the house conform with the setbacks or is it just the front addition that is problem? Ms. Carson stated that it is just the front addition; the original footing was fine.

Ms. Radney stated that she is one of the members that wanted more evidence to support the letter stating the buyer assumed that there would be structural damage if the front was removed. Not having the Knox report today is not helpful. Ms. Carson offered a copy of the Knox report to the Board.

Ms. Ross asked Ms. Carson what the front addition is used for. Ms. Carson stated she would call it a living room.

Ms. Radney asked the front addition had its own ventilation system, is it connected with its own heat and air or is there duct work connecting it to the rest of the house; how is it heated and cooled? Ms. Carson stated she believes it has duct work because everything is in the addition just as though it was built with the house. Ms. Radney asked Ms. Carson if there was one system in the house. Ms. Carson answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Shelton stated she is not for a straight denial of this request. She thinks that even if the front addition were removed the house would still be well over the setback lines. Ms. Shelton stated she would like to see the front addition removed; she does not believe it is structural. She believes the addition is probably a porch that has been covered up.

Mr. Van De Wiele stated he has no problem with approving a reduction of the setback, looking at the point of transition between the brown wood addition and the white siding portion of the house. If this were a more customary addition, he might be able to go with an additional encroachment, but this is certainly sticking out farther than the other houses on the street. He has a hard time approving this without knowing what this will look like in the future.

Ms. Radney stated that she believes there was sufficient time to provide the Board with more information along those lines, because the Board's prior questions certainly led in that direction.

Ms. Ross stated she could approve the request if she knew there was going to be siding around the addition and a front door would be added, only because it has been there for so long.

Ms. Radney stated these are questions to be asked during the inspection period and she is not buying this. Ms. Radney stated she is sympathetic but everything about this property screams that it is not conforming. To not have done a survey at the time of purchase seems derelict, whether it is a cash purchase or not. She is unconvinced; she thinks this is self-imposed.

Mr. Chapman stated the applicant, Ms. Carson, waived the Letter of Deficiency requirement so there was never a Letter of Deficiency received, so there is not a pending permit to be released. The only issue they are dealing with is the notice of violation.

Ms. Radney stated that she would like a diagram of the roof line for the structure; both the flat roof that extends out on the front with the brown siding as well as the pitched roof that goes to the west, and with documentation showing the Board where those transitions occur as it relates to the property line and the building setback line, overlaying that on top of the survey in a measured fashion. Ms. Radney stated she would also like information that would describe how the addition could be made more aesthetically pleasing to tie it all together and get a front door. Ms. Radney stated she would also like to know exactly how much square footage is under the brown portion of the addition; she does acknowledge if that is livable space and it suddenly had to disappear that would be a hardship.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a **Variance** to reduce the required street setback in an RS-3 District (Table 5-3) to the August 13, 2019 Board of Adjustment meeting; for the following property:

LT 281 BK 1, RODGERS HGTS SUB, City of Tulsa, Tulsa County, State of Oklahoma

22661—City of Tulsa – Jackie Bubenik

Action Requested:

Special Exception to permit a parks and recreation use in an AG District (Table 25-1). **LOCATION:** 7301 South Riverside Drive East **(CD 2)**

Presentation:

Jackie Bubenik, Landscape Architect, Tulsa Parks Department, City of Tulsa, 175 East 2nd Street, Tulsa, OK; stated the old plan for this park was approved "per plan" and he would like approval for the conceptual plan. Construction is under way for the new playground sign and shelters.

Mr. Van De Wiele asked Mr. Bubenik if this would involve the north end of the park. Mr. Bubenik stated that it would not.

