

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1225
Tuesday, March 26, 2019, 2:00 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 R. Jones K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on March 22, 2019, at 9:31 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 **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the March 12, 2019 Board of Adjustment Special meeting (No. 1224).

UNFINISHED BUSINESS

22595—Chuck Mitchell

Action Requested:

Special Exception to allow a fence to exceed 4 feet in height within the required street setback (Section 45.080); Variance of the required parking area dimensional standards (Section 55.090). **LOCATION:** 2415 & 2435 North Lewis Avenue East (CD 3)

Presentation:

Chuck Mitchell, Synergy, 810 South Cincinnati Avenue, Tulsa, OK; stated he represents BAMA Frozen Meals. He would like to have an eight-foot fence for security purposes, and there is an existing fence that is eight feet tall that is adjacent to North Lewis. The proposed fence would extend that fence along the extended parking lot to the west, and it would only be about 60 feet in length within the required setback. BAMA is adding jobs and that is the reason for the added parking, and there would be about 30 spaces added. The reason the spaces are a little different than the standard requirement is because of the existing parking lot; they tried to match up the drive aisles and parking spaces as best as they could to make the lot as efficient as possible and add as many spaces as possible for the new employees.

Mr. Van De Wiele asked Ms. Ulmer what the standard is for a parking stall. Ms. Ulmer stated the applicant has a minimum stall width of nine feet with a minimum length of 18 feet required by Code. There are some spaces indicated on the site plan that are less than 18 feet in length with the 60-degree parking stalls. The 90-degree parking stalls must have a minimum drive aisle of 22 feet, and there are some aisles that are less than that requirement.

Mr. Van De Wiele asked Mr. Mitchell if the proposed stalls are similar to what is existing. Mr. Mitchell answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow a fence to exceed 4 feet in height within the required street setback (Section 45.080); Variance of the required parking area dimensional standards (Section 55.090), subject to conceptual plan 2.6 of the agenda packet. The Board finds the hardship to be the existing layout of the parking lot that is to be extended and continuing out the striping for that parking lot to match the current design and the odd shaped lot. 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. 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 849.35S&50E NWC NW TH S50 E230.5 S420 E210.37 NE442.92 N495.76 W165.02 SW365.49 SW267.23 S149.32 POB SEC 29 20 13 9.546ACS; S420 E230.5 W280.5 NW NW SEC 29 20 13, City of Tulsa, Tulsa County, State of Oklahoma

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NEW APPLICATIONS

22598—Lawrence E. Morrison

Action Requested:

Special Exception to permit a religious assembly in an RM-1 District (Table 5-2);
Special Exception to allow a barbed-wire fence (Section 45.080-C). **LOCATION:**
SW/c of North Harvard Avenue East and East Tecumseh Street North **(CD 3)**

Presentation:

Lawrence Morrison, 3917 West Main Street, Broken Arrow, OK; stated the existing church sits on 4.6 acres and the church has an approved Special Exception from years ago. The church is growing and wants to build a structure for the Outreach Program. The fence is existing as a barbed wire fence and it was erected by the City of Tulsa. There is a school, Celia Clinton School, adjacent to the church and the school patrons were driving across the property and there were children walking in the same area. Mr. Morrison stated he would like to keep the fence because it has stopped the traffic from driving across the property and it makes it safe for the children.

Mr. Van De Wiele asked Mr. Morrison if the fence was on the south side of the subject tract. Mr. Morrison answered affirmatively.

Mr. Van De Wiele asked Mr. Morrison if he wanted to extend the fence farther along the property. Mr. Morrison stated that he did not.

