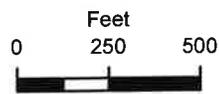


SUBJECT TRACT



BOA-23191

6.1



BOARD OF ADJUSTMENT CASE REPORT

Case Number: **BOA-23191**

CZM: 36

CD: 4

HEARING DATE: 10/12/2021 1:00 PM

APPLICANT: Alan Betchan

ACTION REQUESTED: Variance to reduce the required arterial street setback from 35-feet to 20-feet in an RS-3 Zoning District (Sec. 5.030, Table 5-3)

LOCATION: 1242 E 27 PL S

ZONED: RS-3

PRESENT USE: Vacant

TRACT SIZE: 22874.32 SQ FT

LEGAL DESCRIPTION: LTS 32 & 33, BLK 19, SUNSET TERRACE

RELEVANT PREVIOUS ACTIONS:

Subject property:

BOA-21709; On 05.08.14 the Board approved a Special Exception to permit a 8' 7" high wall in the required front yard.

Surrounding properties:

BOA-20013; On 03.22.05 the board approved a Variance of the required setback from 70' to 40' from the Center of Peoria Ave. Property located 1308 E. 27th Pl. 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.

6.2

ANALYSIS OF SURROUNDING AREA: The subject tract is located West of Peoria Ave between E. 28th Street South and E. 27th St. S. The property is a part of the Sunset Terrance Subdivision that is currently being re-developed.

STAFF COMMENTS: The applicant is requesting a **Variance** to reduce the required arterial street setback from 35-feet to 20-feet in an RS-3 Zoning District (Sec. 5.030, Table 5-3)

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. Building Setbacks (ft.)													
Street [3]													
Arterial or fwy service rd.	35	35	35	35	35	35	35	35	10	10	10	10	35
Other streets	35	35	30	25	20	20	25	10	10	10	10	10	25
Side (interior) [4]	15	5	5	5	5	5	5	5[5]	5[6]	5[6]	5[6]	5[7]	10
Rear [4]	25	25	25	20	20	20	20	20	20	20	10	20	15

The subject proeprty has frontage on Peoria Ave. but will access the property through a mutual Access easement from 28th Street. Althoguh per the code the front lot line is from the Peoria, in practice the Peoria Ave. lot line will serve as a rear lot line.

STATEMENT OF HARDSHIP:

The original plat predates the full build out of Peoria and a redevelopment of lots that once fronted Peoria. Rotating the lot to front an internal road and eliminating curb cuts onto Peoria creates a read yard setback on an arterial in a location that was not originally contemplated as a rear yard. This creates a hardship for home construction on the property.

SAMPLE MOTION: Move to _____ (approve/deny) a **Variance** to reduce the required arterial street setback from 35-feet to 20-feet in an RS-3 Zoning 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:

- 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;*
- That literal enforcement of the subject zoning code provision is not necessary to achieve the provision's intended purpose;*
- 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;*
- 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 Peoria from intersection of 28th and Peoria.



Facing North on Peoria from intersection of 28th and Peoria.



Entrance to the subdivision where the subject property is located.

not saying human dead. They are not saying animal dead or pet dead. In the reality of our society pets are part of the family, and they need a process where the death can be dealt with respectfully and regulated. The code does not stipulate human or pet funeral home, it just states funeral home.

Mr. Van De Wiele asked if Use Unit 27 was quoted because of the animal rendering. Ms. Miller answered affirmatively. She stated that even though the previous interpretation was made that a pet crematory could be an accessory use to a human funeral home, now the question is the funeral home difference.

Mr. White asked Mr. Swiney, would a motion made similar to page 3.8 in the Board's agenda packet be sufficient to grant the relief Mr. Joyce is seeking, or does the Board need to state that they are going to uphold the appeal or both. Mr. Swiney stated there are two actions before the Board. One is the appeal and the other is the interpretation. Mr. Swiney stated that in his opinion the Board would have two votes.

Interested Parties:

There were no interested parties present.

