

**BOA-22982**

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**BOARD OF ADJUSTMENT  
CASE REPORT**

**STR:** 9319

Case Number: **BOA-22982**

**CZM:** 47

**CD:** 9

**HEARING DATE:** 9/22/2020 (Continued from 09/08/2020) 1:00 PM

**APPLICANT:** Greg Hollinger

**ACTION REQUESTED:** Variance of the required 25' rear setback (Sec. 5.030, Table 5-3).

**LOCATION:** 2103 E 37 ST S

**ZONED:** RS-2

**PRESENT USE:** Residential

**TRACT SIZE:** 21714.75 SQ FT

**LEGAL DESCRIPTION:** PRT LT 2 BEG 112.80SW NEC TH SW155.70 W53.3 CRV RT 66.8 NE106.80 E92.80 POB & PRT VAC TERWILLEGER BLVD BEG 53.3W SECR TH W45.41 CRV RT 82.88 NELY98.05 E52.87 SLY TO POB BLK 6, HIGHLAND PARK EST, LEWIS ROAD ESTATES PRT B6-9 HIGHLAND PARK EST AMD B6-9

**RELEVANT PREVIOUS ACTIONS:**

**Subject property:** None.

**Surrounding properties:**

**BOA-20929:** On 5.26.09 the Board **approved** a Minor Exception to reduce the front yard setback from 30' to 28.2' in an RS-2 District. Property located 3644 Terwilliger Boulevard.

**BOA-17613:** On 01.14.97 the Board **approved** a variance of the required 30' frontage from 20' to 30' to permit a lot split. Property located at the intersection 37<sup>th</sup> Street South and Terwilliger Boulevard. The split property appears to remain undeveloped.

**BOA-16920:** On 01.24.95 the Board **approved** a variance to permit a two-story detached accessory building and variance of the maximum 750 sq. ft. for a detached accessory building. Property located 3750 Terwilliger Boulevard.

**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-

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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 at the NE/c of E. 37<sup>th</sup> St. S. and Terwilliger Boulevard.

**STAFF COMMENTS:** The applicant is requesting a **Variance** of the required 25' rear setback (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
<b>Minimum Lot Area (sq. ft.)</b>													
Detached house	22,500	13,500	9,000	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	5,500
Patio house	-	-	-	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	-
Townhouse	-	-	-	4,500	4,500	2,200	2,750	1,600	1,600	1,600	1,600	1,600	-
Cottage house dev't	-	-	-	-	-	15,000	15,000	15,000	15,000	15,000	15,000	15,000	-
Duplex	-	-	-	9,000	9,000	3,300	6,900	6,900	6,900	6,900	6,900	6,900	-
Multi-unit house	-	-	-	-	-	3,300	6,900	5,500	5,500	5,500	5,500	5,500	-
Apartment/condo	-	-	-	-	-	-	-	-	10,000	10,000	6,000	24,000	-
Mobile home park	-	-	-	-	-	-	-	-	-	-	-	-	(1)
<b>Other allowed buildings/uses</b>													
Permitted by right	22,500	13,500	9,000	6,900	5,500	5,500	5,500	5,500	5,500	5,500	5,500	5,500	5,500
Special exceptions	22,500	13,500	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000
<b>Min. Lot Area per Unit (sq. ft.)</b>													
Detached house	22,500	13,500	9,000	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	-
Patio house	-	-	-	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	-
Townhouse	-	-	-	4,500	4,500	2,200	2,750	1,600	1,600	1,600	1,600	1,600	-
Cottage house dev't	-	-	-	-	-	2,750	2,750	2,750	2,750	2,750	2,750	2,750	-
Duplex	-	-	-	4,500	4,500	1,650	3,450	3,450	3,450	3,450	3,450	3,450	-
Multi-unit house	-	-	-	-	-	1,100	1,800	1,800	1,800	1,375	1,100	900	-
Apartment/condo	-	-	-	-	-	-	-	-	2,900	1,750	1,100	400	-
<b>Other allowed buildings/uses</b>													
Permitted by right	-	-	-	-	-	-	-	-	5,500	5,500	5,500	5,500	5,500
Special exceptions	22,500	13,500	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	
<b>Minimum Lot Width (ft.)</b>													
Detached house	150	100	75	60	50	30	50	50	50	50	50	50	-
Patio house	-	-	-	60	50	30	50	50	50	50	50	50	-
Townhouse	-	-	-	30	30	20	25	20	20	20	20	20	-
Cottage house dev't	-	-	-	-	-	75	75	75	75	75	75	75	-
Duplex	-	-	-	75	75	30	60	60	60	60	60	60	-
Multi-unit house	-	-	-	-	-	30	50	50	50	50	50	50	-
Apartment/condo	-	-	-	-	-	-	-	-	100	100	50	100	-
<b>Other allowed buildings/uses</b>													
Permitted by right	150	100	75	60	50	50	50	50	50	50	50	50	50
Special exceptions	150	100	100	100	100	100	100	100	100	100	100	100	100
<b>Minimum Street Frontage</b>													
Residential bldgs/uses (2)	30	30	30	30	30	30	30	30	30	30	30	30	30
<b>Min. Building Setbacks (ft.)</b>													
Street (3)													
Arterial or <i>fwy</i> service rd.	35	35	35	35	35	35	35	35	35	35	35	35	35
Other streets	35	35	30	25	20	20	25	10	25	25	10	25	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
<b>Min. Open Sp./Unit (sq. ft.)</b>													
	12,000	7,000	5,000	4,000(8)	2,500	600	2,000	1,200	1,200	600	200	-	2,500