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 request for a Special Exception to permit a religious assembly in an RM-1 District (Table 5-2); Special Exception to allow a barbed-wire fence as already constructed and illustrated on pages 3.23 and 3.24 existing on East Seminole Street (Section 45.080-C). The approval is subject to the conceptual plans 3.25 and 3.29 of the agenda packet. The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

BEG 35W & 25N SECR NE SE TH N410 W302.5 S170 W90 S240 E392.5 POB LESS E15 THEREOF SEC 29 20 13 3.202ACS, City of Tulsa, Tulsa County, State of Oklahoma

22599—Jerry Atchison

Action Requested:

Special Exception to allow for Wholesale, Distribution & Storage/Warehouse use in a CS District (Section 15.020, Table 15-2). **LOCATION:** 2136 East 69th Street South **(CD 2)**

Presentation:

Jerry Atchison, 9578 Ridgeview Street, Tulsa, OK; stated his client would like to construct an accessory building to the south to park his enclosed car trailer behind the existing facility. The owner has had trouble with vandalism and attempted theft of the trailer and would like to secure the trailer.

Mr. Van De Wiele asked Mr. Atchison what the property is currently being used for. Mr. Atchison stated the property is being used for a private car collection.

Mr. Van De Wiele asked Ms. Ulmer if that use has already been approved for the facility, and if the application advertised for the entire tract for something that is going to be built as shown on page 4.8? Ms. Ulmer stated that was her understanding.

Ms. Radney asked Mr. Atchison if there would be any retail sales occurring out of the building. Mr. Atchison stated there would be no sales.

Mr. Van De Wiele asked Mr. Atchison if he was speaking of a car carrier trailer. Mr. Atchison stated that it is an enclosed single car trailer, it is not a car transport trailer. The trailer is typically used to transport with a pickup truck, and the trailer has been going in and out of the property for years.

Mr. Van De Wiele asked Mr. Atchison how long his client has occupied the subject building. Mr. Atchison stated it has been four years.

Mr. Van De Wiele asked Mr. Atchison how often will the cars be going in and out of the property? Mr. Atchison stated that it would be less than 20 times a year or one or two times a month to go to car shows.

Mr. Van De Wiele asked Mr. Atchison about the loading docks on the building. Mr. Atchison stated the loading docks exist on the current building and they will not be used for this purpose at all.

Mr. Van De Wiele asked Mr. Atchison's client to come forward.

Interested Parties:

John Neas, 2943 East 69th Street, Tulsa, OK; came forward.

Mr. Van De Wiele asked Mr. Neas if he ever anticipated a car carrier pulling into the subject site. Mr. Neas stated that a car carrier cannot pull into the property because it is not feasible. Mr. Neas stated that he has only used a commercial hauler once because he took six cars to a car show, and the cars were loaded from the street.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Special Exception to allow for Wholesale, Distribution & Storage/Warehouse use in a CS District (Section 15.020, Table 15-2), subject to conceptual plan 4.8 of the agenda packet. The approval is subject to the limiting the trailer to an enclosed single or double car type trailer/hauler; no large multiple commercial haulers allowed. 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:

E206.58 LT 2 BLK 2, LEWIS VILLAGE, City of Tulsa, Tulsa County, State of Oklahoma

22601—Eller & Detrich – Lou Reynolds

Action Requested:

Variance to increase the allowable number of signs in an OM District (Section 60.060-B); Variance of the allowable display surface area for signs in an OM District (Section 60.060-C). **LOCATION:** 2424 East 21st Street South **(CD 4)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents GP 21, LLC and they own the subject building. This is an unusual project because it is two lots that have been combined, and they comprise a little over 4.3 acres with a 64,000 square foot five-story office building on the property. The building was built about 1972 and it was the regional headquarters for Texaco's production division that over saw production in the mid-continent region. It was also a divisional headquarters for Texaco's marketing department, and hence the small plot of land that is a little over an acre north and west of the subject site was a long time Texaco service station, and there still is full-service gasoline sales at that station today. The building located at 15th and Boulder everyone thought was the Texaco building, but it was actually Skelly Oil's world headquarters and Texaco purchased Skelly Oil in the early 1970s. The subject site was built as a substantial corporate campus and it is one of the nicest landscaped buildings in Tulsa. Mr. Reynolds presented several pictures of the site and explained them in relation to existing signs and existing curb cuts. Mr. Reynolds stated the building is now used as a multi-tenant facility with a mixed use of tenants; a bank, physical therapy, medical users, etc. There is a lot of traffic confusion for customers and the tenants have asked for signs.

