

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



ZBA

NOV 21 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

61-21-S

CALENDAR NUMBER

Vidhi Properties, LLC

APPLICANT

1943 W. Monterey Avenue

PREMISES AFFECTED

August 19, 2022

HEARING DATE

ACTION OF BOARD

THE VOTE

The special use application is approved subject to the conditions set forth in this decision.

Brian Sanchez, Acting Chairman
Angela Brooks
Zurich Esposito
Vaishali Rao, Alternate
Sam Toia

AFFIRMATIVE	NEGATIVE	ABSENT
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**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 1943 W.
MONTEREY AVENUE BY VIDHI PROPERTIES, LLC.**

I. BACKGROUND

In 2019, Vidhi Properties, LLC (the “Applicant”) submitted a special use application for 1943 W. Monterey Avenue (the “subject property”). In 2019, the subject property was zoned C1-2 and was vacant. The Applicant proposed to operate a Dunkin’ Donuts restaurant on the subject property by establishing a one-story restaurant building (the “proposed restaurant”) and a single-lane drive-through facility (the “proposed drive-through”). To permit the proposed drive-through, the Applicant sought a special use. On March 15, 2019, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*, the ZONING BOARD OF APPEALS held a public hearing on the Applicant’s special use application. Mr. Tony Glenn appeared at the hearing and was in opposition to the Applicant’s special use application. After the hearing, the ZONING BOARD OF APPEALS voted to approve the Applicant’s special use application (the “2019 Special Use”). However, the Applicant did not move forward with its building permit and the 2019 Special Use expired pursuant to Section 17-13-0909-A of the Chicago Zoning Ordinance.

In 2021, the Applicant submitted a new special use application for the subject property. In 2021, the subject property was still zoned C1-2 and was still vacant. Like in 2019, the Applicant proposed to operate a Dunkin’ Donuts restaurant on the subject

property by establishing the proposed restaurant and proposed drive-through. On February 19, 2021, the ZONING BOARD OF APPEALS held a remote public hearing¹ on the Applicant's application, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*. In accordance with the ZONING BOARD OF APPEALS' then Rules of Procedure (eff. June 26, 2020), the Applicant had submitted its proposed Findings of Fact. The Applicant's manager Mr. Viral Kheni and its attorney Mr. Nicholas Ftikas were present. The Applicant's architect Ms. Nikoletta Scarlatis and its MAI certified real estate appraiser Mr. Joseph M. Ryan were present. Also present was 19th Ward Alderman Matthew O'Shea (the "Alderman"). In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the proposed drive-through facility provided that: (1) the special use was issued solely to the Applicant; and (2) the development was consistent with the design and layout of the plans and drawings dated February 18, 2021², prepared by Nick Scarlatis & Associates, LTD.

At that time, the ZONING BOARD OF APPEALS' Emergency Rules (eff. January 26, 2021) required that any members of the public that wished to provide testimony on any application sign-up in advance. Due to delays in the United States Postal Service, Mr. Glenn did not receive written notice of the hearing until after the sign-up deadline set forth in the ZONING BOARD OF APPEALS' Emergency Rules had passed. Consequently, he was not able to appear at the February 19, 2021 hearing and provide his opposition to the Applicant's special use application. After the hearing, the ZONING BOARD OF APPEALS voted to approve the Applicant's special use application (the "2021 Special Use").

Mr. Glenn appealed to the Circuit Court of Cook County (the "Court"). The Court found that Mr. Glenn's due process rights had been violated and pursuant to Sections 3-111(a)(6) and (7) of the Administrative Review Law, 735 ILCS 5/3-101 *et seq.*, reversed the 2021 Special Use and remanded the Applicant's application for a new hearing before the ZONING BOARD OF APPEALS. The Court further ordered that the new hearing abide by all notice provisions of Section 17-13-0107-A, B and C of the Chicago Zoning Ordinance and that – in addition – the Applicant and the ZONING BOARD OF APPEALS provide Mr. Glenn with email notice. During the course of litigation and pursuant to guidance from the Public Access Counselor, the ZONING BOARD OF APPEALS amended its Emergency Rules to remove the advance sign-up requirement for members of the public. Instead, the ZONING BOARD OF APPEALS now posts its Zoom meeting information on its website so that any interested member of the public can join its meetings and provide testimony.

A. The Hearing

The ZONING BOARD OF APPEALS held a remote public hearing³ on the Applicant's remanded special use application at its regular meeting on August 19, 2022,

¹ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

² The recommendation incorrectly states the date of the plans as "February 18, 2020." This is a typographical error as the plans clearly show the date of February 18, 2021.

³ Again, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*, and as continued without further notice pursuant to Section 17-13-0108-A of the Chicago Zoning Ordinance. In accordance with the Court's order, the Applicant provided Mr. Glenn with email notice on June 1, 2022, and the ZONING BOARD OF APPEALS provided Mr. Glenn with email notice on June 28, 2022. The Applicant's manager Mr. Viral Kheni and its attorney Mr. Nicholas Ftikas were present. The Applicant's architect Ms. Nikoletta Scarlatis and its MAI certified real estate appraiser Mr. Joseph M. Ryan were present. Present and in support of the remanded application were Ms. Laurie Smith, Ms. Tristan Karnezis Angus and the Alderman. Present and in opposition to the remanded application were Mr. Glenn and Ms. Janie Marcinkowski (collectively, the "Objectors"). With the exception of an exchange between Mr. Glenn and the Alderman near the end of the hearing, the statements and testimony given during the hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. August 20, 2021) and its Emergency Rules (eff. November 1, 2021).

The Applicant's attorney Mr. Nick Ftikas requested that the February 19, 2021 hearing be incorporated into the record.

The ZONING BOARD OF APPEALS denied such request as the application had been remanded by the Court for a new hearing.

The Applicant's managing member Mr. Viral Kheni offered testimony in support of the remanded application.

The Applicant's architect Ms. Nikoletta Scarlatis offered testimony in support of the remanded application.

The Applicant's MAI certified real estate appraiser Mr. Joseph M. Ryan offered testimony in support of the remanded application.

Ms. Laurie Smith, of 11246 S. Homewood Avenue, offered testimony in support of the remanded application.

Staff assistant to the Alderman Ms. Tristan Karnezis Angus offered testimony in support of the remanded application.

Mr. Tony Glenn, of 11127 S. Homewood, offered testimony in opposition to the remanded application.

Ms. Janie Marcinkowski, also of 11127 S. Homewood, offered testimony in opposition to the remanded application.

In response to questions by Mr. Glenn, Mr. Kheni and Ms. Scarlatis offered further testimony.

In response to Mr. Glenn and Ms. Marcinkowski's testimony, Ms. Angus offered further testimony.

The Alderman offered testimony in support of the remanded application.

Mr. Glenn and the Alderman then had an exchange that did not relate to zoning; consequently, the ZONING BOARD OF APPEALS requested that the exchange end.

Mr. Ftikas made a brief closing statement.

B. Criteria for a Special Use

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

II. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.

The subject property is located in a C1-2 zoning district. As a drive-through facility is a special use in C1 zoning districts, the Applicant requires a special use⁴. The Applicant is seeking no other relief from the Chicago Zoning Ordinance because the Applicant is in compliance with all other requirements of the Chicago Zoning Ordinance, including the Landscape Ordinance (Ch. 17-11). For the reasons set forth below, the ZONING BOARD OF APPEALS has decided to grant the special use. Because the ZONING BOARD OF APPEALS has decided to grant the proposed special use, the proposed special use now complies with all applicable standards of the Chicago Zoning Ordinance.

2. The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.

The proposed special use is in the interest of public convenience as it will provide neighborhood and community residents the ability to conveniently get coffee on their way to work. The proposed special use will not have a significant adverse

⁴ See Section 17-3-0207(Z) of the Chicago Zoning Ordinance.

impact on the general welfare of the neighborhood or community. On the contrary, the ZONING BOARD OF APPEALS finds that the Applicant has carefully designed the proposed special use so that any traffic generated by the proposed special use will not interact with the residential traffic on Homewood. Further, the ZONING BOARD OF APPEALS agrees with the Alderman and Ms. Angus that the proposed special use will have a positive effect on the neighborhood.

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within the proposed development. As can be seen from the plans and drawings, as well as the testimony of Ms. Scarlitis, Mr. Ryan and Ms. Angus, the proposed development has been carefully designed so that it is compatible with the character of the surrounding area in terms of site planning and building scale and project design.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

Due to the design of the proposed development, the proposed special use pulls from the existing traffic on the arterial street of Monterey. There is a right turn onto Homewood, but as the entrance to the proposed development is before the alley that demarcates the commercial portion of Homewood from the residential portion of Homewood, traffic entering the subject property will not interact at all with the residential traffic. All traffic exits the subject property back onto the arterial street of Monterey. As such, the proposed special use is designed so that it is oriented towards the arterial street of Monterey and away from the residential portions of Homewood. There is ample landscaping, ensuring that any noise or lighting generated by the proposed special use will not affect the residential portion of Homewood. Indeed, the proposed restaurant itself provides an additional barrier (along with the 16' wide alley) from the residential portion of Homewood. The Applicant proposes to operate the proposed special use seven days a week from 5:00 AM – 10:00 PM. These hours of operation are very compatible with the nearby institutional uses of the post office, the police station the Metra station and the school. These hours of operation will also (due to careful site planning) not conflict with the residential portion of Homewood. The ZONING BOARD OF APPEALS finds Mr. Ryan, Ms. Angus and the Alderman to be very credible witnesses as to the operating characteristics of the surrounding area. In contrast, the ZONING BOARD OF APPEALS does not find the Objectors to be particularly credible with respect to the operating characteristics of the surrounding area, especially as some of their pictures – as Ms. Angus

correctly pointed out – showed traffic congestion due to freight trains and not the nearby Metra station. Based on all this, the ZONING BOARD OF APPEALS finds that the proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

The proposed special use will be located within the proposed development. The proposed development will transform a long vacant lot into a Dunkin' Donuts. As can be seen from the plans and drawings and Ms. Scarlatis' testimony, the proposed development complies with the Landscape Ordinance (Ch. 17-11 of the Chicago Zoning Ordinance). The Applicant will be providing new trees for the parkway as well as landscaping for the whole site. While the proposed special use will require two new curbcuts, the plans and drawings show that sight-lines for these new curbcuts will be clear for both vehicular traffic and pedestrians. As such, the ZONING BOARD OF APPEALS finds that the proposed special use is designed to promote pedestrian safety and comfort.

III. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Section 17-13-0905-A of Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following condition:

1. The special use shall be issued solely to the Applicant;
2. The development shall be consistent with the design and layout of the plans and drawings dated February 18, 2021, prepared by Nick Scarlatis & Associates, LTD.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Brian Sanchez, Acting Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail, postage prepaid, on 11/21, 2022.



Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Alma McIntosh

CAL. NO.: 266-22-Z

APPEARANCE FOR: Same as Applicant

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 3942 S. Wells Street

NATURE OF REQUEST: Application for a variation to reduce the front setback (S. Princeton Avenue) from the required 14.67' to 7.54' and the minimum front setback from the front property line for parking from 20' to 7.54' for proposed three-story, three dwelling unit building with a detached three-car garage with roof deck in rear.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the front setback (S. Princeton Avenue) to 7.54' and the minimum front setback from the front property line for parking to 7.54' for proposed three-story, three dwelling unit building with a detached three-car garage with roof deck in rear; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19,
2022
Page 2 of 34

APPROVED AS TO SUBSTANCE


CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Alma McIntosh **CAL. NO.:** 267-22-Z
APPEARANCE FOR: Same as Applicant **MINUTES OF MEETING:**
August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 3944 S. Wells Street

NATURE OF REQUEST: Application for a variation to reduce the front setback (S. Princeton Avenue) from the required 14.67' to 7.54' and the minimum front setback from the front property line for parking from 20' to 7.54' for proposed three-story, three dwelling unit building with a detached three-car garage with roof deck in rear.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

 CITY OF CHICAGO
 ZONING BOARD
 OF APPEALS

BRIAN SANCHEZ
 ANGELA BROOKS
 ZURICH ESPOSITO
 VAISHALI RAO
 SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the front setback (S. Princeton Avenue) to 7.54' and the minimum front setback from the front property line for parking to 7.54' for proposed three-story, three dwelling unit building with a detached three-car garage with roof deck in rear; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Alma McIntosh **CAL. NO.:** 268-22-Z
APPEARANCE FOR: Same as Applicant **MINUTES OF MEETING:**
August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 3946 S. Wells Street

NATURE OF REQUEST: Application for a variation to reduce the front setback (S. Princeton Avenue) from the required 14.67' to 7.54' and the minimum front setback from the front property line for parking from 20' to 7.54' for proposed three-story, three dwelling unit building with a detached three-car garage with roof deck in rear.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the front setback (S. Princeton Avenue) to 7.54' and the minimum front setback from the front property line for parking to 7.54' for proposed three-story, three dwelling unit building with a detached three-car garage with roof deck in rear; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE


CHAIRMAN

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



ZBA

NOV 21 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

269-22-S
CALENDAR NUMBER

Green & Bransford, LLC
APPLICANT

212 E. Ontario Street
PREMISES AFFECTED

August 19, 2022
HEARING DATE

ACTION OF BOARD

THE VOTE

The special use application is denied for the reasons set forth in this decision.

Brian Sanchez, Acting Chairman
Angela Brooks
Zurich Esposito
Vaishali Rao, Alternate
Sam Toia

AFFIRMATIVE	NEGATIVE	ABSENT
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<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 212 E.
ONTARIO STREET BY GREEN & BRANSFORD, LLC.**

I. BACKGROUND

Green & Bransford, LLC (the “Applicant”) submitted a special use application for 212 E. Ontario (the “subject property”). The subject property is currently zoned DX-12 and is improved with a vacant, three-story Landmarked building (the “building”). The Applicant sought a special use to establish an adult use cannabis dispensary at the subject property. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City’s Department of Planning and Development (“Zoning Administrator”) recommended approval of the proposed adult use cannabis dispensary provided that: (1) the special use was issued solely to the Applicant; (2) all on-site customer queuing occurred within the building; (3) the development was consistent with the design and layout of the floor plans dated August 17, 2022, prepared by Steep Architecture Studio; and (4) prior to any portion of the basement identified as not in scope on the floor plan being used, the Applicant must file an application and receive approval from the ZONING BOARD OF APPEALS to amend the special use.

II. PUBLIC HEARING

A. The Hearing

The ZONING BOARD OF APPEALS held a remote public hearing¹ on the Applicant's special use application at its regular meeting on August 19, 2022, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. August 20, 2021), the Applicant had submitted its proposed Findings of Facts. The Applicant's member Mr. Bryan Zises and its attorney Mr. Ashley Brandt were present. Also present on behalf of the Applicant were its communications officers Ms. Gené Moreno, its MAI certified real estate appraiser Mr. Joseph M. Ryan, its security consultant Mr. Saquan Gholar, its project architect Ms. Jaime Magaliff and its traffic consultant Ms. Lynn Means. Present and in opposition to the application were Mr. David Kostelansky, Ms. Gail Spreen, Ms. Marta Cerda, Ms. Kass Plain, Ms. Gay Vincent and Ms. Amy Ringenbach (collectively, the "Objectors"). Assistant Commissioner Nancy Radzevich was present. The statements and testimony given during the hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. November 1, 2021).

The Applicant's attorney Mr. Ashley Brandt provided a brief overview of the Applicant's application.

The Applicant's communications officer Ms. Gené Moreno offered testimony in support of the application.

The Applicant's MAI certified real estate appraiser Mr. Joseph M. Ryan offered testimony in support of the application.

The Applicant's security consultant Mr. Saquan Gholar offered testimony in support of the application.

The Applicant's project architect Ms. Jaime Magaliff offered testimony in support of the application.

The Applicant's traffic consultant Ms. Lynn Means offered testimony in support of the application.

The Applicant offered the testimony of its member Mr. Bryan Zises in support of the application.

Mr. David Kostelansky, of 161 E. Chicago and member of Streeterville Organization of Active Residents ("SOAR"), offered testimony in opposition to the application.

In response to questions by Mr. Kostelansky, Ms. Means offered further testimony.

Ms. Gail Spreen, of 440 N. McClurg Court, Unit 1011, and member of SOAR, offered testimony in opposition to the application.

¹ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

Ms. Marta Cerda, of 230 E. Ontario, offered testimony in opposition to the application.

Ms. Kass Plain, 230 E. Ontario, Apartment 1101, offered testimony in opposition to the application.

In response to questions by Ms. Plain, Ms. Means offered further testimony.

Ms. Gay Vincent, of 633 N. Clair and chief financial officer of the American College of Surgeons, offered testimony in opposition to the application.

In response to questions by Ms. Vincent, Mr. Zies, Ms. Means and Ms. Magaliff offered further testimony.

Ms. Amy Ringenbach, of 230 E. Ohio, Unit 904, offered testimony in opposition to the application.

In response to questions by Ms. Ringenbach, Ms. Means offered further testimony.

In response to questions by Assistant Commissioner Nancy Radzevich, Ms. Magaliff offered further testimony.

In response to the Objectors' testimony, Mr. Ryan offered further testimony.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Zises offered further testimony.

B. Criteria for a Special Use for a Cannabis Business Establishment

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF APPEALS finds that the applicant for such special use has held at least one community meeting in the ward in which the cannabis business establishment is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such

community meeting must be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish a complete list of the names and last known addresses of the persons provided with such written notice as well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department of Planning and Development.

III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. *The proposed special use does not comply with all applicable standards of the Chicago Zoning Ordinance.*

The proposed special use is 500' or more from a school as required by Section 17-9-0129(3) of the Chicago Zoning Ordinance. The subject property is located in a DX-12 zoning district. Adult use cannabis dispensaries are a special use in a DX-12 zoning district.² The Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings the Applicant before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to deny the special use to the Applicant, the Applicant's proposed special use does not comply with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience but will have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use is in the interest of the public convenience as it will provide retail products that are in very high demand but are (due to restrictions on state licensure) available in very few locations. However, the ZONING BOARD OF APPEALS finds due to this high demand, the proposed special use will have a

² Pursuant to Section 17-4-0207-AAA(1) of the Chicago Zoning Ordinance.

significant adverse impact on the general welfare of the neighborhood. The Applicant's traffic study estimates 400-600 customers a day. In turn, the Applicant's traffic consultant Ms. Means estimates approximately 70% of these customers will arrive by non-vehicular uses. Thus, using the Applicant's own numbers, 120-180 people per day will be using vehicles to access the proposed special use. And, again using the Applicant's own numbers, this leads to 41-61 total vehicular trips per hour during peak hours. The ZONING BOARD OF APPEALS finds the testimony regarding the current level of congestion of Ontario Street at this location by Mr. Kostelansky, Ms. Spreen, Ms. Plain, Ms. Vincent and Ms. Ringenbach to be very credible. The proposed special use will – by adding these additional vehicles to an already congested street – create a traffic hazard. The ZONING BOARD OF APPEALS agrees with Ms. Plain that as there is no dedicated customer parking lot for the proposed special use, the proposed special use will lead to increased double parking on Ontario, especially as it is selling a product for which there is very high demand but limited locations to purchase. The ZONING BOARD OF APPEALS further agrees with Ms. Vincent that two security guards are not enough to combat the problem of customer double-parking as one of these two security guards would typically be stationed inside the building. As such, the traffic hazard caused by the proposed special use will have a significant adverse impact on the general welfare of the neighborhood.

