

**BOA-23151**

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**BOARD OF ADJUSTMENT  
CASE REPORT**

**STR:** 9212

Case Number: **BOA-23151**

**CZM:** 36

**CD:** 4

**HEARING DATE:** 07/13/2021 1:00 PM

**APPLICANT:** Tom Neal

**ACTION REQUESTED:** Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (Sec. 45.031-D) Variance to allow a Detached Accessory Dwelling Unit and Garage to cover more than 30% of the rear setback in an RS-3 District (Section 90.090-C, Table 90-2)

**LOCATION:** 1527 S NEWPORT AV E

**ZONED:** RS-3

**PRESENT USE:** Residential

**TRACT SIZE:** 7000.12 SQ FT

**LEGAL DESCRIPTION:** LTS 21 & 22 & W10 VAC ALLEY ADJ ON E BLK 5, MORNINGSIDE ADDN

**RELEVANT PREVIOUS ACTIONS:**

**Subject property:** None.

**Surrounding properties:**

**BOA-21651;** On 11.12.13 the board **approved** a Variance to reduce the required rear yard for a detached accessory building from 3 feet to 1.5 feet. Property located 1524 S. Owasso Ave. East.

**BOA-16844;** On 11.08.94 the Board **approved** a variance to permit a two-story detached accessory building and variance of the maximum 750 square feet for a detached accessory building and a variance of the minimum livability space. Property located 1518 S. Owasso Ave. East.

**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 located South of the SE/c of S. Newport Ave. and E. 15<sup>th</sup> St. S.

**STAFF COMMENTS:** The applicant is requesting Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (Sec. 45.031-D) Variance to allow a Detached Accessory Dwelling Unit and Garage to cover more than 30% of the rear setback in an RS-3 District (Section 90.090-C, Table 90-2)

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

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

| <b>Zoning District</b>                             | <b>Maximum Coverage of Rear Setback</b> |
|--|---|
| 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%                                     |

Applicant is proposing 660 square feet of rear of coverage, per code the property would be limited to 300 square feet.

**STATEMENT OF HARDSHIP:**

Existing garage and quarters are already over 300 square feet allowable rear yard coverage. Existing quarters are too small for use of mom suite (older parent), addition will allow for bedroom.

**SAMPLE MOTION:**

***Special Exception:***

Move to \_\_\_\_\_ (approve/deny) a **Special Exception** to allow an Accessory Dwelling Unit in an RS-3 District (Sec. 45.031-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.

***Variance:***

Move to \_\_\_\_\_ (approve/deny) a **Variance** to allow a Detached Accessory Dwelling Unit and Garage to cover more than 30% of the rear setback in an RS-3 District (Section 90.090-C, Table 90-2)

- 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 South on Newport***



***Facing North on Newport***

**4.5**



***Subject property***

# FILE COPY

Case No. 16843 (continued)

West 305' south 165.57' of Lot 3, Section 19, T-19-N, R-13-E, City of Tulsa,  
Tulsa County, Oklahoma.

## Case No. 16844

### Action Requested:

Variance to permit a two-story detached accessory building, variance of the maximum 750 sq ft for a detached accessory building and a variance of the required livability space - **SECTION 210. YARDS, SECTION 402.B.1.d. Accessory Use Conditions and SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1518 South Owasso.

### Presentation:

The applicant, **Diane Smith**, 1518 South Owasso Avenue, was represented by **Dean Smith** of the same address. Mr. Smith informed that he has removed a dilapidated two-story garage and requested permission to replace it with a similar structure (Exhibit H-1).

### Comments and Questions:

Mr. Bolzle inquired as to the use of the upstairs portion of the garage, and Mr. Smith stated that it is used for storage.

Mr. Bolzle asked if kitchen or bathroom facilities will be installed, and Mr. Smith replied that there will be none.

Protestants: None.

### Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit a two-story detached accessory building, **variance** of the maximum 750 sq ft for a detached accessory building and a **variance** of the required livability space - **SECTION 210. YARDS, SECTION 402.B.1.d. Accessory Use Conditions and SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; subject to no kitchen or bathroom facilities; finding that the structure will replace a dilapidated two-story garage that was demolished; finding that the area contains similar detached structures, and was developed prior to current Code requirements, and finding that approval of the request will not be detrimental to the neighborhood; on the following described property:

Lot 2, Block 23, Second Amended Plat of Morningside Addition, City of Tulsa,  
Tulsa County, Oklahoma.

**Action Requested:**

Variance of the minimum setback requirement for a detached accessory building located in the required rear yard from 3 feet to 1.5 feet (Section 210.B.5.b).

LOCATION: 1524 South Owasso Avenue East (CD 4)

**Presentation:**

**Dr. Brian Hall**, 1524 South Owasso Avenue, Tulsa, OK; stated on the prepurchase inspection he was informed that the foundation of the detached garage was unsafe for long term use. A plumbing inspection revealed breaks in the original clay pipe. The house and garage was built in 1918, thus the decision was made to demolish the existing garage and rebuild the detached garage keeping it in the look of the period home.