Mr. Van De Wiele asked Mr. Reynolds if he was replacing the sign seen on page 5.11. Mr. Reynolds stated that he is not replacing that sign; it is an existing 12 square foot sign that is under lease with Central Bank of Oklahoma.

Mr. Van De Wiele asked Mr. Reynolds if everything was staying as it is and adding a sign. Mr. Reynolds stated there is one additional ground sign to be added if possible close to 21st Street making a total of five signs for a total of 295 square feet of signage.

Ms. Radney asked Mr. Reynolds if he was including both sides of the sign when calculating the square footage. Mr. Reynolds stated that is calculated on one face, but the sign would have two faces.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BACK**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to increase the allowable number of signs in an OM District to permit five signs total (Section 60.060-B); Variance of the allowable display surface area for signs in an OM District to be increased to 295 square feet (Section 60.060-C). The Board has found the hardship to be the odd shaped lot, 4.3 acres in size, and a building built as a single occupancy campus type structure now being used as a multi-tenant building. The four signs that exist as they are currently constructed with tenant placards can change when the tenants change. There is to be one new sign as shown on exhibit 5.14 of the agenda packet, that equals a total of 295 square feet for display surface area. 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:

Lot two (2) THE AMENDED PLAT OF TEXACO CENTER ADDITION, Tulsa County, State of Oklahoma, according to the recorded Plat No. 2627; AND, The South Ten (10) feet of the North One Hundred Sixty (160) feet of the West Thirty (30) feet of the East Eighty-Six and four-tenths (86.4) feet of Lot Thirty-One (31) HARTER'S SECOND SUBDIVISION to Tulsa County, State of Oklahoma, according to the recorded Plat No. 341, City of Tulsa, Tulsa County, State of Oklahoma

22602—Zachary Rahman

Action Requested:

Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS District (Section 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A). **LOCATION:** 4802 East 31st Street South **(CD 9)**

Presentation:

Zachary Rahman, Expedited Auto Repair, 5043 South 195th East Avenue, Broken Arrow, OK; stated he would like to have rental cars for his customers, and he would also like to have some auto sales; his business is an auto repair facility. Mr. Rahman stated that he has just recently discovered that he owns the alley and that is where the overflow of vehicles could be parked.

Mr. Van De Wiele asked Mr. Rahman if was going to continue to perform auto repair. Mr. Rahman answered affirmatively. Mr. Van De Wiele asked Mr. Rahman if he planned on having vehicle sales and vehicles rentals also on the property. Mr. Rahman answered affirmatively. Mr. Rahman stated that he does not plan to have very many vehicles on the site because he is in the process of purchasing another property for storage of vehicles.

Mr. Van De Wiele asked Mr. Rahman how many spaces he thinks he will need to accommodate customers, employee parking, cars to be sold, and cars to be rented. Mr. Rahman stated as far as the repair site he is not sure; he presented a drawing of the current parking layout and the potential layout of the parking area.

Mr. Van De Wiele stated there appears to be ten spaces, and asked Mr. Rahman if that area is where would park the cars that are for sale. Mr. Rahman answered affirmatively and stated those are the vehicles that would not be moved very much at all.