**STATEMENT OF HARDSHIP:** The applicant provided a statement of Hardship in support of their variance request which in included with your packet

**SAMPLE MOTION:**

**VARIANCE:**

Move to \_\_\_\_\_ (approve/deny) a **Variance** of the required 25' rear setback (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:

- 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."*

**Board Action:**

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Refund for \$233.00, finding the application was not processed.

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**Case No. 20929**

**Action Requested:**

Minor Special Exception to reduce the required front yard from 30 ft. to 28.2 ft. in an RS-2 district (Section 403.A.7); to permit the existing dwelling, located: 3644 Terwilliger Boulevard.

**Presentation:**

**Mark Nelson**, 2125 East 31<sup>st</sup> Street, stated they built the existing house on the subject property. He added they took care to stay within the 30 ft. setback. Somewhere in the construction phase the front porch section was 1.8 ft. over the setback line. This needs to be cleared to complete the sale of the house. The neighbors support the application, as it is to clear title only (Exhibit D-1).

**Interested Parties:**

**George Bullock**, 2025 East 37<sup>th</sup> Street, expressed his complaints that this home has been vacant for three years. He had to re-design his own plans to fit the zoning code. He understood the alternatives but he desired to speak.

**Joe Trotter**, is also a neighbor to the south, and had numerous complaints about the construction phase, including erosion, materials and other items placed on his property.

**Applicant's Rebuttal:**

Mr. Nelson made an apology for the offenses by the construction. He stated the encroachment was unintentional. He mentioned that the front porch overhang has a bathroom above it. He stated his company designs the homes not construct them. They simply want to clear the title and close the sale. He stated the home was designed to stay within the 30 ft. setback.

FILE COPY

**Board Action:**

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Minor Special Exception to reduce the required front yard from 30 ft. to 28.2 ft. in an RS-2 district. (Section 403.A.7); to permit the existing dwelling as built, and the approval is limited to only the portion that was overbuilt, on the following described property:

PT LT 5 BLK 5 BEG SW COR TH E 130 N 123 W 133 TO W L S 117.9 TO BEG, HIGHLAND PARK EST, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 17612 (continued)

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the required parking for an adult entertainment establishment from 23 to 14. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to approval for three years, finding that the subject property is non-conforming and has been established for five (5) years; finding that the use is not changing, but the owner is applying for a liquor license; 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:

Lots 26-29, Block 2, Federal Heights, City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 17613**

**Mr. White announced that he will be abstaining from this case.**

**Action Requested:**

Variance of required 30' of frontage to 0' to permit a lot split or in the alternative, a Variance of required 30' of frontage to 20' to permit a lot split. **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6, located 38th & South Yorktown.

**Presentation:**

The applicant, **Philip Doyle**, represented by Steve Turner of Turner & Associates Architect, 5550 South Lewis. Mr. Turner submitted a survey (Exhibit P-1) and an area map/plat (Exhibit P-2). Mr. Doyle stated he represents Karen Nelson, the owner of the property. He further stated he sent a letter of the proposal to the residents within 300' of the subject property. He explained that the owner would like to split the subject property into two lots. Mr. Turner stated the owner is not the same owner who came before the Board several years ago to split the same property into four lots. Mr. Turner indicated that the owner will retain the westerly lot and build a home for herself. He explained that the westerly lot will be approximately a 1/2 acre in size and the easterly lot will be 9/10 of an acre and limited to one single family residence. He commented the easterly lot will sell in excess of \$200,000. The two proposed lots will be in scale with the surrounding neighborhood. Mr. Turner stated the tract is a large tract of land (1 1/2 acres), but it is limited to 47' of frontage at Yorktown and 37th.

