

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 1234
Tuesday, August 13, 2019, 1:00 p.m.
Tulsa City Council Chambers
One Technology Center
175 East 2nd Street

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bond, Vice Chair Ross, Secretary Radney Shelton	Van De Wiele, Chair	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 August 8, 2019, at 8:37 a.m., as well as at the Office of INCOG, 2 West Second Street, Suite 800.

After declaring a quorum present, Vice Chair Bond called the meeting to order at 1:00 p.m.

Mr. Bond explained to the applicants and interested parties that there were only four board members present today; Mr. Van De Wiele is out of town. Most motions the Board makes it will require an affirmative vote of three of the remaining four members. When there is less than a full Board, the Board will entertain a request to continue agenda items to a later meeting date, at which all five members of the Board may be present. Mr. Bond asked if there were any applicants or an interested party would like to postpone his or her hearing until the next meeting he or she could do so. The audience nodded their understanding and one person came forward to request a continuance.

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:

Weldon Bowman came forward and stated that at the previous meeting there was a 2-2 vote, and he would request a continuance today.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Radney stated that she has had an opportunity to do more investigation regarding this matter and she would be on the record as stating that at this point she would change her position to a yes for approval of this request.

Mr. Bond asked Mr. Bowman if he would like to withdraw his request for a continuance. Mr. Bowman answered affirmatively.

Board Action:

No Board action required at this time.

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

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MINUTES

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton, "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the **Minutes** of the July 23, 2019 Board of Adjustment Special meeting (No. 1233).

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UNFINISHED BUSINESS

22626—Barbara Carson

Action Requested:

Variance to reduce the required street setback in an RS-3 District (Table 5-3).

LOCATION: 252 South Quebec Avenue East (CD 4)

Presentation:

Barbara Carson, 624 South Denver, Tulsa, OK; presented pictures of the subject structure to support her presentation. Ms. Carson stated that she has not received the

overlay of the square footage of the house from Knox as the Board requested at the last meeting. Ms. Carson stated that the entire front porch area, the brown portion of the structure, is going to be removed. There is a front door inside that brown structure that will serve as the front door to the house. All siding will be inspected and replaced as needed; there is still nine feet that will require a Variance.

Ms. Radney asked Ms. Carson about the portion that protrudes into the right-of-way, was it an extension of a porch? Ms. Carson answered affirmatively. Ms. Radney asked Ms. Carson if it had been enclosed and extended even more. Ms. Carson answered affirmatively. Ms. Radney asked Ms. Carson how long the first porch extension has been in place. Ms. Carson stated that she does not know, but the brown portion of the house has been in place for 25 years so it would have been there even longer.

Ms. Carson stated the carport shown in picture 1 has been removed except for the studs but they will be coming down.

Ms. Radney asked if the driveway shown on page 2.12 in the agenda packet to the old garage is concrete or gravel, or will that area be returned to yard? Or will it continue to be used for parking?

Hunter Bailey, 633 East 65th Place, Tulsa, OK; came forward and stated that it is currently gravel and it will be leveled, and it will remain as gravel. Mr. Bailey stated that if it needs to be removed it can be, because there is another entryway into the property for parking, it's just that it is connected to the original garage that is part of the old home building.

Ms. Ross asked Mr. Bailey if there would be any intent to park any cars on the original driveway. Mr. Bailey stated the City did make an entryway for the driveway when they expanded the street. He does not know if that is a problem with the owner or not, but he does not think it would be because there are two entryways. The entryway is from the church parking lot into the actual back yard area of the house.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton, "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Variance to reduce the required street setback in an RS-3 District (Table 5-3). The Board finds the hardship to be the length of time that the extension has been located on the property in the street setback. The carport is to be removed completely. All of the brown wood that is covering the old porch area is to be removed and that area is to be

left open, so the front door is exposed to the street. The Board finds that the following facts, favorable to the property owner, have been established:

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

LT 281 BK 1, RODGERS HGTS SUB, City of Tulsa, Tulsa County, State of Oklahoma

22668—1 Architecture, LLC – Nick Denison

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, 1319 East 6th Street, Tulsa, OK; stated at the last meeting the Board requested to have the owner attend the Board of Adjustment meeting so they could present more information about what type of processing would be involved at this site. At this time Mr. Denison deferred to the owner.

Tim Townhill, 8209 St. Martins Lane, Philadelphia, PA; stated the site will be a place for both growing and extraction. The current plans are to use a hydrocarbon extraction and the equipment used will be within a C1 Class 1 D1 container vessel or room which is a spark and static resistant room. Hydrocarbon is the preferred method and standard with the construction of new facilities. The extraction will be done by a butane extraction system and there will only be 4,000 pounds processed a year.

Mr. Bond asked Mr. Townhill what kind of burn off will the neighbors in the area see from this system. Mr. Townhill stated that this is not a process where a flame is seen or a burn off as seen in an oil and gas situation, this is very low impact and there will be no impact. The system has multilevel filters to ensure there is no smell.

Ms. Ross asked Mr. Townhill if his company had other processing facilities in the United States. Mr. Townhill stated that this will be his first processing facility; he has a grow and processing license in Oregon, but that facility has not been built yet. This facility will be built and operated by a group out of Poland who have built and operated many facilities.

Ms. Ross asked Mr. Townhill if he had any history in chemical processing of any sort. Mr. Townhill stated that he is a chemical engineer, but the group being used out of Poland are chemical processing engineers. This is proven technology used in many, many places.