Mr. Van De Wiele asked Mr. Rahman if he had seen the e-mail the Board received from Harley Hunter. Mr. Rahman stated that he had not. Mr. Van De Wiele asked Ms. Ulmer to display the e-mail on the overhead projector. Mr. Van De Wiele stated the issues that are raised in the e-mail are related to the use of the alleyway. Mr. Van De Wiele stated that he has visited with INCOG staff and looked at the plat, so it does not appear from the tax assessor's records or from the original plat that the drive aisle on the east side of the property is a public alleyway, it appears to be an easement. One of the issues raised by Harley Hunter is the Fire Department has told her that the alleyway could not be used. Ms. Hunter has also complained about the parking lot being full and parking sometimes is in the street. Mr. Rahman stated that he has received permission from Glenda Kay, owner of the adjacent shopping center, and she has stated that they can use the parking space for the now closed Full Cup Café provided he keeps the area clean, but he does not plan on using it at all in the near future if he can receive approval today.

Mr. Van De Wiele asked Mr. Rahman how many employees he has. Mr. Rahman stated he has five employees including himself. Mr. Van De Wiele asked Mr. Rahman how many customers he has daily. Mr. Rahman stated he has probably six daily; a lot of the projects are long term because of what the shop specializes in.

Mr. Van De Wiele asked Mr. Rahman if the Board approved his request would he be agreeable to limiting the area to the east to the sales and rental vehicles. Mr. Rahman answered affirmatively.

Mr. Van De Wiele asked Mr. Rahman if he stored any of the vehicles brought to him for repair outdoors. Mr. Rahman stated he placed them in his parking lot.

Interested Parties:

Travis Grether, 3105 South Winston Avenue, Tulsa, OK; stated he owns a business, so he is a business neighbor to Mr. Rahman. His objection to the request is the potential use of the alley or the easement to the east side of the property. His business sells and repairs grandfather clocks. He uses the overhead doors on the east side of his building to load and unload large clocks that are seven to ten feet tall, and the only way to get those large clocks in and out of the building is through those overhead doors. Mr. Grether stated he drives his delivery van through the alley from 31st Street and drives back out. He is able to access the alley from Yale but only through the parking lot of the Chinese Restaurant. And if there are any vehicles at all on the east side of the auto repair shop it is impossible to access the east side of his building. Several times a year he has a freight truck that pulls into the alley to unload large grandfather clocks that are boxed that he will sell. Mr. Grether stated his other concern is emergency vehicles being able to come into and go out of the alley.

Mr. Van De Wiele asked Mr. Grether if his freight trucks could drive underneath his porte-cochere. Mr. Grether answered no and stated that on the south side of his building there is an awning that only has about seven feet of clearance.

Mr. Van De Wiele asked Mr. Grether if the Hunters were his landlord. Mr. Grether answered affirmatively and stated they are the previous owner of the business which has been there for 30 years. Mr. Grether stated he does not have any objections to Mr. Rahman selling and renting vehicles, but his only concern as a business owner is being able to use the alley accessing from 31st Street and accessing from Yale; it is easier to access the alley from 31st Street which is where they want to park the vehicles.

Mr. Van De Wiele stated this is not the Board that will decide property rights; whether a person does or does not have the right to use the area to the east of the applicant's property or the property to the east of the clock shop. He had that discussion with INCOG staff this morning and he is not seeing anything on the assessor's map that shows that area being a public alley. The original plat of the property shows the area under discussion being a 20-foot utility easement; it did not plat it as an alley.

Mr. Grether stated he does not know the difference between an alley and an easement, but before he moved into his building in 2001 it was a former dry-cleaning service, that is the reason for the awning. When he moved in in 2001, he used the west side parking area for customers and used the awning area to load or unload small clocks and used the south portion of the parking for employee parking. But the east side, the alley, has always been used by his business for loading and unloading vehicles. Mr. Grether stated he has no other way to get a very large grandfather clock in or out of the building except on the east side. If there are cars parked on the east side of Expedited Auto Repair shop it will make it impossible for him to use that part of the alley, therefore, he will be limited to access on the east and south side of the alley. Often times, the Chinese Restaurant has lots of cars in their drive-thru that is there and there is often a freight truck delivering food. The bar south of the restaurant often has a lot of cars there too.

