

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1233
Tuesday, July 23, 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 Bond, Vice Chair Ross, Secretary Radney Shelton		Wilkerson Chapman Sparger K. Davis	Blank, Legal

The notice and agenda of said meeting were posted in the City Clerk's office, City Hall, on July 18, 2019, at 10:10 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

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

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

MINUTES

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the **Minutes** of the July 9, 2019 Board of Adjustment Special meeting (No. 1232).

UNFINISHED BUSINESS

22668—1 Architecture, LLC

Action Requested:

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

Presentation:

Nick Denison, 1316 East 6th Street, Tulsa, OK; the applicant has requested a continuance to August 13, 2019.

Mr. Van De Wiele asked the applicant why he is requesting another continuance. Mr. Denison stated the Board had special questions for the owner, and the owner could attend today's meeting.

Mr. Van De Wiele asked Mr. Denison if the owners would be present at the August 13th meeting. Mr. Denison answered affirmatively.

Mr. Van De Wiele asked Mr. Chapman how many times this case has been continued. Mr. Chapman stated that he believes it has been continued twice. Mr. Van De Wiele asked if there were any issues continuing this case once again. Mr. Chapman stated that he does not believe so. Ms. Blank stated that the continuance is up to the Board.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a Special Exception to allow a High-Impact Medical Marijuana Processing Facility in an IM (Industrial-Moderate) District (Section 15.020) to the August 13, 2019 Board of Adjustment meeting; for the following property:

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

22674—Allie Ogden

Action Requested:

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

Presentation:

Allie Ogden, 306 South Kenosha Avenue, Tulsa, OK; stated that the owner is not here, and the applicant has requested a continuance to August 13, 2019.

Mr. Van De Wiele asked Ms. Ogden if the owner would be present at the 13th meeting. Ms. Ogden answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

There were no interested parties present.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-0 (Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **CONTINUE** the request for a **Special Exception** to permit a single household detached house in the CBD District (Section 15.020, Table 15-2) to the August 13, 2019 Board of Adjustment meeting; for the following property:

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

Mr. Van De Wiele asked that the Board address the continuance request from the neighbor in agenda Item #5.

NEW APPLICATIONS

22679—Greenwood Wellness – Marvin Jones

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) **OR** in the alternative a **Variance** of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

Presentation:

Marvin Jones was present.

Mr. Van De Wiele had the interested party requesting the continuance to come forward and be heard before the applicant.

Interested Parties:

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated she represents the neighboring dispensary located on Kenosha, and she was just hired by that party and is in the process of analyzing the case and what has transpired previously.

Mr. Van De Wiele asked Ms. Cornett if her client was the same party that was before the Board about a month ago for a spacing verification. Ms. Cornett answered affirmatively and stated her client had their spacing approved by the Board in May. She believes Mr. Jones was in attendance in protest of that application.

Mr. Van De Wiele asked Mr. Jones to come forward. Mr. Van De Wiele asked Mr. Jones if he would like to proceed in the hearing of his case today. Mr. Jones answered affirmatively.

Mr. Van De Wiele asked Mr. Jones if he had any conversation with the other business owner or their counsel other than the e-mail traffic that went through INCOG. Mr. Jones stated that he has not and that the only communication he has had has been with Mr. Austin Chapman of INCOG.

Mr. Jones stated that everyone in attendance today has rearranged their schedules to here, and he would ask the Board to hear his case today.

Comments and Questions:

Mr. Bond stated that he has no issue with a continuance, if the interested parties can speak today and have the comments on the record, then schedule the case to be heard on the 13th.

Ms. Ross agreed with Mr. Bond.

Mr. Van De Wiele stated the Board has heard from a representative from the other facility, and in the May meeting that party stated they would welcome other dispensaries to the neighborhood and had no issue with the competition. Mr. Van De Wiele stated he would be inclined to hear this case today.

Mr. Bond stated that he would like to hear the case today and let everyone speak.

Mr. Van De Wiele stated there will be no action taken on this case at this moment.

Board Action:

No Board action required at this time.

Mr. Van De Wiele stated that is the end of the requests for continuances.

Mr. Van De Wiele stated today agenda is a very full agenda, over 20 items, so in order to get through all those cases in a timely manner and to give everyone who wishes to speak an opportunity to do so the Board will limit the applicant to five minutes for their presentation, and any interested parties will be limited to three minutes, then the applicant will have three minutes for a rebuttal. If anyone is being questioned by the Board members, that will not count against the time.

NEW APPLICATIONS

22678—Nancy Lavery

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: 6733 East 11th Street South (CD 3)

Presentation:

Leta Carmona, Bloomers Dispensaries and Sundries, LLC, 6733 East 11th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Van De Wiele asked Ms. Carmona where the nearest dispensary is located. Ms. Carmona stated that it is just past Sheridan on Route 66 at 6305 East 11th Street. Mr. Van De Wiele asked Ms. Carmona how far that location is from her location. Ms. Carmona stated that it is 1,554 feet away.

Interested Parties:

Mary Cooper, Mother Road Extracts, 6545 East 11th Street, Tulsa, OK; stated she is the owner of Mother Road Extracts and her dispensary is a licensed dispensary. Ms. Cooper stated that the information provided by Bloomers Dispensary is incorrect because her facility is located within the 1,000-foot radius.

Mr. Van De Wiele asked Ms. Cooper if she had her spacing verified. Ms. Cooper stated her Certificate of Occupancy was applied for on May 21, 2019. Mr. Van De Wiele asked Ms. Cooper if she had filed an application with INCOG to have her spacing verified. Ms. Cooper stated she went to file it on Friday, the 17th, and after speaking with INCOG staff decided to wait until today. Mr. Van De Wiele asked Ms. Cooper if she was open for business. Ms. Cooper stated that she was not at this time; she filed with OMMA giving them an opening date of June 1st. Mr. Van De Wiele asked Ms. Cooper about the June 1st date. Ms. Cooper stated she did not realize at the time she filed that the Certificate

of Occupancy needed to be filed prior to her being ready to open for business. She believed at the time she filed for her OMMA license, when she did her 1,000-foot radius check she thought that was the marker of how the spacing was going to go so she was not worried about it. All buildings within her 1,000-foot radius have been occupied for at least 10 years and they were not going to be rented out to her knowledge.

Mr. Van De Wiele asked Ms. Cooper what the date of her OMMA license is. Ms. Cooper stated that it is January 4th, and she filed for it on December 29th right after the City passed the ordinance.

