

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1208
Tuesday, June 26, 2018, 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		Miller Ulmer Sparger R. Jones	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on June 21, 2018, at 2:52 p.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the June 12, 2018 Board of Adjustment meeting (No. 1207).

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today; the fifth member, Mr. Flanagan, has left the Board and moved on to other opportunities and the process of replacing Mr. Flanagan has been started. Any motion 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. If an applicant or an interested party would like to postpone his or her

hearing until the next meeting he or she could do so. The audience nodded their understanding and no one came forward to request a continuance.

Ms. Miller stated that the new Board member should be appointed and confirmed by City Council by the July 24th meeting.

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UNFINISHED BUSINESS

None.

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NEW APPLICATIONS

22458—David Lynch

Action Requested:

Special Exception to permit a carport in the street setback (Section 90.090-C.1).

LOCATION: 8539 East 34th Street South (CD 5)

Presentation:

Staff requests a continuance to July 10, 2017 due to additional relief needed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to permit a carport in the street setback (Section 90.090-C.1) to the July 10, 2017 Board of Adjustment meeting; for the following property:

LT 18 BLK 14, LONGVIEW ACRES 2ND, City of Tulsa, Tulsa County, State of Oklahoma

22461—KKT Architects – Nicole Watts

Action Requested:

Special Exception to allow a dynamic display in an RS-4 District (Section 60-050.B). **LOCATION:** B/t East Independence Avenue North & East Latimer Street

North and B/t North MLK, Jr. Boulevard & North Main Street (CD 1)

Presentation:

Staff requests a continuance to July 10, 2018 due to additional relief needed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; none absent) to **CONTINUE** the request for a Special Exception to allow a dynamic display in an RS-4 District (Section 60-050.B) to the July 10, 2018 Board of Adjustment meeting; for the following property:

ALL BLKS 19 & 20 & W/2 VAC BOSTON AVE ADJ BLKS 19 & 20 & VAC KING ST ADJ BLK 19 & 20 & N/2 VAC JASPER ST ADJ ON S BLK 20; LTS 17 THRU 22 & S/2 VAC JASPER ST ADJ ON N & E7 PRT ADJ TO ALLEY LESS S29.5 LT 17 FOR ST BLK 21; ALL BLK 2 & E/2 VAC BOSTON AVE ADJ BLKS 2 & 3 & VAC KING ST ADJ BLKS 2 & 3 LESS E40 THEREOF & ALL BLK 3 LESS E40 LT 1 & LESS LT 24 BLK 3 & N/2 VAC JASPER ADJ ON S BLK 3; LTS 1 THRU 6 & S/2 VAC JASPER ST ADJ ON N & W/2 VAC BOSTON AVE ADJ ON E & W7 PRT ADJ TO ALLEY LESS S29.5 LT 6 FOR ST BLK 21; LTS 1 - 24 & S/2 VAC JASPER ST ADJ ON N LESS E12 BLK 4, KIRKPATRICK HGTS, BURGESS HILL ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22455—Laquinnia Lawson

Action Requested:

Variance to reduce minimum required front street setback from 30 feet to 25 feet (Section 5.030-A). **LOCATION:** 1 East 26th Place South **(CD 4)**

Presentation:

Thea and Laquinnia Lawson, 1 East 26th Place, Tulsa, OK; stated they purchased the subject property from the Kaiser Foundation in 2012. The information from the survey they had performed does not match the current City Code setbacks. The lot is unusual as it is the corner of 26th Place and Riverside Drive, which means there is an additional setback requirement on the west side of the property. The proposed house is planned to be oriented toward Riverside Drive even though the address reflects 26th Place. There are no plans to erect any other fencing other than the one along Riverside Drive so the space will be open to the neighborhood. The only portion of the house that will be over the original 20-foot setback will be an area that is 17 feet long and one story.

Mr. Van De Wiele asked Ms. Lawson what that structure will be. Ms. Lawson stated that it is a master closet.

The main portion of the house will have a setback of 33 feet. Current tree placement was taken into consideration when designing the house; six mature trees will remain. Today's request is identical to a Minor Special Exception requested for a front yard setback, which was approved for a house located at 32 East 26th Street; BOA-22178.