Ms. Shelton asked Mr. Townhill if there would be outside storage. Mr. Townhill answered no and stated that cannabis is not stored outside.

Mr. Bond asked Mr. Townhill to explain the two options shown on page 3.10 of the agenda packet. Mr. Townhill stated that two options were provided because he has not fully defined the system within the box, he just wanted to make sure he was given the ability to move into a separate building. The separate building has to fulfill Code requirements, Fire Marshall requirements, etc.

Interested Parties:

There were no interested parties present.

Comments and Questions:

There were no interested parties present.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Special Exception** to allow a High-Impact Medical Marijuana Processing Facility in an IM (Industrial-Moderate) District (Section 15.020), subject to conceptual plans 3.10, 3.13 and 3.14 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:

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:

Weldon Bowman, W Design, Architect, 815 East 3rd Street, Suite C, Tulsa, OK; stated his business is only a “stone throw away from the subject property” and he invested in this part of Tulsa and he can truly say he knows the area very well; his business has in its location for four years. He strongly supports this request because he is a business owner in this part of town and he is deeply rooted. This is a community and how each community interacts with one another is what make the community special. The CBD Zoning is defined by the IDL, but that does not mean that everything in the IDL is the same. This has an area that has single family and walkability; it is not the Brady or the Blue Dome or The Cathedral, and it is definitely not the Deco and The Arena District. The previous use of the subject property was mixed use; there was living on the second floor, a little office on the second floor, and roofing contractor on the lower floor. The garage was used for storage. His client invested in this downtown building for the purpose of using the entire building as their sole residence. They have invested in multiple businesses and properties located less than a block away. They have converted a warehouse building into a flourishing business in the East Village, and they have four children who also will be living in the subject structure. Per the CBD zoning a single family detached residence requires a Special Exception. The only change to the structure is the bottom floor which will be a living quarters. There are a wide variety of uses in the East Village, including single family. There is a single family residence located directly across the street and it was previously approved as a Special Exception; that particular building is well maintained and lit at night and has set the bar high on quality, and the values of properties have raised because of it. The Urban 8 Townhouses are single family residences, which is almost 100% occupied. The subject building is connected to the buildings along 3rd Street, so it is all contiguous and that is a lot more of a townhouse feel than what was done by Urban 8. Mr. Bowman stated that his office is nearby and on the lower floor of his office is a residence. There is also a duplex in the area that was also approved by a Special Exception. East Village has flourished despite the fact that the subject building has been somewhat vacant and somewhat used. At the last Board of Adjustment meeting one of the concerns was safety, and there is no sense of any real safety concerns or issues in the area. The area between Kenosha and Greenwood can be somewhat dark, but the owner plans to install outdoor lighting. With the approval of the Special Exception it would be an extension of the East Village with the lighting and life. The marketability of the structure and house for future commercial use and/or resale, from what it is today and what is intended to be done, will not be impacting the building or the structure to be converted back to business/commercial on the first floor. Mr. Bowman stated that on the first floor all the bedrooms were pushed toward the alleyway because all the bedrooms have to have egress windows, so the windows will be replaced that face the alleyway and all the

store front windows on the frontage will be kept. The proposed layout is such that it can be converted to a business on the lower level in the future. The proposed second floor layout is essentially the same as it was before. The roof deck will have shading devices placed with a kids play area in the future. Mr. Bowman stated that his client will replace the sidewalks and the paving around the building, and will add lighting. Mr. Bowman stated that he understands the CBD zoning, but he sees this as a definite benefit to the area of adding more families, rehabbing an existing building versus razing it and it is not next to a 20-foot tall office building.

Interested Parties:

There were no interested parties present.

Comments and Questions:

Ms. Radney stated that she appreciates everything that has been presented today, and she drove the neighborhood a number of times to get a sense and understanding of the residential approvals that have already been made. She ultimately had decided that it does make sense, but she will say that corner is not the spot she would have envisioned that a single family residence would be. She took the applicant's point about the townhouses across the street and also the massing of the big apartment complex behind the townhouses, the two larger single family structures and the duplex also cited, each of those exists and they would be a part of that fractal. Considering the neighborhood as a whole, that fractal distribution is what really what the most compelling to her. The whole purpose is that the City wants to be able to see all kinds of different housing, and she was astonished and dismayed by the size of those particular units in the context of the subject corner, but she can see how this would make sense. Ms. Radney stated that she now has a different vote.

Mr. Bond stated that he thinks this a great use of the land. He sees this as entirely in keeping with the Code in 15.010, and what the CBD District should be defined as it is something that builds up downtown and he thinks it will benefit the area and be in harmony with the spirit and intent of the Code.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Bond, Radney, Ross "aye"; Shelton "nay"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Special Exception to permit a single household detached house in the CBD District (Section 15.020, Table 15-2), subject to conceptual plans 4.12, 4.13, 4.14, 4.15, 4.16 and 4.17 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:

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

22694—Raymond McDonald

Action Requested:

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

Presentation:

Raymond McDonald, 3715 South 82nd East Avenue, Tulsa, OK and **Ray McDonald**, 26675 East 91st Street, Broken Arrow, OK; Raymond presented pictures of what the proposed building would like with a privacy fence in front of it, and the houses in the neighborhood that have storage buildings.

