

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1220
Tuesday, January 22, 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 E. Smith	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on January 17, 2019, at 8:11 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the **Minutes** of the December 11, 2018 Board of Adjustment meeting (No. 1218) with the correction.

Mr. Van De Wiele explained to the applicants and interested parties that there were only four board members present today. Mr. Bond is absent because he is still in court for a hearing, and should be here about 1:30 P.M. If the Board gets to an applicant's agenda item before 1:30 and the applicant would like to continue their case until the end of the agenda, or to a later hearing date, the Board will entertain that request at that time. 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.

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UNFINISHED BUSINESS

None.

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NEW APPLICATIONS

22573—Sizemore, Weisz & Associates

Action Requested:

Variance of the minimum lot area per unit requirement; Variance of the minimum open space per unit requirement in a RM-1 District (Section 5.030-A).

LOCATION: SW/c of North Lewis Avenue East & East Archer Street North **(CD 3)**

Presentation:

The applicant requested a continuance to the February 12, 2019 meeting.

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, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a Variance of the minimum lot area per unit requirement; Variance of the minimum open space per unit requirement in a RM-1 District (Section 5.030-A) to the February 12, 2019 Board of Adjustment meeting; for the following property:

A TRACT OF LAND THAT IS PART OF BLOCK FOUR (4), EASTLAND ADDITION, AN ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 4; THENCE SOUTH 01°06'54" EAST ALONG THE EASTERLY LINE OF SAID BLOCK 4 FOR 242.74 FEET; THENCE SOUTH 88°53'06" WEST FOR 10.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING SOUTH 88°53'06" WEST FOR 309.29 FEET TO A POINT ON THE WESTERLY LINE OF SAID

BLOCK 4; THENCE NORTH 01°06'54" WEST ALONG SAID WESTERLY LINE FOR 195.69 FEET TO A POINT OF CURVE; THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 89°11'59", A CHORD BEARING OF NORTH 43°29'05" EAST, A CHORD DISTANCE OF 42.13 FEET FOR AN ARC LENGTH OF 46.70 FEET; THENCE NORTH 88°05'05" EAST PARALLEL WITH AND 13.00 FEET SOUTHERLY OF THE NORTHERLY LINE OF SAID BLOCK 4 FOR 261.92 FEET; THENCE SOUTH 51°45'39" EAST FOR 23.04 FEET; THENCE SOUTH 01°06'54" EAST PARALLEL WITH AND 10.00 FEET WESTERLY OF THE EASTERLY LINE OF SAID BLOCK 4 FOR 214.74 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND, City of Tulsa, Tulsa County, State of Oklahoma

BOA-22571 – Robert Bromley

Action Requested:

Variance to reduce the lot area and lot area per unit requirement; Variance to reduce the required front street setback; Variance to reduce the required rear yard setback; Variance of the open space requirement in an RS-3 District (Section 5.030). **LOCATION:** 1610 West Easton Place North **(CD 4)**

Presentation:

Robert Bromley, 700 East Decatur Street, Broken Arrow, OK; stated he purchased a lot in Owen Park, and he would like to have a Craftsman style house, which is typically square. The lot is 75'-0" x 75'-0" so there is not a lot of room to build a decent sized house there. Currently the front of the house will be 20'-0" from the street and the back of the house will be 5'-0" with a garage that can be pulled in to. Essentially there will be 18'-0" on each side of the house and 23'-0" from Union to the garage. Mr. Bromley stated that he has spoken with some of the neighbors and presented a signed letter of support from one of the neighbors.

Mr. Van De Wiele asked Mr. Bromley where the neighbor that signed the letter is in relation to the subject property. Mr. Bromley stated that neighbor is east one block on the corner.

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, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to reduce the lot area and lot area per unit requirement from 6,900 square feet to 5,625 square feet; Variance to reduce the required front street setback from 25 feet to

20 feet along West Easton Place; Variance to reduce the required rear yard setback from 20 feet to 5 feet; Variance of the open space requirement from 4,000 square feet to 3,520 square feet in an RS-3 District (Section 5.030), subject to conceptual plans 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, and 2.20. The Board has found the hardship to be the small platted lots from the original township. The house is to be in keeping with the style as exhibited on the conceptual plans 2.11 through 2.20. 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:

W 75' LTS 1 2 3 BLK 5, PARK HILL ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

BOA-22572 – Clifford E. Phillips

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: 3618 East Admiral Place North (CD 4)

Presentation:

Clifford Phillips, 524 Pittsburg Avenue, Tulsa, OK; stated as dictated by City Council in the meeting on November 28, 2018, new dispensary openings in the City of Tulsa have to be at least 1,000 feet from another dispensary. Mr. Phillips stated that the maps he provided with the application is how the other commercial operations that are located on Admiral, and there is one new business, Infinity Mobile, that is not shown on the map.

