TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT

TRS: 2429
CZM: 75

CASE NUMBER: CBOA-2857
CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 02/16/2021 1:30 PM

APPLICANT: Rick Clark

ACTION REQUESTED: New Request: Variance to allow the total combined floor area of accessory buildings to exceed 750 SF in an RS district (Section 240.2-E); and a Variance to permit a detached accessory building in the front yard in an RS district (Section 420.2-A.2).

Original Request: Use Variance to allow (Use Unit 23 - Section 1223) storage of personal items; and Variance to allow the total combined floor area of accessory buildings to exceed 750 SF in the RS district (Section 240.2-E)

LOCATION: 11802 E. 140th St. N.

ZONED: RS

FENCENAME: Collinsville

PRESENT USE: Vacant

TRACT SIZE: 1.93 acres

LEGAL DESCRIPTION: LTS 1 TO 12 INCL BLK 17, HIGHLAND PARK ADDN

RELEVANT PREVIOUS ACTIONS: None relevant

ANALYSIS OF SURROUNDING AREA: The subject tract abuts RS zoning in all directions. It is located in a rural area with both residential uses and vacant properties.

STAFF COMMENTS:

New Comments:

Request for a continuance until 2/16/2021 was approved at the 1/19/2021 meeting. The applicant has submitted a new site plan to include a 30’ x 40’ shop in the front yard. The case was re-noticed with the change in request.

Comments for 01.19.2021:

The applicant has requested a continuance to the 2/16/2021 meeting. He is still working with the county to place a double-wide mobile home one the property. He has an existing right-of-way that runs through his property, so he is also working with the county engineer’s office to request that the right-of-way be closed. According to the new site plan, we will need to re-notice for the February meeting due to the applicant’s request to place the accessory building in the front yard. It will require further action from the Board as accessory buildings are not allowed by right in the front or side yards. The Use Variance to allow storage of personal items will not be required as the new single-family dwelling unit would allow storage of personal items by right. The new request will be the following:
Variance to allow the total combined floor area of accessory buildings to exceed 750 SF in the RS district (Section 240.2-E); and Variance to permit a detached accessory building in the front yard in an RS district (Section 420.2-A.2).

Comments for 12.15.20:

The case was continued 60 days, until 12/15/2020 to give the applicant time to make plans for the house he would build on the property and to submit a site plan showing the new residence.

The applicant has informed staff that he is looking into purchasing a double-wide manufactured home to place on the property. He is also planning to reduce the size of the accessory structure to approximately 1,600 square feet (see attached email).

Original Comments:

The applicant is before the Board requesting a Use Variance to allow (Use Unit 23 - Section 1223) storage of personal items; and Variance to allow the total combined floor area of accessory buildings to exceed 750 SF in the RS district (Section 240.2-E).

A Use Variance is required because a storage facility (Use Unit 23) is a use that is prohibited in the RS district. As a safeguard for the surrounding neighborhood, the Code requires that a screening fence or wall be constructed along the lot line(s) in common with an R-zoned lot.

The applicant provided the following statement:

"I purchased this property from my Parents to build a retirement living situation. I am 61 and am looking to retire on this piece of land in the next few years. The building currently being planned is solely to store personal items and to utilize for my retirement. At some point there will be a home built on this same property for my personal use within the next few years. The planned building is the minimum size requirement needed to hold my personal belongings. This space will also be utilized to allow remodel of my current home during the remodel proceedings.

The planned structure will be purposely hidden from view from the road. This is desirable feature to deter theft and keep privacy to a maximum.

The placement for the proposed building is as far south on the property as it can be placed due to terrain a terrain issue. The property features a steep hillside slope.

The properties surrounding this location are a diverse mix of metal buildings, houses, and farmland with livestock. Located within site of this property are multiple large, residential structures similar to the proposed building, all being used for similar situations.

There are no issues in the foreseeable future that would be a detriment to the surrounding property owners.

Also, properties surrounding this location are at least one acre and have houses built on them. It would not be feasible for residential tract development.

Located 0.4 miles and adjacent cross ways to the east from this property is a large metal structure. There are also two very large commercial businesses within a half a mile of this location that are far larger than this proposed personal use building."
Section 240.2.E permits accessory buildings in the RS district up to 750 SF of floor area. 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. According to the site plan, the proposed building will be 40' x 80' (3,200 SF).

If inclined to approve the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed use is compatible with the surrounding area. The Board may consider prohibiting outside storage of materials or personal items on the lot.

