SUBJECT TRACT

BOA-23033
19-13 18
BOARD OF ADJUSTMENT
CASE REPORT

Case Number: BOA-23033

STR: 9318
CZM: 37
CD: 4

HEARING DATE: 11/10/2020 1:00 PM

APPLICANT: Aaron Cissell

ACTION REQUESTED: Variance of the required 25-foot rear setback in the RS-2 district (Sec. 5.030, Table 5-3) and Variance to allow a nonconforming lot to have less than 50% open space (Sec. 80.020-B)

LOCATION: 1360 E 27 ST S
ZONED: RS-2

PRESENT USE: Residential
TRACT SIZE: 6751.83 SQ FT

LEGAL DESCRIPTION: LT 11 BLK 2, SUNSET VIEW ADDN

RELEVANT PREVIOUS ACTIONS:

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

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 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.

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.

ANALYSIS OF SURROUNDING AREA: The subject tract is located along the South side E. 27th St, in between S. Peoria Ave. and S. Rockford Ave.

STAFF COMMENTS: The applicant is requesting a Variance of the required 25-foot rear setback in the RS-2 district (Sec. 5.030, Table 5-3) and a Variance to allow a nonconforming lot to have less than 50% open space (Sec. 80.020-B)
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.

The applicant is asking to reduce their rear setback from 25' to 10' and to reduce the required open space percentage from 50% to 40.43% based on a lot size of 6,751.83 square feet.
STATEMENT OF HARDSHIP:

As our lot is non-conforming (6,750 sq ft versus the minimum 9,000 sq ft, and only 50 feet wide versus the minimum 75 feet), our design maximizes efficient usage of the lot's square footage and preservation of the historic character of the original structure. Further, it is in harmony with the design, construction, and spatial usage of neighboring properties. An attached side-loading garage creates the need for a longer driveway, cannibalizing what would otherwise qualify as open space. It is the most efficient and aesthetically appealing design to locate the garage on the back of the lot, which drives the need for a lesser rear setback. Because of the limited rear setback, our design includes a side courtyard in lieu of a traditional backyard. If we are forced to deviate from our proposed design, it would preclude the highest and best use of the square footage of the lot and compromise the historic character of the existing structure and the harmony that is achieved with the other homes in the neighborhood.

Applicant Signature: [Signature] 10/13/20

SAMPLE MOTION:

Move to ________ (approve/deny) a Variance of the required 25-foot rear setback in the RS-2 district (Sec. 5.030, Table 5-3) and Variance to allow a nonconforming lot to have less than 50% open space (Sec. 80.020-B)

- 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.
### 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.

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**Important Information**

1. If a design professional is involved, his/her letters, sketches, drawings, etc., shall bear his/her Oklahoma seal with signature and date.

2. Submit two (2) sets of drawings if submitted using paper, or submit electronic revisions in “Supporting Documents”, if originally submitted on-line, for revised or additional plans. Revisions shall be identified with clouds and revision marks.

3. 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.in cog.org](http://www.in cog.org) or at INCOG Offices at 2 W. 2nd St., 8th Floor, Tulsa, OK, 74103, Phone (918) 584-7526.

A copy of a “Record Search” 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.)
**REVIEW COMMENTS**

**SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT WWW.CITYOFTULSA-BOA.ORG**

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 584-7526. 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.

1. **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.

   **Review Comments:** The proposed lot is considered an existing nonconforming lot. You are allowed to use 50% of the lot size as open space. You are proposing less than 50% of the lot size to be open space. Revise plans to indicate compliance or apply to INCOG for a variance to allow this lot to have less than 50% of the lot to be open space.

2. **5.030-A:** In the RS-2 zoned district the minimum rear yard setback shall be 25 feet from the rear property line.

   **Review Comments:** Revise your plans to indicate a 25' rear setback to the property line or apply to INCOG for a variance to allow less than a 25' rear setback.

If assistance is needed to find review comments or upload revisions contact Ashley Chaney 918-694-4196

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.

Note: All references are to the City of Tulsa Zoning Code. Kink to Zoning Code: http://www.tmapc.org/Documents/TulsaZoningCode.pdf

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.
Facing West on 27th St.

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Subject Property