Comment and Questions:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **UPHOLD** the Appeal of the Determination of an Administrative Official that a Pet Crematory is a designated Use Unit 27 and a Code Interpretation Section 1211 - Funeral Homes includes funeral homes for pets. This approval is also to reiterate the interpretation that the Board made previously where animal crematories, small animals of 200 pounds or less may be cremated as an accessory use to a funeral home, including a pet funeral home. The Board is excluding a crematory as an accessory use to kennels and veterinary clinics; for the following property:

PRT SE SE BEG 354.62W SECR SE SE TH W100 N303.45 SE110.47 S256.78 POB LESS S35 & N16.5 FOR RDS SEC 16 19 13 .52AC, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21709—Eller and Detrich – Lou Reynolds

FILE COPY

Action Requested:

Special Exception to permit a screening wall or fence height increase in the required front yard from 4'-0" to 8'-7" to the top of the column end cap (Section 210.B.3 and Section 212.A.2). **LOCATION:** NW/c of South Peoria Avenue and East 28th Street (CD 4)

BOA-21709

Presentation:

Lou Reynolds, 2727 East 21st Street, Tulsa, OK; stated he is representing Dr. David Bell and his wife Ann, and they are the owners of the subject property. The subject property is comprised of nine lots that comply with the zoning code. Mr. Reynolds had several exhibits shown on the overhead projector for his presentation, showing other walls and fences in the area. The highest point of the proposed fence is 7.6 feet which are the pillars at the main gate. The ornamental iron fence is 6'-0" tall. There will be two gates on 28th Street, the west gate will be the main gate and will serve five lots. The existing house uses Peoria Avenue for their access but they will no longer utilize that access point, but will be using the east gate from 28th Street to serve the existing house. There will be two other houses built on the subject property. There will be a screening wall on Peoria and the highest point will be 8'-7" for the pillars, while the wall itself will be approximately eight feet high. The gated doorways into each of the lots will be 6'-8" and they have been approved by the Fire Department. They will have Knox locks placed on them, and it is the preferred way for the development of the subject property. The proposed walls will be on private property. All the lots have frontage on Peoria but they will not be using that frontage for access to the street, and the Street Department does not want driveways on Peoria because of people slowing down to turn or stopping completely for a turn. There is an existing sidewalk on Peoria but there is no sidewalk on 28th Street, but there will be a sidewalk installed running east and west the south side of the subject property on 28th Street.

Mr. Van De Wiele asked Mr. Reynolds how many lots were fronting Peoria. Mr. Reynolds stated there are six lots that front Peoria and as the lots are developed there will be three along the Peoria frontage.

Mr. Swiney asked Mr. Reynolds about the doors that are proposed in the screening wall. Mr. Reynolds stated the doors will be for emergency use, though they could be used for daily use but that is not the intent.

Interested Parties:

Greg Bledsoe, 1304 East 26th Place, Tulsa, OK; as a neighbor he wanted to commend the applicant for developing the property in an appropriate way and consistent with the neighborhood. As a long time resident in the area he would like to state that if the special exception is approved as per the plan submitted on 28th Street he will have no objections to the project. It is desirable as far as the neighborhood is concerned. He does have concerns about Peoria. Currently the property, as you drive down Peoria, it is very open and very visible with a wonderful park like atmosphere. He would be interested to finding another way instead of erecting the Great Wall of China built along Peoria. The house that is diagonal from the subject property has a wrought iron fence that is open with a base that is two or three feet tall. There is a house west of The Philbrook that has an appearance of blocking views and it is not compatible with the neighborhood. The proposed screening wall is going to make a tremendous change in how Peoria appears. The eight foot fence on the side yard is fine but it is the screening fence on the wall that is questionable. He would like to request the owner to consider

BOA - 21709

some method to allow for wrought iron in the screening fence to preserve the open space affect.

Rebuttal:

Lou Reynolds came forward. The owner's existing house is going to be reconfigured and will be redirected with the frontage on 28th Street and the rear along Peoria. The proposed screening fence will provide more privacy for that rear yard and that is the reason for the proposed design. The other two proposed houses will also have the rear yard along Peoria.

Mr. Henke asked Mr. Reynolds if there would be landscaping in front of the proposed screening fence. Mr. Reynolds stated there would be landscaping.