Mr. Bond asked Mr. McDonald if he had spoken with his neighbors about the proposed building. Mr. McDonald answered affirmatively and stated the neighbors he did speak to, thought the house was going to be razed and a parking was going to be installed for the Harley shop. Mr. McDonald stated that he explained to all his surrounding neighbors that the house will still be standing and that he wants a storage building for his boat, trailer and trucks for security reasons.

Ms. Radney asked Mr. McDonald if he was still proposing to remove the circular drive. Mr. McDonald answered affirmatively.

Interested Parties:

Doris McKinzie, 8265 East 37th Place, Tulsa, OK; stated the proposed building is almost the same size as the house which is totally ridiculous. Mr. McDonald stated that every lot has a storage building and that is not true. Ms. McKinzie stated that she does not have a storage building and the house behind her does not have a storage building and one other residence does not have a storage building. Ms. McKinzie stated that the son has stated that he does not have plans to run a business out of his home, though it would not be objectionable for him to run his handyman business out of his home. But she wonders about the father; he is a plumber and operates a plumbing business, he is going to pay for the improvements on the property, and she wonders how much of his business will be run out of the home.

Mr. Bond asked Ms. McKinzie if her principle objection is the potential commercial use or is the scale of the proposed building. Ms. McKinzie stated that it is the size of the proposed building and it does not match the house.

Rebuttal:

Raymond McDonald (son) came forward and stated the proposed building is going to be sandstone with pea gray trim, and the house will be painted to match those colors.

Ray McDonald (father) came forward and stated that he is helping his son pay for the proposed building, but he is 74 years old and retired nine years ago. This building is for storage for his son's vehicles. Mr. McDonald stated he still owns a track hoe and he used it to remove trees from his son's properties and replaced the gas line because it had a leak in it. Mr. McDonald stated there will be no retail sales in the building and there will be no bathroom facilities in the building. There will be no handicap accessibility to the building; it is a storage area for his son's vehicles to get them out of the front yard. Mr. McDonald stated they plan to have a 30'-0" wide concrete base in front of the garage. He thinks that by doing this it will make the neighborhood more attractive.

Mr. Bond asked Mr. McDonald (son) if the drawing presented to the Board is to scale. Mr. McDonald stated that it is not; his house is two feet taller than the storage building. Mr. McDonald (father) stated the building is 16 feet at the crown and the house is 18'-1" at the crown.

Mr. Bond asked Mr. McDonald what type of fencing is shown in the drawing. Mr. McDonald (son) stated that it will be a privacy fence, and there will gates to swing open so there will be access to the building. Mr. McDonald stated that he believes is not asking for anything more than what the other neighbors have on their properties. Mr. McDonald stated that his boat is 27'-0" from the tongue to the end, and his truck is 19'-0" long for a total of 46'-0"; his work truck (van) is 22'-0" long and the work trailer is 20'-0". The work van is 10'-6" tall so the smallest door that can be bought is 12'-0", and it requires another 1'-6" clearance above it for the garage door opener. A 14'-0" side is the minimum height that can be had and still get the van into the building. The van itself is the main purpose for the building because people have tried to break into to it twice this past year and they want protection for it.

Comments and Questions:

Ms. Shelton stated that she appreciates the applicant's meeting the Board halfway, taking out the circle drive. She thinks they have done a lot to accommodate. She was concerned about the size of the shed but now that they have provided dimensions, she feels confident that is probably the smallest they could make the building while fitting everything.

Mr. Bond stated he is not sure about the hardship for this request. Mr. Bond stated he is opposed to this request. He is sensitive to the concerns articulated but he sees the parking of a boat as a self-imposed hardship. He knows dualys are big, but he has yet to see a 60-foot long dually.

Ms. Radney stated that she did not have the same contextual objection. Her biggest issue was that she was very appreciative of the neighbor's observation that this property is part of the gateway into the community. The burden of being the gateway for the community really doesn't lie with this property owner, because what he wants to do is something that she can personally attest from her own business, he is not talking about something that hasn't been replicated over and over and over again, the original intent

of the neighborhood notwithstanding. People have purchased these lots for the purpose of having more acreage to be able to do things like store their recreational vehicles on site. The trucks that people purchase now, that they need in order to be able to haul said recreational vehicles, are even bigger than they used to be. Most garages will not accommodate the large duallys, she agrees that it is a large building, but she does not have a problem with it especially with the screening and removing the extra driveway on the front. The appearance of this property will be vastly improved with possible landscaping, with less hardtop, and all of the miscellaneous vehicles being enclosed behind the fence line. For those reasons she is in support of this request.

Ms. Ross stated she inclined to support the request as well, on the conditions that the applicant installs a screening fence, remove the circle drive, that the house is painted to match, the landscaping and that there is all-weather surface driveway installed leading to the building.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Radney, Ross, Shelton, "aye"; Bond "nays"; no "abstentions"; Van De Wiele absent) to **DENY** the request for a Variance to allow a non-all weather parking area (Section 55.090-F) and to **APPROVE** a 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), subject to conceptual plans 5.16, 5.21 and the plans submitted today. The Board finds the hardship to be the need to store business accessories that otherwise would be exposed to the open and are more susceptible to theft. A privacy fence is to be erected pursuant to the document submitted by the applicant today, screening the garage from the neighborhood. The existing circle drive is to be removed and be replaced with grass. The house is to be painted to match the storage building, so they are similar in color and design. There is to be an all-weather surface driveway to be added leading to the garage. There is to be landscaping planted in front of the privacy fence so that there is not the appearance of all fence. 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 4, LAZY CIRCLE ACRES, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Bond stated that this ends the Unfinished Business portion of the agenda. Today's agenda is a lengthy agenda and he would ask the upcoming applicants and interested parties limit their time to three minutes. If a person feels they need to go over that time limit please state the reason why.