Interested Parties:

Tom Shellhorn, Crosstown Church of Christ, 3400 East Admiral Place, Tulsa, OK; Mr. Shellhorn asked the Board if this was an appropriate time to make a protest to the location of the medical marijuana dispensing facility in this neighborhood.

Mr. Van De Wiele stated what the Board is being asked to do today is to verify spacing. Whether there is another medical marijuana dispensary within 1,000 feet of this proposed location. This application is not a request to this Board to locate this dispensary in this location nor is the Board being asked to weigh in on the appropriateness or lack of appropriateness of this application. Mr. Van De Wiele informed Mr. Shellhorn that if he is aware of another dispensary within 1,000 feet this would be the venue to lodge that complaint.

Mr. Shellhorn stated that was all he had and sat down.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Back, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) I move that based upon the facts in this matter as they presently exist, we accept the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 1 LESS N 5 CITY BLK 1, WALNUT PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

BOA-22574 – Corey Robison

Action Requested:

Special Exception to allow an Indoor Commercial/Assembly and Entertainment Use (RC Car Racetrack) in the IM District (Section 15.020). **LOCATION:** 6240 East 15th Street South **(CD 5)**

Mr. Bond entered the meeting at 1:21 P.M.

Presentation:

Corey Robison, 4912 South Norfolk, Tulsa, OK; stated the project is located within an old warehouse which is perfect for an RC racetrack. Mr. Robison stated that he has been doing RC racing for about ten years, and Tulsa does not have anything like this.

People from all the surrounding states and country come to race on the track. It is a good family-oriented hobby, and the children learn about physics and mechanics.

Mr. Van De Wiele asked Mr. Robison if everything he is doing is indoors. Mr. Robison answered affirmatively. Mr. Van De Wiele asked Mr. Robison what type of sounds are heard outside of the building. Mr. Robison stated there is hardly any noise. Mr. Van De Wiele asked Mr. Robison if the cars were gas powered. Mr. Robison stated the cars are electric or battery powered.

Ms. Ross asked Mr. Robison if he had the number of required parking spaces. Mr. Robison stated that on the original plans there were 33 spaces, and he is waiting on his architect to provide an updated plan.

Ms. Back asked Mr. Robison how loud the cars are if they were to be run in the parking lot. Mr. Robison stated the cars are quiet and can be barely heard. Ms. Back asked Mr. Robison if anyone with a gas-powered car could run on the track. Mr. Robison stated there is no ventilation in the building so he will not allow gas powered cars.

Ms. Ross asked Mr. Robison if he was already open and operating. Mr. Robison answered affirmatively.

Ms. Back asked Mr. Robison if there had been a complaint about the operation being open without the proper permissions. Mr. Robison stated the Fire Marshal visited and stated that a vagrant had parked an RV in the front of the building and broke in to access the electricity, thus the inspection. Mr. Robison stated that he did not know he could not run toy cars in a warehouse. The Fire Marshal informed him that he needed to repair the exit signs and install fire extinguishers. Ms. Back asked Mr. Robison if he was in the entire building. Mr. Robison stated that he is in the back warehouse which is a small section on the east side and the rest of the building is closed off from anyone entering.

Ms. Back asked Mr. Robison what is in the building he is next to. Mr. Robison stated that it is an old abandoned building.

Interested Parties:

Roger Klein, 1227 West 117th Street South, Jenks, OK; stated he came today because people may not know what RC car racing is. To him the people that are here today in support of this request are a village to his kids. Less than nine months ago he and his child walked in with a Wal-Mart car and he has watched his twelve-year-old son become a man. He has learned adversity and learned how to talk to people. The people that race there, range in age from 6 to 75 years old. Mr. Klein stated that his son has learned how to work with his hands, what mechanics are, how to deal with school and attending races, and what importance it is to him. He has gotten off the internet, off the game systems, and he spends six to seven hours a week working on his car himself. This is more than just an RC track, it is a way of life for his son. Mr. Klein stated that he and his son travel all over the United States to other tracks to race. This is important. It

may be just an old warehouse and it is a good location for a family environment and more of this is needed in the city.

