BOARD OF ADJUSTMENT
CASE REPORT

STR: 9307
CZM: 37
CD: 4

Case Number: BOA-23104

HEARING DATE: 04/13/2021 1:00 PM

APPLICANT: Kyle Gibson

ACTION REQUESTED: Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); Special Exception to permit the alteration, expansion or enlargement of a non-conforming structure (Sec. 80.030-D)

LOCATION: 1504 E 20 ST S
ZONED: RS-3

PRESENT USE: Residential
TRACT SIZE: 6098.42 SQ FT

LEGAL DESCRIPTION: LT-3, BURNS SUB L5-6 B28 PARK PLACE

RELEVANT PREVIOUS ACTIONS:

Subject property: None.

Surrounding properties:

BOA-22732; On 09.10.19 the Board approved a variance of Table 90-2 to increase the percentage of allowed rear setback coverage for a detached accessory building. Property located 1407 E. 21st St. S.

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 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 West of the SW/c of E. 20th St. and S. St. Louis Ave. The property is in the Swan Lake Historic Preservation District though the detached accessory structure is not subject to HP review.

STAFF COMMENTS: The Applicant is requesting Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); Special Exception to permit the alteration, expansion or enlargement of a non-conforming structure (Sec. 80.030-D)

Included in your packet is a copy of Sec. 45.031 which has the supplemental regulations for Accessory Dwelling Units.

80.030-D Alterations, Enlargements and Expansions

Alterations, including enlargements and expansions, are permitted if the proposed alteration or expansion complies with all applicable lot and building regulations and does not increase the extent of the nonconformity. A building with a nonconforming street setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback regulations and all other applicable lot and building regulations. Horizontal and vertical extensions of an exterior wall that is nonconforming with regard to applicable setbacks may be approved in accordance with the special exception procedures of Section 79.120, provided the extensions are not located closer to the lot line than the existing structure.

SAMPLE MOTION:

Move to ________ (approve/deny) a Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); Special Exception to permit the alteration, expansion or enlargement of a non-conforming structure (Sec. 80.030-D)

- Per the Conceptual Plan(s) shown on page(s) ______ of the agenda packet.

- Subject to the following conditions (including time limitation, if any):

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LT 1 BLK 1, VILLAGE SOUTH, City of Tulsa, Tulsa County, State of Oklahoma

22732—Gorilla Brothers Renovations, LLC

Action Requested:
Variance to increase the accessory building coverage percentage in the rear setback from 30% to 65% (Table 90-2). LOCATION: 1407 East 21st Street South (CD 4)

Presentation:
Rob Taylor, 1407 East 21st Street, Tulsa, OK; stated he would like to build a patio and a pavilion in the backyard. The yard is not very large and no matter how he tries to build something he will be pushing up against one of his neighbor’s property line. He has lived in the house for 14 years and is trying to improve the property. He will be removing a couple of dead and/or dying trees which take vegetation away from the power lines. The neighbors have about a 12-foot privacy fence behind the house so it will obscure their views and it would not be an eyesore to them.

Mr. Van De Wiele asked Mr. Taylor if this was just a covered patio addition that will be east of the garage. Mr. Taylor answered affirmatively.

Mr. Van De Wiele asked Mr. Taylor if he had visited with the neighbors that live behind him on 20th. Mr. Taylor stated that he has not.

Mr. Van De Wiele asked Mr. Taylor if he had anything positive or negative from any of the neighbors. Mr. Taylor stated that he has not. Mr. Taylor stated that he has spoke with the next-door neighbors that are on his street to let them know what he is attempting to do.

Ms. Ross left the meeting at 2:00 P.M.

Ms. Radney asked Mr. Taylor if he used his existing garage for parking or for living quarters. Mr. Taylor he basically uses it for storage.

Mr. Bond asked Mr. Taylor how visible will the new addition be to the neighbors. Mr. Taylor stated they will not be able to see it at all, even if the 12-foot fence were not there, then they would only be able to see the peak of the structure.
Mr. Van De Wiele asked Mr. Taylor if he was tying the addition into the roofline of the garage. Mr. Taylor answered affirmatively.

Mr. Bond asked Mr. Taylor when his house was built. Mr. Taylor stated the house was built in 1925.

**Interested Parties:**  
**Mike Buerker**, 14824 East 92nd Street North, Owasso, OK; stated the garage is gabled and the addition will not be a vaulted line, so the neighbors will not be able to see this from the front or the back. There are two different ways the addition can go because he is not sure what the City will require. He can either attach to the existing garage or he can have it standing on four legs.

Ms. Ross re-entered the meeting at 2:03 P.M.

Mr. Buerker stated the addition is going to match the existing structure; it will look the same. He would like to tie it back into the garage so there are not two posts coming off the side door to the garage because it will keep it more open.

