Board of Adjustment
Case Report

Case Number: BOA-22866

STR: 9401
CZM: 40
CD: 6

Hearing Date: 03/10/2020 1:00 PM

Applicant: Bruce Denny

Action Requested: Variance of the dustless, all-weather surfacing requirement for an off-street parking area to permit a gravel drive (Sec. 55.090-F)

Location: 905 S Lynn Lane Rd E

Zoned: AG

Present Use: Residential

Tract Size: 109584.34 Sq Ft

Legal Description: W423.11 S/2 S/2 NW SW & W423.11 N94 SW SW SW SEC 1 19 14 2.515ACS

Relevant Previous Actions:

Subject Property: None

Surrounding Properties:

BOA-16667: The Board denied an appeal of an administrative office that the use and parking areas are in violation of the Tulsa Zoning Code and approved a special Exception to permit an Automotive repair shop in a CS District and approved a variance of the all-weather surfacing to permit and existing gravel parking lot limited to three years.

Relationship to the Comprehensive Plan: The Tulsa Comprehensive Plan identifies the subject property as part of a "New Neighborhood" and an "Area of Growth".

The New Neighborhood designation is intended for new communities developed on vacant land. These neighborhoods are comprised primarily of single-family homes on a range of lot sizes but can include townhouses and low-rise apartments or condominiums. These areas should be designed to meet high standards of internal and external connectivity and shall be paired with an existing or new Neighborhood or Town Center.

The purpose of Areas of Growth is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

Analysis of Surrounding Area: The subject tract is located North of the NE/c of S. 177 E. Ave.
STAFF COMMENTS: The applicant is requesting Variance of the dustless, all-weather surfacing requirement for an off-street parking area to permit a gravel drive (Sec. 55.090-F)

55.090-F Surfacing

1. All off-street parking areas must be surfaced with a dustless, all-weather surface unless otherwise expressly stated in this zoning code. Pervious pavement or pervious pavement systems are allowed subject to the supplemental regulations of Section 55.090-F.4. Parking area surfacing must be completed prior to initiation of the use to be served by the parking.

The gravel drive is an existing non-conformity. The requirement to install an all-weather surface is being triggered through the application for a new building permit on an accessory building.

STATEMENT OF HARDSHIP:

Gravel drive has been in use since 1940, and since 1991 for the current owner. Gravel absorbs storm water and better for tree roots.

SAMPLE MOTION: Move to ______ (approve/deny) a Variance of the dustless, all-weather surfacing requirement for an off-street parking area to permit a gravel drive (Sec. 55.090-F)

- Finding the hardship(s) to be ____________________________.
- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions ____________________________.

In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

a. That the physical surroundings, shape, or topographical conditions of the subject property would result in unnecessary hardships or practical difficulties for the property owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

b. That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose;

c. That the conditions leading to the need of the requested variance are unique to the subject property and not applicable, generally, to other property within the same zoning classification;

d. That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner;

e. That the variance to be granted is the minimum variance that will afford relief;

f. That the variance to be granted will not alter the essential character of the neighborhood in which the subject property is located, nor substantially or permanently impair use or development of adjacent property; and

g. That the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of this zoning code or the comprehensive plan.”
Subject property

Facing North on 177th
Facing South on 177th.
NEW APPLICATIONS

Case No. 16667

Action Requested:
Appeal the decision of the administrative official that the use and parking areas are in violation of the Tulsa Zoning Code or, in the alternative, a special exception and/or a variance to permit such use (business in an AG zoned district) - SECTION 1608. APPEALS FROM THE ADMINISTRATIVE OFFICIAL, located 17701 East 11th Street.

Presentation:
The application, Roy Johnsen, 201 West 5th Street, submitted a plot plan (Exhibit E-2) and stated that his client owns a 50' by 50' building, which has been at the present location for many years. The applicant informed that the property has been rezoned from AG to CS, which would permit vehicle repair with Board of Adjustment approval. Mr. Johnsen stated that his client's tenant has been operating an automobile repair business on the subject property for approximately six years. In regard to parking, the applicant stated that cars have occasionally been parked in the right-of-way and on nearby residentially zoned property. He informed that a complaint was filed concerning parking for the business, which resulted in this application. Mr. Johnsen stated that his client has requested that the property be clean up, and his tenant has complied with the request. The applicant stated that the property was initially used for an auto repair business in the 1940s and later a home electric contractor, which is classified in a different use unit, began operation at this location. Mr. Johnsen stated that the property was then used for an oil field supply business. A packet (Exhibit E-4) containing a petition and letter concerning the history of uses and an aerial photograph was submitted. He informed that the structure and parking are nonconforming and can remain without expansion; however, the change in use impacts the nonconforming use status. Mr. Johnsen advised that the property has been upgraded and there will be no parking in the right-of-way.

Comments and Questions:
In reply to Mr. Doverspike, the applicant requested that the Board find the parking to be nonconforming or, if not nonconforming, a variance of the all-weather surface requirement be granted.

Interested Parties:
A violation notice and photographs (Exhibit E-1) were submitted by Candy Parnell, Code Enforcement.