Sample Motion:

“Move to _______ (approve/deny) a Variance to allow the total combined floor area of accessory buildings to exceed 750 SF in an RS district (Section 240.2-E); and a Variance to permit a detached accessory building in the front yard in an RS district (Section 420.2-A.2).

Subject to the following conditions, if any: ____________________.

Finding the hardship to be ________.

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.”
Action Requested:
Use Variance to allow storage of personal items (Use Unit 23 - Section 1223); Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E). LOCATION: 11802 East 140th Street North

Presentation:
The applicant was not present.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On MOTION of HUTCHINSON, the Board voted 4-0-0 (Crall, Hutchinson, Johnston, Tisdale “aye”; no “nays”; no “abstentions”; Charney “absent”) to CONTINUE the request for a Use Variance to allow storage of personal items (Use Unit 23 - Section 1223); Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E) to the January 19, 2021 Board of Adjustment meeting; for the following property:

LTS 1 TO 12 INCL BLK 17, HIGHLAND PARK ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA
UNFINISHED BUSINESS

2857—Rick Clark

Action Requested:
Use Variance to allow storage of personal items (Use Unit 23 - Section 1223); Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E). LOCATION: 11802 East 140th Street North

Presentation:
The applicant was not present. Mr. Hutchinson moved this case to the end of the agenda.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
No Board action required at this time; for the following property:

LTS 1 TO 12 INCL BLK 17, HIGHLAND PARK ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW APPLICATIONS

2859—Canady Trailers – Devon Rogers

Action Requested:
Variance from the all-weather parking surface requirement (Section 1340.D).
LOCATION: 11415 West 61st Street South

Presentation:
Devon Rogers, 9333 West 51st Street, Tulsa, OK; stated he would like to build a new retail facility on the subject property. There are a lot of customers that bring in trailers for repair and they are occasionally dragging a hub, a wheel, or an axle on the ground and if there had to be concrete or asphalt that action would severely damage the material. All of the surrounding businesses in the area have gravel lots to park their equipment. Mr. Rogers stated that his product would be open utility trailers that weigh from 1,000 pounds up to 8,000 pounds. Mr. Rogers stated that he has had gravel lots at his other locations and it works out very well. He maintains those lots with a grader.
Action Requested:
Use Variance to allow (Use Unit 23 - Section 1223) storage of personal items;
Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E). LOCATION: 11802 East 140th Street North

Mr. Hutchinson recused and left the meeting at 3:53 P.M.

Presentation:
Rick Clark, 10517 East 136th Street, Collinsville, OK; stated he purchased this three acres from his parents and wants to build his retirement home on the property; currently he lives a mile away. His plan and desire is to build a 40 x 80 pole barn for his own use to store building materials in to build the future house and there would be no commercial use. Mr. Clark stated he has spoken to four of the closest neighbors and they have no objections to this proposal. The only objection that he is aware of is the e-mail that was sent yesterday from a property to the south that no one lives in and no one has lived in it for about 20 years. The area is considered agricultural.

Mr. Charney stated that very often accessory buildings are accessory to a dwelling. The Board has often struggled with requests to build the accessory building first because it is not accessory to anything yet. Mr. Clark stated he lives a mile away and this will be a gradual process of transitioning his belongings. He may be doing the process in reverse order, but he really needs to have a place to store building materials and personal items.

Mr. Charney stated that if a building is accessory to a residence in a residentially zoned area on large tracts, he does not know if the Board has granted this to be done before the house.

Ms. Miller stated the Use Variance is to address that issue. A Use Variance is to allow the storage of personal items, so that addresses the fact that this would be storage. It is interesting that the second request is for an accessory building. Ms. Robi Jones stated that due to the size of the building the accessory building Variance had to be requested. Ms. Miller asked Ms. Jones if she had to request the Use Variance because there was not an existing house on the property. Ms. Jones answered affirmatively, that was the only thing that could be requested. Ms. Miller stated that even though this is not an accessory building it is still an RS District and that is a safe request if there is to be a future residence.

Mr. Clark stated that he would be wasting the Board's time and his money if he did not build a house on the property. He has no other use for the property other than to live on it. If he puts a building on it with the intent of reselling it, he thinks it would be a negative gain.
Mr. Johnston stated that he does not know if he can be in favor of this request, but one point to be made is that the applicant could invest in a set of plans that show what he plans to build, present a site plan to show where the house and building are to be located, but he could not promise the Board would approve the request at that point. A financial commitment, even if it is toward a house plan, in showing how this would fit on the site overall would help.

