

BOA-23007

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BOARD OF ADJUSTMENT CASE REPORT

STR: 9213

Case Number: **BOA-23007**

CZM: 36

CD: 4

HEARING DATE: 10/27/2020 1:00 PM (*Continued from 10/13/2020*)

APPLICANT: Tom Neal

ACTION REQUESTED: Variance to allow more than 25% coverage by an accessory building in the rear setback (Section 90.090-C); Variance of the allowable height of a detached accessory building from one story or 18 feet in height to two stories and 26 feet in height and from 10 feet to 18 feet in height to the top of the top plate. (Section 90.090.C); Variance of the minimum required open space in the RS-2 District (Sec. 5.030, Table 5-3)

LOCATION: 210 E HAZEL BV S

ZONED: RS-2

PRESENT USE: Residential

TRACT SIZE: 8511.66 SQ FT

LEGAL DESCRIPTION: LT 9 BLK 14, SUNSET TERRACE

RELEVANT PREVIOUS ACTIONS:

Subject property:

BOA-4392; On 06.08.64 the Board **approved** an extension of a canopy over the driveway.

Surrounding Properties:

BOA-21208; On 02.08.2011 the Board **denied** a minor Special Exception to reduce the required front yard in RS-1 district.

BOA-15763; On 06.25.91 the Board **approved** a variance of the required livability space per dwelling unit from 4000 sq ft to 3400 sq ft.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of an "Existing Neighborhood " and an "Area of Stability".

An **Existing Neighborhood** is intended to preserve and enhance Tulsa's existing single-family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code.

The **Areas of Stability** include approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality

3.2

of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

ANALYSIS OF SURROUNDING AREA: The subject tract is located East of the SE/c of S. Cincinnati Ave. and Hazel Boulevard.

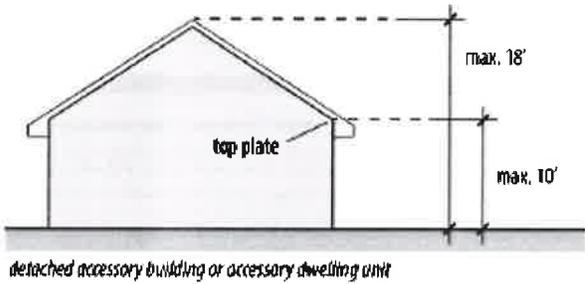
STAFF COMMENTS: The applicant is requesting **Variance** to allow more than 25% coverage by an accessory building in the rear setback (Section 90.090-C); **Variance** of the allowable height of a detached accessory building from one story or 18 feet in height to two stories and 26 feet in height and from 10 feet to 18 feet in height to the top of the top plate. (Section 90.090.C); **Variance** of the minimum required open space in the RS-2 District (Sec. 5.030, Table 5-3)

2. Detached Accessory Buildings, including Accessory Dwelling Units, in RE, RS, RD Districts and RM Zoned Lots Used for Detached Houses or Duplexes.

a. Detached accessory buildings, including Accessory Dwelling Units, may be located in rear setbacks provided that:

- (1) The building does not exceed one story or 18 feet in height and is not more than 10 feet in height to the top of the top plate; and

Figure 90-9: Maximum Height of Accessory Buildings, Including Accessory Dwelling Units In Rear Setbacks (RE, RS and RD Districts or RM Zoned Lots Used for Detached Houses or Duplexes)



- (2) Building coverage in the rear setback does not exceed the maximum limits established in Table 90-2:

Table 90-2: Accessory Building, Including Accessory Dwelling Units, Coverage Limits in Rear Setback

Zoning District	Maximum Coverage of Rear Setback
RS-1 and RE Districts	20%
RS-2 District	25%
RS-3, RS-4, RS-5 and RD Districts	30%
RM zoned Lots Used for Detached Houses or Duplexes	30%

Table 5-3: R District Lot and Building Regulations

Regulations	RE	RS-1	RS-2	RS-3	RS-4	RS-5	RD	RT	RM-0	RM-1	RM-2	RM-3	RMH
Min. Open Sp./Unit (sq. ft.)	12,000	7,000	5,000	4,000[8]	2,500	600	2,000	1,200	1,200	600	200	-	2,500

The relief from the open space requirement was requested by the applicant, but staff believes this lot is non-conforming lot and that relief is not needed. Per Sec. 80.020, non-conforming lots are only required to provide 50% of the lot as open space. The lot is 8,540.25 square feet (minimum required lot size in RS-2 is 9,000 square feet) which would require it to maintain 4,270.13 square feet of open space. Per the site plan provided by the applicant the open space provided would be 4,768 square feet.