**Comments and Questions:**

Ms. Abbott asked the applicant if there was some type of mutual access for the lots that are being split? Mr. Turner stated there will be a 20' access easement that will go back to the westerly lot.

Case No. 17613 (continued)

Mr. Gardner stated the applicant advertised in the alternative and so the Board has a choice of which configuration they think is more appropriate. He further stated the Board will need to decide if it is appropriate to have an ownership handle versus an easement.

**Protestants:**

**Linda Bennett**, 2024 East 37th, stated she prefers one home on this lot, although two lots are acceptable to the neighborhood. She expressed concerns regarding the first option of zero frontage and prefers the 20' of frontage. She commented that traffic is a concern because of the children in the neighborhood. Ms. Bennett informed the Board that there is a 6' underground storm sewer and, in the 1984 flood, water completely submerged the access to the subject lot. She expressed concerns regarding soil erosion on the back of her lot, which abuts the subject property. She explained that the owner of the subject lot installed a 6' to 8' high fence around the subject property and it did not comply with flood zoning requirements. The owner did go back and fix the retaining wall so that flood water could flow through. Ms. Bennett stated she is concerned about what the lot split will do to the value of the property and the possibility of changing the character of the neighborhood. She expressed concerns regarding the setbacks for the proposed home on the lots. She requested the Board to use the second alternative so that the west lot has actual ownership and the frontage is split to 20'.

**Connie McFarland**, 2215 East 37th Street, stated she is across the street from the subject property. Ms. McFarland explained that she is very active with her home owner's association and that most of the neighbors are in favor of the two lots. She expressed concerns regarding the character of the neighborhood. Ms. McFarland stated she supports the 20' frontage option rather than the 0' frontage. She indicated she is concerned about the separation of the two lots and the setbacks. Ms. McFarland expressed the same concerns as Ms. Bennett. She requested that the stormwater issue be addressed before the lot split is allowed.

**Comments and Questions:**

Ms. Abbott asked the staff if the building permits would go through stormwater management regarding flooding and erosion? Mr. Gardner stated that if that is a concern the Board should make the approval subject to Stormwater Management review.

Ms. Abbott asked the staff if, in terms of setbacks for RS-2, a lot split will have to follow the normal setback regulations? Mr. Gardner stated it will have to follow the Code and if there is a panhandle then obviously the front yard becomes the yard abutting the street. He further stated that when you have an irregular shaped lot the panhandle could not be built upon, but merely functions as an access handle from the road to the lot.

Case No. 17613 (continued)

Mr. Gardner asked the applicant how he intended to get water and sewer to the lot? Mr. Gardner informed the applicant that the City of Tulsa will not accept an easement.

In response to Mr. Gardner, Mr. Turner stated it was his intention originally to have the flag lot and the Staff suggested the 0' of frontage with a mutual access easement filed of record.

Mr. Gardner stated he told the applicant that they needed to advertise in the alternative so the Board could consider the flag lot as an option. He explained that the reason he told the applicant to advertise in the alternative is because if he wants water and sewer to the lot it will have to be done with a flag lot. The City will not approve an easement to put a line across another property.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 3-0-1 (Abbott, Bolzle, Dunham, "aye"; no "nays" White "abstention"; Turnbo "absent") to **APPROVE** a **Variance** of required 30' of frontage to 20' to permit a lot split. **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6; per plan submitted; subject to a review of the drainage before any building permits issued; 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:

Tract A, W 120', Lot 8, Block 10, Highland Park Estates, an Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, Less and Except the S 18' thereof AND Tract B, Lot 8, less S 18' and less the W 120' thereof, Block 10, Highland Park Estates, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, AND W/2, of vacated Terwilliger Blvd. lying adjacent to Lot 8, Block 10, being more particularly described as : Beg. at SE/c, Lot 9, Block 10, Highland Park Estates, an addition to the City of Tulsa, Tulsa County, Oklahoma; thence SWly direction along a curve to the left having a radius of 275.93', for 210.60' to a point; thence in a Ely direction for 50.00' to a point; thence in a NEly direction along a curve to the right having a radius of 225.53', for 235.53' to a point; thence a NWly direction along a curve to the right having a radius of 175.00', for 7.92' to a point; thence in a Wly direction, for 81.64' to the place of beg., and known as 3740 S. Terwilliger Blvd.; TOGETHER WITH a tract of land more particularly described as follows: commencing at a point in the NEly boundary of Lot 9, Block 10, Highland Park Estates Addition, to the City of Tulsa, Oklahoma, and 139.6' from the NE/c thereof; thence in a SEly direction along the Sly projection of the NEly line of said Lot 9, for 66.46' to a point of curve; thence around a curve to the left, having a radius of 174.80', for 2.35' to the POB; thence continuing to the left along said curve having a radius of 174.80', for 47.31' to a point, said point being on line with the Ely projection of S boundary of said Lot 9, Block 10, Highland Park Estates Addition; thence due W along the Ely projection of said S boundary of Lot 9,

Case No. 17613 (continued)

Block 10, Highland Park Estates Addition, for 62.64'; thence N 44°16'58" E, for 44.50' to POB, AND Access Easement to Tract A: a strip of land 20' in width lying in a portion of Lot 8, Block 10, Highland Park Estates, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, and in a portion of vacated Terwilleger Blvd. lying adjacent to Lots 8 & 9, Block 10, said strip being 20' S & E of a line more particularly described as follows, to wit: Commencing at a point in the NEly boundary of Said Lot 9, 139.6' from the NE/c thereof; thence in a SEly direction, along the Sly projection of the NEly line of said Lot 9, for 66.46' to a point of curve; thence around a curve to the left, having a radius of 174.80', for 2.35' to POB; thence S 44°16'58" W, a distance of 44.50' to a point on Ely projection of the S Boundary of Said Lot 9; thence due W, along the Ely projection of said S boundary of said Lot 9, for 19.0' to the SE/c of said Lot 9, the same being the NE/c of said Lot 8; thence continuing due W, along the N line of said Lot 8, to a point 120.00' E of the NW/c of said Lot 8, said point also being the end of said strip of land.

**Case No. 17614**

**Action Requested:**

Appeal the decision of an Administrative Official that the use is classified as Use Unit 8 - Multifamily Dwelling and Similar Uses, located 245 West 12th Street.

**Presentation:**

The applicant, **James G. Norton/Downtown Tulsa Unlimited (DTU)**, 320 South Boston, Suite 101, submitted a copy of the zoning code that defines residential treatment center (Exhibit Q-1) and an application for Federal Assistance with attachments (Exhibit Q-2). Mr. Norton stated he is requesting the Board of Adjustment to interpret a decision made by a zoning official. Mr. Norton explained how DTU became established and the responsibilities of DTU. He further explained the different members of the organization. Mr. Norton stated that DTU has been registered as the neighborhood association for District 1 for the downtown area. Mr. Norton explained that DTU has a contract with the City of Tulsa to sweep the streets, clean the sidewalks, maintain the 5th & Main Malls, hang banners/Christmas decorations, to promote special events and put on festivals, etc. He further explained that the contract specifically recognizes planning and development issues. Mr. Norton stated it is DTU's obligation, under the contract with the City, to review, comment and advocate positions regarding the Comprehensive Plan, the zoning ordinance and land use issues. DTU, as an organization, has been before this Board to support similar uses in the past. He explained that DTU is currently working with two social service agencies to provide them with appropriate locations in the Downtown area. He commented that it is very important that the Board understands that the issue today is not the location of a use unit 2 use. Mr. Norton stated that the Comprehensive Plan,

Action Requested:

Variance of the required setback from the centerline of East Oklahoma and a special exception to permit Use Unit 15 Other goods and Services in a CS Zoned District - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICT** and **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15, located northeast corner of North Utica Avenue and East Oklahoma Street.

Presentation:

The applicant, **Pat Forsman**, 2251 East 24th Street, submitted a plot plan (Exhibit N-1) and informed that the building was constructed in 1929 and requested a variance of the setback from the street from 25' to 20'. He noted that the property is surrounded by CS and IL zoned parcels and the proposed use (contract construction services) will be compatible with those in the area.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of East Oklahoma and a **special exception** to permit Use Unit 15 Other goods and Services in a CS Zoned District - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICT** and **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15; per plan submitted; subject to the use being restricted to contract construction services only; finding that IL zoned property is located to the south and west and approval of the request will not be detrimental to the area or violate the spirit and intent of the Code; on the following described property:

Lots 13 and 14, Block 2, Carpenter's 1st Addition, City of Tulsa, Tulsa County, Oklahoma.