Mr. Van De Wiele stated that generally speaking, if it were an alley it would show up as a street similar to the streets that are platted on the plat, maybe a narrower capacity. What is shown on the plat is a 20-foot utility easement which is where the City and the public utility holders, AT&T, Cox Cable, City water and City sewer, etc., can lay their utility lines in that 20-foot area. Mr. Van De Wiele stated that he understands the situation Mr. Grether has spoke about, which is why he made the comment that what in effect is being asked of the Board is to allow Mr. Grether the continuing use what appears from the document, to travel across another tract of land and to prohibit that owner from the full use of their land. The Board is in a situation that will be discussed and if it impacts the decision making. An easement can be a lot of things, but an easement is a right to use land for the purpose that the easement was dedicated for.

Ms. Ross stated there could be of record a separate easement that was granted at some point, and the Board does not have that in front of them today, but that could be the case. Just because it is not platted does not mean there is not an easement for ingress and egress of the other buildings. Looking at the way it was built out, looking at all the businesses in the area, she would be surprised if there wasn't one, but the Board does not have that information in front of them today.

Mr. Grether asked the Board if it was illegal for any of the parties to use the property to park vehicles. Mr. Bond stated the Board does not have the facts to answer that question.

Rebuttal:

Zachary Rahman came forward and stated that the other companies behind his business utilize their portion of the easement, and the veterinarian uses it for parking.

Comments and Questions:

Ms. Back stated that on page 6.9 it appears there are poles in the easement area, looking at the shadowing. She believes that it is an existing active utility easement. Ms. Back stated that 6.10 and 6.13 it bothers her there are vehicles parked on the sidewalk; that cannot happen for people with mobility devices. That is not acceptable to her. It

appears the applicant is already doing the vehicles sales and rentals because she does not think they are repairing that many vehicles. She does not like the outdoor storage. Does not like granting of the merchandise for display because she does not know what else will end up outside. This is a large addition of sales, rentals and repairs on a very small lot. Ms. Back stated that she will not support this request today.

Mr. Van De Wiele asked Ms. Blank how the Board deals with who does have or does not have the right to park or travel up and down the easement portion of the property. Ms. Blank stated that one option would be to ask the applicant to provide that information which would mean the case would need to be continued, because the Board cannot decide to approve a site plan with parking if there is an access easement in the area.

Ms. Ross stated that without having a title opinion the Board cannot say what the questionable can really be used for. The plat was done decades ago and there could be many, many things of record that would change that. She is going to assume that it cannot be used ingress and egress by the neighbors and that it is part of the applicant's property. She does not like the idea of stacking cars in that area because it is already a very cluttered lot full of cars and the idea of adding more cars she does not like. The corner is a very busy corner with a lot of traffic, and it is fairly dangerous. She does not like the parking in the sidewalks. She thinks the applicant is doing that because it is needed to be able to get through the lot because it is small. Adding more cars on the lot is not acceptable.

Mr. Bond stated that he does see a hardship. It seems that it is a self-imposed issue, easement or no easement. He has an issue with this on its own merits respective of an easement.

Mr. Radney stated that she would be interested in having a better understanding about the title history of what is being referred to an alley or an easement. She is familiar with the block, over the 20 years she has lived here, and most of the other businesses prior to now have used that area as an alley or some sort of exit that did not require business to exit back to Winston. In looking at the fact that Winston really is a residential street, it makes her wonder whether the alley/easement paved area was a compromise in order to have one-way traffic into the commercial businesses and outgoing to the main artery at 31st Street. That is the way she remembers it flowing in decades past. The take-out restaurant used to have people exit back and out to 31st Street rather than to Yale. She does not have a problem with the change of use, but she is concerned about parking.