80.020-B Nonconforming Lots in Residential Zoning Districts

In residential zoning districts, a single detached house may be erected on a nonconforming lot without complying with the minimum lot area, minimum lot area per unit, minimum lot width, minimum street frontage or minimum open space per unit requirements of the subject zoning district, **provided that at least 50% of the lot area remains as open space.** All other lot and building regulations apply, except that detached houses may be erected on corner lots that are nonconforming with regard to lot width, subject to a reduced minimum street side building setback of 5 feet. Garages that are accessed through a side yard abutting a street must be set back at least 20 feet.

STATEMENT OF HARDSHIP: Original garage from 1929 will not accommodate modern vehicles, both in size and height. New garage is being constructed to replace original garage.

SAMPLE MOTION:

Move to _____ (approve/deny) a **Variance** to allow more than 25% coverage by an accessory building in the rear setback (Section 90.090-C); **Variance** of the allowable height of a detached accessory building from one story or 18 feet in height to two stories and 26 feet in height and from 10 feet to 18 feet in height to the top of the top plate. (Section 90.090.C); **Variance** of the minimum required open space in the RS-2 District (Sec. 5.030, Table 5-3)

- 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."*



Facing East on Hazel



Facing West on Hazel



Subject Property

Case No. 4390-
H. L. Dickson, Jr.
Lots 7, 8, Block 4,
Collidge Addition

H. L. Dickson, Jr. request for permission to tear down existing sub-standard drive-in and rebuild a new drive-in and maintain the established non-conforming use in a U-3-D District on Lots 7 & 8, Block 4, Collidge Addition.

MOVED by Sublett (Avery) that this application be set down for a public hearing.
All members voting yea. Carried.

Case No. 4391 ✓
Calvary Baptist Church
Lot 5, Block 4,
Crestview Estates
Third Addition

Calvary Baptist Church request for a waiver of front yard requirements in a U-1-C District on Lot 5, Block 4, Crestview Estates Third Addition.

MOVED by Shaul (Sublett) that this application be apassed until the next regular meeting.
All members voting yea. Carried.

Case No. 4392 ✓
Herbert Forest
Lot 9, Block 14,
Sunset Terrace

Herbert Forest request for permission to extend canopy over drive way to property line on west side on Lot 9, Block 14, Sunset Terrace Addition. There appeared Mr. George B. Schwabe, Jr. Attorney for the applicant. Mr. Schwabe, filed the following letter:

June 8, 1964

Board of Adjustment
City of Tulsa
Tulsa, Oklahoma

Gentlemen:

We understand Mr. Herbert Forrest is making application with this Board for permission to extend canopy over his driveway to the west line.

This is to advise you that we are agreeable and do not object to Mr. Forrest extending his canopy over the drive-way to the property line on west side of his house, known as Lot 9, Block 14, Sunset Terrace Addition to the City of Tulsa, also known as 210 Hazel Boulevard. Our property joins Mr. Forrest's property on the west, address, 202 Hazel Boulevard.

Yours very truly,

/x/ N. A. Newton

Case No. 15763

Action Requested:

Variance of the required livability space per dwelling unit from 4000 sq ft to 2706 sq ft, per site plan submitted - **Section 403. BULK AND ARE REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 219 East 27th Street.

Presentation:

The applicant, **John MacDonald**, 114 East 35th Place, Tulsa, Oklahoma, stated that his client is proposing to construct a garage on the subject property. He informed that the new structure will replace a two car garage, with living quarters, which was removed by the previous owner. Mr. MacDonald stated that the garage will be placed on the existing 18' by 17' concrete slab. A plot plan (Exhibit H-1) was submitted.

Comments and Questions:

Following a discussion concerning livability space, it was determined that the variance of required livability will be from 4000 sq ft to 3400 sq ft. Mr. Gardner pointed out that the lot is nonconforming as to lot size (under 6900 sq ft) and, therefore, the ratio is approximately the same as for 4000 sq ft of livability for a 6900 sq ft lot.

Mr. Bolzie asked if the new garage will be a one-story structure on the existing slab, and the applicant answered in the affirmative.