Comments and Questions:

None:

Board Action:

On **MOTION** of **VAN DE WIELE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Tidwell absent) to **APPROVE** the request for a **Special Exception** to permit a screening wall or fence height increase in the required front yard from 4'-0" to 8'-7" to the top of the column end cap (Section 210.B.3 and Section 212.A.2), subject to the conceptual plans as submitted today, May 13, 2014, showing the Peoria Avenue frontage and the 28th Street frontage, and page 5.11 to show the height increase layout along the Peoria Avenue frontage. Finding the 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; for the following property:

LT 28 BLK 19, LTS 29-30-30A-31-32-33 BLK 19, SUNNYCREST ACREAGE, SUNSET VIEW ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

21708—Maren Christensen**Action Requested:**

Variance of the required side yard from 5 feet to 3 feet in RS-3 District to permit the construction of a detached one-car garage (Section 403, Table 3). **LOCATION:** 1351 East 21st Street South (CD 4)

Presentation:

Grant Christensen, 1351 East 21st Street, Tulsa, OK; stated he is the home owner of the subject property. Mr. Christensen did not make a formal presentation but was available for any questions from the Board.

The buildings on the adjoining properties abut the building on this property. In the front of the building there is a wide sidewalk. Parking in the front would disrupt the unique pedestrian feel of the neighborhood and require removing the sidewalk. The space at the rear is the only realistically available area for parking. Most of the neighboring properties have more parking spaces available at the rear or on adjacent parking lots. The changes in the zoning code since this structure was built would cause an unnecessary hardship from the literal enforcement of the code. There is no adverse affect on the neighborhood by decreasing one parking space, since there is ample street parking along Boston Avenue. Mr. Schuller referred the Board to the letter of support from Mr. Joe Westervelt, a neighboring property owner (Exhibit D-1).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** from the required number of parking spaces from 9 to 8 to permit office use (Section 1211.D), finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and finding the building was constructed before zoning code requirements for off-street parking; the lots were smaller and did not take parking into consideration; this is a high-intensity, urban area; and the buildings in the surrounding area have similar issues for parking and this would not be detrimental to the neighborhood; and there is ample parking on the street, on the following described property:

LT 10 BLK 2, CODY ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20013

Action Requested:

Variance of the required 70 ft setback from the centerline of S. Peoria Avenue to 40 ft. (Section 403); and a Variance of the allowable height for a fence in the required front yard from 4 ft to 8 ft for a stucco screening wall (Section 210.B.3)

Presentation:

Richard Winn, 1530 South Harvard, is the architect and represented the property owner. He stated the hardship is that the 70 ft. setback would limit them to a 55 ft. frontage. He added that would make it difficult to build an estate type home with that little frontage. The required 35 ft. right-of-way imposed on this property reduces the lot area, as well as the frontage, and essentially creates a non-conforming lot.

Comments and Questions:

Mr. Dunham questioned if the existing house encroaches on the setback requirement. Mr. Winn replied there are 53 ft. from the centerline of Peoria, about 13 ft. more than they proposed. Mr. Dunham noted the variance for the fence height also. Mr. Winn replied that the fence height would provide more security and sound barrier from the heavy vehicular and pedestrian traffic. He also referred to five such variances granted in this neighborhood, three of them on this street. Mr. Dunham suggested they need to provide a sight triangle for traffic safety. Mr. Winn stated that the improvement exceeds the existing encroachment in the sight triangle. Ms. Stead asked if the new fence would be to the east of the trees along Peoria. Mr. Winn thought the trees were slated for removal. Mr. Winn agreed to a condition that the fence would not encroach into the sight triangle.

Staff advised the Board that the request to vary the fence height is actually allowed by a special exception. It is listed as a variance but the Board should take action on the fence height variation as a special exception.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

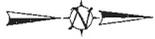
On **Motion of Stead**, the Board voted 4-0-0 (Dunham, Paddock, Stead, Henke "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** of the required 70 ft setback from the centerline of S. Peoria Avenue to 40 ft. (Section 403), finding this to be a non-conforming lot by the narrowness of the RE-zoned lot; and that the literal enforcement of the code would work a hardship on this lot; and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

On **Motion of Paddock**, the Board voted 3-1-0 (Dunham, Paddock, Henke "aye"; Stead "nay"; no "abstentions"; Stephens "absent") to **APPROVE** and a **Special Exception** of the allowable height for a fence in the required front yard from 4 ft to 8 ft for a stucco screening wall (Section 210.B.3), with condition: that the fence not encroach into the sight triangle, finding it 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; and it will not encroach into the sight triangle, on the following described property:

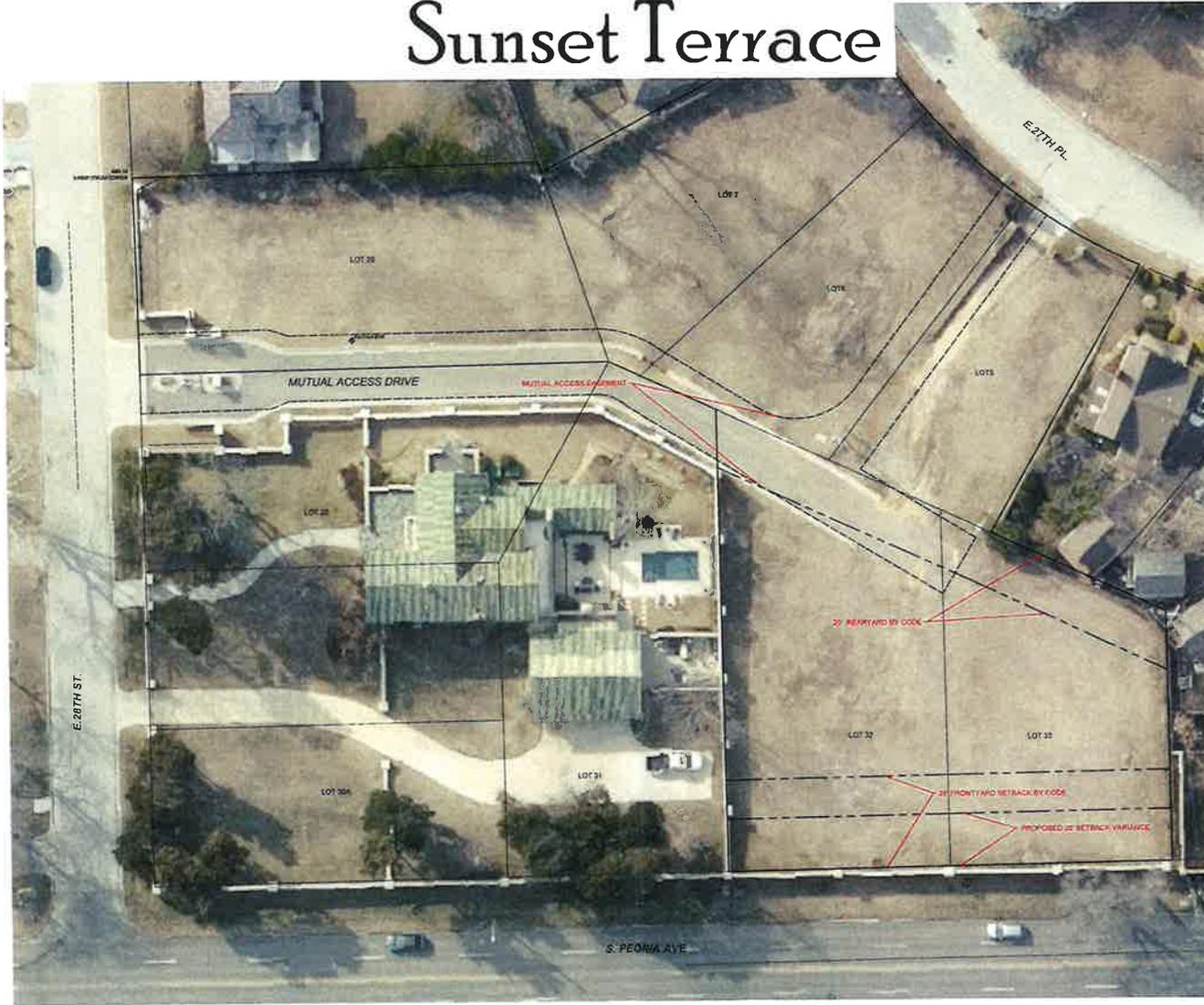
BEG AT A PT 1771N & 18.5E OF SWC OF SEC 18 TH N194 E121.5 S194 W121.5 POB SEC 18 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Variance Exceptions Exhibit
for