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NEW APPLICATIONS

22697—Luke Janger

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: 9136 South Sheridan Road East (CD 8)

Presentation:

Luke Janger, 3313 Charles Page Boulevard, Tulsa, OK; no formal presentation was made but the applicant was present for any questions.

Mr. Bond stated that the Board has a copy of the applicant's OMMA license on page 6.6. Mr. Bond asked the applicant to explain the spacing verification represented on page 6.9 of the agenda packet.

Mr. Janger stated the 1,000-foot radius shows that there are businesses in the area but there are no other medical marijuana dispensaries in that radius.

Mr. Bond asked Mr. Janger if he had cross checked his verification with the OMMA list of licensed dispensaries. Mr. Janger answered affirmatively and stated that his showed the nearest dispensary is called Grass, Inc. and it is located 4,635 feet away.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele 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 BEG NEC THEREOF TH S127.50 W225 N127.50 E225 POB LESS 127.50S NEC
LT 1 TH S242.46 W192.47 CRV RT 16.39 NW29.44 CRV RT 43.84 N5.45 N134.45
E225 POB BLK 1, BOATMEN'S BANK I, City of Tulsa, Tulsa County, State of
Oklahoma**

22700—Scott Tully

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: 9435 East 51st Street South (CD 7)

Presentation:

Scott Tully, 1519 East Jasper Place, Broken Arrow, OK; stated he placed the 1,000-foot radius on the map and documented the two nearest dispensaries are located in comparison to the proposed shop, and it has been cross checked with the OMMA.

Mr. Bond asked Mr. Tully which dispensary was closest to his location. Mr. Tully stated that it is High Roller.

Interested Parties:

Shana Brothers, 4950 South Mingo Road, Tulsa, OK; stated she is the property manager for Mingo Manor Apartments, and she is opposed to this medical marijuana business. The property she manages is federally subsidized housing, 96 units, and she feels the medical marijuana business is too close and will be a detriment to the property and to her tenants.

Mr. Bond asked Ms. Brothers if she knew if there were any medical marijuana facilities within a 1,000 feet of the applicant's site. Ms. Brothers stated there are two medical marijuana dispensaries, but she is not sure of the footage. One is west of 51st Street close to Memorial Drive, and the other is south of Mingo between 51st and 61st.

Ms. Radney asked Ms. Brothers if the property she manages is located within the 1,000-foot radius that the applicant has submitted. Ms. Brothers answered affirmatively.

Ms. Brothers stated that although medical marijuana is legal in Oklahoma it is banned from the property she manages, and she has had a number of tenants that she has had to terminate their lease due to medical marijuana, CBD oil and the derivatives of marijuana.

Ms. Ross stated that the Board does not have the authority to decide whether this would be a good location, the Board's authority is only to decide whether it is within a 1,000 feet of another dispensary. Ms. Ross thanked Ms. Brothers for coming to the Board and stating her concerns.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele 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 2 BEG 5N SWC TH N580.99 E221.78 S585.69 W48 N5 W173 POB BLK 1 REGENCY CENTER AMD, City of Tulsa, Tulsa County, State of Oklahoma

22701—Diamond Dampf

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: 121 North Denver Avenue West (CD 4)

Presentation:

Diamond Dampf, 1604 East Roanoke Street, Broken Arrow, OK; no formal presentation was made but the applicant was present for any questions.

Mr. Bond stated the Board is in receipt of the applicant's OMMA license as seen on page 8.13 and on page 8.14 the applicant's spacing verification.

Mr. Bond asked Ms. Dampf if there were any other OMMA licensed dispensaries within the 1,000-foot radius. Ms. Dampf stated there is now. On June 28th, when she submitted her 1,000-foot spacing there was not. However, Mr. Chapman e-mailed her that there was another license granted within 1,000 feet, that is Forever Green, LLC located on 224 North Boulder. Ms. Dampf stated she did e-mail the OMMA to get the exact date of the license of the other facility and OMMA has not answered as of yet.

Ms. Ross asked Mr. Chapman if the Board had approved the spacing verification on Forever Green, LLC. Mr. Chapman stated the Board has not and he could not find any building permits that had been applied for, so he does not know their intent or when the license was issued.

Ms. Ross asked Ms. Dampf if the other facility was currently operating. Ms. Dampf answered no, not that she is aware of.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Bond, Ross, Shelton "aye"; Radney "nay"; no "abstentions"; Van De Wiele 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:

**E 50 OF W95 OF N/2 LT 6 & W95 OF S/2 LT 6 BLK 38, TULSA-ORIGINAL TOWN,
City of Tulsa, Tulsa County, State of Oklahoma**

22702—Seed Cannabis Company

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: 4201 South Sheridan Road East (CD 5)

Presentation:

Taras Filenko, 623 South Peoria, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Ms. Ross asked Mr. Filenko where the nearest dispensary is to his location. Mr. Filenko stated that it is Verde in the 3900 block of Sheridan or about 1,600 feet away.