3. *The proposed special use is not compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within the building and will utilize the alley at the rear of the building. As very credibly testified by Ms. Vincent, the alley is already congested to the point that it causes delivery vans to double park on Erie, which leads to further congestion of Erie and can prevent ambulances from getting to Northwestern Memorial Hospital. The proposed special use will add two to three deliveries a week to this alley. This will greatly exacerbate the congestion of the alley and thus the congestion on Erie to the point where it will be a traffic hazard for not only vehicular traffic but also pedestrians. As such, the ZONING BOARD OF APPEALS finds that the proposed special use is not compatible with the character of the surrounding area in terms of project design. Moreover, in terms of site planning and building scale, the ZONING BOARD OF APPEALS finds the multi-floor layout point-of-sale approach and multi-floor overflow waiting area detailed on the site plan does not at all lend itself to the orderly purchase and pick-up of product and will – despite Plaintiff's best efforts – lead to outside queuing.

4. *The proposed special use is not compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

The proposed special use is not compatible with the character of the surrounding area in terms of operating characteristics. Again, and as set forth in greater detail above, both Ontario and the alley (and thus Erie) are incredibly congested at this location. Allowing the proposed special use which sells products for which there is very high demand would greatly exacerbate this congestion to the point where it would become a traffic hazard.

5. *The proposed special use is not designed to promote pedestrian safety and comfort.*

As set forth above, the proposed special use will greatly exacerbate the traffic congestion on both Ontario and Erie. With respect to Erie in particular, the ZONING BOARD OF APPEALS agrees with Ms. Vincent that the proposed special use will cause additional safety issues to those pedestrians that cross from the alley to Northwestern Memorial Hospital in the middle of the block. Thus, the proposed special use is not designed to promote pedestrian safety and comfort.

After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

1. Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting in accordance with Section 17-13-0905-G of the Chicago Zoning Ordinance.

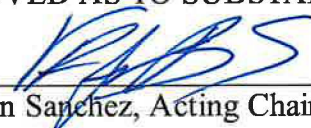
IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has not proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-A and 17-13-0905-G of Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby denies the Applicant's application for a special use.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Brian Sanchez, Acting Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail, postage prepaid, on 11/21, 2022.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: These Blessed Handz, LLC / Eudenah Evans Cal. No.270-22-S

APPEARANCE FOR: Same as Applicant **MINUTES OF MEETING:** August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 3610 W. 15th Street

NATURE OF REQUEST: Application for a special use to establish a beauty salon.

ACTION OF BOARD – APPLICATION APPROVED

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

THE VOTE

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

THE RESOLUTION:

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and


WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a beauty salon; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s) provided:

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19

2022


APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Joseph Caldwell Jr. **CAL. NO.:** 271-22-Z

APPEARANCE FOR: Same as Applicant **MINUTES OF MEETING:** August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 901 W. 129th Place

NATURE OF REQUEST: Application for a variation to reduce the west side setback from the required 6.84' to zero, east side setback from 6.84' to zero for a proposed two-story addition, one-story addition, attached three-car garage and a 6' solid masonry wall to the existing single-family residence to be converted to a two dwelling unit building.

ACTION OF BOARD - VARIATION GRANTED

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

THE VOTE

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the west side setback to zero, east side setback to zero for a proposed two-story addition, one-story addition, attached three-car garage and a 6' solid masonry wall to the existing single-family residence to be converted to a two dwelling unit building; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Linea Fina Cal. No.272-22-S

APPEARANCE FOR: Same as Applicant **MINUTES OF MEETING:**
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 3540 N. Pulaski Road

NATURE OF REQUEST: Application for a special use to establish a barber shop.

ACTION OF BOARD – APPLICATION APPROVED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

THE RESOLUTION:

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a barber shop; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s) provided:

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Norman W. Clark
APPEARANCE FOR: Same as Applicant
APPEARANCE AGAINST: None
PREMISES AFFECTED: 4601 S. Vincennes Avenue

CAL. NO.: 273-22-Z

MINUTES OF MEETING:
August 19, 2022

NATURE OF REQUEST: Application for a variation to reduce the required off-street parking for residential use from seven to six for the conversion of an existing three-story single-family residence to a seven dwelling unit building with six parking stalls.

ACTION OF BOARD - VARIATION DISMISSED ON THE BOARD'S OWN MOTION

THE VOTE


ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Norman W. Clark **CAL. NO.:** 274-22-Z
APPEARANCE FOR: Same as Applicant **MINUTES OF MEETING:**
August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 4601 S. Vincennes Avenue

NATURE OF REQUEST: Application for a variation to relocate the required 317 square feet of rear yard open space to garage roof deck to allow for the conversion of a three-story, single-family residence to a seven dwelling unit building with six parking stalls.

ACTION OF BOARD - VARIATION DISMISSED ON THE BOARD'S OWN MOTION

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Moco Group, LLC

CAL. NO.: 275-22-Z

APPEARANCE FOR: Ximena Castro

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 4055 S. Prairie Avenue

NATURE OF REQUEST: Application for a variation to reduce the rear yard open space from the required 177.33 square feet to 162.75 square feet for a proposed three-story, three dwelling unit building with open parking spaces which will access from under an elevated CTA rail line to a public alley.

ACTION OF BOARD - VARIATION GRANTED

ZBA

THE VOTE

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
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X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the rear yard open space to 162.75 square feet for a proposed three-story, three dwelling unit building with open parking spaces which will access from under an elevated CTA rail line to a public alley; an additional variation was granted to the subject property in Cal. No. 276-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Moco Group, LLC **CAL. NO.:** 276-22-Z
APPEARANCE FOR: Ximena Castro **MINUTES OF MEETING:**
August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 4055 S. Prairie Avenue

NATURE OF REQUEST: Application for a variation to reduce the required parking from three spaces to two stalls for a proposed three-story, three-dwelling unit building with open parking which will access from under an elevated CTA rail line to a public alley.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
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X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the required parking to two stalls for a proposed three-story, three-dwelling unit building with open parking which will access from under an elevated CTA rail line to a public alley; an additional variation was granted to the subject property in Cal. No. 275-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.



APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: 4251 Harding Ave., LLC

CAL. NO.: 277-22-Z

APPEARANCE FOR: Ximena Castro

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 4251 N. Harding Avenue

NATURE OF REQUEST: Application for a variation to reduce the rear setback from the required 30' to 8.58' for a proposed second floor addition with two dwelling units to an existing one-story building with office use on the ground floor.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
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X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the rear setback to 8.58' for a proposed second floor addition with two dwelling units to an existing one-story building with office use on the ground floor; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Robert Giannoni and Eileen Giannoni as Tenants by the Entirety **CAL. NO.:** 278-22-Z

APPEARANCE FOR: Ximena Castro

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 2700-02 N. Greenview Avenue

NATURE OF REQUEST: Application for a variation to reduce the front setback from the required 14.79' to 7.65' for the division of an improved zoning lot for the existing two-story single-family residence. A three-story single-family residence is proposed for the newly created lot at 2702 N. Greenview.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the front setback to 7.65' for the division of an improved zoning lot for the existing two-story single-family residence. A three-story single-family residence is proposed for the newly created lot at 2702 N. Greenview; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.



APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Ian Russell & Karla Melendez in joint tenancy

CAL. NO.: 279-22-Z

APPEARANCE FOR: Ximena Castro

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 2044 N. Oakley Avenue

NATURE OF REQUEST: Application for a variation to reduce the north side setback from the required 2' to zero (south to be 2.8') combined side yard setback from 4.8' to 2.8', rear setback from 28' to zero for a proposed rear three-story addition, new third story addition and new side secondary entrance to basement for the existing two-story single-family residence.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the north side setback to zero (south to be 2.8') combined side yard setback to 2.8', rear setback to zero for a proposed rear three-story addition, new third story addition and new side secondary entrance to basement for the existing two-story single-family residence; two additional variations were granted to the subject property in Cal. Nos. 280-22-Z and 281-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Ian Russell & Karla Melendez in joint tenancy

CAL. NO.: 280-22-Z

APPEARANCE FOR: Ximena Castro

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 2044 N. Oakley Avenue

NATURE OF REQUEST: Application for a variation to increase the building height from the maximum 30' to 33' for a proposed rear three-story addition, new third story addition and a new side secondary entrance to basement at an existing two-story single-family residence.

ACTION OF BOARD - VARIATION GRANTED

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

THE VOTE

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to increase the building height to 33' for a proposed rear three-story addition, new third story addition and a new side secondary entrance to basement at an existing two-story single-family residence; two additional variations were granted to the subject property in Cal. Nos. 279-22-Z and 281-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Ian Russell & Karla Melendez in joint tenancy

CAL. NO.: 281-22-Z

APPEARANCE FOR: Ximena Castro

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 2044 N. Oakley Avenue

NATURE OF REQUEST: Application for a variation to expand the existing floor area by 166 square feet of the 1,391.5 square feet that has existed for more than fifty years for a proposed rear three-story addition, third story addition, new side secondary entrance to basement for the existing two-story, single-family residence.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to expand the existing floor area by 166 square feet of the 1,391.5 square feet that has existed for more than fifty years for a proposed rear three-story addition, third story addition, new side secondary entrance to basement for the existing two-story, single-family residence; two additional variations were granted to the subject property in Cal. Nos. 279-22-Z and 280-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



ZBA

NOV 21 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

Magnum Homes, LLC
APPLICANT

282-22-Z & 283-22-Z
CALENDAR NUMBERS

450 N. Racine Avenue
PREMISES AFFECTED

August 19, 2022
HEARING DATE

ACTION OF BOARD

THE VOTE

The applications for the variations are denied.