Mr. Van De Wiele stated he does not think the lot is big enough to do all of what is being requested. It is not the Board's job to weigh in on who does or does not have title or interest to that portion of the property. When there are five employees, six customers and you want to increase the number of customers if there is going to car sales or the renting of cars, and the way the cars are stacked on the lot there will be shuffling of cars either over the grandfather clock property or in and out of 31st Street. He thinks it is too

small of a lot for all of the uses. Mr. Van De Wiele stated he is not in favor of this request.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-1-0 (Back, Bond, Ross, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) to **DENY** the request for a Special Exception to permit Commercial/Vehicle Sales and Service/Personal Vehicle Sale and Rentals Use in a CS District (Section 15.020); Variance to allow outdoor storage and outdoor merchandise display within 300 feet of an abutting R District (Section 15.040-A) for the relief requested today; for the following property:

LT 1 BLK 1, CONWAY PARK, City of Tulsa, Tulsa County, State of Oklahoma

22603—John Duvall

Action Requested:

Special Exception to exceed the allowable driveway width within the street setback (Section 55.090-F). **LOCATION:** 4469 South Oak Road East **(CD 9)**

Presentation:

John Duvall, Architect, 2204 East 15th Street, Tulsa, OK; stated the lot is approximately one acre and has substantial street frontage on 45th Place and Oak Road. The intent is to try to maintain the relative precedent in the neighborhood. The house has been pushed back on the lot as far as possible to try to maintain the open corner; it is a very prominent corner. There is a four-car garage but only two of the garage bays face 45th Street, the other two are hidden on the back of the house. To be able to access the back garage the Special Exception has been prompted.

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 request for a Special Exception to exceed the allowable driveway width within the street setback along East 45th Place South (Section 55.090-F.3), subject to conceptual plan 7.9 of the agenda packet and the depicted heavy landscaping screening on the easterly side of the property as shown on 7.9 of the driveway. 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 7 LESS BEG SEC TH NW ON EL LT 7 188.36 NW ON EL 190 TO NEC SW ON NL 195 SE 135.55 SE 140.39 TO SL NE ON SL 195 BG BLK 4,BOLEWOOD ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22604—Acura Neon

Action Requested:

Variance to increase the allowable number of signs in an OM District to permit two signs per street frontage (Section 60.060-B). **LOCATION:** 7700 South Lewis Avenue East **(CD 2)**

Presentation:

Dwayne Cates, 7700 South Lewis, Tulsa, OK; stated he would like to add the sign "Victory Christian School" on the front of the school building. Currently there is a marquis on South Lewis at the stop light, Victory Kids signs is on the back side or southwest side of the building for the entrance for the church kids and would like to add the proposed sign. The sign will have solid back lit letters and they are identical to the sign Victory Kids.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to increase the allowable number of signs in an OM District to permit two signs per street frontage (Section 60.060-B), subject to conceptual plan 8.13 of the agenda packet. The Board finds the hardship to be the property is really a campus housing different uses for its members, students and customers. 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:

S/2 NE SE LESS E50 THEREOF SEC 07 18 13 9.20 ACS & LT 1 BLK 1 VICTORY CHRISTIAN CENTER, City of Tulsa, Tulsa County, State of Oklahoma

22605—Theophilus Brown

Action Requested:

Special Exception to allow a fence to exceed 4 feet in height within the required street setback (Section 45.080). **LOCATION:** 4040 North Elgin Avenue East (**CD 1**)

Presentation:

Marlana Brown, 4040 North Elgin Avenue, Tulsa, OK; stated she has built a six-foot fence that she thought was approved but it wasn't. She would like to continue the fence with a four-foot black iron fence across the yard.

Mr. Van De Wiele asked Ms. Brown if only one section of the fence was currently built. Ms. Brown answered affirmatively. Mr. Van De Wiele asked Ms. Brown if she wants to erect the same height and style fence on the other side. Ms. Brown stated that she wants to have a black iron fence in the front at four feet in height and on the south side going toward the door leaving out the driveway.