Jason Hubbert, 2171 South Urbana, Tulsa, OK; presented pictures of the track within the building. The track is clay and can be bulldozed to make different tracks for the cars. To get to another track like this a person would have to drive at least two hours, Oklahoma City or Fort Smith. Any money the track receives from entry fees, practice day fees, goes directly back into the track. The RC community, as a whole, has had two track racing fundraisers; everybody has banded together to make the building as compliant as possible. This is unique to Tulsa and is drawing people in from different areas and different states.

Ms. Radney asked Mr. Hubbert if the facility was being operated as a private club or association, or is the track open to the public? Mr. Hubbert stated the track is open to the public and is free to watch.

Madison Meyer, 8810 Casper Lane, Mounds, OK; stated she is the only girl that races on the track. It is really nice because it gives her time to hang out with her father. It is a fun thing. This is really important for this to still be a thing for kids to do, because the more people that get into it the more people will see the fun in it. Ms. Meyer stated that she has learned so much about engineering and how a car works.

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 **APPROVE** the Special Exception to allow an Indoor Commercial/Assembly and Entertainment Use (RC Car Racetrack) in the IM District (Section 15.020), subject to conceptual plans 5.12 and 5.13 of the agenda packet. The Board finds that the 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:

E/2 NW NE SE SEC 10 19 13, City of Tulsa, Tulsa County, State of Oklahoma

BOA-22575 – James & Sandra Williamson

Action Requested:

Special Exception to allow a Bed and Breakfast with on-site events in a RS-3 District (Sections 5.020 & 40.060). **LOCATION:** 6111 South Trenton Avenue East (CD 2)

Presentation:

James and Sandra Williamson, 6111 South Trenton Avenue, Tulsa, OK; Sandra Williamson stated she and her husband have lived in the neighborhood for 18 years. As they get older and grow with the property it seemed like her gift of hospitality and cooking was a natural fit to extend their home for this purpose. At present the house is four bedrooms, and they will be adding a couple of bathrooms to the house so each bedroom, upon approval, will have a bathroom. Ms. Williamson stated she has had about six weddings at the subject property, most of them friends and family members, with up to 125 people outside. Ms. Williamson stated there are plans to add a greenhouse area that could house about 75 people for a small event. Ms. Williamson stated that property A is the bed and breakfast and her home. Property B is a piece of property that she and her husband are under contract to purchase, and it would be strictly used for parking that is needed for events. She has also asked for approval of signage, and she understands there is a permitting process for that. She has also asked, if approved, that there would be no restrictions on the length of time because this is quite an investment.

James Williamson, 6111 South Trenton Avenue, Tulsa, OK; stated that he and his wife and have spoken to the neighbors, and he has approval from the immediate neighbors and a neighbor across the street. The main question asked was about the parking, and he believes he has sufficient parking for a bed and breakfast on site.

Mr. Van De Wiele asked Mr. Williamson if the existing fence was at a 45-degree angle to the street. Mr. Williamson answered affirmatively. Mr. Van De Wiele asked Mr. Williamson if the fence was a solid fence on the corner. Mr. Williamson stated that it is a wood fence with pillars that support the fencing.

Mr. Van De Wiele asked Ms. Williamson how large of a sign would she request. Ms. Williamson stated that at a maximum the sign would 3'-0" x 5'-0", wrought iron and placed at the fence where the angle is located. She has also considered hanging the sign from the fence, between the fence and the mailbox.

Ms. Williamson stated that she thinks Tulsa is behind in the bed and breakfast venue. The ones that are in this area might be more historical and she is trying to be unique. Her heritage is Italian, and everything will be themed on that; a taste of Italy.

Ms. Back asked Ms. Williamson about her document for her proposed plan; number 8 states, "events will have at least one staff member on site. Overnight guests will proprietors on site or across Trenton in office house". Ms. Back asked Ms. Williamson if she lived in the house currently and Ms. Williamson answered affirmatively. Ms. Back asked Ms. Williamson if she will relocate if the whole entire house is to be used as a bed and breakfast and go across the street. Ms. Williamson stated that if all the bedrooms are rented then she will have quarters to sleep in at the other house. The kitchen in the house is open so the bulk of the cooking will be done across the street.