Mr. Bond asked Mr. Buerker if he has worked on houses that have been built since there was a Zoning Code in Tulsa. Mr. Buerker answered affirmatively. Mr. Bond asked Mr. Buerker if he encountered challenges with houses that were built before the Zoning Code. Mr. Buerker stated his only issue would be the fact that existing structures and the five-foot setback off the fence line.

**Comments and Questions:**  
None.

**Board Action:**  
On MOTION of BOND, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to **APPROVE** the request for a Variance to increase the accessory building coverage percentage in the rear setback from 30% to 65% (Table 90-2) in a RS-3 District, subject to conceptual plans 8.15, 8.16 and 8.17 of the agenda packet. The Board has found the hardship to be the location predating the Comprehensive Zoning Code and the limited availability of space. The additional structure be in keeping with the architectural style of the existing structure. In granting the Variance the Board finds that the following facts, favorable to the property owner, have been established:

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

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

LT 6 BLK 2,HALSEY'S SUB L7&18&19B28 PARK PLACE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22732—Ron Reddy

Action Requested:
Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).
LOCATION: 3202 South Memorial Drive East (CD 5)

Presentation:
The applicant was not present.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of BOND, the Board voted 5-0-0 (Bond, Radney, Ross, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; none absent) to CONTINUE the request for a Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D) to the September 24, 2019 Board of Adjustment meeting; for the following property:

PRT LT 3 BEG 408.75N SECR TH W222 N286.5 E196.75 SE35.38 S261.37 POB, INTERCHANGE CTR, City of Tulsa, Tulsa County, State of Oklahoma
supporting structure (excluding any guy lines) to the nearest point on the residential zoning district boundary line, excluding R-zoned freeways.

Section 45.030  Accessory Buildings and Carports in R Districts

45.030-A Accessory Building Size

1. RE and RS-1 Districts
   In RE and RS-1 districts, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, and accessory buildings not erected as an integral part of the principal residential building may not exceed 750 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1]

2. RS-2, RS-3, RS-4, RS-5 and RM Districts
   In RS-2, RS-3, RS-4, RS-5 or RM, zoned lots used for detached houses or duplexes, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, and accessory buildings not erected as an integral part of the principal residential building may not exceed 500 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1]

   [1] For detached accessory buildings, including accessory dwelling units, located within rear setbacks see §90.090.C2.

45.030-B Carports

Carports are allowed in R zoning districts. Any carport that occupies all or a portion of the street setback or street yard area must be approved in accordance with the special exception procedures of Section 70.120 and comply with the regulations of Section 90.090.C1.

Section 45.031  ADU, Accessory Dwelling Units in R, AG, and AG-R Districts

Section 45.031-A Definition

A dwelling unit that is located in an accessory building on the same lot as a detached house to which it is accessory and subordinate.

Examples of ADUs include carriage houses, garage apartments, and mother-in-law flats.

Section 45.031-B Purpose

1. The purpose of allowing accessory dwelling units within R, AG, and AG-R districts is to:
   a. accommodate new housing units while preserving the character of existing neighborhoods;
   b. allow efficient use of the city's existing housing stock and infrastructure;
   c. provide housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and
d. provide a means for residents—particularly seniors, single parents, and empty-nesters—to remain in their homes and neighborhoods, and obtain extra income, security, companionship and assistance.

2. The ADU supplemental regulations are also intended to help ensure that that new buildings and modifications to existing buildings are designed with sensitivity to their context in terms of building placement, proportions, building materials, and similar design features.

Section 45.031-C Applicability

These regulations apply to all accessory dwelling units, as defined by Section 45.031-A.

Section 45.031-D Regulations

1. Where Allowed

Accessory dwelling units are allowed by special exception in RE, RS, AG, and AG-R districts on lots occupied by a detached house. Accessory dwelling units are allowed by right in RD, RT, RM and RMH districts on lots occupied by a detached house.

2. Number

No more than one accessory dwelling unit is allowed per lot.

3. Methods of Creation

An accessory dwelling unit may be created only through the following methods:

a. Constructing an accessory dwelling unit on a lot with a new or existing detached house; or

b. Converting or increasing existing floor area within an accessory building on a lot with an existing detached house.

4. Density (Minimum Lot Area and Lot Area per Unit)

No additional lot area or lot area per unit is required for the accessory dwelling unit.

5. Open space (Minimum open space per unit)

No additional open space is required for the accessory dwelling unit.

6. Accessory Dwelling Unit Size

a. RE and RS-1 Districts

In RE and RS-1 districts, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, may not exceed 750 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1]

b. RS-2, RS-3, RS-4, RS-5, and RM Districts
In RS-2, RS-3, RS-4, RS-5 or RM zoned lots used for detached houses, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, may not exceed 500 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1]

[1] For detached accessory buildings, including accessory dwelling units, located within rear setbacks, see Section 90.090-C2.

