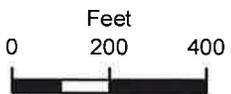


**CBOA-2834**

4.1



19-12 20



**TULSA COUNTY BOARD OF ADJUSTMENT  
CASE REPORT**

**TRS:** 9220

**CASE NUMBER:** CBOA-2834

**CZM:** 45

**CASE REPORT PREPARED BY:** Robi Jones

**HEARING DATE:** 08/18/2020 1:30 PM

**APPLICANT:** Larry Hotson

**ACTION REQUESTED:** Variance to exceed the allowable square footage for accessory buildings in aggregate in an RS district (Section 240.2.E); Variance to permit a detached accessory building in the side yard in an RS district (Section 420.2-A.2); Variance to permit a detached accessory building to encroach upon the minimum building setback line (Section 420.2.A.2)

**LOCATION:** 3116 S 61 AV W

**ZONED:** RS

**AREA:** West Central Tulsa

**PRESENT USE:** Single Family with garage

**TRACT SIZE:** 0.23 acres

**LEGAL DESCRIPTION:** S50 LT 5 & S50 LT 6 BLK 4, BERRY HILL ACRES

**RELEVANT PREVIOUS ACTIONS:**

Subject Property: None Relevant

Surrounding Property:

CBOA-1483 February 1997: The Board approved a *Variance* of the required setback from 85' to 72' to permit a carport and a *Variance* to permit construction of a detached accessory building in the side yard in a RS district with conditions, on property located at 6110 W. 31<sup>st</sup> Street.

**ANALYSIS OF SURROUNDING AREA:** The subject tract is located in a residential neighborhood surrounded by RS zoning.

**STAFF COMMENTS:**

The applicant is requesting a *Variance* to exceed the allowable square footage for accessory buildings in aggregate in an RS district (Section 240.2.E); *Variance* to permit a detached accessory building in the side yard in an RS district (Section 420.2-A.2); *Variance* to permit a detached accessory building to encroach upon the minimum building setback line (Section 420.2.A.2)

Section 240.2.E permits accessory buildings in the RS district up to 750 sq. ft. of floor area in aggregate regardless of the lot size. The provision of the Code attempts to establish and maintain development intensity of the district, preserve the openness of living areas and avoid overcrowding by limiting the bulk of structures.

4.2

Section 420.2-A.2 states that detached accessory buildings shall not be located in the front or side yard or encroach upon a minimum building setback line. According to the submitted conceptual plan, one of the constructed accessory building extends into the north side yard of the existing house; the applicant has requested a variance to allow the proposed accessory building in the side-yard. The accessory building also encroaches into the minimum building setback line and appears to be 0 feet from the property line. Please note that there is a home and additional accessory building depicted on the site plan that should be demolished before the date of the Board Meeting on August 18, 2020.

The applicant provided the following statement, "I need to run electrical line to existing building."

The applicant is applying for a lot line adjustment to combine the two lots. He is wanting to be in compliance with Tulsa County Zoning code. The total aggregate square footage for the two accessory buildings appears to be 1500 sq. ft. + 364 sq. ft. (1,864 sq. ft.). The site plan also shows an additional 10' x 16' building or porch. If it is a building, the total square footage will increase to 2,024 sq. ft.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed accessory building is compatible with and non-injurious to the surrounding area.

**Sample Motion:**

"Move to \_\_\_\_\_(approve/deny) a Variance to exceed the allowable square footage for accessory buildings in aggregate in an RS district (Section 240.2.E); Variance to permit a detached accessory building in the side yard in an RS district (Section 420.2-A.2); Variance to permit a detached accessory building to encroach upon the minimum building setback line (Section 420.2.A.2)

Subject to the following conditions (if any) \_\_\_\_\_.

Finding the hardship to be \_\_\_\_\_.

In granting the Variances, the Board must find that 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 circumstance 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."

Case No. 1482 (continued)

**Protestants:** None.

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty, Looney "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a county maintained public street. **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 9; per plan submitted; finding that the road is existing, but is not maintained by Tulsa County; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

W/2, SE, SW, SW, Sec. 31, T-19-N, R-12-E, lying N of railroad right-of-way & Less S 50' dedicated for road, Tulsa County, Oklahoma.

**Case No. 1483**

**Action Requested:**

Special Exception to permit a carport in an RS district. **SECTION 240.2H. PERMITTED YARD OBSTRUCTIONS**, a Variance of required setback from 85' to 55' to permit a carport. **SECTION 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS; SECTION 420.2.A.2 ACCESSORY USES IN RESIDENTIAL DISTRICTS** and a Variance to permit construction of a detached accessory building in the side yard in a RS district. **SECTION 410.2.A.2. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 6110 West 31st Street South.

**Presentation:**

The applicant, **Dale McDaniel**, 6110 West 31st Street, Berryhill, submitted a site plan (Exhibit C-1) and an application for a building permit (Exhibit C-2). Mr. McDaniel stated he would like to build a detached garage with a carport, which will cover the walk to his front entry way. He explained he needed the carport to stay out of the weather.

**Comments and Questions:**

Mr. Walker asked the applicant if the garage is an existing structure? He answered negatively.