Mr. Van De Wiele asked Ms. Williamson where people parked when she has had events in the past. Mr. Williamson stated he has had an arrangement with the owner of the property to the west; he would open his gate and people would park in the driveway area. In some instances, people have parked in the driveway of the neighbors to the south, which they allowed. Mr. Williamson stated that he tries to keep the street free.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Mr. Van De Wiele asked staff if the property to the west should be part of this application; can there be off site parking unless this was all one application? Ms. Blank stated that it was the thought that property B should be part of the Special Exception to be able to use it as the office or kitchen. It needs to be part of it and only property A was the legal description.

Mr. Van De Wiele asked if there were other challenges that come up from that with having a home-based business, or are there issues with it being a commercial kitchen on another location? Mr. Wilkerson stated it would have in the applicant's best interest to get a Letter of Deficiency from the Building Permit Office, because he thinks that is exactly the questions that are going to come up as they move forward through the process. That will happen with an office in a residential district, and off-street parking is not allowed in a residential district. There are issues that are being brought up today that should have been part of a conversation with the City. Mr. Wilkerson stated he does not know enough about the application now to know if there is enough on street parking or off-street parking for a bed and breakfast on the property east of Trenton. If that can be analyzed independently with the application as it is now and exclude the plans to the west, but the bed and breakfast needs to be a stand-alone application on the east side of Trenton.

Ms. Back stated the Board can hear this application, if she understands this correctly, if it is just for the bed and breakfast on the site not using the other site. Mr. Wilkerson agreed. Ms. Back stated if the applicant intends on using the other site it might be wise to continue this so the applicant can get the LOD, get the other owner's permission in letter format to put it together as a package, and then come back to the Board.

Mr. Wilkerson stated the application is for the bed and breakfast, and all the other items will get resolved at the Building Permit level. He thinks it is likely the applicant will have to come back for anything on the property west of Trenton.

Ms. Radney asked if Property B only applies to special events. Ms. Back stated the applicant has said they do the cooking there, and if all the rooms are rented out the applicant would be staying there. Ms. Radney asked if the applicant would be allowed to do that by right if it is only a second property they own. Mr. Van De Wiele stated the applicant can live there and may be have a home-based office. Mr. Wilkerson stated

the applicant will not be able to build the parking lot because it would cover too much of the yard, and the catering is a grey area.

Mr. Van De Wiele asked the applicant to come to the podium, because the Board is struggling with the fact that the application only covers the lot that is currently owned on the east side of Trenton. Mr. Van De Wiele stated that he is more comfortable with the events if the applicant owned and operated the property west of Trenton in combination with the property currently owned. Mr. Van De Wiele stated the Board can either hear the application as it applies only to the property on the east side of Trenton, or the Board can continue the request to a later date to allow the applicant to speak with the INCOG staff so there is a more complete application on file for both pieces of property to make sure all the relief needed is requested.

Ms. Williamson stated that she was told that in order to have the events the request has to be done with the bed and breakfast in the same application which is why she did it this way even though she does not own property B yet. Mr. Van De Wiele stated that a bed and breakfast that does not have events in the original approval can come back and request that events be included in the future. Mr. Van De Wiele there has to be approval from the Board of Adjustment for special events at a bed and breakfast, but they don't have to start with the same application.

Ms. Williamson asked if she just asks for the bed and breakfast approval, there is eight to ten parking spaces on property A which is plenty of parking, and then purchased property B and got everything in order can she come back? Mr. Van De Wiele stated that is certainly a possible application, and the downside is the cost and the time involved.

Ms. Radney stated that she would not be completely opposed to events because she can imagine a little tea party or a bachelorette event that is not going to involve hundreds of people, but it would be something that would be appropriate. She wouldn't see any issue to limiting the size of an event to 25 participants or something like that.

Mr. Van De Wiele agreed with Ms. Radney and stated that if there were a luncheon with 15 people in attendance that does not necessarily offend him. He thinks the way to limit it per the approval would be frequency, how many per month or year and size of attendance.

Ms. Ross stated she would not be opposed to the applicant having events in their own home, but if it is somebody renting out the property that is the kind of event that needs to have approval.

Ms. Back stated that she does not want to limit the applicant to not having events. She thinks a bachelorette party, a bridal shower, or small events similar to that is great to be held at a bed and breakfast. She thinks the Board does need to be careful in how they word and craft the conditions knowing the applicant is looking at moving forward into larger events.