Mr. Tisdale stated the concern he has the proximity of how close the applicant lives to the property now, there is no incentive to move quickly. He is not questioning the applicant’s integrity but taking into consideration the proximity of the applicant’s current residence.

Mr. Charney stated that normally when the Board approves accessory buildings that are larger the Board is provided the whole site plan; where does the house sit, where is the ingress and egress, what is the drive back to the accessory building in conjunction with the residence. What the Board has now is just an indication of how this particular 40 x 80 structure would be situated on the property. The Board is hesitant to grant a request for a building in a residential location not knowing where the building is actually placed, what it looks like, where the ingress/egress is in relation to the house and the building, etc.

Mr. Clark stated that he has already committed to a realtor to sell his existing house so he can pay for the new house and the new building. The only reason he has not fully committed is because he does not know how long it will take to sell his existing house, even the realtor says it is a great market.

Mr. Charney stated that an option might be a continuance so a site plan can be brought back to the Board for review.

Interested Parties:
Angela Jackson and Richard Tanner, 2417 Avenue M, Galveston, TX; stated she submitted an e-mail stating objections to the request. Ms. Jackson stated her father is the landowner to the south of the subject site. This appears to be a warehouse for storage that is much larger than the allowed. She does not want a warehouse in a residential area.

Rebuttal:
Rick Clark came forward and stated that the Tanner property has been vacant for at least 20 years and it is severely depleted. Mr. Clark stated that he does not understand how someone that has lived in Galveston for the last 29 years can have an objection to his request.
Comments and Questions:
Mr. Johnston stated that if the Board approves this request and something happens to Mr. Clark or his situation and the house is never built, then what happens? That is a major concern. He would prefer Mr. Clark request a continuance.

Mr. Charmey and Mr. Tisdale agreed.

Board Action:
On MOTION of CHARNEY, the Board voted 3-0-1 (Charney, Johnston, Tisdale "aye"; no "nays"; Hutchinson "abstaining"; Crall "absent") to CONTINUE the request for a Use Variance to allow (Use Unit 23 - Section 1223) storage of personal items; Variance to allow the total combined floor area of accessory buildings to exceed 750 square feet in the RS District (Section 240.2-E) to the December 15, 2020 Board of Adjustment meeting; for the following property:

LTS 1 TO 12 INCL BLK 17, HIGHLAND PARK ADDN, OF TULSA COUNTY, STATE OF OKLAHOMA

Mr. Hutchinson re-entered the meeting at 4:21 P.M.

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OTHER BUSINESS

Review and approval of the 2021 meeting schedule.

Board Action:
On MOTION of CHARNEY, the Board voted 4-0-0 (Charney, Hutchinson, Johnston, Tisdale "aye"; no "nays"; no "abstentions"; Crall absent) to APPROVE the 2021 calendar schedule for the Board of Adjustment meeting.

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Looking south at subject property from East 140th Street North

Looking slightly southeast into the subject property from East 140th Street North
Looking east down East 140th Street North from the subject property

Looking west down East 140th Street North from the subject property
I submitted a request for a double wide this week to Lucky. I don't know what a lot combination is therefore I haven't applied for one. Do I need to? My shop size will be sized down to approximately 1200-2000 square feet. I really need another extension into February so I can firm the details up. Is it possible? I've been distracted due to the murder of my son on Thanksgiving and taking care of my elderly parents. Thank you for checking on me.
Aerial view looking south onto the (approximate) subject property from E. 140th St. N.
This beam TOE will only be 20' centered on 10' wall.

Move entry door west under canopy.
I drove around within a half mile of my property and found several apparent zoning violations. The single wide mobile home was just delivered yesterday (?) to 11426 E 137th St. It previously had a house on it. The photo of the 3 horses were taken from the spot I want to construct my pole barn looking east across our shared fence. Their home is a manufactured double wide. Roberts at 11914 E 140th St, zoned residential. Also in the photograph you can see the fire department (metal building), the Storm Safe Rooms company, J&K Equipment and Collinsville Livestock Sales. Please take these into consideration for my application, I will be sending more in the next few days. Thank you, Rick Clark
TO: Board of Adjustment, County of Tulsa, Oklahoma

From: Richard P. Tanner, Owner of adjacent property at 1202 S. 12th Street, Collinsville, Oklahoma

Subject: Use Variance to allow (Use Unit 23-Section 1223) storage of personal items; and variance to allow total combined floor area of accessory buildings to exceed 750 SF in the RS district (Section 240.2-E) at 11802 E. 140th St. N., Collinsville Oklahoma.