Mr. Doverspike informed that the Board has received a letter (Exhibit E-3) from Buddy Smith, Code Enforcement officer, stating that he lives in the area and the building was vacant from May 13, 1977 to August 1, 1984.
Allen West informed that he does not live in the area, but drives by the property daily. He stated that there was no parking along 11th Street during the approximate 10-year period the electric company occupied the property. Mr. West stated that, after the electric company moved, cars were parked to the corner of the building and on property across the street. He noted that the cars parked on the right-of-way create a traffic hazard for motorists. He suggested that a parking area be provided on the east side of the property.

Applicant's Rebuttal:
Mr. Johnsen stated that the petition previously submitted gives a history of the commercial use of the property. He stated that parking has always been located in front of the building, and relocation of the parking to the east would interfere with lateral lines in that area. Mr. Johnsen stated that some parking is available on the east and north sides of the building.

Additional Comments:
Mr. Doverspike stated that he would be amenable to approving the request for a three-year period to prove continued compatibility with the neighborhood.

Ms. Parnell advised that the parking issue was the main reason for the complaint.

Mr. Jackere noted that the changes in use may have been unlawful, and the nonconforming status for the use, as well as the parking, may have been forfeited. He informed that the structure is nonconforming and can remain in its present condition, with no expansion.

Board Action:
On MOTION of BOLZLE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to DENY an Appeal and UPHOLD the decision of the administrative official that the use and parking areas are in violation of the Tulsa Zoning Code - SECTION 1608. APPEALS FROM THE ADMINISTRATIVE OFFICIAL; and to APPROVE a Special Exception to permit automobile repair in a CS zoned district - SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS - Use Unit 17; and a variance of the all-weather parking requirement to permit existing gravel parking - SECTION 1303.D. Design Standards for Off-Street Parking - Use Unit 17; subject to a maximum of 3 years; subject to Traffic Engineering approval of corner visibility; subject to completion of CS zoning (publication of zoning ordinance); and subject to the property being restricted to the current use only (automobile repair); finding the use to be compatible with surrounding development; and finding that temporary gravel parking will not be detrimental to the neighborhood, or impair the spirit, purpose or intent of the Code; on the following described property:

Beginning SW/c, SW/4, thence east 177', north 190', west 177', south 190' to POB, less .19 acres for road, Section 1, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.
APPLICATION NO: BLDR-52443-2020
(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)
Project Location: 905 S Lynn Lane
Description: Detached Accessory Building

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE
PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL
BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:
1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED
AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601.
THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE
PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. SUBMIT TWO (2) SETS [4 SETS IF HEALTH DEPARTMENT REVIEW IS REQUIRED] OF REVISED
OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION
MARKS.

2. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG),
BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION
(TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT
2 W. 2nd ST., 8th FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.

3. A COPY OF A "RECORD SEARCH" [IS [x] IS NOT INCLUDED WITH THIS LETTER. PLEASE
PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF
APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD
OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR
IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.).

(continued)
REVIEW COMMENTS

APPLICATION NO. BLDR-00000-2019

Note: As provided for in Section 70.130 you may request the Board of Adjustment to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning variances, special exceptions, appeals of an administrative official decision, Master Plan Developments Districts (MPD), Planned Unit Developments (PUD), Corridor (CO) zoned districts, zoning changes, platting, lot splits, lot combinations, alternative compliance landscape and screening plans and all questions regarding (BOA) or (TMAPC) application forms and fees, to an INCOG representative at 584-7528. It is your responsibility to submit to our offices documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf.

Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

55.090-F Surfacing. All off-street parking areas must be surfaced with a dustless, all-weather surface unless otherwise expressly stated in this zoning code. Pervious pavement or pervious pavement systems are allowed subject to the supplemental regulations of §55.090-F. Parking area surfacing must be completed prior to initiation of the use to be served by the parking.

Review Comments: Provide a dustless all-weather parking surface from the public street to the proposed garage or apply to the Board of Adjustment for a Variance (section 70.120) to allow a material other than an approved material meeting the requirements of 55.090-F.

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter. A hard copy of this letter is available upon request by the applicant.

Please Notify Plans Examiner By Email When You Have Submitted A Revision. If you originally submit paper plans, revisions must be submitted as paper plans. If you submit online, revisions must be submitted online.

END - ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.
Legal Description

The West 423.11 Feet of the South Half (S/2) of the South Half (S/2) of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section One (1), Township Nineteen (19) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof. Said tract contains 2.51 acres, more or less.

Notes

This drawing is for informational use only and is not to be used for any other purpose. Dimensions shown hereon are rough dimensions and are not surveyed quality and should not be used for construction or survey purposes.

Site Address: 905 South Lynn Lane Road, Tulsa, Oklahoma 74107-5119
POLE LAYOUT

Personal Use, 1600 sq. ft.

Eave 1

Diagonal:
57' 11 5/8"

Eave 2

Bruce Davvy
Estimate Number: 207
12/29/2019
Note: Graphic overlays may not precisely align with physical features on the ground.