In response to Mr. Walker, Mr. McDaniel stated the garage will be 10' from the house. He explained that the reason for setting 10' off from the house is because the eaves fall the same way and the two roofs cannot be connected.

Case No. 1483 (continued)

Mr. Walker asked the applicant if he has a garage currently? He stated he does not have a garage but he does have an 8'x10' shed for storage. He explained that the carport would be tied in to the front entry way of his home so that he can enter his home without getting in the weather.

In response to Mr. Beach, Mr. McDaniel stated the garage will be 24'x30' and the carport will be 24'x20'.

Mr. Walker asked the applicant why he wanted to set closer to the street than what is allowed? Mr. McDaniel indicated that there was one garage down the street that sets approximately 50' to 60' from the centerline of the road. He explained that the reason for setting so close to the road is because the only entrance to his home is through the front door. He indicated the backdoor is on the far right side of his home. He stated the garage will be 85' from the road.

Mr. Tyndall stated he didn't understand why the garage could not be built farther back on the subject property.

In response to Mr. Tyndall, Mr. McDaniel stated if he built the garage farther back and had a carport, then he would be building over his lateral lines. He further stated he would still have to leave the carport and be in the weather to get to his front door, which would be defeating his purpose. Mr. McDaniel explained that his wife and niece have illnesses, which require that they be able to load into a car out of the weather.

Mr. McDaniel stated that if he built the garage where the building inspector indicated and installed the carport in between his home and garage, he still wouldn't be out of the weather when entering and exiting his vehicles.

Mr. Walker asked the applicant what his side yard dimensions will be? He stated it is 40' to the property line.

Mr. Tyndall commented the carport should be moved back even with the entry and that should solve the problem.

Mr. Walker suggested the carport be aligned with the front porch of the home and that would push the garage back further. He stated the 85' relief would change to 72'.

Mr. Beach asked the applicant if there is a reason why he cannot attach the garage to the house? Mr. McDaniel stated the garage will have metal roofing and the roof on his home is shingled.

Mr. Beach stated the existing house encroaches on the setback.

Case No. 1483 (continued)

**Protestants:** None.

**Board Action:**

On **MOTION** of **ELLER**, the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty, Looney "absent") to **STRIKE** the **Special Exception** to permit a carport in an RS district. **SECTION 240.2H. PERMITTED YARD OBSTRUCTIONS**, finding that a carport in an RS district is allowed and the special exception is not necessary.

**AND**

**Board Action:**

On **MOTION** of **TYNDALL**, the Board voted 3-0-0 (Eller, Tyndall, Walker, "aye"; no "nays", no "abstentions"; Alberty, Looney "absent") to **APPROVE** a **Variance** of required setback from 85' to 72' to permit a carport. **SECTION 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS; SECTION 420.2.A.2 ACCESSORY USES IN RESIDENTIAL DISTRICTS** and a **Variance** to permit construction of a detached accessory building in the side yard in a RS district. **SECTION 410.2.A.2. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6; subject to the setback being at 72' and the subject to the carport aligning with the front face of the porch; finding that the existing house and the layout of the tract prevents the garage being attached to the house; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

N 271.40', Lot 5, Block 4, Berryhill Acres, Tulsa County, Oklahoma.

**Case No. 1484**

**Action Requested:**

Special Exception to permit a church use in an OL and AG zoned district. **SECTION 610 AND 310 PRINCIPAL USES PERMITTED IN AGRICULTURE AND OFFICE DISTRICTS** - Use Unit 5, located 5161 East 171st Street.

**Presentation:**

The applicant, **B.P. Waldron**, represented by Jim Gregor, 2415 East Skelly Drive, submitted a site plan (Exhibit D-1), plot plan (Exhibit D-2) and an application for a building permit (Exhibit D-3). Mr. Gregor stated he is representing Midwest Agape Church. He explained that the church has 20 acres of land, which is 600' east of the intersection of 171st and Yale. Mr. Gregor stated the tract of land is presently zoned AG. Mr. Gregor explained that the church would like to rezone the 20 acres to start the first phase of the church, which will be a five (5) phase project. He stated the church is requesting this variance to start the first phase of this project.



W 27 ST S

S 57 W AVE

W 31st ST S

S 65th W AVE

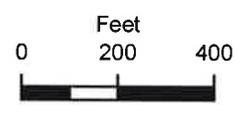
S 59 W AVE

S 63 W AVE

W 33 ST S

W 34 ST S

S 61 W AVE



Subject Tract

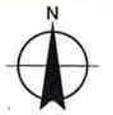
**CBOA-2834**

19-12 20

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

Aerial Photo Date: February 2018

4.7





W 31st ST S

S 61 WAVE



Subject Tract

**CBOA-2834**

19-12 20

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

Aerial Photo Date: February 2018

4.8





*Looking north in an aerial view of property*



*Accessory building - looking south from S. 61st W. Ave.*



97' 26' 77'



S 61st W Ave

3116

19'x26'  
PORCH  
12'x26'

DEMO  
14'x40'

150'

50'

100'

10'7"

25'

DEMO  
16'x20'

10'  
x  
16'

49'8"

45'

15'

30'x50'

46'

55'8"

3118

100'

76'8"

62'

62'

21'

71'

19'

4.10

61'

PROPOSED ELECTRIC  
LINE