Good Afternoon Board Members and interested parties:

As owner of the property directly south of the subject lots, I strongly oppose the approval of this variance application to allow Mr. Clark to build a 3,200 square feet warehouse and required off street parking in the middle of this zoned residential (RS) neighborhood.

Use Unit 12-Section 1223 describes warehousing adjacent to a central business district, in industrial parks and port areas. These two lots are not abutting the boundary of our residential district. The lots are right in the middle of the neighborhood and have many residential homes surrounding the proposed site of the warehouse. At 3,200 square feet, the warehouse is 4.3 times larger than the 750 square feet limit. A screening wall will not block out the noise and disruption to the tranquility of our neighborhood.

Approving this variance request will violate several provisions of Chapter 4 Section 400 Purposes of Residential Districts:

400.1 General Provisions
The Residential Districts are designed to:
A. Achieve the residential objectives of the Comprehensive Plan.
B. Protect the character of residential areas by excluding inharmonious commercial and industrial activities.
D. Preserve openness of the living areas and avoid overcrowding by requiring minimum yards, open spaces, lot areas, and by limiting bulk structures.

400.3 Purposes of the RS Residential Single-Family District
The RS District is designed to permit and conserve single-family detached dwellings in suitable environments at urban densities.

Specifically to my property, the lots sit at a much higher elevation than mine. Erecting a 3,200 square feet warehouse with required driveways and parking will turn these lots into impervious land that will adversely affect the flow of rainwater onto and flooding my property.

I urge the board to deny Mr. Clark’s variance application and allow our neighborhood to remain a residential area.

Thank you for your time and consideration,
Richard P. Tanner
2417 Avenue M
Galveston Tx. 77550
Agent in Fact:
Angela Jackson
2417 Avenue M
Galveston Tx. 77550
713-927-0032
From: Janet Sparger
Sent: Tuesday, October 20, 2020 8:45 AM
To: Robi Jones; David Charney; Don.Crall@tulsacc.edu; Don Hutchinson; William Tisdale; lwjslj@sbcglobal.net; Miller, Susan; Sparger, Janet; ttosh@tulsacounty.org; James Rea
Cc: David Charney; Don.Crall@tulsacc.edu; Don Hutchinson; William Tisdale; lwjslj@sbcglobal.net; Miller, Susan; Sparger, Janet; ttosh@tulsacounty.org; James Rea
Subject: FW: Subject: Objection to Case Number: CBOA-2857, Applicant Rick Clark

From: Rick <clarkrick@yahoo.com>
Sent: Monday, October 19, 2020 11:24 PM
To: Robi Jones <rjones@incog.org>
Subject: Re: Subject: Objection to Case Number: CBOA-2857, Applicant Rick Clark

Please enclose these photos of the abandoned home of the Tanner property. The roof appears to be in disrepair and the home has been empty many years. It appears the only objection has been by someone who doesn't take care of their own property and has grossly misrepresented my plans for my pole barn by calling it a warehouse.
On Mon, Oct 19, 2020 at 1:29 PM, Rick<br><clarkrick@yahoo.com> wrote:

The Tanner property has sat empty for longer than I can remember. 30 years? And Mr Tanner is around 90 years of age and last time I talked with him approximately 2 years ago he was living in Sand Springs. There are numerous abandoned automobiles and equipment in disrepair. I strongly suspect the objection was sent by his daughter who I've been told lives in Galveston.

On Mon, Oct 19, 2020 at 1:11 PM, Jones, Robi <rjones@incog.org> wrote:

This email arrived today and will be forwarded to the Board.

Robi Jones
Community Planner
County Board of Adjustment Administrator
Tulsa Planning Office
2 W. 2nd St., 8th Floor | Tulsa, OK 74103
918.579.9472
rjones@incog.org

From: RONALD JACKSON <ronjack18@hotmail.com>
Sent: Monday, October 19, 2020 11:38 AM
To: esubmit <esubmit@incog.org>; rjones@incog.org
Subject: Subject: Objection to Case Number: CBOA-2857, Applicant Rick Clark
TO: Board of Adjustment, County of Tulsa, Oklahoma

From: Richard P. Tanner, Owner of adjacent property at 1202 S. 12th Street, Collinsville, Oklahoma

Subject: Use Variance to allow (Use Unit 23-Section 1223) storage of personal items; and variance to allow total combined floor area of accessory buildings to exceed 750 SF in the RS district (Section 240.2-E) at 11802 E. 140th St. N., Collinsville Oklahoma.