Mr. Van De Wiele asked Ms. Cooper if she has been operating since she notified the OMMA of the June 1st date and filing tax returns. Ms. Cooper stated that she has not been operating; she has been filing tax returns as required and filing monthly reports as well.

Mr. Bond asked Ms. Cooper if she had her Certificate of Occupancy. Ms. Cooper stated there is a Certificate of Occupancy on the building, but she did not realize there was a different Certificate of Occupancy was necessary until she began speaking with Nicole Gordon in March.

Mr. Van De Wiele asked Ms. Cooper if she had a Certificate of Occupancy on the dispensary. Ms. Cooper stated that is what she applied for on May 21st.

Ms. Cooper asked the Board to have the Bloomer Dispensary application stricken because it is incorrectly filed. Mr. Van De Wiele asked Ms. Cooper why she thought that. Ms. Cooper stated it is because Bloomers does not have her licensed dispensary located within their 1,000-foot radius.

Ms. Radney asked Ms. Cooper for the name of her business. Ms. Cooper stated it is Mother Road Extracts Company. Ms. Cooper stated she has the application that she is going to file this afternoon and show that Bloomers is located within 500 feet of her location. Ms. Cooper stated the next nearest location is Route 66 Clones and Cannabis which is located more than 1,000 feet from her location.

Mr. Van De Wiele asked Ms. Cooper if her location was in between Route 66 Clones and Bloomers. Ms. Cooper answered affirmatively.

Ms. Cooper stated she does not believe that Bloomers should be the sole dispensary given a Certificate of Occupancy because of the 1,000-foot radius. She thinks this subject area of town is ripe for restoration, and the tax money brought into the City of Tulsa will be good. She thinks there is room for all the dispensaries.

Rebuttal:

Leta Carmona came forward and stated that she too is paying her taxes and have followed all the guidelines from OMMA, but this is a City issue not an OMMA State issue. Even though her license was issued in April she obtained her building in May

and started the process with the City as soon as she started. It is no fault of hers that they did not start the process until recently. Ms. Carmona stated she leased her building May 1st and has all of her licenses and permits with the all entities involved. It was her understanding that whoever gets on the agenda first is the one that basically is approved or denied based on the information provided. Ms. Carmona stated she was aware that Mother Road was there after she started her process. It was her understanding that Mother Road would be grandfathered in had their OMMA license been issued prior to December. Ms. Carmona thinks she has done everything that the City of Tulsa has requested and done it in the manner that it was asked to be done, so she thinks she should be approved based on the circumstances.

Mr. Van De Wiele asked Ms. Carmona if she was aware of any other dispensary other than the Route 66 and the Mother Road dispensary. Ms. Carmona that is she is not aware of any other dispensaries within a 1,000 feet.

Ms. Ross asked Ms. Carmona when she applied for her Certificate of Occupancy with the City. Ms. Carmona stated that she is not sure, but she thinks it was mid-to-late May.

Ms. Radney asked Ms. Cooper if she had a Certificate of Occupancy for the subject property. Ms. Cooper answered affirmatively and stated she owns the property. Ms. Radney asked Ms. Cooper if she applied for that certificate herself. Ms. Cooper answered affirmatively, and stated the building was a previous auto sales business. Ms. Radney asked Ms. Cooper when that certificate was issued. Ms. Cooper stated that it was issued in 2004; the building has been owned and occupied by her family since 1975. Ms. Radney asked Ms. Cooper if her family has continuously owned and operated the building since 1975, and this is a change of use. Ms. Cooper answered affirmatively. Ms. Cooper stated she had the understanding that a Certificate of Occupancy was not necessary until she heard that she had to go through the spacing verification; she thought the spacing verification was going to be done at the State level and that is when she started speaking with Nicole Gordon in March and she thought the Certificate of Occupancy was for the building not the business. Ms. Radney asked Ms. Cooper if the building was zoned in such a way that she could use the building as a medical marijuana dispensary by right. Ms. Cooper answered affirmatively.

Ms. Cooper stated that she understands the 1,000-foot spacing is being done on a case by case basis, but she asked what happens when one of the dispensaries closes? Mr. Van De Wiele stated that if a dispensary closes then there is no longer a business to space against.

Leta Carmona came forward and stated that there has not been an actual business operating out of the building for years. She has done her due diligence to see what was around her location, and she knew at some point that Mother Road was in the area. She understands that the Mother Road location is a family owned property but there has not been an operating business there for years. She feels that she has done what the City has asked her to do, and in the time and fashion that the City has asked to have it done.

Comments and Questions:

Ms. Ross stated that the Board has discussed the criteria they would follow in examining these spacing verification cases, and if the Board follows what they agreed to the applicant would be approved today.

Mr. Van De Wiele asked Mr. Wilkerson if there has been any movement forward on INCOG's interpretive policy for the spacing verifications and is it the direction in which INCOG is heading? Mr. Wilkerson stated it is a policy decision and it is not something that has been documented in the Zoning Ordinance. Mr. Van De Wiele asked Mr. Wilkerson if the policy decision been finalized? Ms. Blank stated that it has not. Ms. Blank stated the Legal Department is also reviewing this, and she thinks where it states that a dispensary has to be 1,000 feet from another dispensary, she thinks that means from another legal lawful dispensary. That would mean both having what the State requires and what the City requires; that would mean if the applicant is before the Board with their license and there is no other lawfully operating dispensary within the 1,000 feet.

Ms. Radney stated that she would be curious to know if this applicant referenced Mother Road in their application, which to say was Mother Road represented to INCOG when the application was made when there was a potential dispensary within the 1,000-foot spacing radius.

Mr. Bond stated that for him it means is there another licensed, both from the State of Oklahoma and the City of Tulsa, dispensary within a 1,000 feet. As it stands right now, there is not.