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a Variance of the required livability space per dwelling unit from 4000 sq ft to 3400 sq ft, per site plan submitted - **Section 403. BULK AND ARE REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; finding that the new one-story garage will be constructed on the existing slab of an old two-story garage that has been removed; finding that the 3400 sq ft of livability space will not be disproportionate, and that the granting of the variance request will not violate the spirit, purposes and intent of the Code, or be injurious to the neighborhood; on the following described property:

Lot 15, Block 14, Sunset Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15764

Action Requested:

Variance of the number of signs permitted per lot frontage from 1 to 3, and a variance of the total allowable display surface area from 32 sq ft to 266.3 sq ft in order to permit replacement signs - **Section 1221. BUSINESS SIGNS AND OUTDOOR ADVERTISING** - Use Unit 21, located 3209 South 79th East Avenue.

impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

**LTS 1 THRU 5 LESS E10 THEREOF BLK 3, THE FULLER WALTER ADDN, and
BEG 662.16E & 797.41S NWC NW TH S524.81 TO SL NW NW TH E185.14 TH NE
ALG WLY R/W SAPULPA RD 575 TH W421.52 POB SEC 23 19 12, CITY OF TULSA,
TULSA COUNTY, STATE OF OKLAHOMA**

Case No. 21218-Ironwood Custom Homes

Action Requested:

Minor Special Exception to reduce the required front yard in the RS-1 district (Section 403) from 35 ft. to 30 ft. to permit an addition to an existing dwelling.

Location: 2913 South Quaker Avenue East

Mr. Henke recused himself at 1:45 P.M.

Presentation:

Michelle Owens, 2657 East 177th Street, Mounds, OK; stated she is adding another garage on to the side of home and is requesting a Minor Special Exception for an additional five feet to provide an adequate turning radius in the driveway to be able to enter the proposed garage.

Interested Parties:

Robert Brejcha, 2909 South Quaker Avenue, Tulsa, OK; stated he owns the north adjoining property and is concerned about the requested change to the neighborhood. Every property on the subject street is built 50 feet off the front of the street. In the case report comments the staff stated the code requires a 35 feet front yard, and yet every property in the area is 50 feet off the street. Mr. Brejcha asked for clarification of the 35 feet versus the existing 50 feet frontage.

Mr. Cuthbertson stated the neighborhood was platted and developed in 1930. The neighborhood was platted with a 50-foot front building line. That building line has since expired so the neighborhood 50-foot front building line is not enforceable by the City, and what prevails today is the zoning requirement. This neighborhood is zoned RS-1 and requires a 35-foot front yard requirement. The pattern was established initially by the platted building line but the City must deal with what is currently on the books which is the 35 feet.

BDA-21218

Mr. Brejcha asked staff how a building line expires. Mr. Cuthbertson stated essentially it came to a private covenant.

Robert Sartin, Attorney, 110 West 7th Street, Suite 900, Tulsa, OK; asked to address the subject of the private covenant. Mr. Sartin stated that in 1930 the homeowners of the Lorraine Terrace Subdivision formed a restrictive covenant that stated "all development within the subdivision had to be set back 50 feet from the property line". That was a covenant that was to continue a period of 25 years. In 1945, the homeowners of the subdivision met and extended that restricted covenant an additional 35 years. The reason the restrictive covenant was in place is because the homeowners wanted the lots to be developed as estates; they wanted to ensure the development of the homes was in conformity, they created a look and feel of the neighborhood that would not be violated. The covenant was established for a term and extended for an additional term to give the subdivision time to fully develop. Every property was developed and established in the 45-year time span, and every house is set back 50 feet. Even though the covenant has expired, every home complies with the 50-foot setback. In fact, if this Minor Special Exception is granted, this will be the first property that is allowed to encroach outside of the 50 feet.

Judy Emmert, Ironwood Custom Homes, 208 East 5th Avenue, Owasso, OK; stated she is the builder of the new construction of the subject property. Her company's goal is to never hurt the neighborhood; they want to make the home more beautiful. The property line is approximately 18 feet from the curb so the proposed addition will still be back approximately 48 feet from the curb line or about 30 feet from the property line. The proposed addition is approximately 18 feet past the existing garage. The garage is proposed to be a one-story structure; the only two-story structure addition will be on the back of the home.

Comments and Questions:

None.