Brian Sanchez, Acting
Chairman
Angela Brooks
Zurich Esposito
Vaishali Rao, Alternate
Sam Toia

AFFIRMATIVE NEGATIVE ABSENT

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE VARIATION APPLICATIONS FOR 450 N. RACINE
AVENUE BY MAGNUM HOMES, LLC.**

I. BACKGROUND

Magnum Homes, LLC (the “Applicant”) submitted two variation applications for 450 N. Racine Avenue (the “subject property”). The subject property is currently zoned RT-4. The Applicant is in the process of constructing a three-story, two-dwelling unit building (the “building”) on the subject property. The Applicant proposed to construct a garage for the building. This garage would have a roof top deck. The Applicant further proposed to provide access to the garage roof top deck by means of the building’s rear stairway¹. In order to permit this, the Applicant sought variations to: (1) reduce the rear setback from the required 31.5’ to 4’, reduce the north side setback from 2’ to 0’ and reduce the combined side setback from 4.8’ to 0’; and (2) relocate 163.8 square feet of rear yard open space.

II. PUBLIC HEARING

A. The Hearing

¹ At the hearing, the Applicant’s attorney discussed both the garage and access to the garage roof deck as proposed. However, the pictures presented at the hearing show the garage as nearly completed, and the rear stairway already attached to the garage.

The ZONING BOARD OF APPEALS held a remote public hearing² on the Applicant's variation applications at its regular meeting held on August 19, 2022, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. August 20, 2021), the Applicant had submitted its proposed Findings of Fact. The Applicant's managing member Mr. Seamus Murnin and its attorney Mr. Nick Ftikas were present. The Applicant's architect Mr. Michael Leary was also present. The statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. November 1, 2021).³

The Applicant's attorney Mr. Nick Ftikas provided an overview of the applications.

The Applicant's managing member Mr. Seamus Murnin offered testimony in support of the applications.

The Applicant's architect Mr. Michael Leary offered testimony in support of the applications.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Ftikas provided explanations and Mr. Murnin offered further testimony.

B. Criteria for a Variation

Pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance, no variation application may be approved unless the ZONING BOARD OF APPEALS finds, based upon the evidence presented to it in each specific case, that: (1) strict compliance with the standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships; and (2) the requested variation is consistent with the stated purpose and intent of the Chicago Zoning Ordinance.

Pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance, in order to determine that practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must find evidence of each of the following: (1) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance; (2) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and (3) the variation, if granted, will not alter the essential character of the neighborhood.

Pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance, in making its determination of whether practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must take into consideration the extent to which evidence has

² In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

³ Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

been submitted substantiating the following facts: (1) the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out; (2) the conditions upon which the petition for a variation is based would not be applicable, generally, to other property within the same zoning classification; (3) the purpose of the variation is not based exclusively upon a desire to make more money out of the property; (4) the alleged practical difficulty or particular hardship has not been created by any person presently having an interest in the property; (5) the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and (6) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

III. FINDINGS OF FACT.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance:

1. *Strict compliance with the regulations and standards of the Chicago Zoning Ordinance will not create practical difficulties or particular hardships for the subject property.*

The Applicant has requested the proposed variations so that it can provide access to its proposed garage rooftop deck via the building's rear stairway. The Applicant argued the market demanded that the future unit owners required outdoor space and that, due to the subject property's substandard lot depth, the only way to provide suitable outdoor space was by means of a garage rooftop deck. The Applicant further argued that the only way to access the proposed garage rooftop deck – again due to the substandard lot depth of the subject property -- was from the building's rear stairway. However, the fact remains that the Applicant *chose* the plan of development for the subject property. Its reason for choosing such a plan of development is purely for profit, as the plan of development for the subject property maximizes every inch of the lot. Further, the Applicant also *chose* to begin construction of the building prior to obtaining variations. Its reason for doing so was to expedite building permits. However, a practical difficulty or particular hardship cannot mean that "piece of property is better adapted for a forbidden use than the one for which it is permitted, or that a variation would be to the owner's profit or advantage or convenience." *River Forest State & Trust Co. v. Zoning Board of Appeals of Maywood*, 34 Ill.App.2d

412, 418 (1st Dist. 1961). Moreover, the ZONING BOARD OF APPEALS does not find at all credible Mr. Murnin's explanation regarding the building's design. Mr. Murnin has been a developer for over twenty years. It defies belief that he "did not think" of the amount of outdoor space the building needed for the market.

In short, it is the Applicant's own actions – rather than the short lot depth – that necessitate the variations. While it is true that without the variations, the Applicant will likely make less of a profit off the subject property, that is not a practical difficulty or a particular hardship *for* the subject property. It is clear that the subject property can be developed without the variations in question. It is simply that the subject property will not have the outdoor space that would allow the Applicant to make a maximum profit off of the building.

2. *The requested variation is inconsistent with the stated purpose and intent of the Chicago Zoning Ordinance.*

Pursuant to Section 17-1-0513 of the Chicago Zoning Ordinance, the purpose and intent of the Chicago Zoning Ordinance is to "establis[h] clear and efficient development review and approval procedures." One such procedure is the requirement that the ZONING BOARD OF APPEALS may not approve a variation unless it makes findings, based on the evidence submitted to it in each case, and that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property. Since the ZONING BOARD OF APPEALS declines to find that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property, the requested variations are not consistent with the Chicago Zoning Ordinance's clear and efficient development review and approval procedures.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance:

1. *The property in question can yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance.*

The Applicant argued that without the requested variations, the Applicant would be at a competitive disadvantage in the marketplace. The Applicant further

argued that it would be competing with other developments on larger zoning lots. However, the fact remains that Mr. Murnin has been a developer for over twenty years and purchased the subject property knowing that it was substandard. Mr. Murnin also chose the subject property's plan of development that maximized the size of the building at the expense of outdoor space. While the ZONING BOARD OF APPEALS agrees that without the variations, the Applicant cannot sell the subject property for as much money as the Applicant would like, that is not the same as the subject property being unable to yield a reasonable return. In this case, it is clear that the Applicant still estimates a 9% return on its investment which the ZONING BOARD OF APPEALS finds reasonable.

2. *Any practical difficulties or particular hardships are not due to unique circumstances and are generally applicable to other similarly situated property.*

As stated above, the ZONING BOARD OF APPEALS has declined to find that practical difficulties or particular hardships exist. To the extent that a practical difficulty or particular hardship exists, it is not due to unique circumstances. Simply put: the Applicant requires the variations so that it can maximize its profit off the subject property. This is a circumstance generally applicable to other property purchased for real estate development.

3. *The Applicant failed to prove that the variations, if granted, will not alter the essential character of the neighborhood.*

The variations will allow access to the proposed garage rooftop deck from the building's rear stair. While Mr. Leary testified that such access was "consistent and compatible with other neighboring improvements," the photographs of the neighborhood as well as the plat survey do not show this. From the photographs, the maps and the plat of survey the Applicant provided, it appears that the majority of the neighboring improvements are comprised of a principal building, a rear yard and then a detached garage.⁴ They do not have the principal building attached to the garage via means of a rear stairway. As such, the ZONING BOARD OF APPEALS is not convinced that the variations will not alter the essential character of the neighborhood.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance:

1. *The particular physical surroundings, shape or topographical condition of the specific property involved would not result in a particular hardship upon the*

⁴ With the exception of one larger development.

property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

At the hearing, the Applicant argued the particular shape (that is the short lot depth) of the subject property was a particular hardship upon the Applicant. However, the ZONING BOARD OF APPEALS finds such short lot depth to be no more than a mere inconvenience. This is not the case where the Applicant is prevented from building anything on the subject property. On the contrary, the Applicant has already erected the building and the detached garage. As discussed above, the ZONING BOARD OF APPEALS does not find credible the Applicant's contention that the variations are necessary for the Applicant to yield a reasonable return. Instead, the variations are based exclusively upon a desire to make more money out of the subject property.

2. *The conditions upon which the petition for the variations are based would be applicable, generally, to other property within the same zoning classification.*

The Applicant is requesting the variations so that it can maximize its profit out of the subject property. Such a condition is applicable, generally, to other property within the RT-4 zoning district.

3. *The purpose of the variations is based exclusively upon a desire to make more money out of the property.*

The Applicant argued that the variations would allow the Applicant to overcome the subject property's short lot depth and maximize outdoor space for the building's eventual owners. However, the Applicant chose both to design and erect a very large building on a very small lot. It then came to the ZONING BOARD OF APPEALS with a request to even further maximize the development on the subject property so that it could obtain maximum profits out of the subject property. While the Applicant argued the without the variations the subject property would be uncompetitive in the market, the Applicant provided no records of any recently sold two-unit buildings in the area for any comparison to be made. And, in fact, this argument is belied by the fact that the Applicant designed and began construction of the building without the variations.

4. *The alleged practical difficulty or particular hardship has been created by the Applicant.*

The ZONING BOARD OF APPEALS has declined to find the existence of a practical difficulty or particular hardship. To the extent that one exists, it has been self-created by the Applicant. Again, the Applicant chose a plan of

development that – as can be seen from the plans and drawings – maximizes every inch of the lot and began construction of such plan of development without first obtaining variations.

5. *The Applicant failed to prove that the variations will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The Applicant argued that because the variations would be at the rear of the subject property and would not alter the streetscape, such variations would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood. While the ZONING BOARD OF APPEALS agrees that the variations will not be detrimental to the public welfare, simply because they will be located at the rear of the subject property is not, in and of itself, proof that they will not be injurious to other property or improvements in the neighborhood.