Good Afternoon Board Members and interested parties:

As owner of the property directly south of the subject lots, I strongly oppose the approval of this variance application to allow Mr. Clark to build a 3,200 square feet warehouse and required off street parking in the middle of this zoned residential (RS) neighborhood.

Use Unit 12-Section 1223 describes warehousing adjacent to a central business district, in industrial parks and port areas. These two lots are not abutting the boundary of our residential district. The lots are right in the middle of the neighborhood and have many residential homes surrounding the proposed site of the warehouse. At 3,200 square feet, the warehouse is 4.3 times larger than the 750 square feet limit. A screening wall will not block out the noise and disruption to the tranquility of our neighborhood.

Approving this variance request will violate several provisions of Chapter 4 Section 400 Purposes of Residential Districts:

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B. Protect the character of residential areas by excluding inharmonious commercial and industrial activities.
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400.3 Purposes of the RS Residential Single-Family District

The RS District is designed to permit and conserve single-family detached dwellings in suitable environments at urban densities.
Specifically to my property, the lots sit at a much higher elevation than mine. Erecting a 3,200 square feet warehouse with required driveways and parking will turn these lots into impervious land that will adversely affect the flow of rainwater onto and flooding my property.

I urge the board to deny Mr. Clark’s variance application and allow our neighborhood to remain a residential area.

Thank you for your time and consideration,

Richard P. Tanner
2417 Avenue M
Galveston Tx. 77550

Agent in Fact:
Angela Jackson
2417 Avenue M
Galveston Tx. 77550
713-927-0032
TO: Board of Adjustment, County of Tulsa, Oklahoma

From: Richard P. Tanner, Owner of adjacent property at 1202 S. 12th Street, Collinsville, Oklahoma

Subject: Objection to Case Number: CBOA-2857- Revised Site Plan, Applicant Rick Clark

TO: Board

Sent: Tuesday, February 9, 2021 1:32 PM

From: Sparger, Janet

TO: Board

Sent: Tuesday, February 9, 2021 1:32 PM

Subject: Objection to Case Number: CBOA-2857- Revised Site Plan, Applicant Rick Clark

TO: Board of Adjustment, County of Tulsa, Oklahoma

From: Richard P. Tanner, Owner of adjacent property at 1202 S. 12th Street, Collinsville, Oklahoma

Action Requested: Variance to allow the total combined floor area of accessory buildings to exceed 750 SF in an RS district (Section 240.2-E); Variance to permit a detached accessory building in the front yard in an RS district (Section 420.2-A.2) at 11802 E. 140th St. N., Collinsville Oklahoma.

Good Afternoon Board Members and interested parties:

As owner of the property directly south of the subject lots, I strongly oppose the approval of this variance application to allow Mr. Clark to build a 1,500 SF Shop in the front yard of this zoned residential (RS) neighborhood. Upon review of the modified site plan submitted 1-22-2021, it appears that the square footage of the 3,200 SF pole barn structure has been split into 2 buildings: a 1,500 SF shop and a 2,356 SF modular building. The site plan does not specify that the modular building is to be used as the family residence.

Section 240.2-E states accessory buildings may be located in the back yard and may not exceed 750 SF. Section 420.2-A-2 states a detached accessory building shall not be located in the front or side yard. At 1,500 SF, the shop is 2 times larger than the 750 SF limit. Many residential homes surround Mr. Clark’s lots and a shop in front of a home disrupts the character of the neighborhood. The layout of a large shop in front of a residence lends itself to setting up a commercial business now or in the future.

Approving this variance request will violate several provisions of Chapter 4 Section 400 Purposes of Residential Districts:

400.1 General Provisions
The Residential Districts are designed to:
A. Achieve the residential objectives of the Comprehensive Plan.
B. Protect the character of residential areas by excluding inharmonious commercial and industrial activities.
D. Preserve openness of the living areas and avoid overcrowding by requiring minimum yards, open spaces, lot areas, and by limiting bulk structures.

400.3 Purposes of the RS Residential Single-Family District
The RS District is designed to permit and conserve single-family detached dwellings in suitable environments at urban densities.

Specifically to my property, the lots sit at a much higher elevation than mine. Erecting buildings with a combined 3,856 SF with required driveways and parking may turn these lots into impervious land that will adversely affect the flow of rainwater onto my property. I would like an assurance that a drainage plan will be required to alleviate any flooding issues.

I urge the board to deny Mr. Clark’s variance application and require him to abide by the provisions set forth to build in a residential area.

Thank you for your time and consideration,

Richard P. Tanner
2417 Avenue M
Galveston Tx. 77550
New Site Plan
1-22-2021