Sunset Terrace



0 10 20 40
DRAWING SCALE: 1"=20'

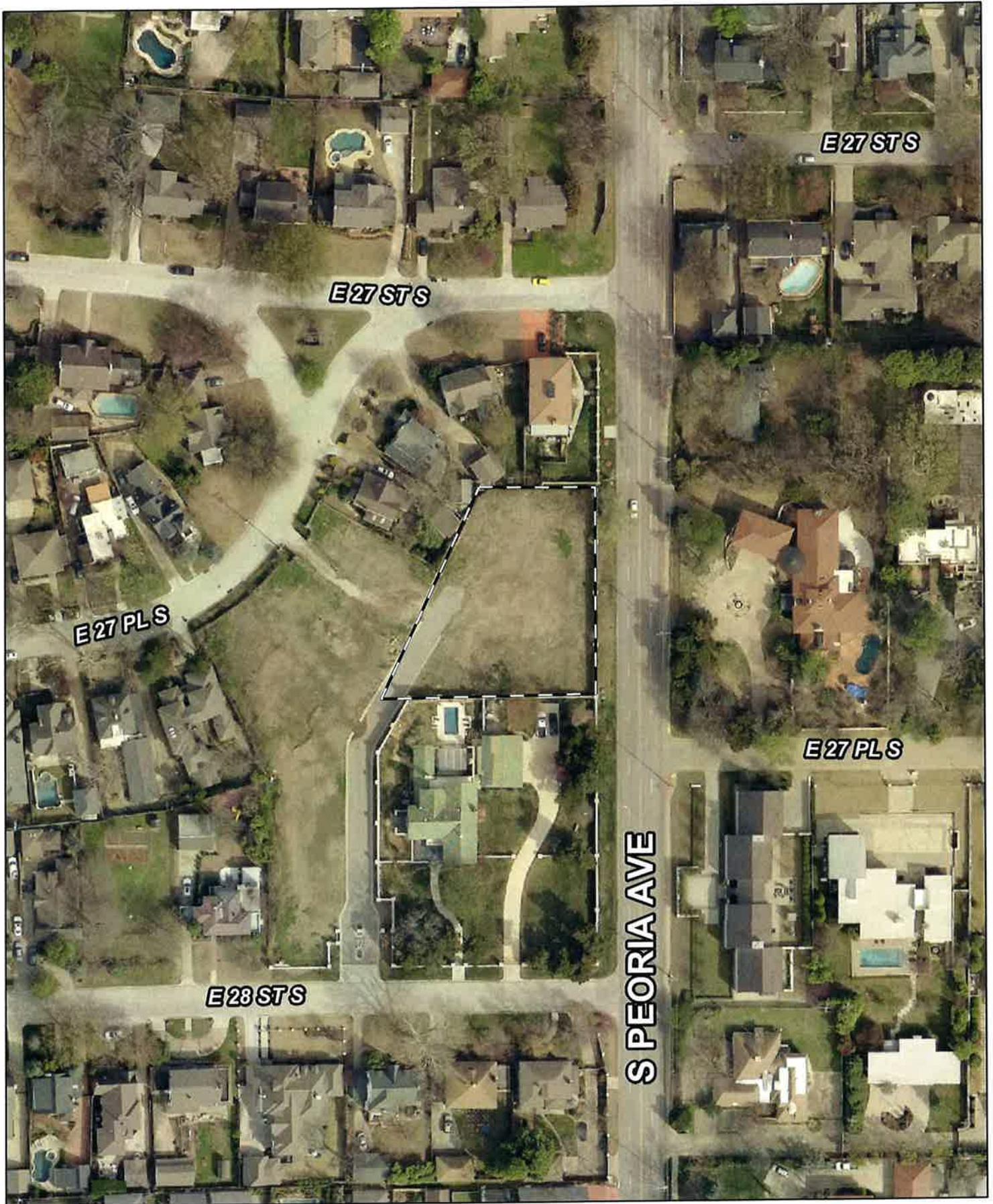


DATE PLOTTED: 06/18/2014 10:58:30 AM. THE INFORMATION SHOWN HEREON IS UNLESS OTHERWISE SPECIFIED.