Mr. Van De Wiele stated that what is before the Board today, the Board has to chose whether there is another dispensary within 1,000 feet of this application. He is seeing there is one, and it is outside of the 1,000-foot radius. The Mother Road Extract is not dispensary, it may at some point be a dispensary, but nothing was being pursued until this application came before the Board. He would be inclined to accept the applicant's verification of spacing.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-1-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LTS 18 19 & 20 BLK 33, SHERIDAN HILLS, City of Tulsa, Tulsa County, State of Oklahoma

22679—Greenwood Wellness – Marvin Jones

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) **OR** in the alternative a Variance of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D). **LOCATION:** 810 East 6th Street South **(CD 4)**

Presentation:

Marvin Jones, 8616 East 98th Street, Tulsa, OK; stated he represents Greenwood Wellness Group. Mr. Jones stated the goal is to do everything in accordance with the State, OMMA, as well as with the City of Tulsa; he feels that he has done that. Mr. Jones stated the subject dispensary is operating and transacting since July 4th. Mr. Jones that the owner of the subject building on East 6th Street is one of the partners in Wellness Group and he has a previous Certificate of Occupancy. In addition, he feels that the dispensary is lawfully operating with all the applications that have been submitted. Mr. Jones stated the Group has one dispensary operating on East Apache and his goal is to make sure that everything is done in accordance to INCOG as well as the City of Tulsa. Mr. Jones stated that there is a license for the first location which was received January 2019 and the license for the second location was received February 2019. Mr. Jones stated he has proceeded to submit for the Certification of Occupancy in early May.

Mr. Van De Wiele asked Mr. Chapman to display page 5.26 on the overhead projector, and Mr. Van De Wiele asked Mr. Jones to identify where any other dispensaries are located within the 1,000-foot radius, and any other licenses.

William Shirley, 1216 East Apache, Tulsa, OK; came forward and stated he is one of the partners in Wellness Group. Mr. Shirley stated that he has been in contact with Mr. Austin Chapman, Ms. Amy Ulmer and Ms. Nicole Gordon for several months, and in this particular circle there is no licensed dispensary; the closest dispensary is 1,700 feet to the North, which is East End located at 202 South Lansing Avenue.

Mr. Van De Wiele asked Mr. Shirley, for clarification, if he was aware of any other licensed dispensary within the 1,000-foot radius. Mr. Shirley stated that he is not aware of any licensed operating dispensary. Mr. Van De Wiele asked Mr. Shirley if he was aware of another license that is not operating within the 1,000-foot radius. Mr. Shirley stated that there is one; it is about 400 feet away. Mr. Shirley stated that at the time his location was established that building was vacant.

Mr. Van De Wiele asked Mr. Shirley if he had one license to cover all of his locations or is it a location-by-location specific license. Mr. Jones stated that it is a location-by-location license. Mr. Van De Wiele asked Mr. Jones if the license for the subject address expires February 2020 and was issued February 3, 2019. Mr. Jones answered affirmatively.

Mr. Van De Wiele asked, for the record, Mr. Jones to confirm that there is a dispensary 1,700 feet away that is open for business, and there is another dispensary that is 400 feet away, is he aware of any other licenses within the 1,000-foot radius? Mr. Jones answered no.

Mr. Shirley came forward and stated that he would like to have noted in the record he would like to one additional piece of information that may bear merit. Mr. Shirley stated that in the previous minutes there was note made about how much was actually spent by the other dispensary and he has invested while operating well over \$55,000 to \$60,000 to get the dispensary operating.

Ms. Ross asked if the dispensary was operating without spacing verification. Mr. Shirley answered affirmatively; just like 70% to 80% of the other dispensaries. Ms. Ross asked Mr. Shirley if he knew that was not lawful. Mr. Shirley stated that was discussion mentioned in the previous minutes and even the previous case today. Ms. Ross stated that if a person has not received their City spacing verification then the dispensary is not lawfully operating; they may have their State license, but they are not operating lawfully without the spacing verification. Mr. Van De Wiele stated that ultimately it is the Certificate of Occupancy, the spacing verification is a hurdle. Mr. Shirley stated that the previous tenant had a Certificate of Occupancy, so there was a case to occupy the building so he could occupy the building because it was retail. Mr. Van De Wiele stated that what throws a lot of these for a loop is if there was a dispensary to open in a building, such as City Hall because there is a Certificate of Occupancy for this building, a new Certificate of Occupancy must be had. Mr. Shirley stated that it was clarified to him and illustrated as a merchant for occupancy. It was determined that there was a previous merchant in the building, and he is applying as a merchant, so the occupancy has not changed even though it is a dispensary; that was determined by the City. Mr. Van De Wiele stated that is news to him, because he has had discussion with the Permitting Office. Mr. Shirley stated the Mr. Berto Morand is the person he spoke to, and he is the one aware of it.

Ms. Blank stated that perhaps the applicant is referring to Building Permits, and what the Board is dealing with is a Use category that is different, so it needs a Certificate of Occupancy.

Ms. Ross stated that at the previous meeting she recalls that the applicant was not open for business at the time, but they had posted a sign for this meeting when they learned that Mr. Palacios was seeking verification of spacing. The argument was made that they will be operating in a week and that it would take Mr. Palacios several months. At that time the Board said that was a risk to take because there was no verification of spacing. Mr. Jones stated that it was his understanding that the risk was stated to Mr. Palacios and that they should hurry up and start operating, because the whole discussion was about an operating business. Ms. Ross stated that the risk was to both parties.

Mr. Van De Wiele asked Mr. Jones if the Board were inclined to lean toward the Variance, what is unique about the property or perhaps the neighborhood the building is located in that would justify a Variance to shrink the 1,000-foot radius to allow both dispensaries within 400 feet. Mr. Jones stated there is easy access from Highway 75 to the location, and the property is not exactly downtown but on the outskirts of downtown.

Interested Parties:

George Palacios, 1420 East 4th Street, Tulsa, OK; stated that it sounds as though the Board remembers the previous meeting well. Both parties were put out to the races; both were told they were at risk and that whoever came forward first with a Certificate of Occupancy would be the one to win. Mr. Palacios stated he was the one that brought to the attention of the Board that there was another dispensary nearby, but that they had not applied for a permit. Ms. Ross is absolutely correct, the other party is operating illegally because they do not have their Certificate of Occupancy, so they have not established a business at this moment in time. Mr. Palacios stated he has received all of his final inspections as of today but has not been able to apply for the Certificate of Occupancy because the final inspections have only been recorded in the field and have not been entered into the system yet. In effect, he has reduced a 90-day construction timeline down to just under 30 days at a significant cost to his client. Mr. Palacios stated that he has met his goal and his timeline, and still he is not opposed to having a neighbor. He believes in a free market economy and does think there is anything wrong with dispensaries being within 1,000 feet of one another and he encourages friendly competition.

Nathalie Cornett, Eller & Detrich, 2727 East 21st Street, Tulsa, OK; stated that Mr. Palacios is her client's architect and he obviously is much more familiar with what is happening in the Permit Center. Ms. Cornett reiterated her request for a continuance. Ms. Cornett stated that she believes that the applicant's license for this location expires February 3, 2020, and her client's license expires January 29, 2020 so it is first in time. The next consideration for application would be an application for a building permit or a Certificate of Occupancy. Ms. Cornett stated that her client applied for a building permit on March 5, 2019 and all the final inspections have been passed so there should be a Certificate of Occupancy within the next day.