Mr. Filenko stated he did the OMMA study and checked weed maps and did a drive around his perimeter to make sure he saw no dispensaries that weren't listed in the 1,000-foot radius.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele 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 33 THRU 35 & PRT LT 18 BEG SWC LT 35 TH E152 S40 W152 N40 POB BLK 2, KATY FREEWAY INDUSTRIAL PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22703—Euforia, 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: 11730 East 11th Street South (CD 6)

Presentation:

Tim Wortman, 7815 South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Bond stated the Board is in receipt of the applicant's OMMA license on page 10.14 and the spacing verification on page 10.16 of the agenda packet.

Mr. Wortman stated that the closest dispensary to his location is almost 6,000 feet away.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele 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 NE NW BEG 70S NWC N/2 E/2 W/2 NE NW TH E150 S22.5 W50 S137.5 W100 N160 POB SEC 8 19 14 .393AC, City of Tulsa, Tulsa County, State of Oklahoma

22704—Michael Valasquez

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: 4117 South Southwest Boulevard West (CD 2)

Presentation:

Michael Velasquez, 4117 Southwest Boulevard, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Bond stated the Board is in receipt of the applicant's OMMA license on page 11.7 and the spacing verification on page 11.9 of the agenda packet.

Mr. Bond asked Mr. Velasquez where the closest dispensary to his location is located. Mr. Velasquez stated that it is 918 The Plug which is over 3,000 feet from his location.

Mr. Bond asked Mr. Velasquez if he checked the OMMA listing. Mr. Velasquez answered affirmatively.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele 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:

W1/2 LOT-6-LESS NWLY 12.6' FOR ST. & ALL LOTS -7-&8-LESS ST. BLK-6, PARK ADDN - RED FORK, City of Tulsa, Tulsa County, State of Oklahoma

22706—Ryan Coulter

Action Requested:

Variance to reduce the 75-foot setback for an industrial zoned property from a residentially zoned property (Section 15.030, Table 15-3). **LOCATION:** 1316, 1320, & 1324 West 41st Street South (**CD 2**)

Presentation:

Ryan Coulter, 7366 East 119th Street, Bixby, OK; stated he is the developer for the property and this project is located on the southeast corner of I-75 and West 41st Street. The tract of land backs up to a stormwater management facility that is owned by the City of Tulsa. It is a 100-foot deep creek known as Cherry Creek that drains into the Arkansas River. This particular property is zoned industrial light and Cherry Creek is zoned RS-3, and the property located directly east is zoned industrial moderate. Rather than having the City rezone the property so there would be continuous zoning to combine with the rest of the industrial zoning he would request a Variance to remove buffer elements that would prevent this property from being developed. Mr. Coulter presented pictures of the area showing the area would never be used for residential development.

Ms. Ross asked Mr. Coulter what he intended to build on the property. Mr. Coulter stated that he intends to build office warehouses; offices in the front and the warehouse in the back.

Mr. Coulter stated there are specific requirements within the Code; the first one being a 75-foot setback from a creek. The Code requires certain buffer elements and one of them is a 75-foot setback. The others he is asking relief from would be fencing, additional landscaping, shielding that don't really apply in this instance because he is not buffering against a residence or an apartment complex.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Variance to reduce the 75-foot setback for an industrial zoned property from a residentially zoned property (Section 15.030, Table 15-3), subject to conceptual plan 12.14 of the agenda packet. The Board finds the hardship to be that the subject property is currently zoned residential but due to the location next to the creek it would likely never be used as residential, therefore, would prevent future development. 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:

BEG 15S OF NWC OF W63.5 E310.75 S626 OF N/2 NW NW TH S307 SE86.89 N372.23 SW63.7 POB SEC 26 19 12; BEG NWC OF W63.5 OF E247.25 OF S626 OF N/2 NW NW TH S381 SE86.89 N436.46 NW63.7 POB SEC 26 19 12; BEG 125W & 35S NEC NE NW NW TH W58.75 S445 SE TO PT 125W & 500 S NEC NE NW NW N465 POB LESS BEG NWC TH S4.53 NE55.16 TO NL TR TH W55 POB SEC 26 19 12 .611AC, City of Tulsa, Tulsa County, State of Oklahoma

22707—Carlos Aguirre

Action Requested:

Special Exception to permit a fence to exceed 4 feet in the front setback (Section 45.080-A); Variance to permit a fence to be located in the City of Tulsa right-of-way (Sections 5.030-A and 90.090-A). **LOCATION:** 6633 South Birmingham Avenue East (CD 2)

Presentation:

Joel Haning, 15406 East 78th Street North, Owasso, OK; stated the fence being requested is to protect the homeowner's swimming pool that is being built.

Ms. Ross asked Mr. Haning if the fence would be located in the front of the property. Mr. Haning answered affirmatively. The fence will be located on the west side of Birmingham, which is a typical residential street.

Ms. Ross asked Mr. Haning what kind of fence is being proposed. Mr. Haning stated that it will be an elegant steel and stone fence. Ms. Ross asked Mr. Haning how high

the homeowner is wanting the fence to be. Mr. Haning stated that the request would be for a 7'-6" tall fence.

Ms. Shelton asked Mr. Haning if there were plans to close or vacate the right-of-way that bumps into the front yard of the residence. Mr. Haning stated that he is not aware of any.

Ms. Radney asked Mr. Haning if the fence would be similar to the fencing that is in the back yard to the west. Mr. Haning stated the fence across the street is a solid wall fence that is about nine feet tall, and the proposed fence will be an open fence; steel vertical bars in between stone pillars.