Action Requested:

Variance to permit a two-story detached accessory building and a variance of the maximum 750 sq ft for a detached accessory building - **SECTION 210.B.5. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS** and **SECTION 402.B.1.d. GENERAL CONDITIONS** - Use Unit 6, located 3750 Terwilliger Boulevard.

Case No. 16920 (continued)

**Presentation:**

The applicant, **Alan Madewell**, 5314 South Yale, Suite 210, submitted a plot plan (Exhibit P-1) and informed that a two-car garage is proposed to the rear of an existing dwelling. He explained that the existing garage will be added to the 5700 sq ft dwelling and the new structure will be buried in the hillside, with only the front face being two stories. The applicant noted that the garage is not visible from the street.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit a two-story detached accessory building and a **variance** of the maximum 750 sq ft for a detached accessory building - **SECTION 210.B.5. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS** and **SECTION 402.B.1.d. GENERAL CONDITIONS** - Use Unit 6; per plan submitted; finding a hardship demonstrated by the topography and the size of the lot; and finding that the house is large enough to warrant the granting of the variance of the size of the accessory building; on the following described property:

Lot 7 and south 18' of Lot 8, Block 10, Highland Park, City of Tulsa, Tulsa County, Oklahoma.



***Subject Property***



***Subject Property from Terwilliger***





2.14



*Subject Property from 37<sup>th</sup> St.*

**Applicant's Statement of Hardship for Variance**

**Case No. BOA-22982**

This statement is submitted by the applicant in connection with Case No. BOA-22982 in support of the variance requested in the application. The applicant has redesigned the proposed driveway so that it complies with current driveway width requirements, and so no longer needs a special exception concerning the driveway. This statement replaces and supersedes the Statements of Hardship that were initially submitted with the application.

**Request for Variance; Section 5.030-A of the Zoning Code of the City of Tulsa (the "Code")**

This property is an existing single-family residence that was built in 1932 with an under-sized two car garage and an existing single lane driveway that is only 10 feet wide. The existing garage is inadequate to hold the family's cars. The family currently has three drivers with another expected soon, as well as extended family in the area. Most family gatherings take place at the applicant's residence.

The property in question is an unusually shaped lot, with irregular boundaries. The lot fronts on East 37th Street and is bounded on the west by Terwilleger Blvd. East 37th Street makes a tight curve in front of the property, and Terwilleger Blvd. intersects that curve at an unusual angle. The result is that even without any cars parked in the street, it is difficult to see the intersection at all from 37th Street. With the closing of Riverside Drive due to Gathering Place construction, many drivers have adapted their commutes and cut through on 37th Street to get from Lewis to Utica. Many cars speed down 37th; the subject property is at the bottom of the hill. The intersection is part of a popular jogging, dog walking, and cycling path that many people from surrounding neighborhoods utilize as they come off Terwilleger and head east or west up 37th Street. There are no sidewalks in the neighborhood so people must walk in the street. With cars parked in the street on 37th, it is virtually impossible to see the intersection, all of which creates an unsafe and dangerous condition. It is unsafe not only for drivers, but also for pedestrians and cyclists on 37th Street, because they too are unable to see vehicles turning from Terwilleger Blvd. onto 37th Street. Enclosed in the package are photographs showing a typical day with cars parked on both sides of 37th Street, rendering it almost impossible to even see the intersection with Terwilleger Blvd. In addition, because of the unique layout of the lots in this area, many of the lots do not have the normal amount of street frontage. There are 4 driveways intersecting in a very tight area in front of the subject property that make ingress and egress very cumbersome when any of the neighboring homes have guests and students home from college. The result is that street parking is more of a problem than it typically would be, increasing the danger.

The applicant's contractor, Greg Hollinger, applied for a building permit for the garage addition in December of 2018. After issues relating to hydrology studies and utility easements were resolved, the building permit was issued by the City of Tulsa on October 1, 2019. Unfortunately, a mistake was made on the plans when they were prepared. The plans showed the garage addition being located approximately 15 feet from the rear of the lot. However, the setback requirement in Section 5.030-A of the Code for residences in RS-2 zoning is 25 feet.

Mr. Hollinger failed to catch the mistake, and the City permitting office did not notice it. As a result, the permit was issued and construction of the garage addition began.

After complaints by neighbors that were apparently related to the hydrology issues which had already been resolved, the City realized the errors and issued a stop work order on July 20, 2020. At that point, the project had been substantially completed, including slab, framing, insulation, windows, and roof installation. Mr. Hollinger immediately stopped work on the project and filed this application with the Board.