Mr. Bond asked Ms. Cornett the name of her client's dispensary. Ms. Cornett stated that it is The Treehouse Dispensary dba The Flower Shop.

Ms. Cornett stated that her client does not have an issue with another dispensary operating within a 1,000 feet, and after hearing the applicant's presentation she is not sure they have articulated a particular hardship for this property. Ms. Cornett stated, again, that she would request a continuance to more thoroughly examine the Variance request.

Rebuttal:

Marvin Jones came forward.

Mr. Bond asked Mr. Jones to state his hardship; is there something unique to the location, unique to the application to grant a Variance? Mr. Jones stated the property is owned by one of the partners and it is a family property, so it was easy to get up and going. Location is key as well. Mr. Bond asked Mr. Jones if he thought the area is commercially dense. Mr. Jones answered affirmatively.

Mr. Van De Wiele asked Mr. Jones if he thought the area was on its way to becoming more commercially dense. Mr. Jones answered affirmatively.

Ms. Radney asked Mr. Jones if he thought this was a unique circumstance in the City of Tulsa, is there another business environment similar to this or is it unique? Mr. Jones believes it is unique, taking into consideration what the City of Tulsa is doing in the new developments that are going in downtown and in the subject location.

Mr. Bond asked Mr. Jones if there was a lot or not a lot of residential housing near the subject site compared to other parts of the City? Mr. Jones stated in terms of the apartments and the demographics of the area it is unique.

Comments and Questions:

Mr. Van De Wiele stated that to him this is a relatively unique area. To him it is the commercial business district; it is not as densely populated residentially as other major thoroughfares in Tulsa. He would vote for a Variance if someone could articulate the hardship.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-1 (Bond, Radney, Shelton, Van De Wiele "aye"; no "nays"; Ross "abstaining"; none absent) to **DENY** the request for a Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) and to **APPROVE** a Variance of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) to permit two medical marijuana dispensaries to be located within 1,000 feet of each other, subject to conceptual plans 5.23 and 5.26 of the agenda packet. The Board finds the hardship to be the unique characteristics of the site as they presently exist; both being in topography, occupancy, and the commercial make up of this site. Additionally, the lack of existing clarity between the present applicant's application and the new Zoning Code. The Variance approval is limited to allow this dispensary to be located within 1,000 feet of the dispensary approved in case #BOA-22647. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

LT-7 & E20 LT 8 BLK-7, BURNETT ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22680—W Design – Weldon Bowman

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: 3403 South Peoria Avenue East (CD 9)

Presentation:

Brian Letzig, W Design, 815 East 3rd Street, Suite C, Tulsa, OK; stated he represents Green Country Bud which is at the top of the building. Mr. Letzig stated he is not aware of any other dispensaries within the 1,000-foot radius. Mr. Letzig stated the nearest dispensary, The Treehouse Dispensary, is south and currently located 4,224 feet away.

Mr. Van De Wiele asked Mr. Letzig if that is the closest dispensary that is open for business. Mr. Letzig stated that it is closest operating dispensary that he is aware of. Mr. Van De Wiele asked Mr. Letzig if there were any license holders within the 1,000-foot radius. Mr. Letzig stated that from his research, at least when he applied, he did not see any, but he has not looked within the last two weeks; none that he is currently aware of.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the

facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

Lots 3-6, Block 2, Oliver's Addition, City of Tulsa, Tulsa County, State of Oklahoma

22682—Sally Ann Perry

Action Requested:

Modification of previously approved Special Exception (BOA-22300) to extend the time limit for a bed and breakfast use (Section 5.020, Table 5-2). **LOCATION:** 4138 South Owasso Avenue East **(CD 9)**

Presentation:

Sally Ann Perry, 4142 South Owasso Avenue, Tulsa, OK; stated she currently operates an AirBnB at the subject address.

Mr. Van De Wiele asked Ms. Perry if she still lived next door to the subject site. Ms. Perry answered affirmatively.

Mr. Van De Wiele asked Ms. Perry how many years she would like to request to operate her AirBnB. Ms. Perry stated that since there are expenses involved in the process, she would like to request ten years and failing that she would request five years.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a Modification of previously approved Special Exception (BOA-22300) to extend the time limit for a bed and breakfast use (Section 5.020, Table 5-2). The approval will be for a time limit of seven years from today, July 23, 2026. 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 13 BLK 3, ALTA DENA PLACE, City of Tulsa, Tulsa County, State of Oklahoma

22683—Tom Neal

Action Requested:

Variance to allow a detached accessory structure to exceed 500 square feet or 40% of the of the floor area of the principal residential structure in an RS-4 District (Section 45.030-A). **LOCATION:** 1332 East 17th Place South (CD 4)

Presentation:

Tom Neal, 2507 East 11th Place, Tulsa, OK; stated he represents his clients, The Millers. The house had an existing original garage from the 1920s that had quarters attached, and it has been used by Mrs. Miller's mother who comes for extended visits. The garage was non-conforming because it was slightly over what would be allowed, but grandfathered in. The allowable would be 580 square feet and the existing was 640 square feet. What the Millers would like to do is to add a sitting room with a kitchen for Mrs. Miller's mother; the idea is so she may be with family and still have her privacy. The current structure is about 60 square feet over and the new addition would be adding 320 square feet over what is allowable.

Ms. Ross asked Mr. Neal how long the mother stays when she visits. Mr. Neal stated that she stays several months at a time. Ms. Ross asked if the mother lived some place else. Mr. Neal stated that the principal residence is in Maryland and the mother does a circuit to visit various family members. It is anticipated that the mother will become a permanent resident of the subject structure.

Mr. Van De Wiele asked Mr. Neal if the total structure would be 888 square feet. Mr. Neal stated that he believes that is what the measurements are. Mr. Van De Wiele asked if that square footage included the garage. Mr. Neal answered affirmatively.

Ms. Shelton asked Mr. Neal if the homeowners used the garage for parking. Mr. Neal stated that the garage is currently used for storage primarily, but when the mother is there part of the garage will be used for her to park.

Mr. Bond asked Mr. Neal how old the house is. Mr. Neal stated that house dates about 1925 or 1926 and is located in the Swan Lake neighborhood.