Interested Parties:

Barbara Woltz, 2606 East 66th Place, Tulsa, OK; stated she lives north of the subject property, so her side yard is on Birmingham. Ms. Woltz stated that she would like for Mr. Aguirre to speak with her and the neighbors regarding drainage issues before the construction of the fence. The solid wall fence Mr. Haning referred to is for a gated community and has not bearing on the subject property. Ms. Woltz stated that her objections are to the height of the proposed fence; she thinks six feet would be adequate.

John Sharp, 6645 South Birmingham Avenue, Tulsa, OK; stated he lives south of the subject property and his concerns are the drainage. There is a large hill behind the subject property and the angle of it drains the water toward his house and he already has flooding in his garage. Mr. Sharp asked if drainage is not under this Board's purview then where does he go with the issue? Mr. Bond directed Mr. Sharp to confer with Mr. Chapman about which department to contact in the City.

Jerry Thompson, 2620 East 66th Court, Tulsa, OK; she lives in the curve of the cul-de-sac next door to the subject property. Ms. Thompson is concerned about the fence being on the right-of-way.

Ms. Ross stated that the approval, if given, would be subject to the homeowner signing a license agreement with the City.

Rebuttal:

Joel Haning came forward and stated the height request is due to the fact that a four-foot fence would not give enough protection to the swimming pool area. The fence will be 7'-6", vertical steel fence and it will have no affect on the water flow, or at least minimal because of the posts.

Ms. Radney stated that the diagram on page 13.12 shows the fence sitting on a 13" stucco base or a masonry wall, so is the 7'-6" from the top of the fence to grade or is it that the fencing material will be 7'-6" on top of the base. Mr. Haning stated the 7'-6" is measured from the ground with a 10" to 18" stem wall. Mr. Haning stated the water that flows down the hill will go between the posts and above any type of foundation that

might exist; the fence will not divert any water. Mr. Haning stated that there will be a stem wall in between the posts about 10" in height, up to 18" in height according to the topography.

Comments and Questions:

None.

Board Action:

On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a **Special Exception** to permit a fence to exceed 4 feet in the front setback (Section 45.080-A); **Variance** to permit a fence to be located in the City of Tulsa right-of-way (Sections 5.030-A and 90.090-A), subject to conceptual plans 13.11, 13.12 and 13.13 of the agenda packet. The Board finds the hardship to be the unusual shape of the subject property. The fence is to be limited to 7'-6" in height from the ground all along the length of the fence that runs parallel to Birmingham Avenue. 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. 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:

PRT NE SW BEG 185.23N & 30E SWC SW NW NE SW TH E76.7 TH ON A CRV156.59 TH E137.2 N TO NEC SW NW NE SW W TO A PT 30E OF NWC SW NW NE NE SW TH S POB SEC 5 18 13 1.12AC, City of Tulsa, Tulsa County, State of Oklahoma

22708—Charles Lyon

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: 8153 East 41st Street South (CD 5)

Presentation:

Charles Lyon, 8403 South Sandusky Avenue, Tulsa, OK; no formal presentation was given but the applicant was available for any questions.

Ms. Ross asked Mr. Lyon if he had his OMMA license. Mr. Lyon stated that he gave it to Mr. Chapman this morning. Mr. Chapman stated he did receive the copy of the license and he checked it with the OMMA website. Mr. Chapman placed the license copy on the overhead projector.

Mr. Lyon stated that the closest dispensary to his location is 1,616 feet away and there is another dispensary that is 1,957 feet away.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION of ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele 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:

UNIT 8153 BLDG 1 & 12.5 INT IN COMMON ELEMENTS OF CAMBRIDGE EXECUTIVE OFFICES BEING PRT LT 3 BLK 1, BOND SECOND ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

22709—Ryan McCarty

Action Requested:

Variance to reduce the 75-foot setback for an industrial zoned property from a residentially zoned property (Section 15.030, Table 15-3). **LOCATION:** South of the SW/c of East 58th Street South and South Mingo Road East (CD 7)

Presentation:

Ryan McCarty, Select Design, 20 East Dawes Avenue, Bixby, OK; stated there is a City owned drainage ditch zoned residential next to IL zoning, which is similar to Item #12 on the agenda today. He would like to reduce the setback to 25 feet on the west side and 10 feet on the north side as shown on Exhibit 15.21. Currently the closest residence to the 75-foot building line would be imposed is 261 feet away, and he would drop that to 211 feet on the west side.

Mr. Bond asked Mr. McCarty what he plans to build. Mr. McCarty stated that it will be office warehouse for different businesses.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Variance to reduce the 75-foot setback for an industrial zoned property from a residentially zoned property (Section 15.030, Table 15-3). The Board finds the hardship to be that the subject property is located next to a City drainage storm sewer that will not be likely be developed for any other residential purposes. 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:

PRT LT 2 BEG SECR LT 2 TH W200 N350 E200 S350 POB BLK 2, ANDERSEN ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22710—Carly Goodnight

Action Requested:

Variance to increase height for a freestanding sign to 50 feet tall with a 72-foot setback from the C/L (centerline) of East 51st Street South (Section 60.080-D).