Board Action:

On **MOTION** of **TIDWELL**, the Board voted 3-0-0 (Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **DENY** the Minor Special Exception to reduce the required front yard in the RS-1 district (Section 403) from 35 ft. to 30 ft. to permit an addition to an existing dwelling. The Board finds that the Minor Special Exception will not be in harmony with the spirit and intent of the Code, and will be injurious to the neighborhood or otherwise detrimental to the public welfare because it exceeds the previous 50 feet original covenant down to the 35 feet; for the following property:

S 60 LT 3 BLK 1, N 26 LT 4 BLK 1, LORRAINE TERRACE AMD, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

BoA-21218

Mr. Henke reentered the meeting at 2:05 P.M.

Case No. 20079-A-D-Bat of Tulsa

Action Requested:

Modification of a condition of a previous approval to permit an indoor recreational use in a different tenant space on the subject property. **Location:** 13679 East 61st Street

Presentation:

Mel Bean, 6904 Silver Oak Drive, Tulsa, OK; stated her space is the second tenant space and is 15,000 square feet which is equal to the front space formerly occupied by Pump It Up, which was the subject of the original Variance or Special Exception.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

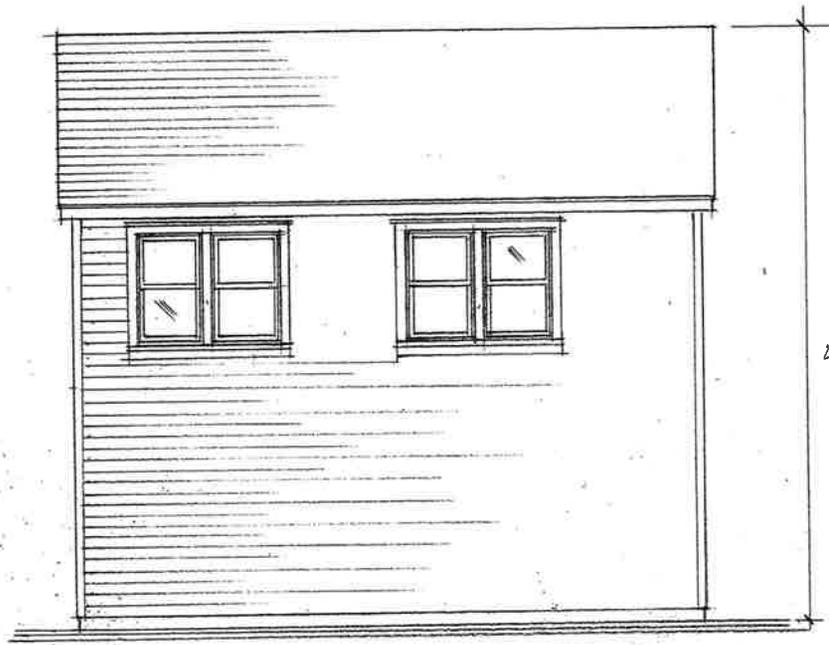
On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Tidwell, Van De Wiele, White "aye"; no "nays"; no "abstentions") to **APPROVE** the Modification of a condition of a previous approval to permit an indoor recreational use in a different tenant space on the subject property; for the following property:

LT 4 BLK 1, METRO PARK EAST, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

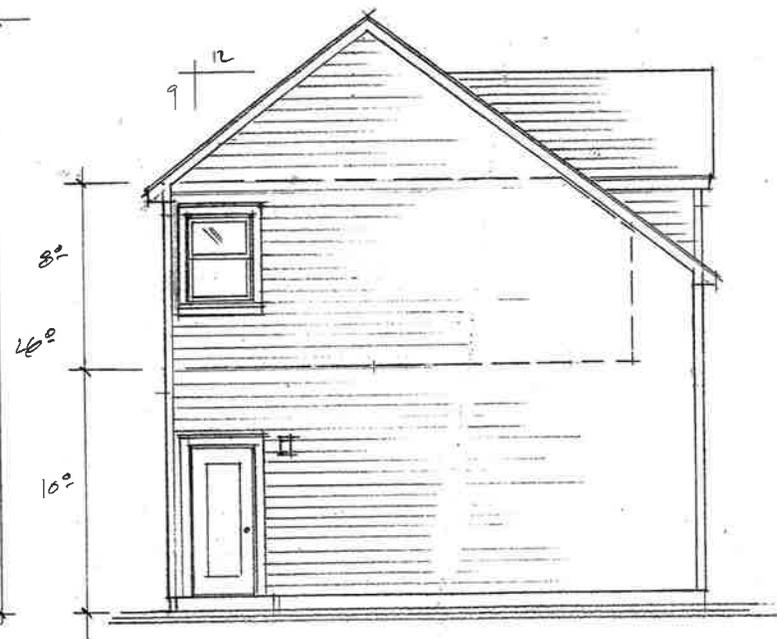
OTHER BUSINESS

NEW BUSINESS:

None.