Interested Parties:

Roberta Clark, 16 East 26th Place, Tulsa, OK; stated she lives across from the subject property, and she owns the property located at 20 East 26th Place. She has lived in the neighborhood for 30 years. There was a historic house on the subject property that was built approximately 1924. The house was purchased by Kaiser through Peter Walters and because of the lack of proper maintenance the house was razed. Several years later Mr. Walters organized the sale of the property at an auction and it was purchased by a contractor. That contractor was going to build a house that was outside of the setbacks and he came to the Board of Adjustment requesting a Variance that was denied. The contractor sold the subject property and the current owners now have the lot. Ms. Clark stated that she knows the current owners fully investigated widening of Riverside Drive prior to their purchase therefore they understood the setbacks. Ms. Clark stated that each setback should remain as the current setbacks because the Board of Adjustment should be consistent. The prior owners were not entitled to a Variance. There are three or four houses on the same side of the street that will be razed and become new construction in the future. By changing the setback, the Board will be affecting the historic neighborhood. The current owners were well aware of the setbacks, and she feels as a landowner and someone who has lived in Maple Ridge for 30 years setbacks should not be changed because of what it will do in the future to other properties. Ms. Clark stated that the Board of Adjustment should be consistent for the benefit of the neighborhood. The previous Board recognized the impact and denied a request. If the rules are broken on this lot, then the neighborhood is possibly looking at breaking the rules on two lots a few doors down. Changing the rules destroys the integrity of this historic neighborhood forever. Ms. Clark respectfully requests the Board honor the previous Board's decision and not allow this Variance.

Barbara Cox, 10 East 26th Street, Tulsa, OK; stated her property backs up to the subject property. Ms. Cox stated the neighborhood is on the register of National Historic Places and she asks the Board to look out for the neighborhood. This house will stick out in front of all the other neighborhood houses and they will no longer be in a straight line. Ms. Cox is against the Board changing the rules in the neighborhood.

Mr. Van De Wiele asked staff what the setbacks are for RS-2 zoning. Ms. Miller stated with the new code it is street setbacks not front or side setbacks, so it no longer matters what is designated as the front. Ms. Ulmer stated that it is 30 feet from a non-arterial street and 35 feet from an arterial street.

Rebuttal:

Laquinnia Lawson came forward and stated that he purchased the subject property six years ago. Anything that is built on the lot will change the character of the

neighborhood simply because the lot has been empty for so long. This request is for a five-foot allowance which is allowed by Code for an area that is 17 feet wide. The primary main portion of the house is 30 feet back in spite of an error in the original plans. Mr. Lawson stated that he always intended to push the house back as far as possible. There are a lot of things happening in the City and he believes what is happening at the river and the park are all positive. This Minor Special Exception will not change the character of the neighborhood, and this neighborhood is in transition. This will not be a detriment to the neighborhood. It will not impair the use of the neighborhood. This house will be built in the spirit of Maple Ridge.

Ms. Miller stated there is a section in the new zoning code that allows the Development Administrator can assign the front or the side of a property.

Comments and Questions:

Ms. Ross stated that she believes this should be approved, because the zoning code has changed since the survey was done. As far as the contractor that was previously denied she believes it was a larger setback being sought instead of the subject five feet. Ms. Ross stated that history proves the Board has approved several setbacks before, ranging from 20 feet to 1.6 feet, so she does not see any reason to deny this request.

Ms. Back agreed with Ms. Ross. Ms. Back stated that it is a little frustrating to see that the master bedroom closet is what is causing the challenge; it could have been placed to the other side. Ms. Back stated she will support the request if someone can come up with a hardship.

Mr. Bond stated that he is the former President of the neighborhood association, and he does not believe this will impair his judgement in looking at this subjectively. Mr. Bond stated that the Board does this regularly and he agrees with Ms. Clark that the Board has to be consistent. This is what the Board consistently does. Mr. Bond stated that he is inclined to support this request.

Mr. Van De Wiele stated this is not a circumstance of the mass of the building being brought forward. The Variance request that was previously mentioned was in 2005, and it was a request to go from 25 feet to 15 feet. Mr. Van De Wiele stated that he does not see this being intrusive on the neighborhood.

Board Action:

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to reduce minimum required front street setback from 30 feet to 25 feet along East 26th Place South (Section 5.030-A), subject to conceptual submitted today, sheet A-100. The Board finds the hardship to be the shape of the lot, being a corner lot bordering a major arterial and a minor arterial, and the front of the house being established on 26th Place. The approval is conditioned upon the structure that encroaches into the setback being 17'-0" wide x 5'-0" deep and one story in height as disclosed by the applicant

today. 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 8 BLK 13, RIVERSIDE DRIVE ADDN THIRD AMD, City of Tulsa, Tulsa County, State of Oklahoma

22456—KKT Architects – Nicole Watts

Action Requested:

Verification of the 300-foot spacing requirement for a bar from public parks, schools, and religious assemblies and 50 feet from an R-zoned lot (Section 40.050-A). **LOCATION:** 112 South Elgin Avenue East (**CD 4**)

Ms. Back recused and left the meeting at 1:31 P.M.