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 Special Exception to allow a Bed and Breakfast with on-site events in a RS-3 District (Sections 5.020 & 40.060), subject to conceptual plans 6.11, 6.12, 6.13, 6.14, 6.15, and 6.16. Conceptual plan 6.11 and 6.12 is for the conditions listed by the applicant unless specifically addressed within this motion. Size of attendance is limited to 25 persons maximum exclusive of the proprietors and any bed and breakfast overnight guests. Any events allowed may operate until 11:00 P.M. outside. Events allowed up to 24 events per year. The proprietors are required to occupy property A or property B as shown on conceptual plans. On Exhibit 6.13 is to exclude the improvements shown on the west side of Trenton for what is referred to as property B. 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 25E & 50S NWC W/2 NE LT 3 TH S60 E158 N60 W158 TO POB SEC 6 18 13 .217ACS; PRT LT 3 BEG 110S & 25E NWC W/2 NE LT 3 TH S110.42 E158 N110.42 W158 TO POB SEC 6 18 13 .400AC, City of Tulsa, Tulsa County, State of Oklahoma

BOA-22576 – Matt King

Action Requested:

Variance to allow a detached accessory structure to exceed 18 feet in height and exceed 1-story in the rear setback in an RS-2 District (Section 90.090-C).

LOCATION: 2115 East 23rd Street South **(CD 4)**

Presentation:

Brandon Bissram, King Architectural Solutions, 108 North Greenwood, Tulsa, OK; stated he would like to have a two-story detached garage on the subject property. The second story will be the owner's office. The existing garage is currently attached but it will be razed. The detached garage will be 10'-0" from the rear property line and it will encroach on the 25-foot setback. The living room, mudroom, and laundry room are new additions on the east side of the new garage.

Mr. Van De Wiele asked Mr. Bissram if the architectural style will be in keeping with the principal residence. Mr. Bissram answered affirmatively.

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 **APPROVE** the Variance to allow a detached accessory structure to exceed 18 feet in height to 22'-1" and exceed 1-story to two stories in the rear setback in an RS-2 District (Section 90.090-C), subject to conceptual plans 7.11 and 7.12 of the agenda packet. The Board finds the hardship to be the house predates the 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:

ALL OF LT 14 & W1/2 OF LT 15 BLK 7, BRENTWOOD HGTS, City of Tulsa, Tulsa County, State of Oklahoma

BOA-22577—A-Max Sign Company

Action Requested:

Special Exception to permit a dynamic display sign to be located within 200 feet of an R District (Section 60.100-F); Special Exception to allow a dynamic display sign to be located in an RS-2 District (Section 60.050-B.2). **LOCATION:** 3820 East 41st Street South **(CD 9)**

Presentation:

Bruce Anderson, 9520 East 55th Place, Tulsa, OK; stated this request is to allow an electric message center for Patrick Henry Elementary School. The sign meets all the Code requirements set forth by the City of Tulsa. The sign will be 21 square feet in

size. The school has been informed about the restrictions regarding the sign, and the school has agreed to comply to the Code.

Mr. Van De Wiele asked Mr. Anderson if the new sign would be the same overall height as the old sign. Mr. Anderson answered affirmatively.

Mr. Bond asked Mr. Anderson if the new sign would be 65 feet from the street. Mr. Anderson answered affirmatively.

Mr. Van De Wiele stated in the e-mails the Board has received, a packet of e-mails some of which had been sent to the Board and all of which have been copied and presented to the Board, there was one that referenced an opportunity for the neighbors to see the proposed sign, was that presentation at the school? Mr. Anderson stated that he was not at that meeting.

Interested Parties:

Charles Ryan Neurohr, 4132 East 41st Street, Tulsa, OK; stated he lives right down the street from the school, so he is not only with the sign company, but he lives in the neighborhood of the proposed project. He drives by the site everyday and believes it will be an asset for the school and the neighborhood as a whole. The meeting in question was held at the school a few weeks ago and there was a demonstration of the proposed sign. The PTA and the residents of the neighborhood were invited to attend to see the board first hand to know what was being proposed. The sign will be turned off at 9:00 P.M. every evening and will come back on at 7:00 A.M. every day. The dimming capabilities were shown; during the daylight the sign will be brighter, if it is a cloudy day the sign will automatically dim, morning and evening hours the sign will automatically dim based on the sunlight. The meeting went very well and there was no conflict from the residents in attendance.

Sue Ann Bell, 6004 South 73rd, Tulsa, OK; stated she is the Facilities Director for Tulsa Public Schools. She works with a lot of the schools as they try to bring some modernization to them. The custodian is usually challenged with the task of changing the old sign at Patrick Henry, so the school is limited to the messages that can be sent home to the parents and to the community because not all parents have access to the internet and the technology. The new sign would give the school the opportunity to share the message from the school community and for the neighborhood community; Patrick Henry is a neighborhood school. A former student and a parent of a former student stepped forward and gave a check to the school to pay for this proposed sign, so the school will be the recipient of a wonderful gift.