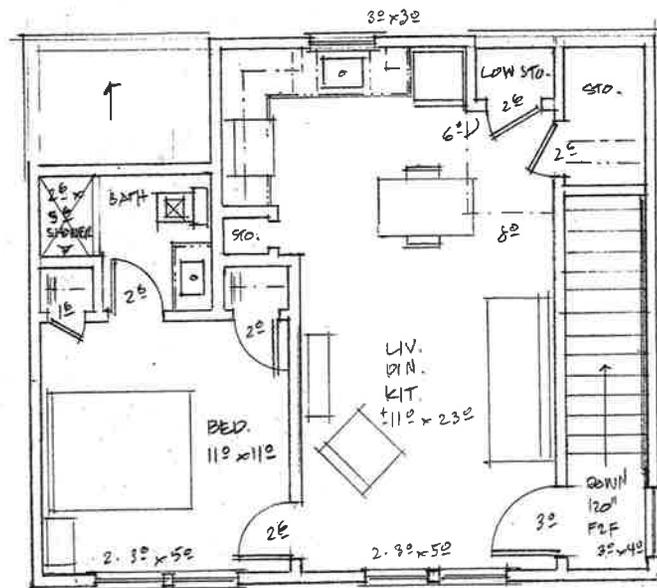
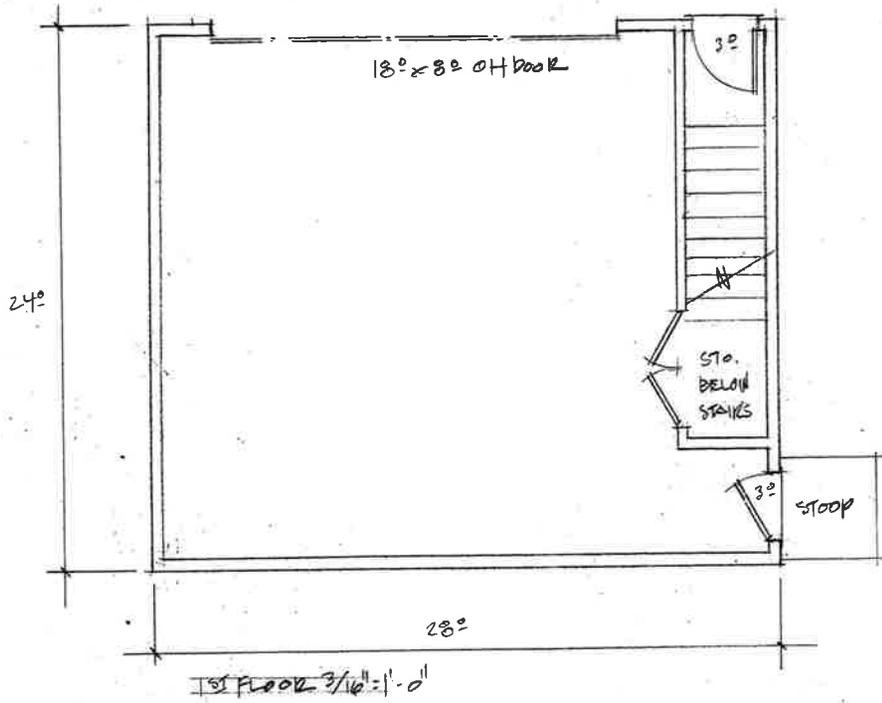
SOUTH ELEV. 3/16" = 1'-0"



EAST ELEV.