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated the subject property is in the CBD District downtown, and there is not R District within 300 feet of the location.

Mr. Van De Wiele stated the Board is possession of the revised spacing verification that was presented today.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; none absent) that based upon the facts in this matter as they presently exist and based on the renewed spacing verification presented today, we **ACCEPT** the applicant's verification of spacing for the proposed bar subject to the action of the Board being void should another conflicting use be established prior to this bar; for the following property:

N34.8 LT 2 BLK 86, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 1:34 P.M.

22459—John Phillips

Action Requested:

Variance to permit an accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-B). **LOCATION:** 2135 South 130th Avenue East **(CD 6)**

Presentation:

John Phillips, 6905 Tubelo Avenue, Oolagah, OK; stated the hardship for this case is that the subject property is over two acres and the house on the lot is about 1,700 square feet. The proposed accessory building will be 30'-0" x 40'-0" with a 20'-0" lean-to to store personal equipment. There are businesses to the west and north, the reservoir is to the east, and trees to the south.

Mr. Van De Wiele asked Mr. Phillips if overall the proposed building is 50'-0" x 40'-0" including the lean-to. Mr. Phillips answered affirmatively. Mr. Phillips stated the lean-to will be a covered area to entertain family and friends.

Interested Parties:

Cathy Harmon, 2135 South 130th East Avenue, Tulsa, OK; stated she is the property owner. There is no place to store any of their personal equipment, so they would like to have the proposed garage. Ms. Harmon stated they have a large family, so they would like to have the covered area attached to the proposed garage.

Mr. Van De Wiele asked Ms. Harmon if there would be a business operated out of the proposed garage. Ms. Harmon stated that they own a business, but it will not be run out of the proposed garage.

Ms. Back asked Ms. Harmon if there were any plans to have a dwelling unit within the garage. Ms. Harmon stated there would not be a dwelling unit, but they would like to have a bathroom.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to permit an accessory building to exceed 40% of the floor area of the principal residential structure (Section 45.030-B), subject to conceptual plans 5.8, 5.9, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, 5.17, 5.18, 5.19, 5.20, 5.21, 5.22, 5.23, 5.24 and 5.25 of the agenda packet. The driveway is to be constructed of all-weather concrete or asphalt. The Board finds the hardship to be the size of the lot and the varying adjacent uses of the location. The Board finds that the following facts, favorable to the property owner, have been established:

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

**BEG 635.654S & 684.769E NWC NW TH E304.885 N305.304 W304.89 S305.327 POB
SEC 16 19 14, SMITTLE ADDN, City of Tulsa, Tulsa County, State of Oklahoma**

22460—Loren Sells

Action Requested:

Verification of the 300-foot spacing requirement for a liquor store from other liquor stores, plasma centers, day labor hiring centers, or pawnshops in the CBD District (Section 40.300-A). **LOCATION: Tenant Space** – 502 East 3rd Street South **(CD 4)**

Presentation:

Loren Sells, 5103 South Sheridan Road, Tulsa, OK; no formal presentation was made but the applicant was available for questions from the Board.

Mr. Van De Wiele asked Ms. Sells if this liquor would be going in to the Boxyard. Ms. Sells answered affirmatively.

Mr. Van De Wiele asked Ms. Sells if she was aware of any liquor stores, day labor hiring centers, plasma centers, pawn shops or bail bond offices within 300 feet of the proposed tenant space. Ms. Sells stated that she was not aware of any.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they presently exist, we **ACCEPT** the applicant's verification of spacing to permit expansion of the existing liquor store subject to the action of the Board being void should another liquor store or other conflicting use be established prior to the establishment of this liquor store, subject to exhibit 6.9 and the applicant's verbal confirmation; for the following property:

LT 8 BLK 114, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22462—Jennifer and Michael Abbey

Action Requested:

Special Exception to permit the parking and storage of recreational vehicles in an RS-3 District (Section 45.150). **LOCATION:** 3818 South 142nd Avenue East **(CD 6)**

Presentation:

Jennifer Abbey, 3818 South 142nd East Avenue, Tulsa, OK; stated she has resided there for 30 years and she had a slab poured a long time ago. She did not realize the utility trailer is actually a recreational vehicle. Everything is on concrete and the boat is in the driveway about 16 feet from the curb line.

Mr. Van De Wiele asked Ms. Abbey if she had heard anything from any of her neighbors, either in support of or in opposition to the request. Ms. Abbey stated the neighbors she has spoken to do not have any problems with the request.

Mr. Van De Wiele stated that generally the way these requests come about is that somebody made a telephone call to the City because they are not happy with what they see.