Terry Jakober, 3910 East 37th Place, Tulsa, OK; stated good things are really happening at the school, however, the missing link is pulling people into the school to get them active and involved with the students. The school marquee does that; it reminds them of parent/teacher conferences, reminds them of PTA, and reminds them that the school is a polling place. The principal has worked very closely with the Patrick Henry Neighborhood Association and the Whiteside Neighborhood Association and

wants to be very comforting to those organizations that the school will not impose the school's will. The sign is a small sign, but the problem seems to be that the sign lights up. She understands this because she lives in the neighborhood where there is a monster lighted sign, and this may be some of the backlash to the proposed sign. Patrick Henry is going to benefit from bond issues that may affect the neighborhood short term because they will be building a library and a tornado shelter that will block the southern portion of the houses from seeing the sign. She sees nothing but benefits for the community.

Josh McCormick, 3424 East 41st Street, Tulsa, OK; stated he lives two houses down from Patrick Henry. Mr. McCormick stated that for the most part the school has been a great neighbor, so when this came up he was surprised. He purchased his house at the end of 2001, and it is completely residential in character and surrounded by residential properties. He had neighbors who both run their businesses out of their house and after he objected, they moved and sold the house as a residential property. To the northwest of him a priest's rectory was presented to this Board as an office to which was turned into a bank, and to the west of him two houses were demolished, and the property was turned into a commercial center. Mr. McCormick stated he is constantly fighting the invasion of commercialization of his property and the surrounding area. At some point there needs to be a line drawn and this is where he draws the line. He noticed a number of problems with the application and what the school is asking for. To start with the application, the website that was referred to at the bottom of the notice did not exist until about four hours ago, and that was upon his request to have the application put online. He objects to proper notice being given. Mr. McCormick stated that in Chapter 70.010.F.5.a, "Constructive Notice" which talks about minor defects. A minor defect is grammar, spelling, etc. but the actual omission of important information is not considered a minor defect.

Mr. Bond asked Mr. McCormick if he had requested a copy of the application. Mr. McCormick stated that he did not. Mr. McCormick stated that in this day and age most people go online for their information and if the information is not there they go back later or give up. It is an important thing; a website that was to contain important information did not and this is more than just a spelling error.

Mr. McCormick stated the second item he has is one of standing. Mr. McCormick stated that when he was finally able to pull up the application only four hours ago, he saw there was an applicant and a property owner, and below that there is an area that states, "I, the undersigned applicant, certify that the information on this application is true and correct" and "Does the owner consent to the application" and "What is the applicant's relationship to the owner?", all of which were blank. Mr. McCormick stated that he does not know whether the applicant has standing to represent the owner or to submit this application on their behalf. These are things he noticed when he started to look into this case. The actual concerns with the request are the intrusion into the residential character of the properties, and his primary concern is when he sees the Zoning Code and he sees all the information about digital display devices where it meets new additions. There are whole sections added for dynamic display devices,

which indicates, and he thinks the Board recognizes these are incompatible with residential properties. The burden according to the ordinance is on the applicant to show that it is not a burden. The Board has to look at two things in deciding the requested Special Exception; one is that it is in harmony with the spirit and intent of the Zoning Code. The intent and spirit of the Zoning Code is to keep these as far away from residential properties as is reasonably possible. Putting this in a section that is completely surrounded by residential properties is not compatible with the spirit and intent of the Zoning Code; they are actually asking the Board to undo the Zoning Code for them. Secondly, that the Special Exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In front of the school is a school zone with a 25 mile per hour speed limit, and that is to get people's attention and to slow people down in case there is an accident. In addition to that, there is also a traffic light with a crosswalk. The Zoning Code gives special attention to what happens at intersections with traffic lights, it doesn't cover this specific situation of what to do in a crosswalk, but he would argue that the spirit of the Code prevents this because any crosswalk and a 25 mile per hour school zone the City does not want people attention distracted. When the Code talks about how the Special Exception will not be injurious to the neighborhood or otherwise detrimental to the public welfare, it seems that this fails both tests. It is both injurious to the character of the neighborhood and detrimental to the public welfare as far as being a distraction in a school zone. Mr. McCormick stated that Patrick Henry has been a great neighbor and he has no problem with them until now, but what the school is asking for has serious problems as far as safety and character of the neighborhood. The burden of proof is on the applicant to prove that they are not, so unless the applicant is able to address these issues, he would ask the Board to reject the application.

