

BOA-22448

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**BOARD OF ADJUSTMENT
CASE REPORT**

STR: 9201

Case Number: **BOA-22448**

CZM: 36

CD: 4

A-P#:

HEARING DATE: 06/12/2018 1:00 PM

APPLICANT: David Kvach

ACTION REQUESTED: Variance to permit a bar to be located within 300ft. of a religious assembly use (Sec. 40.050)

LOCATION: 321 S FRANKFORT AV E

ZONED: CBD

PRESENT USE: Offices

TRACT SIZE: 30801.4 SQ FT

LEGAL DESCRIPTION: LOTS 5-6-&-7 BLK 114, TULSA-ORIGINAL TOWN

RELEVANT PREVIOUS ACTIONS:

Subject Property:

BOA 22422: on 4.10.18, the Board **approved** a *Verification* of the 300-foot spacing requirement for a bar from public parks, schools, and religious assemblies and 50 ft. from an R-zoned lot. (Sec. 40.050-A)

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of the "Downtown Core" and an "Area of Growth".

Downtown Core is Tulsa's most intense regional center of commerce, housing, culture and entertainment. It is an urban environment of primarily high density employment and mixed-use residential uses, complemented by regional-scale entertainment, conference, tourism and educational institutions. Downtown core is primarily a pedestrian-oriented area with generous sidewalks shaded by trees, in-town parks, open space, and plazas. To support downtown's lively and walkable urban character, automobile parking ideally is located on-street and in structured garages, rather than in surface parking lots.

The purpose of **Areas of Growth** is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exist that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

ANALYSIS OF SURROUNDING AREA: The subject tract located in the CBD is surrounded by mixture of uses including surface parking lots, office space and light industrial.

STAFF COMMENTS:

In April 2018, the Board approved a Verification of the 300-foot spacing requirement for a bar from public parks, schools, and religious assemblies and 50 ft. from an R-zoned lot. The applicant has stated that after that meeting a church moved into their basement. The applicant also stated that he believed the church would receive their certificate of occupancy before the bar is ready to open. The applicant is requesting a **Variance** to permit a bar to be located within 300ft. of a religious assembly use (Sec. 40.050).

A bar is permitted in the CBD district as a use by right – subject to complying with the spacing requirements provided in Section Section 40.050-A of the Code. The Code provides the following spacing requirements for a bar in the CBD:

2. Bars may not be located within 300 feet of a public park, school or religious assembly use; the separation distance must be measured from the nearest property line of such public park, school or religious assembly use to the nearest perimeter wall of the bar.

The applicant is requesting a **Variance** to permit a bar to be located within 300ft. of a religious assembly use (Sec. 40.050).

The Board may consider any condition it deems necessary and reasonably related to the request to ensure that the current use and future development of the site is compatible with and non-injurious to the surrounding area.

Sample Motion

Move to _____ (approve/deny) a **Variance** to permit a bar to be located within 300ft. of a religious assembly use (Sec. 40.050).

Finding the hardship(s) to be _____.

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions _____.

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.”



Subject Tract

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Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