7. Building and Fire Codes

All accessory dwelling units are subject to applicable building and fire codes.

8. Additional Regulations for Accessory Dwelling Units

a. Entrances

Building entrances to accessory dwelling units may not face the nearest side or rear property line unless there is an alley abutting that property line.

b. Setbacks

An accessory dwelling unit must be located at least 10 feet behind the detached house. This required 10-foot separation distance must be open from the ground to the sky except that it may include walkways, patios, decks and similar structures that do not exceed 30 inches in height above finished grade.

c. Exterior Finish Materials

The exterior finish material of any new accessory dwelling unit must be the same or visually match in type, size and placement, the exterior finish material of the detached house.

d. Roof Pitch

The roof pitch any new accessory dwelling unit must be the same as the predominant roof pitch of the principal building.

Section 45.040 Compressed Natural Gas (CNG) Refueling Appliances

Private (restricted access), consumer-oriented (home), CNG refueling appliances are permitted as an accessory use to lawfully established household living uses in all zoning districts.

Section 45.050 Dumpsters

45.050-A Regulations

Dumpsters established or placed on or after the effective date specified in Section 1.030 are subject to the following regulations:

1. Dumpsters may only be placed with the written permission of the owner of the subject property.

2. Dumpsters must be located on a dustless, all-weather surface.

3. Dumpsters may not:
   a. Obstruct motorized or non-motorized traffic;
Facing East on 20th Street South
PERMIT CORRECTIONS REPORT (BLDR-081415-2021) FOR CITY OF TULSA

<table>
<thead>
<tr>
<th>PERMIT ADDRESS:</th>
<th>1504 E 20TH ST S</th>
<th>Tulsa, OK 74120</th>
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<tr>
<td>APPLICATION DATE:</td>
<td>02/01/2021</td>
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<tr>
<th>CONTACTS</th>
<th>NAME</th>
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<tbody>
<tr>
<td>Applicant</td>
<td>Jason Gibson</td>
<td>Align Design Group- Architect</td>
<td>3914 E 54th st</td>
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<tr>
<td>Contractor</td>
<td>Jason Gibson</td>
<td>State 46 Construction</td>
<td>3914 E 54th ST</td>
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<td></td>
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<td>Tulsa, OK 74135</td>
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Building Review (Residential)

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<tr>
<th>REVIEW ITEM</th>
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<tbody>
<tr>
<td>1. Building</td>
<td>Approved</td>
<td>Danny Whiteman Ph: 918-596-9664 email: <a href="mailto:dwhiteman@cityoftulsa.org">dwhiteman@cityoftulsa.org</a></td>
</tr>
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<td>Review item used to allow building to comment during a plan review</td>
<td>v.1 - No Correction</td>
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<tr>
<td>2. Planning/Zoning</td>
<td>Requires Re-submit</td>
<td>Jeff Taylor Ph: 918-596-7637 email: <a href="mailto:jstaylor@cityoftulsa.org">jstaylor@cityoftulsa.org</a></td>
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<td>Review conducted by the planning and zoning department</td>
<td>v.1 - Not Resolved</td>
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<td>Correction: General</td>
<td>Comments: Section 45.031-D Regulations Where Allowed. Accessory dwelling units are allowed by special exception in RE, RS, AG, and AG-R districts on lots occupied by a detached house. Accessory dwelling units are allowed by right in RD, RT, RM and RMH districts on lots occupied by a detached house. Corrective Action: Review Comments: Apply to INCOG for a special exception to allow an Accessory Dwelling Unit in an HP-RS3 zoned area.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Correction: General</td>
<td>Comments: 80.030-D Alterations, Enlargements and Expansions Alterations, including enlargements and expansions, are permitted if the proposed alteration or expansion complies with all applicable lot and building regulations and does not increase the extent of the nonconformity. A building with a nonconforming street setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback regulations and all other applicable lot and building regulations. Horizontal and vertical extensions of an exterior wall that is nonconforming with regard to applicable setbacks may be approved in accordance with the special exception procedures of Section 70.120. Corrective Action: Review Comments: You are proposing to add square footage on the second story of a structure that is non-conforming due to it being 2 story and more than 18' in height. Apply to BQA for a special exception to allow an alteration adding square footage to a non-conforming structure.</td>
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<td>3. Water/Sewer/Drainage</td>
<td>Approved</td>
<td>Randy Westbrook email: <a href="mailto:rwestbrook@cityoftulsa.org">rwestbrook@cityoftulsa.org</a></td>
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<td>Review item used to allow WSD to comment during a plan review</td>
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March 08, 2021 175 E 2nd St., Tulsa, OK