Mr. Henke stated the Board is in receipt of a letter from the Historic Preservation Commission.

**Interested Parties:**

**Carolyn Lee**, 1520 South Owasso, Tulsa, OK; stated she is Dr. Hall's neighbor to the north. She is in support of Dr. Hall's request. She too owns an older home and would encourage an expedient variance that would be effective for people that own older homes.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Tidwell, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Variance of the minimum setback requirement for a detached accessory building located in the required rear yard from 3 feet to 1.5 feet (Section 210.B.5.b), subject to the conceptual plan on page 8.13. The Board finds that the structure to be demolished is to be replaced with a structure having the same side yard setback and rear yard setback as the existing building, except to the new structure will be extending further to the north. The existing structure was built well before the Zoning Code so it is non-conforming. The property in a HP overlay area and the Historic Preservation Commission have given their blessings to the Variance request. finding by reason of extraordinary or exceptional conditions or circumstances, which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; for the following property:

BOA-21651

FILE COPY

LTS 3 & 4 & E10 VAC ALLEY ADJ ON W BLK 5, MORNINGSIDE ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

Mr. Henke left the meeting at 2:19 p.m.

**21652—Sanders Engineering**

**Action Requested:**

Variance of the frontage requirement in a CS District from 150 feet to 61.76 feet to permit a Lot-Split (Section 703, Table 2). **LOCATION:** North of the NW/c of East 31<sup>st</sup> Street on the West side of South 129<sup>th</sup> East Avenue (CD 6)

**Presentation:**

**Dave Sanders**, Sanders Engineering, 11502 South 66<sup>th</sup> East Avenue, Bixby, OK; stated the property was purchased in two pieces. The south parcel was part of an existing plat, the Blue Rob Addition. The north parcel was unplatted. Both parcels are in the CS zoning district. The purchaser would like to build an age restricted, 62 years and older, apartment complex. The plans are for a two-story 40 unit building, and will require approximately 220 feet of width. The sight needs to be combined into one parcel. The property has undergone a lot combination to combine the two parcels into one parcel. The east side of the property is 129<sup>th</sup> East Avenue, the south portion of the property will have the apartment building and the parking lot, and the north portion is the portion the owner would like to plat as Lot Two. Subsequently, the purchaser would like to sell or deed that to an entity that will maintain that piece of property in an undeveloped condition for conservation purposes. When the lot was purchased it was 110 feet wide making it a non-conforming lot, and would have come before the Board of Adjustment if there had been a desire to develop the lot. Approximately 50% of the north lot is flood plain.

Mr. Henke re-entered the meeting at 2:22 p.m.

**Interested Parties:**

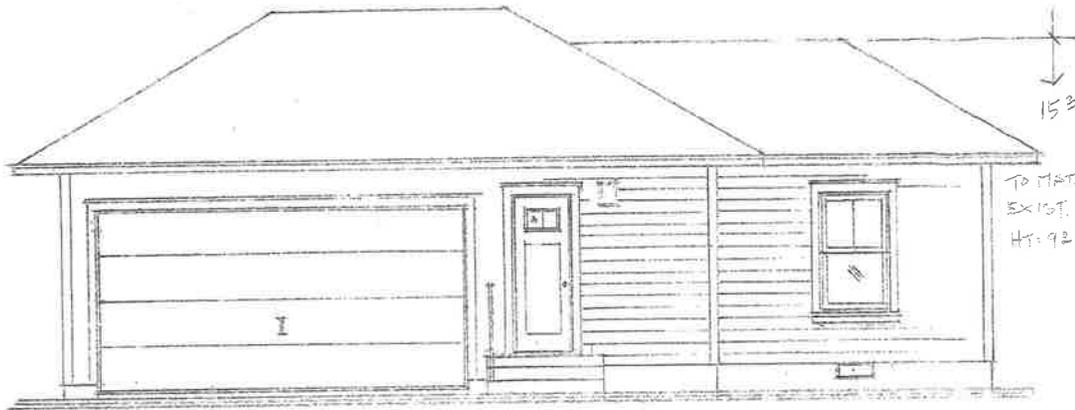
There were no interested parties present.