Ms. Ross asked Ms. Brown if the wooden fence was hers. Ms. Brown answered affirmatively. Ms. Brown stated there has been friction between her neighbor and herself, so to keep her son safe she had the fence installed.

Ms. Radney asked Ms. Brown why the fence needs to be six feet tall. Ms. Brown stated that it is to protect her and for safety for her son. Ms. Brown stated that she spoke to a lady at the City of Tulsa and she gave her the clearance to install the fence otherwise she would not have done it.

Mr. Van De Wiele asked Ms. Brown if she had an existing fence beside her driveway. Ms. Brown stated that she did not because she stopped all construction.

Ms. Radney stated that she wanted to make a disclosure, she sold a house to one of Ms. Brown's neighbors and that address is 4018 North Elgin. Ms. Radney stated that she has never met Ms. Brown and she is not acquainted with any of the neighbors.

Mr. Van De Wiele asked Ms. Brown if she wanted to leave the wooden fence as it currently exists. Ms. Brown answered affirmatively. Mr. Van De Wiele asked Ms. Brown if she wanted a four-foot black iron fence from the left-hand corner of her house coming out toward the street, going to the right and then reconnecting to the house somewhere and nothing on the other side. Ms. Brown answered affirmatively.

Interested Parties:

Athena Fernandez, 4017 North Elgin Avenue, Tulsa, OK; stated that she has not heard of the neighborhood association North Star. Ms. Fernandez stated there are other houses in the neighborhood that have see-through fences on all sides of their property and those neighbors are safe. Ms. Fernandez would like the fence to look cohesive with the neighborhood.

Mr. Van De Wiele asked Ms. Fernandez if she would be okay with the six-foot wooden fence that exists in place provided there is no additional six-foot or wooden fence erected. Ms. Fernandez stated she not have a problem with Ms. Brown wanting to be safe, but it does not look appealing.

Ms. Brown stated that a lot of things have occurred between her and the neighbor, but what scared her most was when the neighbor told her that she had a gun. Shootings has been a recurring thing for the last two years and there is a safety factor when guns are involved.

Comments and Questions:

Ms. Ross stated that she would not have a problem with the wrought iron fence as long as the existing fence were removed. There are Codes in place for a reason. The fence is odd looking as it exists; it looks like it is meant to be a barrier between the two yards. She understands that safety is a top concern but there are different routes for safety issues. She does not think building a six-foot fence and then installing a wrought iron fence that will not connect to the wooden fence is going to leave a strip of land that will grown weeds and will make it difficult to mow.

Mr. Van De Wiele asked Ms. Ross if she would be agreeable to a wrought iron fence if it were taller than four feet. Ms. Ross answered affirmatively.

Ms. Radney stated that she does not find wooden privacy fences in the front yard appealing, and they are not going to improve the property values of the subject house or the neighborhood. Ms. Radney stated she is sympathetic to the hardship of living next to a disputatious neighbor who may have guns. She does not necessarily know if the Board were to approve a wrought iron fence just for the purposes of aesthetics she does not know if she would agree with that. The fence is serving a purpose so if the Board is going to give the applicant the height the Board might as well give it a purpose.

Mr. Van De Wiele stated that the Board routinely, in areas where wrought iron fences are common, give height variances on those fences and the materials generally do come into play in those decisions, whether it be a solid column every eight or sixteen

feet with open wrought iron in between. Materials does matter. Mr. Van De Wiele stated that he does not want to see a six-foot stockade fence around the subject front yard.

Mr. Bond stated this is not just an aesthetic issue, it is what a six-foot stockade fence says. In a neighborhood if there is problematic neighbor that goes beyond aesthetics; it is more about community than it is aesthetics.