Ms. Shelton asked Mr. Bubenik if there were going to be any ADA improvements in the park. Mr. Bubenik answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to permit a parks and recreation use in an AG District (Section 25.020-B, Table 25-1), subject to conceptual plan 4.103 of the agenda packet, and to include future modifications and improvements commensurate with park amenities, with no further Board of Adjustment approval 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:

A PART OF SECTION SEVEN (7), TOWNSHIP EIGHTEEN (18) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN AND A PART OF SECTION TWELVE (12), TOWNSHIP EIGHTEEN (18) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 89°58'40" WEST ALONG THE NORTH LINE OF SAID SECTION 12, A DISTANCE OF 63.51 FEET TO A POINT;

THENCE SOUTH 0°01'20" WEST PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 75.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF THE RIVERSIDE PARKWAY, SAID POINT BEING THE POINT OF BEGINNING.

THENCE SOUTH 9°27'33" EAST ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 914.16 FEET TO A POINT; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 29° 20' 00", A RADIUS OF 1,348.24 FEET, FOR AN ARC DISTANCE OF 690.25 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 1° 01' 18", A RADIUS OF 44,789.56 FEET, FOR AN ARC DISTANCE OF 798.66 FEET TO A POINT;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY South 37° 46' 15" East A DISTANCE OF 924.29 FEET TO A POINT;

THENCE South 52° 13' 45" W, A DISTANCE OF 798.66 FEET TO A POINT;

THENCE South 37° 46' 15" East, A DISTANCE OF 550.00 FEET TO A POINT;

THENCE North 52° 13' 45" East, A DISTANCE OF 162.06 FEET TO A POINT;

THENCE South 37° 46' 15" East, A DISTANCE OF 248.40 FEET TO A POINT;
THENCE South 82° 46' 15" East, A DISTANCE OF 242.68.00 FEET TO A POINT;
THENCE North 52° 13' 45" East, A DISTANCE OF 465.00 FEET TO A POINT
ON THE WEST RIGHT-OF-WAY OF RIVERSIDE PARKWAY;
THENCE CONTINUING South 37° 46' 15" East ALONG SAID RIGHT-OF-WAY, A
DISTANCE OF 53.88 FEET TO A POINT ON THE NORTHERLY LINE OF BLOCK 20,
"KENSINGTON" AN ADDITON TO THE CITY OF TULSA, TULSA COUNTY,
OKLAHOMA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF;
THENCE South 41° 06' 06" West ALONG SIAD NORTHERLY LINE OF BLOCK 20,
A DISTANCE OF 359.52 FEET TO A POINT;
THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 69°
00' 00", A RADIUS OF 521.28 FEET, FOR AN ARC DISTANCE OF 627.77 FEET TO
A POINT;
THENCE North 69° 53' 54" West A DISTANCE OF 157.40 FEET TO A POINT;
THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 43°
30' 00", A RADIUS OF 1,100 FEET, FOR AN ARC DISTANCE OF 835.14 FEET TO A
POINT;
THENCE NORTH 26° 23' 54" West A DISTANCE OF 1,157.22 FEET TO A POINT;
THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°
49' 13", A RADIUS OF 599.98 FEET, FOR AN ARC DISTANCE OF 144.72 FEET TO
A POINT;
THENCE North 12° 34' 41" West A DISTANCE OF 2,376.43 FEET TO A POINT,
SAID POINT BEING 125.00 FEET SOUTH AND PERPENDICULAR TO THE NORTH
LINE OF SAID SECTION 12;
THENCE South 89° 58' 40" East PARALLEL TO SAID NORTH LINE, A DISTANCE
OF 149.05 FEET TO A POINT;
THENCE North 19° 17' 04" West A DISTANCE OF 52.98 FEET TO A POINT;
THENCE South 89° 58' 40" East PARALLEL TO SAID NORTH LINE OF SECTION
12, A DISTANCE OF 370.21 FEET TO THE POINT OF BEGINNING;