AAB Engineering, LLC
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PO Box 2138 Sand Springs, OK 74053
OK CA#6318 Exp: June 30, 2014
Office: (918) 514-4283 Fax: (918) 514-4288

6.12



Subject Tract

BOA-23191

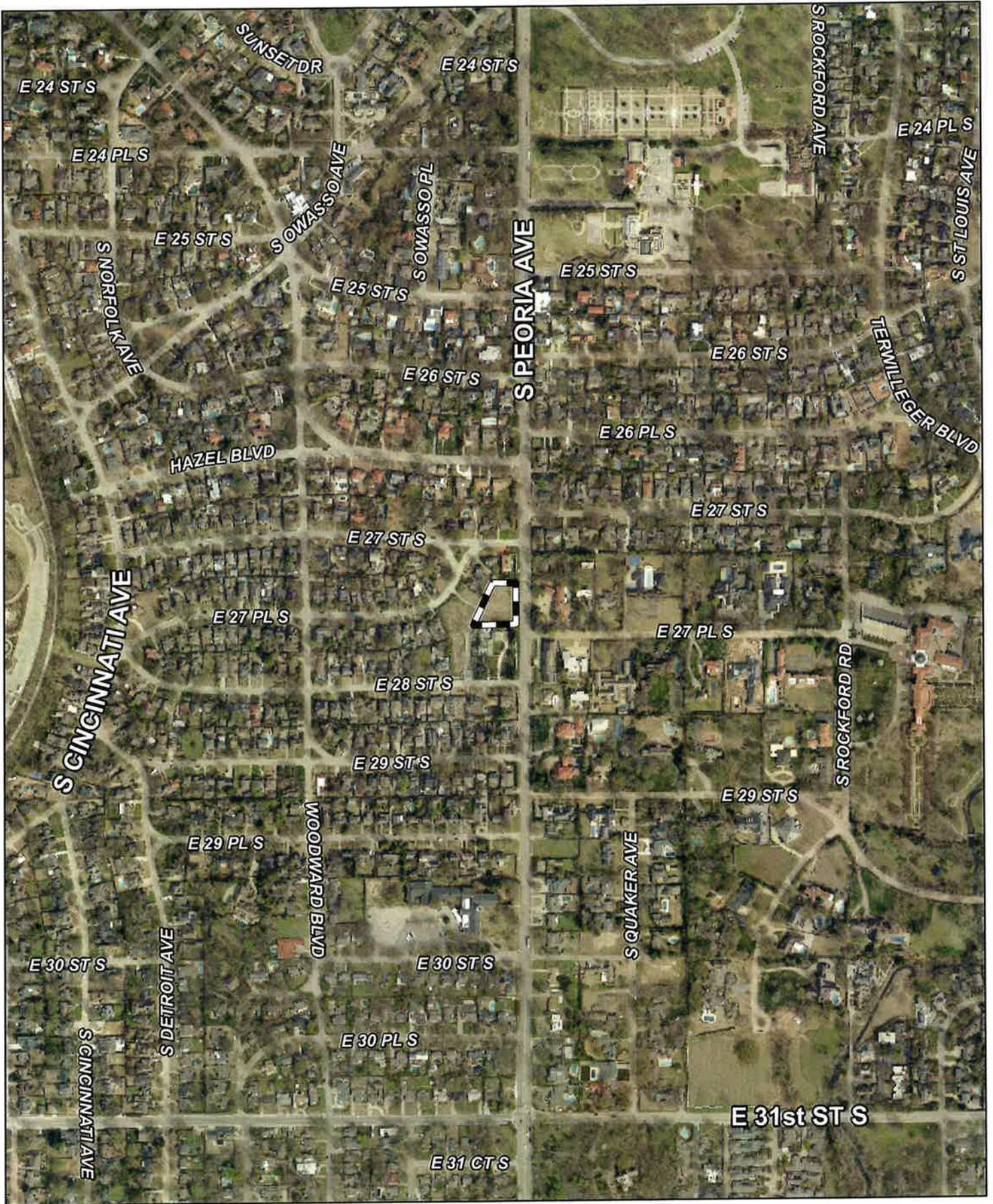
19-12 13

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

Aerial Photo Date: 2020/2021



6.13



BOA-23191

19-12 13

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

Aerial Photo Date: 2020/2021



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