Mr. Van De Wiele asked Mr. Neal if he or the homeowners had spoken with the neighbors. Mr. Neal stated that he has not, but he does not know of any objections to this proposal, and Swan Lake is a very active neighborhood; they are not shy about letting anyone know they are opposed to a plan.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a **Variance** to allow a detached accessory structure to exceed 500 square feet or 40% of the of the floor area of the principal residential structure in an RS-4 District (Section 45.030-A), subject to conceptual plans 8.12, 8.13, 8.14, 8.15 and 8.16 of the agenda packet. The proposed structure is not to exceed 888 square feet. The Board finds the hardship to be a pre-existing non-conforming structure that was built and designed prior to the Comprehensive Zoning Plan as well as the nature of the surrounding neighborhood with existing garages and garage apartments. The garage apartment is not to be used for any commercial uses and it is not to be rental property to third parties. In granting the **Variance** the Board finds that the following facts, favorable to the property owner, have been established:

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

LT 1 BLK 2, SANGER-DOUGLASS SUB B25 PARK PLACE, City of Tulsa, Tulsa County, State of Oklahoma

22684—Father George Eber

Action Requested:

Variance to allow a structure in the street setback to exceed 30 inches in an RM-2 District to permit construction of stairs and a bell tower (Section 90.090-C, Table 90-1). **LOCATION:** 2646 East 6th Street South **(CD 4)**

Presentation:

Michael Gresh, 7821 South Granite, Tulsa, OK; stated he is the Treasurer of St. Anthony's Church. The issue is the church is trying to build a new staircase, but the old

staircase was higher than the allowed limit, and the church will not have an entrance if the staircase cannot be the same size.

Mr. Van De Wiele asked Mr. Gresh to explain how the building of the new staircase Variance extends to the building of the bell tower.

Interested Parties:

Sean Gibson, Architect, 115 East 19th Street, Tulsa, OK; stated the new stairs need to be increased for the new egress and to be able to get caskets down the stairs. The bell tower is to be built, because there is an existing bell in the basement of the church and the church would like to be able to use the bell and enhance the exterior of the structure.

Mr. Van De Wiele asked Mr. Gibson if there used to be a bell tower in place. Mr. Gibson stated that he does not know. Mr. Gibson stated that St. Anthony's originally a Baptist church in 1932 and St. Anthony's purchased the church in 1980.

Mr. Bond asked Mr. Gibson if the church has been in existence since 1932. Mr. Gibson answered affirmatively and stated there is a cornerstone depicting 1932.

Ms. Ross asked Mr. Gibson to articulate the hardship for the bell tower. Mr. Gibson stated the bell tower is to enhance the exterior of the building and make it more attractive.

Ms. Radney asked if the church has a flat roof. Mr. Gibson answered affirmatively. Ms. Radney asked Mr. Gibson if the church would need a structure appropriate for the bell and placing a structure on a flat roof of an existing historic building would not be advised. Mr. Gibson answered affirmatively.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a **Variance** to allow a structure in the street setback to exceed 30 inches in an RM-2 District to permit construction of stairs and a bell tower (Section 90.090-C, Table 90-1), subject to conceptual plans 9.14 and 9.15 of the agenda packet. The Board has found the hardship to be the structure predating the Comprehensive Zoning Code, and the complications in placing a bell tower on the flat roof of a historic building. In granting the **Variance** 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 6-8 & 10 & W36 LT 11 & S58 E33 LT 12 & LTS 13-19 & VAC ALLEY LYING IN BETWEEN BLK 2, HIGHLANDS 2ND ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22685—Rick Stuber Architecture, Inc.

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: 4903 East Admiral Place North (CD 3)

Mr. Bond left the meeting at 2:55 P.M.

Presentation:

Rick Stuber, Rick Stuber Architecture, 2642 East 21st Street, Suite 195, Tulsa, OK; stated subject property was a former QuikTrip and the applicant is the Royal Tree, LLC.

Mr. Van De Wiele asked Mr. Stuber if the OMMA license was obtained before December 1, 2018. Mr. Stuber answered affirmatively and stated the license was issued October 6, 2018 and it expires October 6, 2019. Mr. Stuber stated that the applicant has a license for the subject location dated June 6, 2019.

Mr. Van De Wiele asked staff if this case needed to have the spacing verified by the Board, since the license predates December.

Mr. Bond re-entered the meeting at 2:57 P.M.

Mr. Stuber stated he submitted plans to the City for a building permit and he was given a Letter of Deficiency stating that they needed to appear before the Board of Adjustment for a spacing verification.

Mr. Van De Wiele asked Mr. Stuber if was aware of any other dispensary, legal or otherwise, operating in the 1,000-foot radius. Mr. Stuber stated that at the time he prepared the map there were none, and that was June 14, 2019. Subsequent to that he was given a copy of a map that indicated there may be a licensed dispensary in the 4600 block of Admiral, The Green Markit. Mr. Stuber stated that according to his calculations that is 2/10 of mile from his location, or 1,056 feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

W235 S300 GOV LT 4 LESS BEG SWC THEREOF TH N300 E30 S10 E30 S225 SE35.36 TO PT 85E & 50N SWC LT 4 TH E150 S50 W235 POB SEC 3 19 13 1.004ACS, City of Tulsa, Tulsa County, State of Oklahoma

22686—Kim Kelley

Action Requested:

Special Exception to allow a Type 2 home occupation in an RS-4 District to permit a hair styling business (Section 45.100). **LOCATION:** 252 East Tecumseh Street North (CD 1)

Presentation:

Kim Kelley and Janice Kelley, 252 East Tecumseh Street, Tulsa, OK; stated he would like to have a hair styling business in his home so he can move his salon from another facility. He will install a bathroom and a sink for shampoos for the clients.

Mr. Van De Wiele asked if there would be other employees at this location. Mr. Kelley answered no, it is just he and his wife.

Mr. Van De Wiele asked Mr. Kelley if he had plans of installing a parking lot in the front yard. Mr. Kelley stated that he did not.

Ms. Ross asked Mr. Kelley what his hours of operation would be. Mr. Kelley stated that it would be Tuesday through Saturday, 9:00 A.M. to 7:00 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a Special Exception to allow a Type 2 home occupation in an RS-4 District to permit a hair styling business (Section 45.100), subject to conceptual plan 11.11 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 3 LESS W1.5 THEREOF BLK 10, MEADOWBROOK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22687—Muneer Khalilullah

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: 4948 South Union Avenue West **(CD 2)**

Presentation:

Muneer Khalilullah, 4942 South Union Avenue, Tulsa, OK; stated that there is another dispensary within 527 feet of his location.