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Subject Tract

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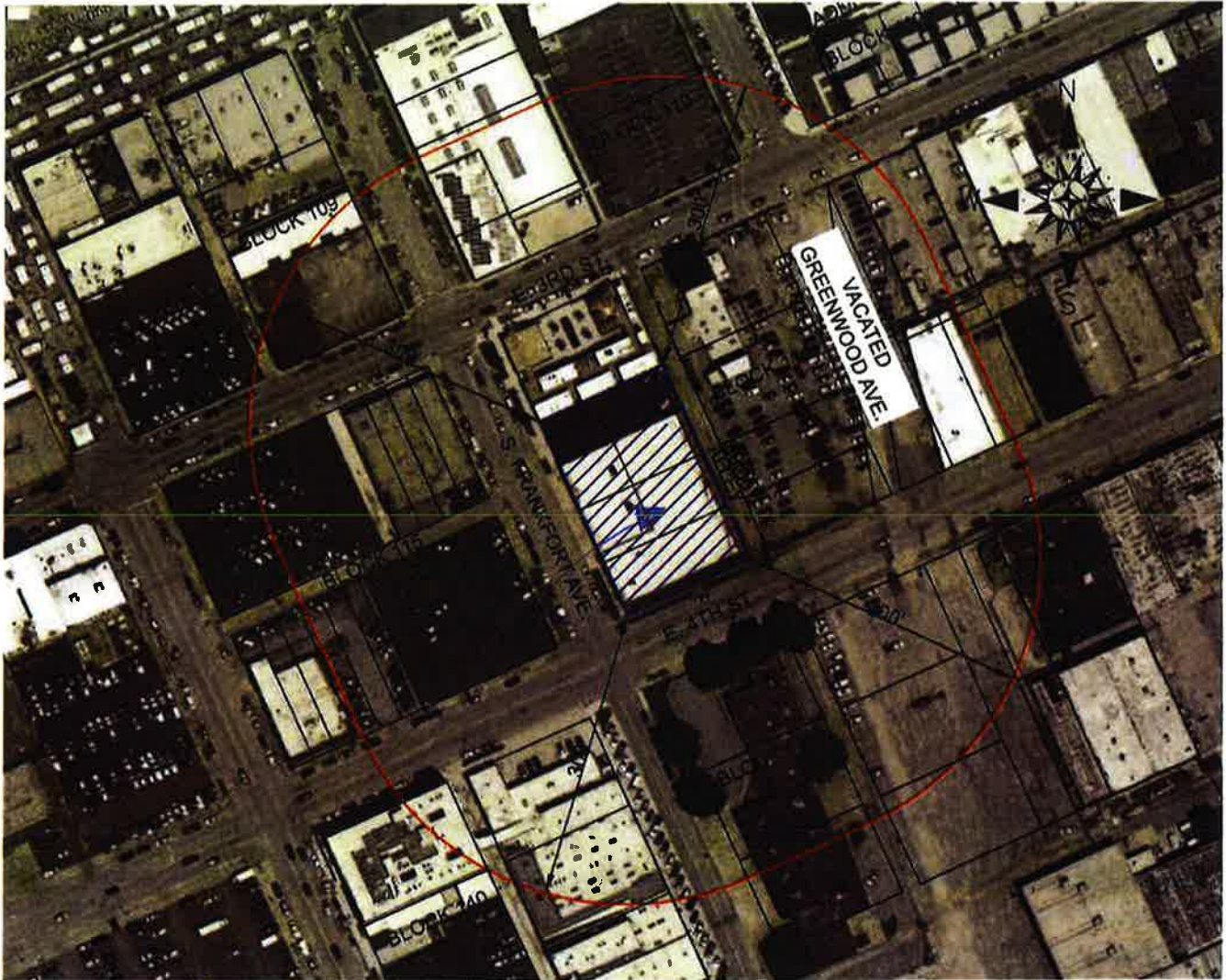
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018

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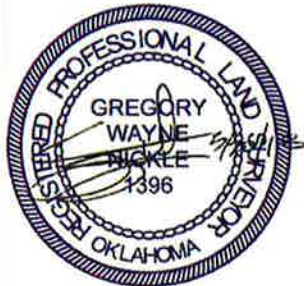
SPACING EXHIBIT



Church is currently in the process of opening in basement of subject property.

I hereby certify the the public entrance of the establishment, as measured in a straight line is not less than 50 feet from the nearest point on the R-Zoned lot to the nearest public entrance door of the bar or the nearest portion of any outdoor seating/dining area.

That the establishment is not located within 300 feet of a public park, school (including all contiguous property owned or leased by the school upon which the principal school building is located, regardless of any interior lot lines) or religious as-assembly use (including all contiguous property owned or leased by the religious organization upon which the principal religious assembly building is located), regardless of any interior lot lines. As measured from the nearest property line of such public park, school or religious as-assembly use to the nearest perimeter wall of the bar.



108 S. 109th E. Place, Tulsa, Oklahoma, 74128
 (918) 664-5411. C.A. #1749 Expires 6/2019.

SCALE: NTS
 DATE: 03/20/18



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