LESS AND EXCEPT A TRACT OF LAND CONTAINING 12.3131 ACRES (PUD 128-
E-5 MINOR AMENDMENT) DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12; THENCE
NORTH 89°58'40" WEST ALONG THE NORTH LINE OF SAID SECTION 12, A
DISTANCE OF 63.51 FEET TO A POINT;
THENCE SOUTH 0°01'20" WEST PERPENDICULAR TO SAID NORTH LINE, A
DISTANCE OF 75.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF THE
RIVERSIDE PARKWAY, SAID POINT BEING THE POINT OF BEGINNING.
THENCE SOUTH 9°27'33" EAST ALONG SAID RIGHT-OF-WAY, A DISTANCE OF
914.16 FEET TO A POINT;
THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ON A CURVE TO THE LEFT
HAVING A CENTRAL ANGLE OF 08°13'31", A RADIUS OF 1,348.24 FEET, FOR AN
ARC DISTANCE OF 193.55 FEET WITH A CHORD BEARING OF SOUTH 13°34'19"
EAST FOR A CHORD DISTANCE OF 193.39 FEET TO A POINT;
THENCE SOUTH 80°32'27" WEST A DISTANCE OF 454.86 FEET TO A POINT;

THENCE NORTH 12°34'41" WEST A DISTANCE OF 1142.07 FEET TO A POINT, SAID POINT BEING 125.00 FEET SOUTH AND PERPENDICULAR TO THE NORTH LINE OF SAID SECTION 12;
THENCE SOUTH 89°58'40" EAST PARALLEL TO SAID NORTH LINE, A DISTANCE OF 149.05 FEET TO A POINT;
THENCE NORTH 19°17'04" WEST A DISTANCE OF 52.98 FEET TO A POINT;
THENCE SOUTH 89°58'40" EAST PARALLEL TO SAID NORTH LINE OF SECTION 12, A DISTANCE OF 370.21 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 2,341,048 SQUARE FEET OR 54.98 ACRES, MORE OR LESS, City of Tulsa, Tulsa County, State of Oklahoma

22667—Debbie Leonard

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: 6914 East Admiral Place (CD 3)

Presentation:

Debbie Leonard, 3457 South 95th East Avenue, Tulsa, OK; no formal presentation was made by the applicant, but she was available for any questions from the Board.

Mr. Van De Wiele asked Ms. Leonard if her spacing exhibit was new exhibit showing the 1,000-foot spacing around her subject space in the shopping center. Ms. Leonard answered affirmatively.

Mr. Van De Wiele asked Ms. Leonard if she was aware of any other dispensary, either licensed or opened, in the 1,000-foot radius. Ms. Leonard stated that she is not aware of any.

Mr. Van De Wiele asked Ms. Leonard if the closest dispensary to her subject space is about one mile away on 11th Street and Route 66. Ms. Leonard answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) I move that based upon the facts in this matter as they exist presently, 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 1 2 BLK 1, 3RD CRESTVIEW ESTATES, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

NEW APPLICATIONS

22672—Mohammad Ibbini

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: 3747 South Harvard Avenue East, Suite D (CD 9)

Mr. Van De Wiele recused and left the meeting at 1:50 P.M.

Presentation:

Mohammad Ibbini, 2420 West Vicksburg Street, Broken Arrow, OK; no formal presentation was made by the applicant, but he was available for any questions from the Board.

Ms. Ross asked Mr. Ibbini where the nearest operating dispensary is located in relation to his subject property. Mr. Ibbini stated the nearest dispensary is located at 31st Street and South Harvard.

Ms. Radney asked Mr. Ibbini if he was referring to one of the Dr. Z buildings in that area. Mr. Ibbini answered affirmatively.

Ms. Ross asked Mr. Ibbini if he was Natural Leaf Corporation. Mr. Ibbini answered affirmatively. Ms. Ross asked Mr. Ibbini what Herbal Junction Market is. Mr. Ibbini stated that it is a dispensary that has tried to open next to his location, but they do not have a lease for the building.

Ms. Radney stated that after the Board received the comment from an interested party she drove past the location and inquired of the listing agent about the availability and the agent confirmed that as of yesterday the space for Herbal Junction is still available for lease.