Mr. Van De Wiele asked Ms. Abbey if there were other households in the neighborhood that have boats or RVs in the driveway. Ms. Abbey answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele stated that he is not usually in favor of this type of request, but he would rather place a time limit on the approval long enough that the homeowner does not need to keep coming before the Board but such that it is not going on forever; ten-year time limit. Mr. Van De Wiele stated that he would be inclined to one boat and one trailer of the type and size as seen in the pictures.

Ms. Ross stated that she is not in favor of this request because she believes that it contributes to parking on the street, which it looks like there is already parking on the street, instead of parking in the driveway or the garage which is meant to hold vehicles. There are storage facilities meant to hold boats and trailers and if this were her neighborhood she would not like it.

Mr. Van De Wiele stated that if it were in his neighborhood he would not like it either, but the flip side of this is there is probably a dozen or so neighbors that are theoretically impacted by this and they are not here either in person or e-mail.

Ms. Back stated that in the past the Board has asked the applicant if there could be a gate installed on the side of the house to place the recreational vehicle on the side of the house or the back yard, but these houses are tight and there is no alley access. Ms. Back stated she does not like it but is undecided.

Mr. Van De Wiele stated that it is not a question of whether a specific Board member would want this next door to them, it is really a question of is it injurious to the neighborhood.

Mr. Bond stated he is undecided. Mr. Bond stated the question is whether it violates the spirit and intent of the Code.

Michael Abbey, 3818 South 142nd East Avenue, Tulsa, OK; stated he purchased a permit to pour a slab about 15 years ago for the utility trailer to parked on. Mr. Abbey stated that he has had the boat and trailer about 20 years on the permitted slab.

Board Action:

On **MOTION** of **BOND**, the Board voted 2-2-0 (Bond, Van De Wiele "aye"; Back, Ross "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to permit the parking and storage of recreational vehicles in an RS-3 District (Section 45.150), subject to the condition that the approval has a time limit of ten years from today's date, June 26, 2028. The approval is limited to one boat and one trailer that are in reasonable size to those shown on 8.8 and 8.9 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 6, SUMMERFIELD SOUTH, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILS

On **MOTION** of **back**, the Board voted 2-2-0 (Back, Ross "aye"; Bond, Van De Wiele "nays"; no "abstentions"; none absent) to **DENY** the request for a Special Exception to permit the parking and storage of recreational vehicles in an RS-3 District (Section 45.150); for the following property:

LT 14 BLK 6, SUMMERFIELD SOUTH, City of Tulsa, Tulsa County, State of Oklahoma

MOTION FAILS

On **MOTION** of **BACK**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to permit the parking and storage of recreational vehicles in an RS-3 District (Section 45.150) to the July 24, 2018 Board of Adjustment meeting; for the following property:

LT 14 BLK 6, SUMMERFIELD SOUTH, City of Tulsa, Tulsa County, State of Oklahoma

22463—KKT Architects – Nicole Watts

Action Requested:

Variance to permit the construction of stairs in the right-of-way (Section 90.090-A).

LOCATION: 315 South Trenton Avenue East, 317 South Trenton Avenue East, 1609 East 4th Street South **(CD 4)**

Ms. Back recused and left the meeting at 2:02 P.M.

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated the existing structure is being repurposed into new retail and coffee shop areas. Based on the existing grade of the street and the existing floor, when the building was split up some of the elevations of the existing floor are higher than the existing sidewalk. To make the building usable there needs to be steps. The building is built along the property line so the only place to place the steps is in the street right-of-way. The traffic flow on the sidewalk will not be impeded and there will still be enough area to walk up and down the streets and access the buildings. Ms. Watts stated a license agreement will be required to place the steps in the right-of-way.

Mr. Van De Wiele asked if this was for the 4th Street right-of-way. Ms. Watts stated it is the Trenton right-of-way; there is one step on the north and four steps on the southwest corner.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 3-0-1 (Bond, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; absent) to **APPROVE** the request for a Variance to permit the construction of stairs in the right-of-way (Section 90.090-A), subject to conceptual plan 9.9 of the agenda packet. The applicant is to execute a license agreement with the City. The Board finds the hardship to be the historic nature of the building and the grade change of the sidewalk and street. The Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;

- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;
- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

N 44 LT 13 BLK 6; S 96' OF LT 13 & ALL LT 14 BLK 6; LTS 15 16 & W16.6 LT 17 BLK 6, MIDWAY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 2:08 P.M.