LOCATION: SE/c of South Lewis Avenue East & East 51st Street South **(CD 9)**

Presentation:

Daniel Chambers, QuikTrip, 4075 South 129th East Avenue, Tulsa, OK; stated QuikTrip has a site with unique characteristics. The property is adjacent to I-44 and the site is being developed at 51st and Lewis. The minimum sign needed for the subject site would be 50 feet tall, and that sign would normally be allowed if the property were adjacent to a freeway corridor. The property is technically not adjacent to a freeway corridor but adjacent to a City street. The Zoning Code states that the Major Street and Highway Plan has to be followed; for intents and purposes Skelly Drive acts like a frontage road. The original intent for ODOT was that Skelly Drive would be a one-way frontage road but the neighborhood to the south and to the east fought that and ODOT kept it as a two-way road which designates it as a City street. From a title perspective, ODOT was the one who acquired all of the right-of-way and ODOT controls the all the access along 51st Street. Mr. Chambers stated that he feels that even though 51st Street is considered a City street it still acts like a frontage road to the highway, so he is asking for the minimum 50-foot tall sign that is allowed. The sign also has a 72-foot setback.

Mr. Bond asked Mr. Chambers if he knew the next tallest sign is located in the area. Mr. Chambers stated that is not sure but there are other tall signs in the area. Mr. Chambers stated that the 50-foot height is being requested to allow drivers to see the sign and have ample time to make proper lane changes.

Mr. Bond asked Mr. Chambers if he had spoken with any of the neighbors in the area. Mr. Chambers stated that he spoke with Parkhill and he understood why QuikTrip would want a tall sign; he did not speak with any other businesses about the sign.

Ms. Shelton asked Mr. Chambers where the sign is located in relation to the overhead lines. Mr. Chambers stated there are overhead lines and underground water, and QuikTrip has been working with the City on a license agreement and working with PSO for the minimum safe setback for the overhead lines when the sign is installed.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; absent) to **APPROVE** the request for a **Variance** to increase height for a freestanding sign to 50 feet tall with a 72-foot setback from the C/L (centerline) of East 51st Street South (Section 60.080-D), subject to conceptual plan 16.23 of the agenda packet. The Board finds the hardship to be unique location of the subject property abutting 51st Street that functions like a frontage road. 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:

BEG 50E & 50S NWC NW TH E280 S478 W290 N158 E10 N320 POB SEC 32 19 13 3.11AC, City of Tulsa, Tulsa County, State of Oklahoma

22711—Valveeta Ware

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: 6030 South Peoria Avenue East (CD 9)

Presentation:

William Lark, 6030 South Peoria Avenue, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Bond stated the Board has received a copy of the applicant's OMMA license that is shown on page 17.11 and page 17.12 is a map of the 1,000-foot radius of the agenda packet.

Ms. Shelton asked if this dispensary is located in the EZ Pawn building or is it next to the EZ Pawn. Mr. Lark stated that is in the EZ Pawn.

Ms. Radney asked Mr. Lark how far away is the nearest dispensary in relation to his location? Mr. Lark stated that he thinks it is over 1,600 feet.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele 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:

S45 LT 7 & ALL LT 8 & N30 LT 9 LESS E18 THEREOF BLK 8, BROADVIEW HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22712—Euforia, 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: 303 North Martin Luther King, Jr. Drive East **(CD 4)**

Presentation:

Tim Borgmann, 7815 South Memorial Drive, Tulsa, OK; stated he created a leasing agreement with Bradley Garcia with the Gypsy Coffee House, went to INCOG and spoke with Austin Chapman to set up for this hearing, at that time Mr. Chapman checked the data base and there was no other dispensary in that area. The original Board of Adjustment case that was for the other dispensary for a manufacturing process so that did not deter him from going forward and applying for permits. Mr. Borgmann stated that what he has been able to find out is that the manufacturing process would have involved a large financial investment for a sprinkler system due to the butane extraction, so the manufacturing process was dropped and somehow they received a dispensary license for the same location as the proposed manufacturing process. Mr.

Borgmann stated he received an e-mail from Mr. Chapman alerting him to the dispensary. Mr. Borgmann stated that this morning he received an e-mail stating that yesterday the processing had been removed so he checked with Nicole Gordon in Permitting to see if there was a Certificate of Occupancy issued to Black Rain, and no permit had gone through. Some how in eleven days Black Rain received a Certificate of Occupancy yesterday. The business location is unoccupied, and it is not open for business yet. Mr. Borgmann stated that the intent of the Code was followed wholeheartedly and he made multiple trips both to Permitting and Planning as well as to INCOG, face to face not over the telephone, and one of the trips was to Oklahoma City to the OMMA office so they could verify that he could use a common foyer as long as there was a separate access; he drove to Oklahoma City to get the health permit started. Mr. Borgmann stated he has done everything he could in good faith, and he does not believe the Code was intended to shut a business down.

Mr. Bond asked Mr. Borgmann how many feet is there between the dispensaries? Mr. Borgmann stated there is about 700 feet. The dispensaries do not see one other due to their positioning in the area and Guthrie Green is in between both sites.

Ms. Ross asked Mr. Borgmann if he knew whether Black Rain has received their spacing verification. Mr. Chapman stated Black Rain's license was issued November 28, 2018 so per the Code they are not subject to spacing.

Interested Parties:

Amanda Lowe, 320 South Boston Avenue, Suite 200, Tulsa, OK; stated she represents Black Rain. Ms. Lowe presented a timeline for Black Rain in hopes to clear up the issues in this case. Black Rain obtained their OMMA license on November 28, 2018 so they are grandfathered in and no spacing verification required. They applied for the Certificate of Occupancy in March 2019 and received the COO August 12th. Although they are not open to the public currently, they are completing their build out and will be expecting to open within a couple of weeks. Ms. Lowe stated that her client, Black Rain, objects to the Eufhoria Gypsy dispensary opening.