Ms. Ross asked Mr. Khalilullah if the other dispensary had their license. Mr. Khalilullah stated that the other dispensary does have their license, but they do not have a Certificate of Occupancy.

Mr. Van De Wiele asked Mr. Khalilullah if he was aware of any other dispensary, licensed or not, within the 1,000-foot radius. Mr. Khalilullah answered no and the next license holder is about 2 ½ miles from his location.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-1-0 (Bond, Ross, Shelton, Van De Wiele "aye"; Radney "nay"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

S/2 LT 4 LESS BEG SECR LT 4 TH W15.51 N127.81 E7.10 S127.50 POB BLK 2, GREENFIELD ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22688—Michael Friloux

Action Requested:

Special Exception to permit a driveway greater than 30 feet in width on the lot in the street setback (Section 55.090-F). **LOCATION:** 2819 East 29th Street South (CD 4)

Presentation:

Michael Friloux, 3721 East 55th Street, Tulsa, OK; stated in order to get his garage access he needs to add nine feet on to the lot side of the driveway. Mr. Friloux stated there are seven similar driveways in the neighborhood; there are five driveways that exist today within 300 feet of his lot. Mr. Friloux believes his request is in the character of the neighborhood, and it is very important to him and his wife that the house fit into the neighborhood.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a Special Exception to permit a driveway greater than 30 feet in width on the lot in the street setback (Section 55.090-F), subject to conceptual plans 13.11, 13.13 and 13.14 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:

LOT 6 BLK 3, THOMAS HGTS ADDN SUB PRT L4 B5 WOODY CREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22689—Roberto Ruvalcaba

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: 8712 East 46th Street South (CD 7)

Presentation:

Angelica Ruvalcaba, 8712 East 46th Street, Tulsa, OK; stated there are no dispensaries operating or licensed within the 1,000-foot radius. The dispensaries in the area all exceed the 1,000-foot spacing of her dispensary.

Ms. Radney asked Ms. Ruvalcaba if she knew where the nearest dispensary to her location is. Ms. Ruvalcaba stated that it would be the Memorial Drive Dispensary which is 2,063 feet away.

Interested Parties:

Tammy Laakso, 8715 East 46th Place, Tulsa, OK; stated her concern is that this dispensary is to be located in an industrial park; there is no retail in or around this area other than on Memorial and on Mingo. This dispensary is located on 46th Street and it backs up against residential and her property backs up to it.

Mr. Van De Wiele asked Mr. Wilkerson if medical marijuana dispensaries were a use by right in an Industrial Light area. Mr. Wilkerson answered affirmatively.

Mr. Van De Wiele stated he understands Ms. Laakso's concern, but with this type of application all the Board is charged with doing is verifying how close this applicant's proposed business is to other existing or proposed businesses. The Zoning Code reads to allow this type of use in an industrial zoned area.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 38 BLK 3, MEMORIAL INDUSTRIAL PARK CORR, City of Tulsa, Tulsa County, State of Oklahoma

22690—Paul Bush

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: 3151 South 129th Avenue East, Suite P (CD 6)

Presentation:

Paul Bush, 1533 South Owasso Avenue, Tulsa, OK; stated this dispensary the only dispensary on the OMMA list within the zip code 74134. The closest dispensary on the list that he could find is not currently operating, so there is nothing within the 1,000-foot radius that is operating.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

PRT LT 1 BLK 1 & PRT LT 1 BLK 2 BEG 100N NWC BRIARGLEN MINI STORAGE TH N225 E525 S5 W35 CRV LF 39.27 S85.78 SW154.47 W355 POB LESS BEG 25S MOST W NWC LT 1 BLK 1 TH S58 E8 N58 W8 POB FOR ST,BRIARGLEN PLAZA ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22691—Zach Downing

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: 2220 East 6th Street South (CD 4)

Presentation:

Zach Downing, 2220 East 6th Street, Tulsa, OK; stated he owns the building that he would like to have a dispensary. Mr. Downing stated that he is not aware of any other dispensaries operating legally or illegally within the 1,000-foot radius.

Mr. Van De Wiele asked Mr. Downing if he knew where the nearest licensed holder and dispensary is located. Mr. Downing stated the nearest operating dispensary is located at 11th and Harvard, and the next nearest dispensary is located at 6th and Peoria.

Ms. Radney stated that she has personal knowledge of a business that is acting and looking like a dispensary located at 12th Place and Lewis Avenue, but it does not impact the applicant.

Mr. Van De Wiele asked Mr. Downing if he searched the OMMA list. Mr. Downing answered affirmatively. Mr. Downing stated there is one license outside of the 1,000-foot radius and the building is vacant.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LOT 11 BLK 5, HILLCREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22692—Greenwood Wellness – Marvin Jones

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: 1216 East Apache Street North (CD 1)

Presentation:

Marvin Jones, 8616 East 98th Street, Tulsa, OK; stated this location is at Peoria and Apache, and there are no dispensaries within the 1,000-foot radius that he is aware of.

Mr. Van De Wiele asked Mr. Jones where the closest operating dispensary or the closest licensed holder. Mr. Jones stated that the closest one he is aware of is 5,280 feet away and it is the Greenwood Cure at 1046 East Pine Street.

Ms. Radney asked Mr. Jones if that was just a licensee at 1046 East Pine Street. Mr. Jones stated that is his understanding.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

S175 LTS 15 & 16 BLK 2 & S175 W20 E200 N250 NE SEC 25 20 12 .08AC, EMERSON ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22693—KKT Architects – Nicole Watts

Action Requested:

Modification of a site plan previously approved in BOA-20556 to permit the addition of classrooms at Redeemer Covenant Church (Table 25-1). **LOCATION:** 5415 East 101st Street South (**CD 8**)

Presentation:

Nicole Watts, KKT Architects, 2200 South Utica Place, Tulsa, OK; stated this is an amendment to a previously approved site plan for a small building addition on the east side of the existing facility.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 4-0-1 (Bond, Radney, Ross, Shelton "aye"; no "nays"; Van De Wiele "abstaining"; absent) to **APPROVE** the request for a Modification

of a site plan previously approved in BOA-20556 to permit the addition of classrooms at Redeemer Covenant Church (Table 25-1), subject to conceptual plan 18.8 of the agenda packet. The Board finds that the requested Modification will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

RESERVE A; LT 1 BLK 1, REDEEMER COVENANT CHURCH, City of Tulsa, Tulsa County, State of Oklahoma

22694—Raymond McDonald

Action Requested:

Variance to allow a non-all weather parking area (55.090-F); Variance to allow an accessory structure to exceed more than 20% coverage in the rear setback (Section 90.090-C.2); Variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-A).