HAGNER NEW GARAGE
210 HAZEL BLVD.
TULSA, OKLA 74202

TOM NEAL
DESIGN
Associate member, American Institute of Architects
018,231,7372

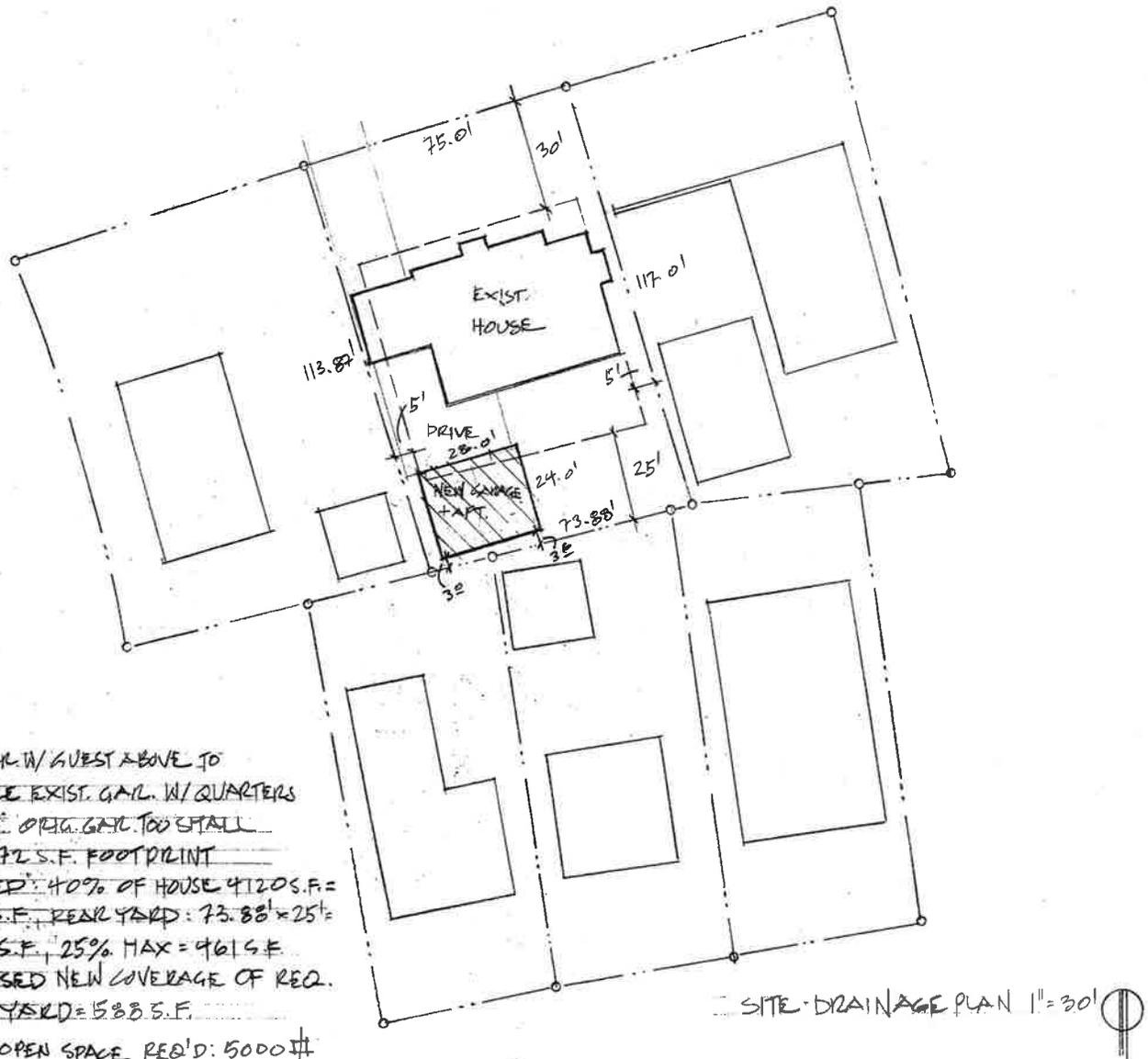


2ND FLOOR

WAGNER NEW GARAGE
 210 HAZEL BLVD.
 TULSA OKLA 7-2020

**TOM NEAL
 DESIGN**
 Associate member, American Institute of Architects
 918.231.7372

3.13



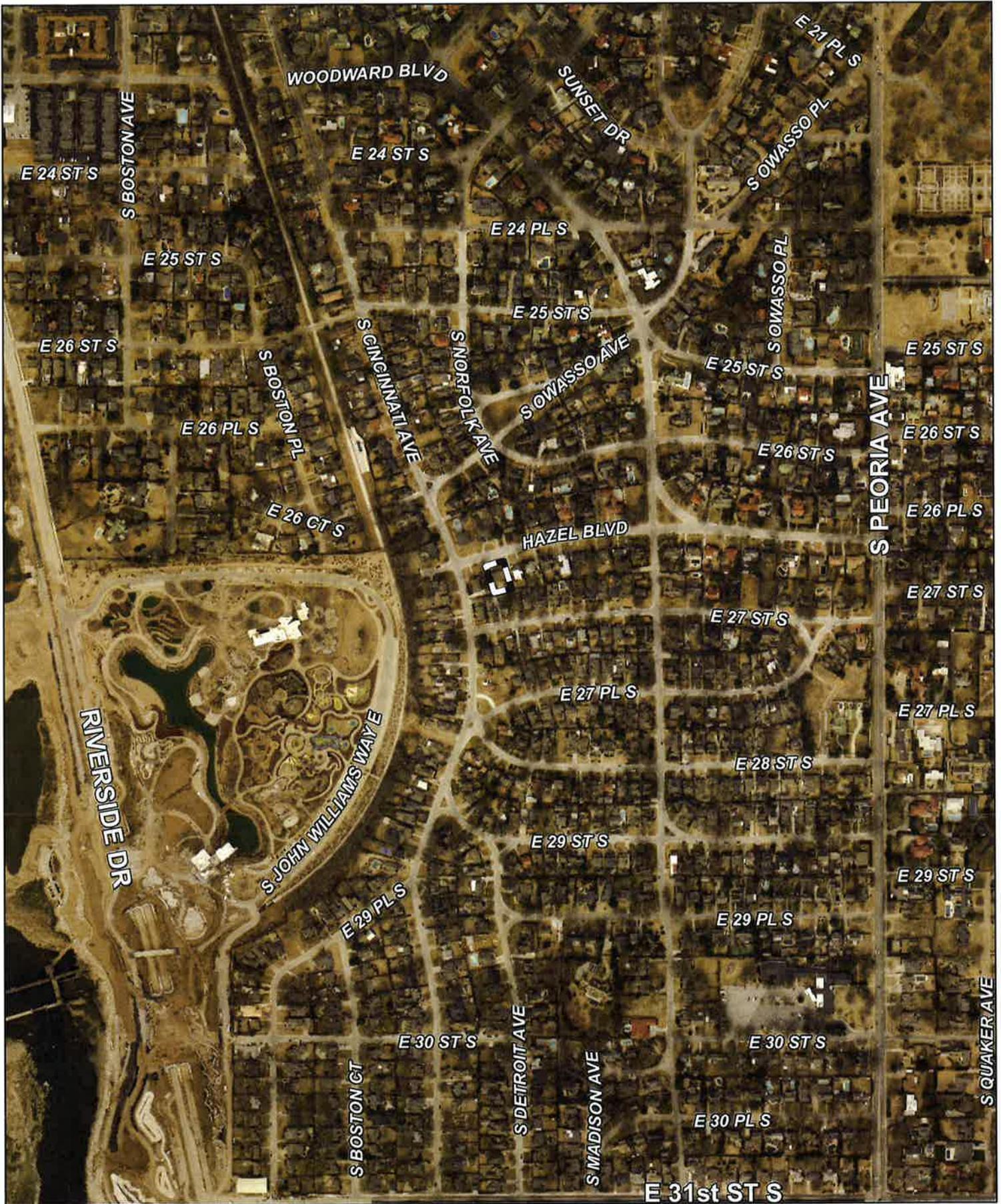
NEW GAR. W/ GUEST ABOVE TO
 REPLACE EXIST. GAR. W/ QUARTERS
 ABOVE ORIG. GAR. TOO SMALL
 NEW 672 S.F. FOOTPRINT
 ALLOWED: 40% OF HOUSE 4120 S.F. =
 1649 S.F. REAR YARD: 73.88' x 25' =
 1847 S.F. 25% MAX = 461 S.F.
 PROPOSED NEW COVERAGE OF REQ.
 REAR YARD = 588 S.F.
 REQ. OPEN SPACE REQ'D: 5000 #
 ACTU. PROPOSED: 4,768 #

SITE DRAINAGE PLAN 1" = 30'