6. *The variations will not impair an adequate supply of light and air to adjacent property. The variations will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety. There is insufficient evidence to find that the variations will not substantially diminish or impair property values within the neighborhood.*

The variations will allow the Applicant to access the proposed garage rooftop deck from the building's rear stairs. As such, the variations will not impair and adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets. They will also not increase the danger of fire or endanger the public safety. However, there is insufficient evidence to find the variations will not substantially diminish or impair property values in the neighborhood. While Mr. Leary averred that as similar improvements exist in the neighborhood the variations will not substantially diminish or impair property values in the neighborhood, the pictures, maps and plat of survey provided by the Applicant show that for the most part, the principal buildings in the neighborhood are detached from the garages. As such, the ZONING BOARD OF APPEALS does not find Mr. Leary's averments to be, in and of themselves, proof that the variations will not substantially diminish or impair property values within the neighborhood.

IV. CONCLUSION

For all of the reasons stated above, the ZONING BOARD OF APPEALS finds that the Applicant has not proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a variation pursuant to Sections 17-13-1107-A, B and C of the Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby denies the Applicant's applications for variations.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Brian Sanchez, Acting Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail, postage prepaid, on 11/21, 2022.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Canna Ventures, LLC Cal. No.284-22-S
APPEARANCE FOR: John Fritchey **MINUTES OF MEETING:**
August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 1914 W. Chicago Avenue
NATURE OF REQUEST: Application for a special use to establish an adult use cannabis dispensary.

ACTION OF BOARD – APPLICATION APPROVED

THE VOTE

ZBA

SEP 19 2022

 CITY OF CHICAGO
 ZONING BOARD
 OF APPEALS

BRIAN SANCHEZ
 ANGELA BROOKS
 ZURICH ESPOSITO
 VAISHALI RAO
 SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
RECUSED		

THE RESOLUTION:

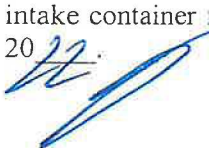
WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and


WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish an adult use cannabis dispensary; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s) provided: (1) the special use is issued solely to the applicant, Canna Ventures, LLC; (2) all on-site customer queuing occurs within the building; (3) the development is consistent with the design and layout of the floor plans dated July 21, 2022, prepared by Steep Architecture Studio.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.



APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Grace Chicago Church c/o Bob Reid (Pastor) Cal. No.285-22-S

APPEARANCE FOR: Adam Kingsley **MINUTES OF MEETING:**
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 3614-16 N. Lincoln Avenue

NATURE OF REQUEST: Application for a special use to establish a 100-seat religious assembly in an existing one-story building.

ACTION OF BOARD – Continued to October 21, 2022

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Marshall and Stephanie Porter **CAL. NO.:** 286-22-Z
APPEARANCE FOR: Thomas Moore **MINUTES OF MEETING:** August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 3651 S. Dr. Martin Luther King Jr. Dr.

NATURE OF REQUEST: Application for a variation to reduce the rear setback from 34.69' to 30.83', north side setback from 2' to zero, (south to be 3.6'), combined side yard setback from 4' to 3.6' for a third-floor addition with rooftop deck, a three-story rear elevator shaft addition and a new open rear deck for an existing three-story, single-family residence.

ACTION OF BOARD - VARIATION GRANTED

ZBA

SEP 19 2022
 CITY OF CHICAGO
 ZONING BOARD
 OF APPEALS

THE VOTE

BRIAN SANCHEZ
 ANGELA BROOKS
 ZURICH ESPOSITO
 VAISHALI RAO
 SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the rear setback to 30.83', north side setback to zero, (south to be 3.6'), combined side yard setback to 3.6' for a third-floor addition with rooftop deck, a three-story rear elevator shaft addition and a new open rear deck for an existing three-story, single-family residence; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Jose and Elizabeth Guerra **CAL. NO.:** 287-22-Z
APPEARANCE FOR: Thomas Moore **MINUTES OF MEETING:** August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 3827-29 S. Wood Street

NATURE OF REQUEST: Application for a variation to reduce the front setback from the required 14.99' to 7.81', north side setback from 2.16' to 0.29' (south to be 2.96'), combined side setback from 5.4' to 3.25' for the subdivision of one zoning lot into two lots. The three-story, two dwelling unit building shall remain. A one-story, single-family residence is proposed for 3829 S. Wood Street.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
 ZONING BOARD
 OF APPEALS

BRIAN SANCHEZ
 ANGELA BROOKS
 ZURICH ESPOSITO
 VAISHALI RAO
 SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the front setback to 7.81', north side setback to 0.29' (south to be 2.96'), combined side setback to 3.25' for the subdivision of one zoning lot into two lots. The three-story, two dwelling unit building shall remain. A one-story, single-family residence is proposed for 3829 S. Wood Street; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022

APPROVED AS TO SUBSTANCE

CHAIRMAN

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



ZBA

NOV 21 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

288-22-Z
CALENDAR NUMBER

**The Emil Garlati and Laura Nelson Garlati
Joint Living Trust**

APPLICANT

August 19, 2022

HEARING DATE

2149 W. Warner Avenue

PREMISES AFFECTED

ACTION OF BOARD

THE VOTE

The application for the variation is denied.

AFFIRMATIVE NEGATIVE ABSENT

Brian Sanchez, Acting Chairman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Angela Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vaishali Rao, Alternate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sam Toia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE VARIATION APPLICATION FOR 2149 W.
WARNER AVENUE BY THE EMIL GARLATI AND LAURA NELSON
GARLATI JOINT LIVING TRUST.**

I. BACKGROUND

The Emil Garlati and Laura Nelson Garlati Joint Living Trust (the “Applicant”) submitted a variation application for 2194 W. Warner (the “subject property”). The subject property is currently zoned RS-3 and is improved with a single-family home (the “home”) and garage. The garage is currently attached to the home by means of a wooden rear deck and stair (such stair leads to a garage roof deck). The Applicant proposed to remove this wooden rear deck and stair. In their place, the Applicant proposed to erect a new screened-in porch at the rear of the home (the “proposed screened-in porch”) and a new stair to access the garage roof deck. Such stair would be in compliance with Section 17-17-0309 of the Chicago Zoning Ordinance¹ (a “Hopkins stair”)². In order to permit

¹ Section 17-17-0309 of the Chicago Zoning Ordinance allows unenclosed stairs which provide access to a rooftop deck on an accessory building (here, the garage) with a staircase not to exceed 4’ in width, so long as the entire staircase abuts and is parallel to the wall of the accessory building.

² Pursuant to an ordinance passed by the City Council of the City of Chicago on March 29, 2017 and published in the *Journal of Proceedings of the City Council* for such date at pages 45477 to 45494, Section 17-17-0309 of the Chicago Zoning Ordinance was amended to permit stairs that provide access to garage roof decks in the rear yard setback. Such ordinance was sponsored by Aldermen Brian Hopkins and is therefore commonly referred to as the “Hopkins’ Amendment”.

the proposed screened-in porch³, the Applicant sought a variation to relocate 225 square feet of rear yard open space to the garage roof deck.

II. PUBLIC HEARING

A. The Hearing

The ZONING BOARD OF APPEALS held a remote public hearing⁴ on the Applicant's variation application at its regular meeting held on August 19, 2022, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. August 20, 2021), the Applicant had submitted its proposed Findings of Fact. The Applicant's trustees Mr. Emil Garlati and Ms. Laura Nelson Garlati were present. The Applicant's attorney Mr. Thomas S. Moore and its architect Mr. Ali Malik were present. Present and in opposition to the application were Mr. Stephen Shure and Ms. Kristin O'Brien (collectively, the "Objectors"). The statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. November 1, 2021).⁵

The Applicant's attorney Mr. Thomas S. Moore provided an overview of the application.

The Applicant offered the testimony of its trustee Mr. Emil Garlati in support of the application.

The Applicant offered the testimony of its architect Mr. Ali Malik in support of the application.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Malik offered further testimony.

Mr. Stephen Shure, of 2145 W. Warner, offered testimony in opposition to the application.

Ms. Kristin O'Brien Shure, also of 2145 W. Warner, offered testimony in opposition to the application.

In response to the Objectors' testimony, Mr. Malik offered further testimony.

Mr. Moore then made a brief closing statement.

³ At the hearing, the Applicant's attorney argued that the proposed screened-in porch itself was as of right and that it was only access to the proposed screened-in porch that necessitated the variation. The ZONING BOARD OF APPEALS finds this a distinction without difference: without the variation, the Applicant's trustees cannot build the proposed screened-in porch.

⁴ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

⁵ Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

B. Criteria for a Variation

Pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance, no variation application may be approved unless the ZONING BOARD OF APPEALS finds, based upon the evidence presented to it in each specific case, that: (1) strict compliance with the standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships; and (2) the requested variation is consistent with the stated purpose and intent of the Chicago Zoning Ordinance.

Pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance, in order to determine that practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must find evidence of each of the following: (1) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance; (2) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and (3) the variation, if granted, will not alter the essential character of the neighborhood.

Pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance, in making its determination of whether practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must take into consideration the extent to which evidence has been submitted substantiating the following facts: (1) the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out; (2) the conditions upon which the petition for a variation is based would not be applicable, generally, to other property within the same zoning classification; (3) the purpose of the variation is not based exclusively upon a desire to make more money out of the property; (4) the alleged practical difficulty or particular hardship has not been created by any person presently having an interest in the property; (5) the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and (6) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

III. FINDINGS OF FACT.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a variation pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance:

1. *Strict compliance with the regulations and standards of the Chicago Zoning Ordinance will not create practical difficulties or particular hardships for the subject property.*

Without the variation, the Applicant simply cannot have a large screened-in rear porch in its rear yard. The ZONING BOARD OF APPEALS does not find that the inability to have a large screened-in rear porch to be a practical difficulty or particular hardship for the subject property – especially when the subject property is already improved with a garage roof deck and there is enough rear yard open space to have a Hopkins’ Stair to access said garage roof deck without a variation.