LOCATION: 3715 South 82nd Avenue East **(CD 5)**

Presentation:

Ray McDonald, 3715 South 82nd East Avenue, Tulsa, OK and **Raymond McDonald**, 26675 East 91st Street, Broken Arrow, OK; stated he would like to have an accessory structure on the side of his house so he can park his vehicles in it and for storage. Mr. Ray McDonald stated that he will be parking his work truck in the building because he cannot park it on the street due to break ins in the neighborhood. The proposed building will be on the south side of his property and is 30'-0" x 60'-0" and 14'-0" tall.

Mr. Van De Wiele asked Mr. McDonald if he wanted to have a gravel drive to access the building. Mr. McDonald answered affirmatively.

Mr. Van De Wiele asked Mr. McDonald to state his hardship for the gravel drive. Mr. McDonald stated that he can go either way on the drive, either gravel or concrete.

Mr. Van De Wiele asked Mr. McDonald to state his hardship for the size of the proposed building, the size of the building in comparison to the house, etc. Mr. McDonald stated his lot size is 140'-0" wide x 215'-0" long; it is almost an acre.

Raymond McDonald came forward and stated the County Assessor has the lot at 7/10 of an acre, and if you deduct the 30-foot easement for the road on both sides the numbers match the plan provided. The City has told him that there has to be five feet on the south side and there will be ten feet, and on the north side there will be 39 feet from the fence. The footprint of the building comes out to 6%.

Mr. Van De Wiele asked Mr. Raymond McDonald how large is the house? Mr. Raymond McDonald stated that it is about 2,000 square feet.

Mr. Bond asked Mr. Ray McDonald how tall the proposed building will be. Mr. McDonald stated that it will be 14'-0" tall because his work truck is 11'-5" so he needs the height. Mr. Bond asked Mr. Ray McDonald how tall the cap line on his house is. Mr. McDonald stated that he is not sure, but the contractor had to lower the roof side of the pitch about six inches to get under the threshold.

Mr. Van De Wiele asked Mr. Ray McDonald what he is parking in the building that he needs 1,800 square feet. Mr. McDonald stated that he will be parking his work truck, a 16'-0" trailer, and his other cars.

Mr. Van De Wiele asked Mr. Ray McDonald if he was operating a business out of the building. Mr. McDonald answered no.

Mr. Ray McDonald presented photos of other storage buildings in the neighborhood. Mr. Raymond McDonald stated there are 15 storage buildings within a two-block area, and one is two-story about 28 x 35.

Mr. Bond asked Mr. Ray McDonald when his house was built. Mr. McDonald stated that it was built in 1965.

Interested Parties:

Kennedy Tobey, 8278 East 37th Street, Tulsa, OK; stated he has lived in the neighborhood since August 1975. One of the pictures Mr. McDonald has shown with a garage is his house and it is a garage separate from the house; a 20'-0" x 24'-0". Mr. Tobey stated that he has a problem with the size of the proposed commercial building.

Mr. Van De Wiele asked Mr. Tobey where he lived in relation the applicant. Mr. Tobey state he lives six houses on 37th Street, right behind the subject house.

Karen Meehan, 8233 East 37th Place, Tulsa, OK; stated her house is the one in the photo that has the largest structure and it is a barn; there was a permit to have it built. Ms. Meehan stated that her house was built in 1958 and her husband's parents lived there before they passed; she is south of the applicant, the third house from the corner. Ms. Meehan stated that she has heard that the applicant is wanting to make the building a commercial building; he works for a plumbing company. Ms. Meehan stated the applicant has enough parking for at least five cars in his driveway, and he has a boat setting on the property. Ms. Meehan stated that if the applicant is allowed to make the building into commercial it will lower the property values. Ms. Meehan stated that her accessory building is a four-car garage; two cars deep and two cars wide.

Mr. Van De Wiele asked Ms. Meehan what the structure is between the house and her accessory building. Ms. Meehan stated that it is her cabana for the swimming pool, and there is a small storage shed behind that.

Mr. Van De Wiele asked Ms. Meehan how large the building she calls a barn is. Ms. Meehan stated that she does not know.

Ms. Radney asked Ms. Meehan if she would have less objections to a large accessory building if it were styled in such a way as in keeping with the exterior of the applicant's house. Ms. Meehan answered affirmatively and stated that as long as the building is not considered commercial.

Doris McKinzie, 8265 East 37th Place, Tulsa, OK; stated she has lived in her house for 52 years; her first husband built the house. Ms. McKinzie stated the neighborhood is totally residential and has no commercial. Her neighborhood is not a regular subdivision, a regular subdivision has curb and gutters and her neighborhood has ditch lines. Ms. McKinzie stated that all inside lots are 5/8 acre and the corner lots could be larger. People live in the neighborhood because they do not want to live in a regular subdivision, they want the space and the country. This neighborhood is a country location for people that do not want to live close together. Ms. McKinzie stated that the house has three small bedrooms and that could house only six adults. There is a large circular drive in front of the house and there is a two-car garage; that can park at least ten vehicles. Ms. McKinzie stated that all the water flows northeasterly and if the building goes in it will all go to the east. Ms. McKinzie stated that if the parking space the applicant has now does not satisfy six adults something is wrong. Ms. McKinzie stated she is opposed to this request because it will devalue the property.

Rebuttal:

Ray McDonald came forward and stated the building is never going to be commercial, it will always be for storage so he can store his vehicles. The circle driveway is deteriorating, and he will eventually tear it out so he can have nothing but a front yard. There is no other circle drive in the neighborhood except for the one next door. The building will be 30 feet from his house.

Mr. Van De Wiele asked Mr. McDonald about the portable building. Mr. Raymond McDonald stated it is being used as a lawnmower shed, but it can be taken out because if the new building is allowed the shed will not be needed.

Mr. Raymond McDonald stated that he used to work at American Homes Plumbing and he retired five years ago, and the building will not be used for a plumbing business. Mr. Ray McDonald stated that he has a handyman business and there is no work done on the premises.

Mr. Raymond McDonald stated if the building is allowed to be built it will enhance the neighborhood because all of the vehicles will be parked inside the building. Mr. McDonald stated the building will be built out of red iron and it would not be realistic to have it match the house because the house is all brick. Red iron buildings are exactly the same style buildings that are in the neighborhood now.