Ms. Ross asked Ibbini where the Canna Club is located because the City of Tulsa states that it is currently in operation without permits. Mr. Ibbini stated that he is Canna Club dba Natural Leaf.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Radney stated that in terms as to what is before the Board, we have a verified spacing of 1,000 feet. The Board has not been able to determine that there is any functional business at 3801 South Harvard, and in fact that space is still available for lease. She would not have any problem approving this request.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 3-0-1 (Radney, Ross, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; Bond absent) I move that based upon the facts in this matter as they exist presently, 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:

PRT LT 9 BEG 69E SWC TH E8.8 N0.4 W8.8 S0.4 POB & ALL LTS 10 THRU 12 BLK 2, 36TH STREET SUBURB, City of Tulsa, Tulsa County, State of Oklahoma

Mr. Van De Wiele re-entered the meeting at 1:56 P.M.

22674—Allie Ogden

Action Requested:

Special Exception to permit a single household detached house in the CBD District (Section 15.020, Table 15-2). **LOCATION:** 306 South Kenosha Avenue East (**CD 4**)

Presentation:

Weldon Bowman, W Design, 815 East 3rd Street, Suite C, Tulsa, OK; stated his firm is the architects on this project. A building permit was submitted for a single-family residence, and everything has been approved with the exception of the zoning. Previous use of the subject property was a mixed use; the second floor was a residence and the first floor was used for business. There are a couple of garages that are used for storage. There is a full-size roof deck on the third floor. His client is investing in this downtown building to turn it into their primary residence for a family of six, who has multiple businesses close by. Per the CBD zoning a single-family detached residence requires a Special Exception, so primarily the change he is seeking is to change the bottom floor from business use to single-family use. The East Village is an eclectic area

in the City of Tulsa, and it is a very sought after area. There are restaurants, retail, coffee shops, multi-family, single family and businesses. Across Kenosha there is a single-family detached residence that was previously approved. Across 3rd Street from the subject site is the Urban 8 buildings which is almost 100% occupied. There is a duplex that was approved for a Special Exception and it is located across the street from his office. There are multiple buildings in the area that have mixed use; a retail office on the bottom floor and multi-family on the second floor. He is requesting the Board look at this building to be a single-family use.

Ms. Radney asked Mr. Bowman what portion of the subject building will be retrofitted; all of the first floor? Mr. Bowman stated that there would be three bedrooms, game room, and a bathroom on the first floor, on the second floor there would be master bedroom, another bedroom, living room, kitchen and the roof deck would be used by the family.

Mr. Van De Wiele asked Mr. Bowman if there would be any changes to the exterior of the building. Mr. Bowman answered no, but that there would be a new front door added and replacing some windows. Mr. Bowman stated the way the building is set up currently is residential, so it is not set up for retail. A lot of the smaller mixed use are smaller apartments, 500 square feet, and that is what makes those popular on the second floor. This building is not set up that way, to create a smaller apartment complex on the second floor.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Shelton stated that from a development pattern standpoint she does not like it. She has no problem with residential being in the building, obviously it has been in the building before, but the ground floor being residential is causing her difficulty. This proposal would stop the commercial development from moving to the east more.

Ms. Radney agreed with Ms. Shelton. Ms. Radney stated there is a reason the building is mixed use, and this would really change the street scape. If this building were on the other side of the street she would probably feel differently, but she could be persuaded. She thinks the street facing activity in a mixed-use zone is really important to the dynamism of that zone. Looking at the schematics she can see that right now there would only be the one door and then the garage doors.

Board Action:

On **MOTION** of **ROSS**, the Board voted 2-2-0 (Ross, Van De Wiele "aye"; Radney, Shelton "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to permit a single household detached house in the CBD District (Section 15.020, Table 15-2), subject to conceptual plans 8.13, 8.14, 8.15, 8.16, 8.17 and 8.18 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:

N40 LT 9 BLK 113, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILS

Comments and Questions:

Mr. Van De Wiele asked what is the concern of the injury or harm to the neighborhood or detriment to the public welfare of granting this request?