22467—Hayden Kuck

Action Requested:

Variance of the minimum side setback requirement; Variance of the minimum rear setback requirement (Section 5.030-A). **LOCATION:** 213 West 19th Street South (CD 4)

Presentation:

Marcus Fairless, 1830 South Cheyenne Avenue, Tulsa, OK; stated he is the architect of record for these plans and also the neighbor to the subject property. The garages in the neighborhood are at zero lot line as is his garage which backs up to the proposed garage site. The proposed garage is in back of an alley that was vacated in the early teens. Other property owners have been developed into that lot. Mr. Fairless stated that being the neighbor and the architect on the project he likes where the garage is being added. It does not block his view to Riverside and does not block the surrounding neighborhood, and it puts the garage to the house behind the base of the historic property which is appropriate. The height of the structure will be below the main property. The house has been restored to its original look; restoring the materials and the architecture to what would have been the original.

Mr. Van De Wiele asked Mr. Fairless what the side setback will be. Mr. Fairless stated the side setback will be approximately 25 feet.

Mr. Van De Wiele asked Mr. Fairless how close the garage will be to the property line to the east. Mr. Fairless stated it will be 6'-4", and the side yard easement is five feet.

Ms. Ulmer informed the Board that according to the LOD it was pointed out that the alley has been vacated but it has never gone through the District Court system. She believes that permitting was looking at it as that is not the actual property line, and that is why it is closer than five feet.

Mr. Van De Wiele asked Mr. Fairless how far back the garage is going to sit off the rear property line. Mr. Fairless stated it will be 11'-4".

Ms. Ross asked Mr. Fairless if the alleyway is used. Mr. Fairless answered no, and that the alleyway was unofficially vacated in the teens. Mr. Van De Wiele stated that he did not want to give legal advice, but the vacating of the alley needs to be taken care of. There is a difference between the alley not being used and it being vacated and it being judicially foreclosed. He thinks there is still a legal possibility of the right-of-way being reopened.

Ms. Blank stated that it appears the building lot line is 1'-6" from the alley. The reason the Variance is being requested is because it is the City's analysis that what is being shown as the property line is not the property line and the structure is less than five feet from the lot line. Mr. Fairless stated that the subject property has been surveyed twice by two separate surveyors. Ms. Blank stated with the exhibits that are available it is difficult to be sure because the exhibits are so tiny.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Back, Bond, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance of the minimum side setback requirement; Variance of the minimum rear setback requirement (Section 5.030-A), subject to conceptual plans 10.8 and 10.9 of the agenda packet. The Board finds the hardship to be the historic nature of the house predating the City's first comprehensive zoning code. The Board finds that the following facts, favorable to the property owner, have been established:

- a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;
- c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;

- d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;
- e. That the variance to be granted is the minimum variance that will afford relief;
- f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and
- g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan; for the following property:

LTS 10 & 11 BLK 5, BUENA VISTA PARK, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

RECONSIDERATION:

22447—John Watchous

Special Exception to allow a personal improvement use in an OM District (Section 15.020). **LOCATION:** 1222 South Lewis Avenue East (**CD 4**)

Mr. Van De Wiele stated the Board is not reconsidering this case today, but the Board is voting to reconsider the case at the next Board of Adjustment meeting on July 10, 2018. This is the two buildings that are located at 12th and Lewis that the Board approved the personal improvement use; the tattoo parlor, fortune telling, etc. There is a provision in the Zoning Code for personal improvement use that covers a wide variety of things. The applicant wanted a full range of those uses to make the properties more marketable. The Board was not inclined to approve the full breadth of the personal improvement use, one of which is fortune telling. Mr. Van De Wiele stated that fortune telling is against the law in the City of Tulsa. The Board has approved a use that is not right to use so ultimately at the next meeting the Board will consider striking the term “fortune telling” from the motion.

Board Action:

On **MOTION** of **BACK**, the Board voted 3-0-1 (Back, Ross, Van De Wiele, White “aye”; no “nays”; Bond “abstaining”; none “absent”) to **RECONSIDER** the Special Exception to allow a personal improvement use in an OM District (Section 15.020) for BOA-22447 on the July 10, 2018 Board of Adjustment meeting; for the following property:

LTS 3 & 4 BLK 7 & PRT VAC RR R/W BEG 86.51 SE MOST NLY NEC LT 4 BLK 7 TERRACE DRIVE ADDN TH SE53.61 N23 W12.75 NW15.89 NW12.52 POB SEC 7 19

**13 .005AC, TERRACE DRIVE ADDN AMD SUB B2-3&7, TERRACE DRIVE ADDN,
City of Tulsa, Tulsa County, State of Oklahoma**

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

There being no further business, the meeting adjourned at 2:32 p.m.

Date approved: _____

Chair

DRAFT