**Comments and Questions:**

None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Tidwell, White "aye"; no "nays"; no "abstentions"; Van De Wiele absent) to **APPROVE** the request for a Variance of the frontage requirement in a CS District from 150 feet to 61.76 feet to permit a Lot-

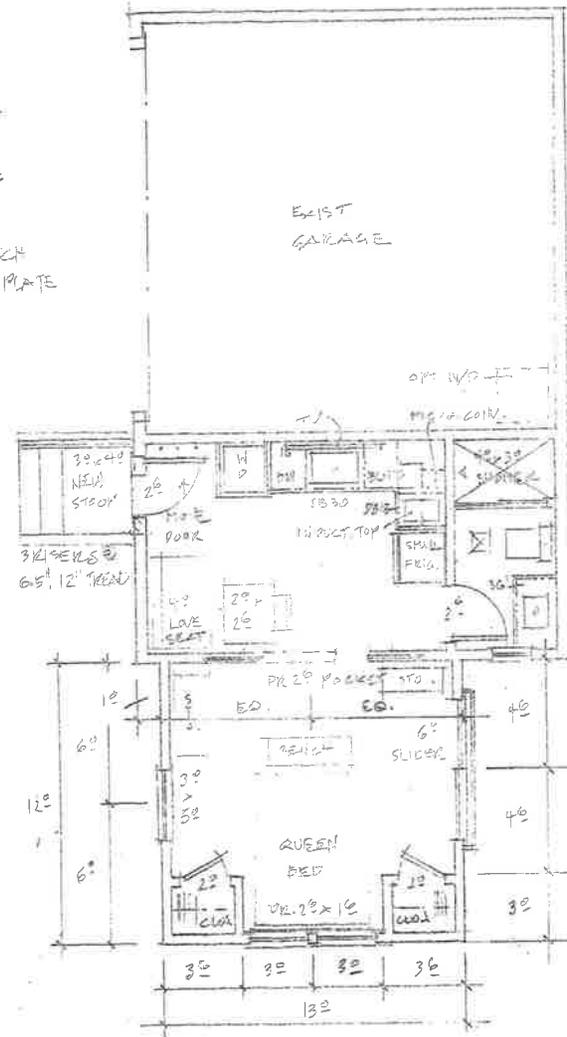


WEST

EXIST NEW



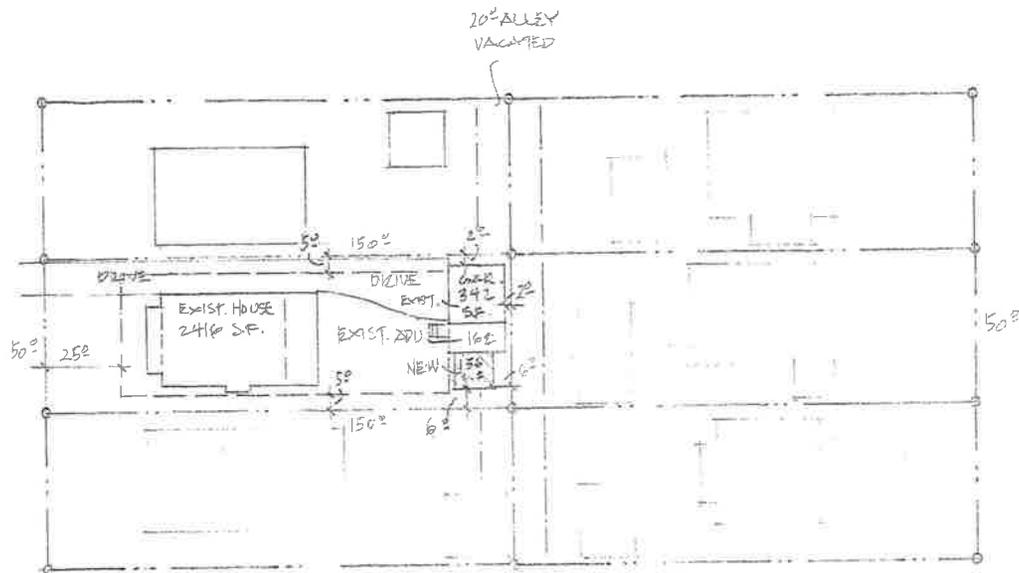
SOUTH



FLOOR PLAN 3/16" = 1'-0"

PALACIOS  
7527 SO. NEWPORT  
TULSA - OKLA 5.2021

TOM NEAL  
DESIGN  
Associate member, American Institute of Architects  
918.231.7372



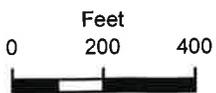
SITE: DRAINAGE 1" = 40' NORTH

HOUSE: 2416 S.F. EXIST. GARAGE: 504 S.F.  
 PROPOSED ZPU: 156 S.F. 90% ALLOWABLE: 966 S.F.  
 30% REAR YARD: 300 S.F., EXIST: 504 S.F.  
 PROPOSED: 660 SF.

PALACIOS  
 1527 SO. NEWPORT  
 TULSA - OKLA 5.2021

TOM NEAL  
 DESIGN  
 Associate member, American Institute of Architects  
 918.231.7372

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 Subject Tract

**BOA-23151**

19-12 12

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

Aerial Photo Date: February 2018



4.12



**E 15th ST S**

**SOWASSO AVE**

**S NEWPORT AVE**

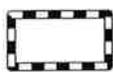
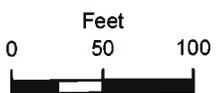
**E 16 STS**

**BOA-23151**

19-12 12

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

*Aerial Photo Date: February 2018*



*Subject Tract*



**4.13**

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