Ms. Radney stated that for her it is partly because it is on the corner. Corners are critical to the way these neighborhoods work, and she will acknowledge that having such a large residence already on the second level would probably limit its attractiveness to whoever would live in the building and/or work in the building. Being there it is a node within the district, and she thinks it would change the character of the district to have two sides of that street with large single-family houses. It is a delicate balance. She does not intrinsically have a problem with the idea, and she gets why it would be attractive to live in that district. Ms. Radney thinks it is important for the corners to be anchored with business activity.

Ms. Shelton stated this corner is a gateway to downtown. If this had been a little farther down the street, she would have felt different about the request.

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Radney absent) to **CONTINUE** the request for a Special Exception to permit a single household detached house in the CBD District (Section 15.020, Table 15-2) to the July 23, 2019 Board of Adjustment meeting; for the following property:

N40 LT 9 BLK 113, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22675—A-Max Sign Company

Action Requested:

Special Exception to allow a free-standing sign with dynamic display in RS-3 District (Section 60.050); Variance to permit a dynamic display sign to be located closer than 20 feet to the edge of the curb/roadway (Section 60.100-e).

LOCATION: 6727 South Sheridan Road East (CD 7)

Presentation:

Brian Ward, 9520 East 55th Place, Tulsa, OK; stated the sign was built in the mid-90s and what is being proposed is to remove the sign, repaint it, install new lighting, add the LED message board and re-install the sign. The client has been given the parameters on time for operation, how they can program it, etc. Mr. Ward stated that the Variance request in the application is not needed because the sign does meet the setback. Mr. Ward stated that he personally measured the distance and the sign is at 21 feet, so it does meet the setback.

Mr. Van De Wiele asked Austin Chapman where the Variance portion of the request came from. Mr. Chapman stated that he wrote the request for the relief that was listed by Mr. Bob Kolibas at the City so there might have been a miscommunication between the INCOG intake staff and his office. The request was noticed for the Variance but if Mr. Ward feels confident, the sign meets Code. Mr. Ward stated that he feels the error was on his company's part. The application was sent in with the wrong number on it. Mr. Ward stated that he did verify the 20-foot minimum.

Mr. Van De Wiele asked Mr. Ward how much bigger the sign will be versus what exists today. Mr. Ward stated the overall sign is exactly the same; the manual reader board is being removed and replaced with the LED reader board. The new sign will be placed in the same spot as the old sign.

Ms. Radney asked if the sign would be full video graphic or would it just be text. Mr. Ward stated that any of the boards today have the ability to run video or static pictorial images, it is in the software. Ms. Radney asked Mr. Ward if the applicant was wanting to have that ability for video. Mr. Ward answered no and stated that the applicant only wants what is allowed by City Code.

Mr. Ward requested the Variance be withdrawn from the request.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Special Exception** to allow a free-standing sign with dynamic display in RS-3 District (Section 60.050), subject to conceptual plans 9.30 and 9.31 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 14 BLK 12, PARK PLAZA SOUTH ADDN City of Tulsa, Tulsa County, State of Oklahoma

22676—A-Max Sign Company

Action Requested:

Special Exception to allow a free-standing sign with dynamic display in RS-1 District (Section 60.050); Special Exception to permit a digital dynamic display sign to be located within 200 feet of RS-1 District (Section 60.100). **LOCATION:** 2906 East 41st Street South (CD 9)

Presentation:

Ryan Neurohr, 4132 East 41st Street, Tulsa, OK; stated he represents A-Max Sign Company. This request is for Tulsa Public Schools and the sign is a great asset for the school district and the community. The sign will be pre-programmed to automatically shut off at 9:00 P.M. every night and not come back on until 7:00 A.M. at the earliest. The board will be equipped with automatic dimmers and it will automatically dim based on the brightness of the daylight. The sign will be a full color LED message board. Primarily the school will use the sign to display text; informational messages for parents, faculty and students.