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 **DENY** the request for a **Special Exception** to allow a fence to exceed 4 feet in height within the required street setback (Section 45.080); for the following property:

LT 7, CHANDLER-FRATES 4TH ADDN RESUB L1-20 B7, City of Tulsa, Tulsa County, State of Oklahoma

22606—Mary Huckabee

Action Requested:

Variance of the street setback requirement (Section 15.030); Variance of the parking space requirement (Section 55.020); Variance of the landscaping requirement (Section 65.030-B). **LOCATION:** 540 South Victor Avenue East **(CD 4)**

Ms. Ulmer informed the Board that the applicant is no longer requesting the Variance for the landscaping requirement.

Ms. Back recused and left the meeting at 3:02 P.M.

Presentation:

Clare Gibbons, 4000 One Williams Center, Tulsa, OK; stated she is Mary Huckabee's colleague at Conner and Winters and Ms. Nicole Watts of KKT Architects is also in attendance today and she will be able to answer any questions regarding the site plan. Given the current placement of the building on the lot the existing setback does not comply with the current Zoning Code; the building was in compliance when it was constructed, and it was constructed before there was a parking ratio requirement in the Zoning Code. The intended use is for a low volume non-public auto restoration facility. There will be no auto sales taking place on the property, and any work to be performed would be inside the facility and there would be fewer than five employees.

Mr. Van De Wiele asked Ms. Gibbons if the footprint of the building would be increased. Ms. Gibbons stated the footprint of the building will not expand.

Interested Parties:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated the entire facility is existing and the asphalt shown in the picture is where cars have been parking. The building has been a commercial use and now it is going to be a private use by one owner, so there will be no public entrance.

Mr. Van De Wiele asked Ms. Watts why she was before the Board if the building is not being changed. Ms. Watts stated that per the City of Tulsa Permit Center, when there is a change of use it triggers the setback.

Mr. Bond asked Ms. Watts if there would be any cars stored outside. Ms. Watts stated that everything would be stored inside because the vehicles are very valuable.

Joyce Younacha, 7544 East 26th Place, Tulsa, OK; stated she owns the adjoining property to the north which is a single-family residence and she has a few concerns. There are two former residential lots between her property and the subject property so she would like to know if there are future plans for uses of those properties. Ms. Younacha is also concerned about fumes caused from the auto restoration.

Rebuttal:

Nicole Watts came forward and stated none of the lots Ms. Younacha referred to are contained in this application, she is only applying for the existing facility. There are building permit plans at the City currently so anything that is being done on the interior will be done per the City Code.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-1 (Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; Back "abstaining"; none absent) to **APPROVE** the request for a Variance of the street setback requirement from 10 feet to 0 feet (Section 15.030); Variance of the parking space requirement from 25 spaces to 13 spaces (Section 55.020), subject to conceptual plan 10.14 of the agenda packet. The Board has found the hardship to be the existing structure predates the 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 16 17 18 19 20 BLK 11, ABDO'S ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Ms. Back re-entered the meeting at 3:11 P.M.

22608—Johnny Herrington

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: *Tenant Space* – 10330 East 21st Street South (CD 5)

Presentation:

John Herrington, II, 9159 North 14th West Avenue, Sperry, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Van De Wiele stated that the Board has the applicant's spacing verification as presented on Exhibit 11.6 and 11.7.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 5-0-0 (Back, Bond, Radney, Ross, Van De Wiele "aye"; no "nays"; "abstaining"; 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 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 BEG NEC S40 NWLY40.73 W118.11 TO WL N15 TO NL E150 POB & LT 2 LESS BEG SECR LT 2 TH NWLY296.46 W161.80 S264.03 SELY240.30 POB & LESS N15 LT 2 BLK 1, CIRCLE PLAZA CENTER RESUB RES CHARYL LYNN ACRES, CHARYL LYNN ACRES, City of Tulsa, Tulsa County, State of Oklahoma

OTHER BUSINESS

None.

NEW BUSINESS

None.

BOARD MEMBER COMMENTS

None.

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

Date approved: _____

Chair