2. *The requested variation is inconsistent with the stated purpose and intent of the Chicago Zoning Ordinance.*

Pursuant to Section 17-1-0513 of the Chicago Zoning Ordinance, the purpose and intent of the Chicago Zoning Ordinance is to “establis[h] clear and efficient development review and approval procedures.” One such procedure is the requirement that the ZONING BOARD OF APPEALS may not approve a variation unless it makes findings, based on the evidence submitted to it in each case, and that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property. Since the ZONING BOARD OF APPEALS declines to find that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property, the requested variations are not consistent with the Chicago Zoning Ordinance’s clear and efficient development review and approval procedures.

After careful consideration of the evidence, testimony and the entire record, including the Applicant’s proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant’s application for a variation pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance:

1. *The property in question can yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance.*

As the Applicant will continue to own and the Applicant’s trustees will continue to reside on the subject property, the ZONING BOARD OF APPEALS finds that reasonable return in this instance is livability of the subject property. The ZONING BOARD OF APPEALS finds that the home is still livable without the proposed screened-in porch. Indeed, the ZONING BOARD OF APPEALS agrees completely with Mr. Shure that the subject property has more than ample outdoor space, especially with the garage rooftop deck.

2. *Any practical difficulties or particular hardships are not due to unique circumstances and are generally applicable to other similarly situated property.*

As stated above, the ZONING BOARD OF APPEALS has declined to find that practical difficulties or particular hardships exist. To the extent that a practical difficulty or particular hardship exists, it is not due to unique circumstances. Simply put: the Applicant's trustees' personal preferences for their outdoor space conflict with the Chicago Zoning Ordinance. This is not unique and is generally applicable to other owner-occupied (or trustee-occupied) residential property as many owners (or trustees) find that their personal preferences for their properties conflict with the Chicago Zoning Ordinance.

3. *The variation, if granted, will alter the essential character of the neighborhood.*

The variation will allow for the proposed screened-in porch. The ZONING BOARD OF APPEALS agrees completely with Mr. Shure that the proposed rear screened-in porch will block light and air to adjacent properties. It will also lead to lack of privacy due to the fact the proposed screened-in porch will sit 5' above grade. As Mr. Shure testified, there are no other screened-in porches in the neighborhood, and the dimensions of the Applicant's proposed screened-in porch are quite large (13' x 11' x 16') and will leave adjacent properties with only 7 linear feet of fresh air and unencumbered sunlight. Based on all this, the ZONING BOARD OF APPEALS finds that the variation, if granted, will alter the essential character of the neighborhood.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a variation pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance:

1. *The particular physical surroundings, shape or topographical condition of the specific property involved would not result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.*

The ZONING BOARD OF APPEALS does not find that particular physical surroundings, shape or topographical condition of the subject property creates hardship upon the Applicant if the Chicago Zoning Ordinance was strictly enforced against the subject property. The subject property is a standard City lot (25' wide by 125' deep). It is improved with a single-family home and detached garage. The detached garage has a garage rooftop deck and the rear yard open space to provide access to it. Based on all this, the ZONING BOARD OF APPEALS does not find the inability to have a large, screened-in porch to be a particular hardship upon the Applicant. At best, it is a mere inconvenience.

2. *The conditions upon which the petition for the variation are based would be applicable, generally, to other property within the same zoning classification.*

The Applicant's trustees' personal desires are the conditions necessitating the variation. The ZONING BOARD OF APPEALS finds that personal desires are conditions generally applicable to other property within the RS-3 zoning classification. After all, most owners or occupiers of homes in RS-3 zoning districts desire to have their homes improved in the manner in which they wish.

3. *The purpose of the variation is not based exclusively upon a desire to make more money out of the property.*

The variation will allow for the proposed screened-in porch. As such, the ZONING BOARD OF APPEALS finds that the purpose of the variation is not based exclusively upon a desire to make more money out of the subject property but rather the Applicant's trustees' desire to make the home more to their personal comfort.

4. *The alleged practical difficulty or particular hardship has been created by the Applicant's trustees.*

The ZONING BOARD OF APPEALS has declined to find the existence of a practical difficulty or particular hardship. To the extent that one exists, it has been self-created by the Applicant's trustees. The Applicant's trustees have decided to remove their current nonconforming⁶ rear deck and replace it with a large screened-in rear porch.

5. *The variation will be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The ZONING BOARD OF APPEALS finds that the variation will be injurious to both the Objectors' property and the property at 2151 W. Warner. As Mr. Shure very credibly testified, the proposed screened-in porch will greatly diminish light, air and privacy to these properties. Further, as this is the only screened-in porch in the neighborhood, this would interrupt the continuous open nature of the rear yards on this block of West Warner.

6. *The variation will impair an adequate supply of light and air to adjacent property. The variation will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety. There is insufficient evidence to find that the variation will not substantially diminish or impair property values within the neighborhood.*

The ZONING BOARD OF APPEALS agrees with the Objectors that the requested variation will impair an adequate supply of light and air to adjacent

⁶ Such deliberate removal constitutes intentional destruction pursuant to Section 17-15-0304-B of the Chicago Zoning Ordinance. As such, it cannot be re-established.

property – particularly the Objectors’ property but also the property next west (2151 W. Warner). As the variation is to allow for the proposed screened-in porch, the variation will not substantially increase congestion in the public streets. As the proposed screened-in porch will not be built unless and until a valid building permit is issued, the variation will not increase the danger of fire or endanger the public safety. However, as the requested variation will impair an adequate supply of light and air to adjacent properties – particularly the adjacent properties on Wester Warner – there is insufficient evidence to find that the variation will not substantially diminish or impair property values in the neighborhood. Indeed, it is highly likely that the variation would impair the properties values within the neighborhood, particularly the properties 2145 W. Warner and 2151 W. Warner.

IV. CONCLUSION

For all of the reasons stated above, the ZONING BOARD OF APPEALS finds that the Applicant has not proved its case by evidence, testimony and the entire record, including the Applicant’s proposed Findings of Fact, covering the specific criteria for a variation pursuant to Sections 17-13-1107-A, B and C of the Chicago Zoning Ordinance.

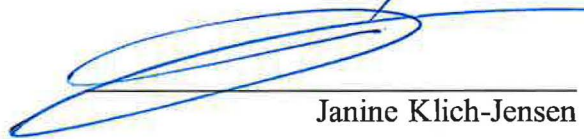
The ZONING BOARD OF APPEALS hereby denies the Applicant’s application for a variation.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Brian Sanchez, Acting Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail, postage prepaid, on 11/24, 2022.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Justin Redeker and Catherine Kelly **CAL. NO.:** 289-22-Z
APPEARANCE FOR: Agnes Plecka **MINUTES OF MEETING:**
 August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 1331 W. Nelson Street

NATURE OF REQUEST: Application for a variation to increase the floor area ratio from the existing 2,515.8 square feet by 376 square feet for a total of 2,891.8 square feet for a proposed third story addition to the existing three-story, single-family residence.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

 SEP 19 2022

 CITY OF CHICAGO
 ZONING BOARD
 OF APPEALS

BRIAN SANCHEZ
 ANGELA BROOKS
 ZURICH ESPOSITO
 VAISHALI RAO
 SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to increase the floor area ratio from the existing 2,515.8 square feet by 376 square feet for a total of 2,891.8 square feet for a proposed third story addition to the existing three-story, single-family residence; an additional variation was granted to the subject property in Cal. No. 290-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Justin Redeker and Catherine Kelly **CAL. NO.:** 290-22-Z

APPEARANCE FOR: Agnes Plecka **MINUTES OF MEETING:**

APPEARANCE AGAINST: None August 19, 2022

PREMISES AFFECTED: 1331 W. Nelson Street

NATURE OF REQUEST: Application for a variation to reduce the west side yard setback from the required 2' to 0.4' (east side setback shall be 2.7'), combined side yard setback from 4.8' to 3.1' for a proposed third story addition to the existing three-story single-family residence.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the west side yard setback from the required 2' to 0.4' (east side setback shall be 2.7'), combined side yard setback from 4.8' to 3.1' for a proposed third story addition to the existing three-story single-family residence; an additional variation was granted to the subject property in Cal. No. 289-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

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APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Lisa Gant Parker **CAL. NO.:** 291-22-Z
APPEARANCE FOR: John Pikarski **MINUTES OF MEETING:**
August 19, 2022
APPEARANCE AGAINST: None
PREMISES AFFECTED: 4029 S. Vincennes Avenue

NATURE OF REQUEST: Application for a variation to reduce the rear setback from the required 39' to 36.19', south side setback from 2' to zero (north to be 2.70'), combined side yard setback from 4' to 2.70' for a proposed rear two-story addition with rear open deck and stairs to an existing two-story single-family residence to be converted to two dwelling units.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
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X		

WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the rear setback to 36.19', south side setback to zero (north to be 2.70'), combined side yard setback to 2.70' for a proposed rear two-story addition with rear open deck and stairs to an existing two-story single-family residence to be converted to two dwelling units; an additional variation was granted to the subject property in Cal. No. 292-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

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Handwritten signature

APPROVED AS TO SUBSTANCE
Handwritten signature
CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Lisa Gant Parker

CAL. NO.: 292-22-Z

APPEARANCE FOR: John Pikarski

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 4029 S. Vincennes Avenue

NATURE OF REQUEST: Application for a variation to reduce the rear yard open space from the required 164.02 to zero for a proposed rear two-story addition with rear open deck and stairs to an existing two-story single-family residence to be converted to two dwelling units.