Ms. Ross asked Mr. Ray McDonald if he would be able to park his boat in the accessory building. Mr. McDonald answered affirmatively.

Ms. Ross asked Mr. Ray McDonald if her could get by with a smaller building. Mr. McDonald stated that his trailer and his truck are both about 20 feet long.

Ms. Radney asked Mr. Ray McDonald how he would access the building and where will the doors be on the building. Mr. McDonald stated the doors will on the front. Ms. Radney asked Mr. McDonald if he would be willing to install a privacy fence with a gate in front of the proposed building. Mr. McDonald answered affirmatively.

Comments and Questions:

Ms. Ross stated that she likes Ms. Radney's idea of making the approval contingent upon the circle drive being removed so there would be more green space. She does not have a problem with the building, and she believes the applicant when he says he will not be running a business out of the building. Ms. Ross stated she rather see the vehicles parked in a building than randomly parked around a circle drive or in the front yard.

Mr. Van De Wiele stated the Board sees these types of requests a lot in larger lot neighborhoods. There are lots of outbuildings that can be seen on page 19.8 of the agenda packet. The outbuildings that flank 37th Street seem to be large, about 30 x 40 or 40 x 50, and the one on 37th Place seems to be 20 x 40. Mr. Van De Wiele stated this proposed building is a big building and maybe the large lot can handle it, but this is what a person is going to see coming off Memorial into the neighborhood unless there is an effort to blend the building into the neighborhood by color or style, fencing or screening. His concern is that he does not have enough information as to how that will look, and he does like the idea of removing the circle drive but not a gravel drive. There are too many unknowns from a visual or plan standpoint for him to approve this today.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **CONTINUE** the request for a **Variance** to allow a non-all weather parking area (Section 55.090-F); **Variance** to allow an accessory structure to exceed more than 20% coverage in the rear setback (Section 90.090-C.2); **Variance** to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure (Section 45.030-A) to the August 13, 2019 Board of Adjustment meeting to have the applicant bring in a plan for the building, the screening and the drive layout; for the following property:

LT 1 BLK 4, LAZY CIRCLE ACRES, City of Tulsa, Tulsa County, State of Oklahoma

22695—TJD Natural Supplements, LLC

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: 1402 South Peoria Avenue East, Suite 140 **(CD 9)**

Presentation:

Steve Dotson, 1402 South Peoria, Tulsa, OK; stated he represents TJD Natural Supplements. There are no licensed and no operating dispensaries within the 1,000-foot radius. There is one licensed dispensary at 1236 South Peoria which is at 1,144 feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 1 LESS BEG 109.30NE & NELY CRV LF23.52 SWC LT 1 TH N35.89 NELY CRV RT 20.47 NELY CRV LF 8.44 S10.50 SW 0.36 S29.80 SELY CRV RT 24.79 POB BLK 1, ZANMAI, City of Tulsa, Tulsa County, State of Oklahoma

22696—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit a wholesale and distribution use in a CS District (Section 15.020, Table 15-2). **LOCATION:** 10131 East 21st Street South **(CD 5)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents Elliott Electrical Supply Company. The site is a former K-Mart that has been vacant for about two years and it is located at 21st Street and Highway 169. The triangle the site is in is mostly vacant. The only businesses that remain open in that triangle are the billboard, the cell tower, and the used car dealer. Immediately to the east of the site is about nine acres that is owned by the State of Oklahoma, and behind the site is another four acres that is owned by the State of Oklahoma. Currently the site is a transient camp and the property is broken into quite often. Elliott Electrical Supply is primarily an electrical wholesale supplier selling multiple electrical items, selling mainly to commercial. The building is approximately 90,000 square feet on 12 acres of land.

Mr. Van De Wiele asked Mr. Reynolds if anything would be warehoused outdoors. Mr. Reynolds stated there is some outside storage accessory use on the east side which is shown on page 21.15 of the agenda packet.

Mr. Van De Wiele asked Mr. Reynolds what would be stored in that area. Mr. Reynolds stated that it will be primarily conduit.

Ms. Radney asked Mr. Reynolds what the building is that is immediately to the north of the site. Mr. Reynolds stated that it is a motel that has been closed for about two years and is vacant; it is heavily vandalized now.

Ms. Shelton asked Mr. Reynolds if Elliott planned on doing any landscaping of the property. Mr. Reynolds stated the case has not reached that point as of yet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Special Exception** to permit a wholesale sales and distribution use in a CS District (Section 15.020, Table 15-2), subject to conceptual plan 21.15 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:

PRT LT 1 BEG 150E SWC TH E617 NE22.36 N200 NE169.64 N345 W736.95 S103.95 W160 S451.02 E150 S130 POB LESS BEG 150E SWC LT 1 TH E617 NE22.36 W59.62 S10 W567.38 S10 POB BLK 1, MAGIC CIRCLE SOUTH ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22698—Josh Kunkel

Action Requested:

Modification of a previously approved site plan to permit improvements to Woodland Acres Baptist Church approved in BOA-19904 (Section 5.020, Table 5-2). **LOCATION:** 5511 South Harvard Avenue East **(CD 7)**

Presentation:

Andrew Sedersten, Architect, 2417 East Admiral Boulevard, Tulsa, OK; stated this is a modification request for a previously approved plan in 2004 for Woodland Baptist

Church. The project is a renovation and an addition of an interior courtyard; the overall footprint is not increasing.

Ms. Ross left the meeting at 4:51 P.M.

Mr. Van De Wiele asked if the modification was just the canopy on the rear and in the middle as shown on the site plan in the agenda packet. Mr. Sedersten stated the canopy on the east side is primarily going to stay the same; it will be increased to the north by a few feet and that is for emergency vehicles. The main addition is in the interior courtyard; it is two separate buildings currently and it is proposed to connect them with one lobby space.

Ms. Ross re-entered the meeting at 4:53 P.M.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **BOND**, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a **Modification** of a previously approved site plan to permit improvements to Woodland Acres Baptist Church approved in BOA-19904 (Section 5.020, Table 5-2), subject to conceptual plan 22.13 of the agenda packet. The Board finds that the requested Modification will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; for the following property:

PRT SW NW BEG 230N SWC NW TH N506 E80 NELY252.03 SE504.36 SW71.74 W367 POB LESS W50 THEREOF FOR ST SEC 33 19 13 3.92ACS, 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 4:53 p.m.

Date approved: 8-13-19

Arthur P. Baul
Chair