Ms. Ross asked Mr. McCormick to point out his residence on the map that is displayed on the overhead projector. Mr. McCormick stated the problems with the application do not necessarily deal directly with his house, although he does have a direct line of sight to the sign and he certainly does not like it because it's not a residential kind of thing. If it were, he would be happy to have one on his own property. Mr. McCormick pointed out his property on the map that was placed on the overhead projector.

Mr. Van De Wiele asked Mr. McCormick if he could see the sign from his property. Mr. McCormick answered affirmatively. Mr. Van De Wiele stated that he went online to Google maps and used the measuring device, and the sign is about 560 feet from the closest point of Mr. McCormick's house. Mr. McCormick stated that is why he was not arguing the distance to his house specifically, and the ones more impacted are probably the ones to the north. This is something the Code specifically tries to protect neighborhoods from, and the school is asking to place one right in the middle of the neighborhood.

Mr. Van De Wiele asked Mr. McCormick if he was aware of anything where the existing sign has or has not contributed to vehicle accidents, and how these types of signs would exacerbate that kind of problem. Mr. McCormick stated it is because the sign code specifically prevents something around intersections, and the spirit of it is that we

don't want to distract people's attention near traffic intersections. That distraction is potentially fatal, so he thinks the same thing applies certainly in a crosswalk.

Mr. Van De Wiele asked Mr. McCormick when he received the paper notice that he provided to the Board. Mr. McCormick stated he received it in the mail Thursday or Friday, a little late but he is not complaining about that but is complaining about the bottom of the notice having incorrect information and only having four hours' notice as opposed to ten days.

Mr. Van De Wiele asked staff if there was an issue with distance from a signalized intersection. Mr. Wilkerson stated there is not.

Rebuttal:

Bruce Anderson came forward and stated that as far as the safety aspects, he has been through this for many, many years. There is no study that says these cause any more accidents than anything else. These signs are at a lot of schools and hospitals and there is no indication anywhere that says these signs cause wrecks.

Mr. Van De Wiele stated that is part of the reason for the restriction, as he understands it, for the blinking, twinkling, dwell time, etc. Mr. Anderson stated there is an eight second hold time for each message displayed on the sign. The restrictions are in place so it could be controlled, and it can be controlled. There has been many, many years in writing the Code and now there is a good system in place. He cannot think of any school where there has been a problem, or that anyone can say the sign caused a wreck.

Sue Ann Bell came forward and Mr. Van De Wiele stated that one of the issues Mr. McCormick raised in e-mail and in his presentation was standing to file this application. Mr. Van De Wiele asked Ms. Bell if the school district owns the subject real estate and the facility. Ms. Bell answered affirmatively. Mr. Van De Wiele asked Ms. Bell if it was her understanding that the school district authorized the sign company to file this application on its behalf. Ms. Bell answered affirmatively.

Comments and Questions:

Mr. Van De Wiele asked staff as to the standing, if it is not a straight requirement that the land owner file the application, that the land owner merely needs to authorize the filing of the application. Mr. Wilkerson stated that Ms. Ulmer just displayed the actual application on the overhead projector with all the completed information, and yes, the land owner can authorize someone on his behalf. Mr. Van De Wiele asked if the one that Mr. McCormick may have seen would have been the reprint of the original application. Mr. Wilkerson stated that is correct, it is part of the digital process that should be automatically on line, but it does not always work like staff would like.

Mr. Van De Wiele asked Ms. Blank if the full application, the full agenda packet is not what is sent or is required to be sent. Ms. Blank answered affirmatively. Mr. Van De Wiele asked if it was simply a notice of the address, legal description, time, date of

hearing, and the relief being sought. Ms. Blank answered affirmatively and stated it also will contain who conducts the hearing and indicate where additional information can be obtained. So, if the link was broken the notice provided contact information.