ACTION OF BOARD - VARIATION GRANTED

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

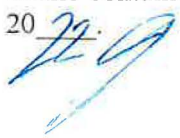
WHEREAS, a remote public hearing was held, in accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 et seq., on this application by the Zoning Board of Appeals at its regular meeting held on August 19, 2022 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Tribune on August 4, 2022; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted variation to reduce the rear yard open space to zero for a proposed rear two-story addition with rear open deck and stairs to an existing two-story single-family residence to be converted to two dwelling units; an additional variation was granted to the subject property in Cal. No. 291-22-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

I, Janine Klich-Jensen, Project Coordinator for the ZONING BOARD OF APPEALS, certify that I addressed a business envelope and caused this to be placed in the City of Chicago Department of Assets, Information and Services (AIS) intra-office intake container for stamping and mailing via USPS at 121 North LaSalle Street, Chicago, IL on 9/19, 2022.



APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Andre Nalls

CAL. NO.: 293-22-Z

APPEARANCE FOR: John Pikarski

MINUTES OF MEETING:
August 19, 2022

APPEARANCE AGAINST: None

PREMISES AFFECTED: 613-15 E. 103rd Street

NATURE OF REQUEST: Application for a variation to establish a public place of amusement license to provide event space, live entertainment, music, and DJ which is located within 125' of a residential zoning district.

ACTION OF BOARD – Continued to October 21, 2022

THE VOTE

ZBA

SEP 19 2022

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

BRIAN SANCHEZ
ANGELA BROOKS
ZURICH ESPOSITO
VAISHALI RAO
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE


CHAIRMAN

ZONING BOARD OF APPEALS
CITY OF CHICAGO

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888
www.chicago.gov/zba



ZBA

JAN 23 2023

CITY OF CHICAGO
ZONING BOARD
OF APPEALS

PTS Corp. & Bio-Pharm, LLC
APPLICANT

294-22-S
CALENDAR NUMBER

605 N. Clark Street
PREMISES AFFECTED

November 18, 2022
HEARING DATE

ACTION OF BOARD

THE VOTE

The application for special use
was **APPROVED**.

AFFIRMATIVE NEGATIVE ABSENT

Brian Sanchez, Acting Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Angela Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sam Toia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 605 N. CLARK
STREET BY PTS CORP. & BIO-PHARM, LLC.**

I. SUMMARY

PTS Corp. & Bio-Pharm, LLC (collectively, the “Applicant”) proposed to operate an adult use cannabis dispensary at 605 N. Clark Street (the “subject property”). The subject property was formerly the site of the River North Rainforest Cafe. In order to operate an adult use cannabis dispensary at the subject property, the Applicant submitted an application for a special use. The ZONING BOARD OF APPEALS held a public hearing on the Applicant’s application. Prior to the Applicant presenting its case to the ZONING BOARD OF APPEALS, an objector made a motion to dismiss the case. The primary basis for the objector’s motion was that the Applicant’s name on the application was not a registered business. The Acting Chairman of the ZONING BOARD OF APPEALS (“Acting Chairman”) denied the motion, and the ZONING BOARD OF APPEALS heard the Applicant’s application. At the public hearing, the Applicant’s representatives, its architect, its security consultant, its engineer and traffic consultant, its licensed planner and architect, and its appraiser offered testimony in support of the special use application. Community members offered testimony in support of and in opposition to the special use application. Alderman David Moore of the 17th Ward¹ offered testimony in support of the special use application. At the conclusion of public hearing, the ZONING BOARD OF APPEALS approved the application.

II. APPLICATION BACKGROUND

¹ The subject property is located in the 42nd Ward.

The subject property is located in the City's River North neighborhood. It is zoned DX-7 and is improved with a two-story commercial building consisting of approximately 20,300 square feet. The building is currently vacant but most recently housed the River North Rainforest Cafe. The Applicant proposed to convert the building into an adult use cannabis dispensary. In a DX-7 zoning district, a special use is required to operate an adult use cannabis dispensary.² The ZONING BOARD OF APPEALS is authorized to hear and decide special use applications.³ Therefore, the Applicant submitted a special use application to the ZONING BOARD OF APPEALS to operate an adult use cannabis dispensary at the subject property. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator" and the "Department") recommended approval of the proposed special use provided that: (1) the special use was issued solely to the Applicant; (2) all customer queuing occurs within the building; and (3) the development is consistent with the design and layout of the floor plans dated August 17, 2022, prepared by J. Stanulis Architects.

III. PUBLIC HEARING

In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. August 20, 2021), the Applicant had submitted its proposed Findings of Fact. The ZONING BOARD OF APPEALS held a remote public hearing⁴ on the Applicant's special use application at its regular meeting held on Friday, November 18, 2022. Due notice of the hearing was provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*.⁵

Prior to taking testimony, Robert Brown of 540 North State Street, made a motion to dismiss the application because: (1) the entity "PTS and Bio-Pharm, LLC" does not exist; (2) social equity adult use cannabis dispensaries cannot be located within 1500 feet of one another; and (3) PTS and Bio-Pharm, LLC never applied for a state license together. The Applicant's attorney Mara Georges responded to the motion by stating that: (1) PTS and Bio-Pharm LLC was not formed as an new entity, but rather as social equity co-applicants as allowed by the Illinois Department of Financial and Professional Regulation ("IDFPR")⁶ advisory opinions dated July 1, 2022 and August 24, 2022; (2) that the distance between the adult use cannabis dispensaries is irrelevant because the State of Illinois will decide if the Applicant's license will go from conditional to permanent based on timing of which dispensary got a permanent license first; and (4) that the IDFPR allows a social equity applicant to partner with someone with operating expertise. The Acting Chairman denied the motion to dismiss on the grounds that: (1) the state's issuance of a

² See Section 17-4-0200-AAA(1) of the Chicago Zoning Ordinance.

³ See Section 17-14-0302-B of the Chicago Zoning Ordinance.

⁴ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.* The statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. November 1, 2021). Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

⁵ Indeed, this application was continued at the October 21, 2022 regular meeting of the ZONING BOARD OF APPEALS so that the ZONING BOARD OF APPEALS' secretary could correct the notice of hearing under both Section 17-13-0107-A(9) and Section 17-13-0107-B of the Chicago Zoning Ordinance.

⁶ As set forth in the Cannabis Regulation and Taxation and Regulation Act, 410 ILCS 705/1-1 *et seq.*, IDFPR licenses and regulates adult use cannabis dispensaries.

license is beyond the purview of the ZONING BOARD OF APPEALS; and (2) that the ZONING BOARD OF APPEALS has allowed co-applicants in the past. After the motion was dismissed, the following people provided testimony during the hearing:

Testimony in Support of the Application

- Terry Peterson, of 4801 Emerson Avenue, Palatine, Illinois, provided sworn testimony, including the following: that he is the CEO of PTS Corp. and his company has been in the cannabis business since 2015. He testified that PTS Corp. operates 11 dispensaries including four in Illinois. He testified that PTS Corp will operate under a conditional management service agreement with Bio-Pharm. He testified that the subject property is improved with an existing building with a high density of retail shops and residential properties. He testified that the subject property has a constant flow of vehicular and pedestrian traffic. He testified that the anticipated cost of renovation is between 7 and 10 million dollars. He testified that operations will be conducted solely indoors and there will be no sight lines into the dispensary. He testified that there will be a near 200 person waiting room, so nobody is waiting outside of the facility. He testified that the hours of operation will be 9:00 AM to 9:00 PM Monday through Sunday. He testified that there will be 36 full-time employees and 19 part time employees. He testified that the employees will be state certified and pass background checks. He testified that there will be 12 point of sale locations in the building, and the Applicant will also fill pre-orders. He testified that all cannabis products will be received in a secured, fenced-in area, and a security guard will be present during the receiving process. He testified that once received, cannabis will be transported to a vault that is in a secure location. He testified that there will be 24-hour a day security at the subject property divided into the three shifts with four security guards per shift (later clarified as 4 security guards during operating hours and at least 1 security guard during off hours). He testified that there will be motion detectors, perimeter alarms, silent alarms, and over 90 video cameras. He testified that the system will be accessible to City's Office of Emergency Management and Communications ("OEMC") and the Chicago Police Department. He testified that the Applicant's community meeting⁷ was held with the help of Alderman Reilly and the River North Residents Association.
- Hermene Hartman of 329 W. 18th Street, Chicago, Illinois, provided sworn testimony, including the following: that she is part owner of Bio-Pharm and she agreed with Mr. Peterson's testimony. She testified that the proposed dispensary would create internships, jobs, and mentoring opportunities.
- Jeremy Stanulis of 10 N. Rosalyn Road, Westmont, Illinois, provided sworn testimony, including the following: that he is a licensed architect in 13 states including Illinois. He testified that he has been an architect since 2005. He testified that the building was constructed in 1996 but is currently vacant and dilapidated. He testified that the landscaping has become overgrown, and the reduced sightlines are promoting illegal activity. He reiterated much of Mr. Peterson's testimony and added that the mushroom and frog on the exterior of the building will be removed, the interior of the building will be gutted, and new stair towers for egress will be installed. He testified that the building will

⁷ Held pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance.

be clad in phenolic panels with custom lighting. He also testified that the proposed special use would comply with all applicable standards of the Chicago zoning ordinance.