Ms. Radney asked Mr. Neurohr if the eagle and the name would be illuminated. Mr. Neurohr answered affirmatively and stated they are currently illuminated, and they will remain so. Ms. Radney stated the staff report states the eagle will have new white LED illumination. That is not going to be backlit, it will actually add to the total lumens that face the street. Mr. Neurohr stated it is simply replacing the logo on the top section to be consistent with the new school logo. The top section and the letters are currently lit in the sign and that part will remain; the top section will be internally illuminated in a manner that similar to what exists to now. The Thomas Edison letters are channel letters which will be reused and will remain, and they are lit from behind.

Interested Parties:

Lynn Goodwin, 2924 East 39th Street, Tulsa, OK; stated the sign is located to the west of his house. Mr. Goodwin stated that Mr. Neurohr has answered several of his questions, but he would be more comfortable if the entire sign were dimmed at night. He understands this is a school sign, but he would like to know what recourse he and the neighborhood would have if the rules are not followed, i.e., the way it is programmed.

Mr. Van De Wiele asked staff if there are conditions placed on approval that are not being followed who is the recipient of those complaints. Ms. Blank stated that it would be WIN, Working In Neighborhoods, which is the department that does the zoning enforcement.

Ms. Radney asked Mr. Goodwin if he was currently able to see the school sign from his house. Mr. Goodwin answered no and stated that the sign is actually on the next block. What he is really concerned about is when the sign is erected it might affect him more than the people across the street because of the east to west facing.

Mr. Goodwin asked if the sign would have pictures displayed. Mr. Van De Wiele stated that he heard the intent, but he tries to be a little more definitive in the motions that the Board makes and vote on. It certainly could not be moving pictures, and the Board can discuss limiting it to only text which has been done in the past. Ultimately, to him (Mr. Van De Wiele) it is a brightness issue.

Ms. Radney asked Mr. Goodwin if he would feel better about a dynamic sign if it were limited to text, even in the daytime, because it is a fairly trafficked pedestrian crossing lane there at all hours of the day. Mr. Goodwin stated that he would think the Board would not want something to distract drivers.

Rebuttal:

Ryan Neurohr came forward and stated that the messages are at an eight second minimum per slide, so there will not be quick transitions in the slides. There will be a steady message displayed for a minimum of eight seconds before it transitions to the next slide, and there will be no motion, no video or anything that can cause a distraction to drivers. This is an optic LED message board which is a top of the line product, not the obnoxiously bright version. The sign will have automatic dimming which is standard with this board.

Comments and Questions:

Mr. Van De Wiele stated that he can support this request, but he would want the entire sign, all three portions of the sign, to go off at 9:00 P.M. and not back on before 7:00 A.M. It would concern him if there were anything distracting on the bottom portion of the sign, especially because of the teenage drivers.

Ms. Radney agreed with Mr. Van De Wiele. She thinks this is going to be a very striking sign but considering all the distractions that are on 41st Street and the disproportionate number of younger drivers that are likely to be traveling this street she thinks the sign should be limited to text only, and that it should all go off at night.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Special Exception to allow a free-standing sign with dynamic display in RS-1 District (Section 60.050-B.2-C); Special Exception to permit a digital dynamic display sign to be located within 200 feet of RS-1 District (Section 60.100-F), subject to conceptual plans 10.38, 10.39, 10.40 and 10.41 of the agenda packet. All the lighted elements of the sign, including the LED display and the light box lower portion and lettering be off after 9:00 P.M. in the evening. The Board finds that the requested Special Exceptions 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:

NW NE SEC 29-19-13, City of Tulsa, Tulsa County, State of Oklahoma

22677—Saul Resendiz

Action Requested:

Modification of a previously approved site plan to allow the expansion of the Indoor Assembly and Entertainment Use approved in BOA-22280 (Section 15.020, Table 15-2). LOCATION: 4955 South Memorial Drive East (CD 7)

Presentation:

Saul Resendiz, 105 East Granger Street, Broken Arrow, OK; stated that he will be using an interpreter today.