Mr. Van De Wiele stated the Board has approved a lot of these signs, and he does not know if Patrick Henry is the last school in the district to have one of these signs, but he has been on the Board for about ten years and there have been a lot of signs at a lot of locations approved. While he is sure there are car accidents on 41st Street and other streets abutting school districts he has never heard anything within the confines of these meetings or otherwise to suggest these signs are any more or less dangerous than any other sign at any other facility. There are provisions in the Code which are designed to make them less distracting than if they were blinking and twinkling. Mr. Van De Wiele stated his only question was the closeness of the intersection, and if it were the school would need relief from that. The way the houses are lined up and down 41st Street, there are trees out on 41st on the Patrick Henry side that he thinks block this from being seen or intrusive on the north side of 41st, to the east the houses along the north side of 41st have fences and they are the backs of houses. There is the time limitation, and the two closest houses are those that are located on Marion, given the orientation of the sign and the viewing angle he tends to believe those are not detrimentally impacted either. Mr. Van De Wiele stated that he does believe this to be in harmony with the spirit and intent of the Code, and he does not find it to be injurious to the neighborhood or detrimental to the welfare of the public. Mr. Van De Wiele stated that he would be in favor of this request.

Ms. Radney stated that she read the comments from Sarah Kobos, and she thinks that some her observations about ways in which the images could be managed, she does not think that it is nothing that there is crosswalk and it is a signalized crosswalk; that is a busy street and there is a consistent need to consistently slow the traffic through the area and she thinks some of the things Ms. Kobos says about the imagery might relevant especially during the times when the crosswalk is active.

Mr. Van De Wiele stated the hours of operation are already in the Code. The static images, no animation, no moving transition he believes that is already part of the Zoning Code. Mr. Wilkerson stated he is confident that the no animation and no moving transition is in the Code. Mr. Van De Wiele stated that the dwell time of 30 seconds is currently 8 seconds in the Code, and the Board can certainly talk about longer dwell times. The level of brightness, the way the sign will dim when it is cloudy and brighten when it is bright outside that may be in the Code as well. The big distraction is the animation and there are certainly signs around town that do it even though they are not supposed to do it. Mr. Wilkerson stated that at a glance he does not see anything in the Code that limits the dwell time in a residential district. Mr. Wilkerson stated there is a provision for non-residential uses in an R District limiting the operation hours. Mr. Van De Wiele stated that the regulations are a result of months, if not years, of the City and the people in the sign industry working together.

Ms. Ross and Mr. Bond both stated they would approve this request as it is.

Ms. Back stated that the Board has approved these signs, back when she was on staff with INCOG, and they were approved in the middle of neighborhoods not even facing arterial streets. The Board was careful to approve them and drill down the hours and the light. With this request she has no problem.

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 **APPROVE** the Special Exception to permit a dynamic display sign to be located within 200 feet of an R District (Section 60.100-F); Special Exception to allow a dynamic display sign to be located in an RS-2 District (Section 60.050-B.2), subject to conceptual plans 8.6 and 8.7 of the agenda packet. 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:

PT NE NW & NW NW BEG 50S & 670W NEC NE NW TH W865 S262.13 SE 250 SW180 SE88 NE258 SE262.57 SE 145 NE307.54 TH CRV LEFT POB SEC 28 19 13, City of Tulsa, Tulsa County, State of Oklahoma

BOA-22578 – Eller & Detrich – Nathalie Cornett

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:** 676 West 77th Place South **(CD 2)**

Presentation:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated this request is to permit a 36'-2" wide driveway in a residential neighborhood around 81st and Highway 75. As she learned after she filed the application, and as noted in the staff report, there was a Variance granted in 2005 for the entire subdivision, which permits 30'-0" wide driveways. All of the houses have very wide driveways and some of them are more than 30 feet. The house across the street has a three-car garage with a driveway to accommodate all the garage entries, and the proposed driveway will look just like the one across the street. The subject property is the last lot in the subdivision to be developed, and the people that will live there plan to make this their home to retire in so the house has been designed to age in place which is becoming very popular. The two-car garage door is standard, 7'-0" high and 16'-0" wide; the one-car garage is a little bigger than standard, it is 10'-0" wide which is to accommodate a pickup truck with a tow package. The driveway itself will go the edge of the garages.

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 **APPROVE** the Special Exception to exceed the allowable driveway width within the right-of-way and within the street setback from 30'-0" to 36'-2" (Section 55.090-F.3), subject to conceptual plan 9.15 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 1 BLK 4, STONEBROOKE GLENN, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

None.

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NEW BUSINESS

None.

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BOARD MEMBER COMMENTS

Mr. Van De Wiele reminded the Board members that there is a Special Meeting on February 5, 2019 at 2:00 P.M.

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There being no further business, the meeting adjourned at 3:15 p.m.

Date approved: _____

Chair