- Ed Farrell of 3601 Algonquin Road, Rolling Meadows, Illinois, provided sworn testimony, including the following: that he is a retired United States Marshal and he works for Silver Star Protection Group, a private security firm. He testified that he has been hired by the Applicant to provide both physical security and best practices. He testified that the Applicant's proposed security plan complies with state standards for cannabis.
- Luoy Aboona, of 9575 W. Higgins Road, Rosemont, Illinois, provided sworn testimony, including the following: that he is a professional engineer and traffic consultant, and he is familiar with the subject property, neighborhood, and the proposed use of the property. He testified that the traffic study performed for the Applicant used pre-pandemic and summer numbers to show peak conditions in the area. Further, he testified that this location qualifies as a transit-served location and that there is a large amount of parking in the area. He testified that the traffic is compatible with the surrounding uses, and that the site would promote pedestrian safety and comfort.
- George Kisiel of 141 W. Jackson Boulevard, Chicago, Illinois, provided sworn testimony, including the following: that he is a licensed planner and architect. His testimony described the surrounding area as a vibrant and high-density mixed-use area. He testified that there are no existing schools or licensed daycares within 500 feet of the subject property. He testified that the proposed adult use cannabis dispensary would be in the interest of the public convenience because there are only 22 cannabis dispensaries in the City of Chicago (which has a population of 2.75 million people). He further testified the cannabis dispensaries do not increase crime in a neighborhood. He testified that the hours of operation are compatible with the adjacent nearby uses, and that this area is frequently visited by tourists.
- Terrence O'Brien of 145 Revere Drive, Northbrook, Illinois, provided sworn testimony, including the following: that he is a real estate appraiser with a MAI designation and that he is familiar with the subject property, the neighborhood, and the proposed use. He testified that the River North neighborhood is a high density, mixed-use area with restaurants storefronts, cocktail lounges, and nightclubs. He testified that this application satisfies the various criteria for special use approval. His testimony reiterated much of Mr. Farrell's and Mr. Peterson's testimony.
- Matt Montemurro of 700 N. Larrabee, Chicago, Illinois, provided sworn testimony, including the following: that he is a resident in the area and the former Rainforest Cafe is currently not a safe place because of loitering. He testified that there are 200 plus bars in the area, and that another cannabis location would make it more convenient to buy cannabis legally. He also testified that people have no problem getting a drink in the area, but are against another dispensary
- Kevin Munroe of 901 W. Madison, Chicago, Illinois, provided sworn testimony, including the following: that he is the operations officer at Bio-Pharm and that his father, Mike Munroe is president of Bio-Pharm and co-applicant.

- Alderman David Moore of the 17th Ward provided sworn testimony, including the following: that he was in favor of the proposed application.

Testimony in Opposition to the Application

- Jay Ceithami of 600 N. Dearborn, No. 1411, Chicago, Illinois, provided sworn testimony, including the following: that he agreed that the subject property is dilapidated, but he is disappointed with the amount of cannabis dispensaries in the area. He further testified that he was disappointed that nobody from the Applicant's team came to his building to discuss the proposed application. He also questioned if the security would be reduced once the Applicant obtained its license and if it really were feasible to have security guards walk customers to their cars. He testified that the nearby post office generated a high amount of traffic.
- Edward Chalkagian of 600 N. Dearborn, Chicago, Illinois, provided sworn testimony, including the following: that he objected to this applicant qualifying as a social equity applicant because of a 1972 conviction. He was in support of the building rendering and the security plan, but he objects to the number of cannabis dispensaries in the area.
- Kathleen Smith of 758 N. Larrabee, Apt. 721, Chicago, Illinois, provided sworn testimony, including the following: that she was in agreement with Mr. Ceithami and Mr. Chalkagian and that there are too many dispensaries in the area. She testified she would like a business to be at the subject location to curtail the loitering and vacancy but not a dispensary. She testified that she felt decisions like this are why businesses are leaving Chicago.
- Robert Brown of 540 N. State, Chicago, Illinois, provided sworn testimony, including the following: that he objected again to a co-applicant style application for a cannabis special use. He testified that felt that over 80 people turning out for a community meeting both in person and virtually was a good turnout. He testified that the 250 foot notice for a special use was not large enough to get a neighborhood's perspective. He also testified that the population density in River North is 4 times that of the rest of Chicago on average. He then presented a PowerPoint presentation that the Applicant's attorney objected to on hearsay grounds. In response to the objection, the Acting Chairman ruled that the ZONING BOARD OF APPEALS would only consider non hearsay statements on the slides.

At the conclusion of the hearing, the ZONING BOARD OF APPEALS took the matter under advisement.

IV. OVERVIEW OF CRITERIA

1. **Criteria for a Special Use.** Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on

the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

2. **Additional Special Use Criteria for Cannabis Business Establishment.** Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF APPEALS finds that the applicant for such special use has held at least one community meeting in the ward in which the cannabis business establishment is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting must be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish such notice in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish a complete list of the names and last known addresses of the persons provided with such written notice as well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department.

V. FINDINGS OF FACT

1. **Special Use. After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:**

A (1). It complies with all applicable standards of the Chicago Zoning Ordinance

The ZONING BOARD OF APPEALS finds that this proposed special use complies with all applicable standards of the Chicago Zoning Ordinance at the time of the hearing. The subject property is located in a DX-7 zoning district. Pursuant to Section 17-4-0207-AAA(1) of the Chicago Zoning Ordinance, an adult use cannabis dispensary is allowed to operate in a DX-7 zoning district if the ZONING BOARD OF APPEALS grants a special use. Pursuant to 17-9-0129 of the Chicago Zoning Ordinance, such a dispensary shall be located no closer than 500 feet from any school. The ZONING BOARD OF APPEALS finds that this subject property is not closer than 500 feet from a school. Since the ZONING BOARD OF APPEALS approves of the proposed special use (the reasons for which are set forth in greater detail below), the proposed special use complies with Section 17-13-0905-A of the Chicago Zoning Ordinance.

A (2). It is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.

The ZONING BOARD OF APPEALS finds that this proposed special use is in the interest of the public convenience as it gives the community another option to purchase this type of product. As Mr. Kisiel testified, currently there are only 22 cannabis dispensaries in the City despite the City's population of almost 3 million people. The ZONING BOARD OF APPEALS finds that this proposed special use will not have a significant adverse impact on the general welfare of the neighborhood because it will bring an ongoing business and 4 security officers to a currently vacant building, it will allow for additional "eyes on the street" as customers patronize this business, and the customized exterior lighting will illuminate a building that has sat dark. Currently, both those in support and those opposed to the proposed special use stated that there is currently loitering at the vacant subject property. Moreover, the ZONING BOARD OF APPEALS agrees with Mr. Kisiel that any arising out of the proposed special use would be due to issues with the management of operations – not the land use itself. The ZONING BOARD OF APPEALS finds based on the testimony of Mr. Peterson and Mr. Ferrell that the proposed special use will be well managed.

A (3). It is compatible with the character of the surrounding area in terms of site planning and building scale and project design.

The ZONING BOARD OF APPEALS finds that this proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design. The proposed special use will be located in an existing building. Both those in support and those opposed to this special use stated that the proposed design plan of the exterior is attractive. The building as testified to and as depicted in the photos was a former Rainforest Cafe restaurant. There are large faux mushrooms attached to the façade, as well as tree frogs, birds, an elephant, and foliage. The proposed use and proposed project design are more compatible with the surrounding businesses, and the proposed modifications to the exterior are more compatible with the character of an upscale, downtown district. Further, and as Mr. Kisiel testified, the proposed dispensary will be twice as large as other River North cannabis dispensaries, allowing the Applicant to serve more patrons, which due to the density of the River North neighborhood, is very appropriate from a land use perspective.

A (4). It is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.

The ZONING BOARD OF APPEALS finds that the proposed special use is compatible with the operating characteristics of the surrounding area. The ZONING BOARD OF APPEALS finds that there are other cannabis dispensaries in the area, that the hours of operation are compatible with the area and similar to other businesses there, that the proposed increased lighting at the subject property will better match the surrounding properties in the area, that the proposed special use will not increase noise in the area, and that the amount of traffic generated by the proposed special use will be similar to other businesses in the area.

A (5). It is designed to promote pedestrian safety and comfort.

The ZONING BOARD OF APPEALS finds that the proposed special use is designed to promote pedestrian safety and comfort by creating a façade that both those in support and those opposed to this special use stated was pleasing. Further, the additional lighting make the area safer and aesthetically pleasing. The ZONING BOARD OF APPEALS notes that the exterior security

cameras add to overall safety, including pedestrian safety. Finally, the ZONING BOARD OF APPEALS finds that removing the overgrown and non-conforming landscaping and planters, and replacing that with conforming landscaping, promotes both pedestrian safety and comfort.

- 2. Additional Special Use Requirements for Cannabis Business Establishment.** After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting in accordance with Section 17-13-0905-G of the Chicago Zoning Ordinance.

CONCLUSION OF THE ZONING BOARD OF APPEALS

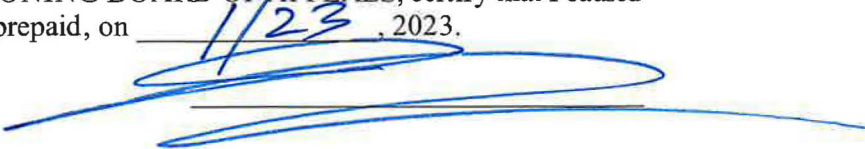
1. **Special Use.** For all the above reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved their case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-D and 17-13-0905-G of the Chicago Zoning Ordinance.
2. The ZONING BOARD OF APPEALS hereby APPROVES the Applicant's application for a special use and, pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:
 - a. The special use shall be issued solely to the Applicant;
 - b. All on-site customer queueing shall occur within the building; and
 - c. The development shall be consistent with the design and layout of the floor plans dated August 17, 2022, prepared by J. Stanulis Architects; and
 - d. The Applicant shall include in their marketing materials that security escorts are available upon request.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Brian Sanchez, Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail, postage prepaid, on 1/23, 2023.



Janine Klich-Jensen