Alver Resendiz, 105 East Granger Street, Broken Arrow, OK; stated currently the building is empty and he would like to use the space as an event center for family events.

Mr. Van De Wiele asked Mr. Resendiz if he is using a portion of the building for events. Mr. Alver Resendiz stated that they are not using any of the building; it is a new center that will be going in.

Mr. Van De Wiele asked Mr. Resendiz what type of events are held in the space he is currently using, and how often are events held, and what does he want to use the new space for. Mr. Resendiz stated the space they are using currently is only used on weekends when the entire shopping center is closed; the events are held after 5:00 P.M. until 2:00 A.M.

Ms. Radney asked Mr. Resendiz what time the Walgreen's closed. Mr. Resendiz stated that it closes at 10:00 P.M.

Mr. Van De Wiele asked Mr. Resendiz what he will use the new space for. Mr. Resendiz the new space will be used for the same type of events, but it will be a larger space for more people to attend the events.

Mr. Van De Wiele asked Mr. Resendiz if it would be possible for him to have two different groups using the two different spaces at the same time. Mr. Resendiz answered affirmatively.

Ms. Radney asked if the parking lot was a contiguous parking lot or is there a divider between the two spaces? Mr. Resendiz stated that the owner has told him after all the businesses are closed, he can use the entire parking lot.

Ms. Ross asked Mr. Resendiz how many people he anticipates using the larger space. Mr. Resendiz stated he will only allow 100 people. Ms. Ross asked Mr. Resendiz how many people can use the existing space. Mr. Resendiz stated that it too is 100 people.

Mr. Van De Wiele asked Mr. Resendiz if he had signed a lease for the new space. Mr. Resendiz answered affirmatively. Mr. Van De Wiele asked Mr. Resendiz how long is the lease? Mr. Resendiz stated that the new space is leased for one year if he is approved today, and he has one year remaining on his current space.

Ms. Ross asked Mr. Resendiz if he would be serving alcohol at his events held in the new space. Mr. Resendiz answered no because it is for family events.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a **Modification** of a previously approved site plan to allow the expansion of the Indoor Assembly and Entertainment Use approved in BOA-22280 (Section 15.020, Table 15-2), subject to the site plan submitted today separate from the agenda packet. All business is to end at 2:00 A.M. The approval has a four-year time limit, July 2023. 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:

LTS 6 8 & 9 LESS W110 S150 LT 6 BLK 4, SECOND RESEARCH & DEVELOPMENT CTR RESUB, City of Tulsa, Tulsa County, State of Oklahoma

* * * * *

OTHER BUSINESS

None.

* * * * *

NEW BUSINESS

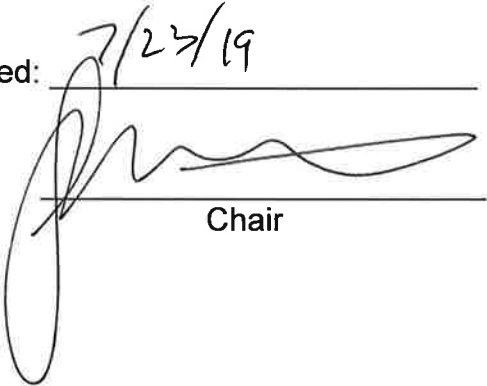
None.

* * * * *

BOARD MEMBER COMMENTS

Mr. Van De Wiele reminded the Board members of the work session on Friday, July 12th at 1:00 P.M. here in City Hall on the third floor.

There being no further business, the meeting adjourned at 3:05 p.m.

Date approved: 7/23/19


Chair