WAGNER NEW GARAGE
 210 HAZEL BLVD.
 TULSA, OKLA 7-20-20

TOM NEAL
 DESIGN
1934-36 member, American Institute of Architects
 918.231.7372

3.14



Subject
Tract

BOA-23007

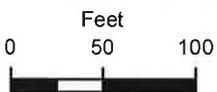
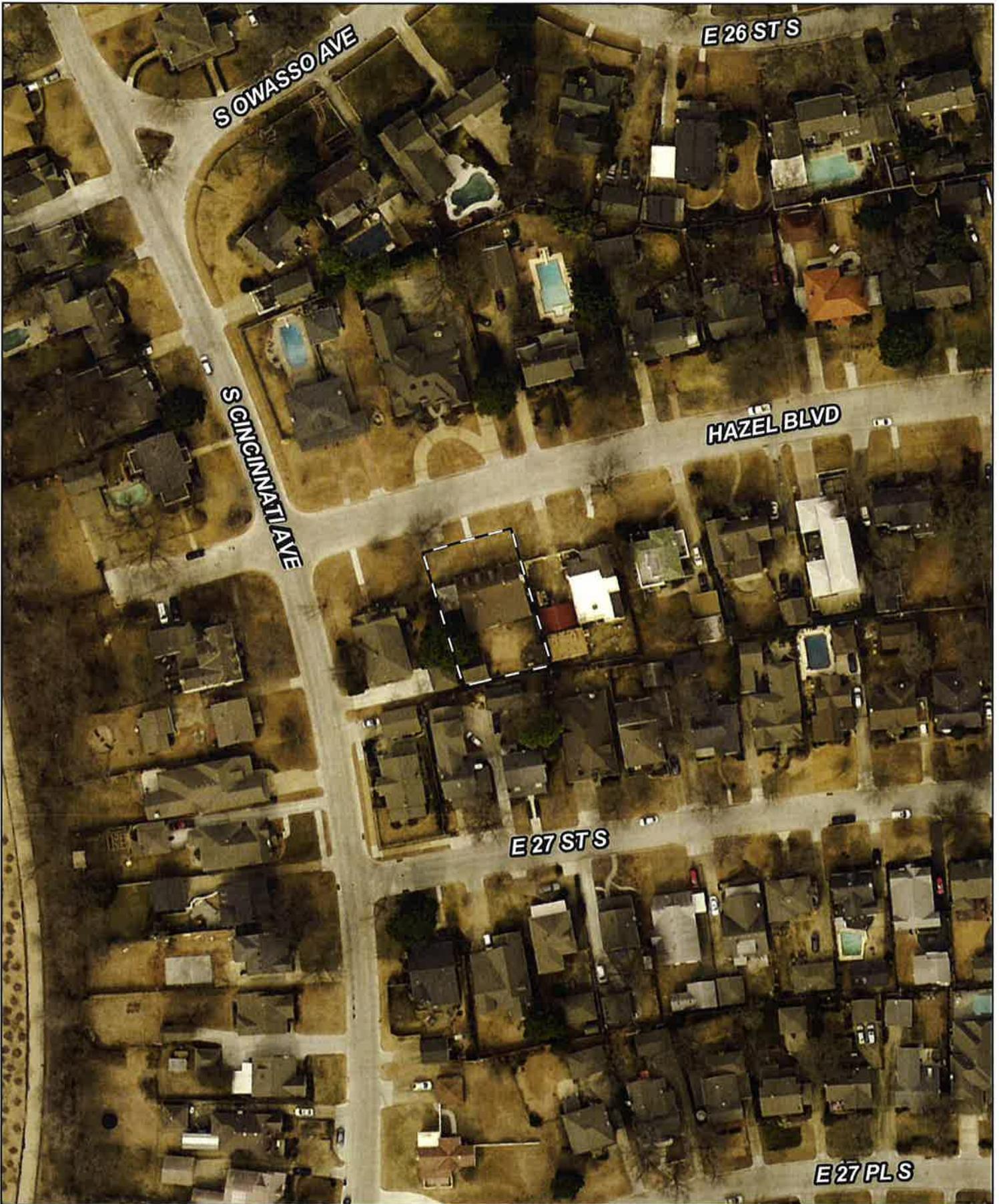
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Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2011



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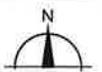
Subject
Tract

BOA-23007

19-12 13

Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018



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