Bradley Garcia, 303 North Martin Luther King, Jr. Boulevard, Top Floor, Tulsa, OK; stated he has been in the Gypsy building for 20 years. When he moved into the Gypsy there was a trucking company across the street with hookers doing tricks between the trailers; the neighborhood was skid row. Mr. Garcia stated that he has invested over \$500,000 into his property and brought the building back to life. He has watched the neighborhood grow up around him and now it is a vibrant area. He perceives that there is room for more than one dispensary in this area; the Gypsy Eufhoria is just a small room and they have no objections to the other dispensary. Black Rain purchased the chocolate company, applied for a processing license, received it, and then realized it was too expensive to do the build out they flipped it. Mr. Garcia stated that he knew nothing about the other business until about six days ago and did not know about the COO until last night. Mr. Garcia stated he has done his due diligence, all his licenses are paid, and Gypsy Eufhoria has a ten-year lease and they have to keep that lease.

The hardship is that several thousands of dollars has been invested in the building already, so he does not know why there cannot be more than one.

Rebuttal:

Tim Borgmann came forward and stated the other dispensary license was for processing and it was converted. He would ask when the license was actually converted because when he put the LLC together and started moving in Glacier Chocolate was still in business. When he checked with INCOG he was told it was okay because the other business was going to do processing. The 1,000-foot spacing did not matter when the other business was processing.

Amanda Lowe came forward and stated that dispensing has always been part of her client's plan. The dispensary license was the first license they received in November and the processing license was not received until February. Her client has done everything they can to be legal.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **CONTINUE** 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) to the September 24, 2019 Board of Adjustment meeting; for the following property:

ALL LT 4 S OF RY BLK 21, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

22705—Eller & Detrich – Lou Reynolds

Action Requested:

Parking Variance from Table 55-1 of the Tulsa Zoning Code to permit ten existing, nonconforming parking spaces within the CS District; Variance from Section 55.090-B requiring parking areas to allow vehicles to enter and exit a street in a forward motion. **LOCATION:** 553 South Zunis Avenue East **(CD 4)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents T. A. Lorton Company and they intend to use the subject property for an interior and furniture design store. The building is about 10,000 square feet and the parcel of land is approximately 1/3 of an acre; it is the old Savage building that was built in 1930. There are ten parking spaces in front of the building and the basic issue is that a Variance is needed from Table 55.1 to permit 10 parking spaces to be used in the CS District and need a Variance from Section 55.090-B that requires vehicles to enter and exit the street in a

forward motion. The patrons can exit the street in a forward motion, but they can only enter the street by backing into the street, because the spaces are store front parking. The reconfiguration of the parking spaces is not physical due to the size of the building and the location of the historical building on the property. This results in the hardship that is unique to the property, and this request is also consistent with the Kendall-Whittier Sector Plan.

Ms. Radney asked Mr. Reynolds if it would be possible to angle the parking spaces so that if traveling south on Zunis so as the cars backed out, they would not necessarily be backing into 6th Street traffic. Mr. Reynolds stated as you look at the property there is no blockage of view in all directions and the angling of the parking makes it tricky for someone trying to get into the parking space. If an angle were placed on the spaces, there would probably be a space lost. The company will probably not need ten spaces because of the nature of the business, and he does not expect this to be a high traffic generator of parking use.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Parking Variance from Table 55-1 of the Tulsa Zoning Code to permit ten existing, nonconforming parking spaces within the CS District; Variance from Section 55.090-B requiring parking areas to allow vehicles to enter and exit a street in a forward motion, subject to conceptual plan 19.17 of the agenda packet. The Board finds the hardship to be the historical nature of the property and the unique shape of the property being on a rounded corner. 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 15 & 16 LESS BEG SWC LT 15 TH N43 SE TO SECR LT 15 W66 POB BLK 4, HILLCREST ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22713—Eller & Detrich – Lou Reynolds

Action Requested:

Special Exception to permit Commercial Vehicle Sales & Rentals and Commercial Vehicle Repair/Maintenance in a CS District pursuant to Table 15-2 of the Tulsa Zoning Code. **LOCATION:** 550, 556, 560 North Memorial Drive East **(CD 3)**

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he represents Southwest Trailers and Equipment Company. The company sells all sorts of trailers for trucks, and sell truck parts related to hauling and trailers, and the company repairs what they sell. Southwest Trailers has been in business in Tulsa about 25 years, and in Oklahoma City about 30 years. The business has grown and needs to expand. The subject tract is about 15 acres and has about ¼ mile of frontage so there is not an issue of safety. The 75-foot OL zoned strip of land is primarily a green belt around the subject property. This property was the former Don Thornton Ford dealership and it was built in 1985. The Ford dealership was there for about 25 years and the property was sold to Ford Motor Company for about five years and since that time it has had various short term uses.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Special Exception to permit Commercial Vehicle Sales & Rentals and Commercial Vehicle Repair/Maintenance in a CS District pursuant to Table 15-2 of the Tulsa Zoning Code, subject to conceptual plan 20.22 and the plan submitted at today's meeting. The six-foot screening fence on the north side of the property is to be maintained at all times. 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:

**RESERVE A; S217.48 LT 2 BLK 1; LT 2 LESS S217.48 BLK 1; LT 1 BLK 1, HILTON
ADDN 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 4:40 p.m.

Date approved: _____

8/27/19



Chair