The garage addition is designed to be completely compatible with the traditional design of the existing residence. It will have the same brick exterior and roof materials, and will even have the same type of eave molding that is used in the current residence. Mr. Hollinger's goal from the beginning of the project was to be very sensitive to the impact on the neighborhood and the aesthetic quality of the material on the facade of the structure so that it will match the existing residence. Once the project is completed, no one will be able to tell that it is an addition.

In this case, the literal enforcement of the Code provision is not necessary to achieve the setback requirement's intended purpose. The subject property's rear lot line is the side lot line of the property immediately to the north, which was split off from the subject property in a lot split. Thus, the backyard in the property to the north will not be affected by the proposed addition. Instead, it is only the driveway side yard on the property to the north that is adjacent to the requested variance. There is a significant existing high-quality masonry and wrought iron fence between the two properties. The applicant is willing to add additional screening between that fence line and the street in order to further lessen the impact of the proposed addition.

In summary, the unusual shape and orientation of this lot, and the unusual arrangement of the intersection of 37th Street and Terwilleger with its attendant safety problems and risks of accidents, are unique to this property. Granting the requested variance would help alleviate an unnecessary hardship or practical difficulty that would be caused by strict enforcement of the Code requirements in this particular case.

**Jeff S. Taylor**  
Zoning Official  
Plans Examiner III  
TEL(918) 596-7637  
jstaylor@cityoftulsa.org



## DEVELOPMENT SERVICES

175 EAST 2<sup>nd</sup> STREET, SUITE 450  
TULSA, OKLAHOMA 74103

### ZONING CLEARANCE PLAN REVIEW

**Greg Hollinger**  
Hollinger Enterprises, LLC  
greg@hollingerenterprises.com

7/22/2020

**APPLICATION NO: ZN LOD- 66304-2020** (PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

**Project Location: 2103 E 37<sup>th</sup> St S**

**Description: Addition**

#### INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

#### REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2<sup>nd</sup> STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

**SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.**

#### IMPORTANT INFORMATION

1. IF A DESIGN PROFESSIONAL IS INVOLVED, HIS/HER LETTERS, SKETCHES, DRAWINGS, ETC. SHALL BEAR HIS/HER OKLAHOMA SEAL WITH SIGNATURE AND DATE.
2. SUBMIT TWO (2) SETS OF DRAWINGS IF SUBMITTED USING PAPER, OR SUBMIT ELECTRONIC REVISIONS IN "SUPPORTING DOCUMENTS", IF ORIGINALLY SUBMITTED ON-LINE, FOR REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
3. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT [WWW.INCOG.ORG](http://WWW.INCOG.ORG) OR AT INCOG OFFICES AT 2 W. 2<sup>nd</sup> ST., 8<sup>th</sup> FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.

A COPY OF A "RECORD SEARCH" [X] IS [ ] IS NOT INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.).

(continued)

## REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT [WWW.CITYOFTULSA-BOA.ORG](http://WWW.CITYOFTULSA-BOA.ORG)

Application No. **ZN LOD- 66304-2020**

**Note:** As provided for in Section 70.130 you may request the Board of Adjustment to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning variances, special exceptions, appeals of an administrative official decision, Master Plan Developments Districts (MPD), Planned Unit Developments (PUD), Corridor (CO) zoned districts, zoning changes, platting, lot splits, lot combinations, alternative compliance landscape and screening plans and all questions regarding (BOA) or (TMAPC) application forms and fees to an INCOG representative at 584-7526. It is your responsibility to submit to our offices documentation of any appeal decisions by an authorized decision making body affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf. Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. **5.030-A:** In the RS-2 zoned district the minimum rear yard setback shall be 25 feet from the rear property line.

**Review Comments:** Revise your plans to indicate a 25' rear setback to the property line or apply to INCOG for a variance to allow less than a 25' rear setback.

2. **55.090-F Surfacing.** Based on your lot width you are allowed a combined driveway width of up to 30' in width on this lot.

**Review Comments:** The submitted site/plot plan proposes a combined driveway width of more than 30' wide on this lot which exceeds the maximum allowable composite of all driveway widths on the lot. Revise plans to indicate the combined driveway widths shall not exceed the maximum allowable 30' width or apply to the BOA for a special exception for the proposed combined driveway widths on this lot.

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter. A hard copy of this letter is available upon request by the applicant.

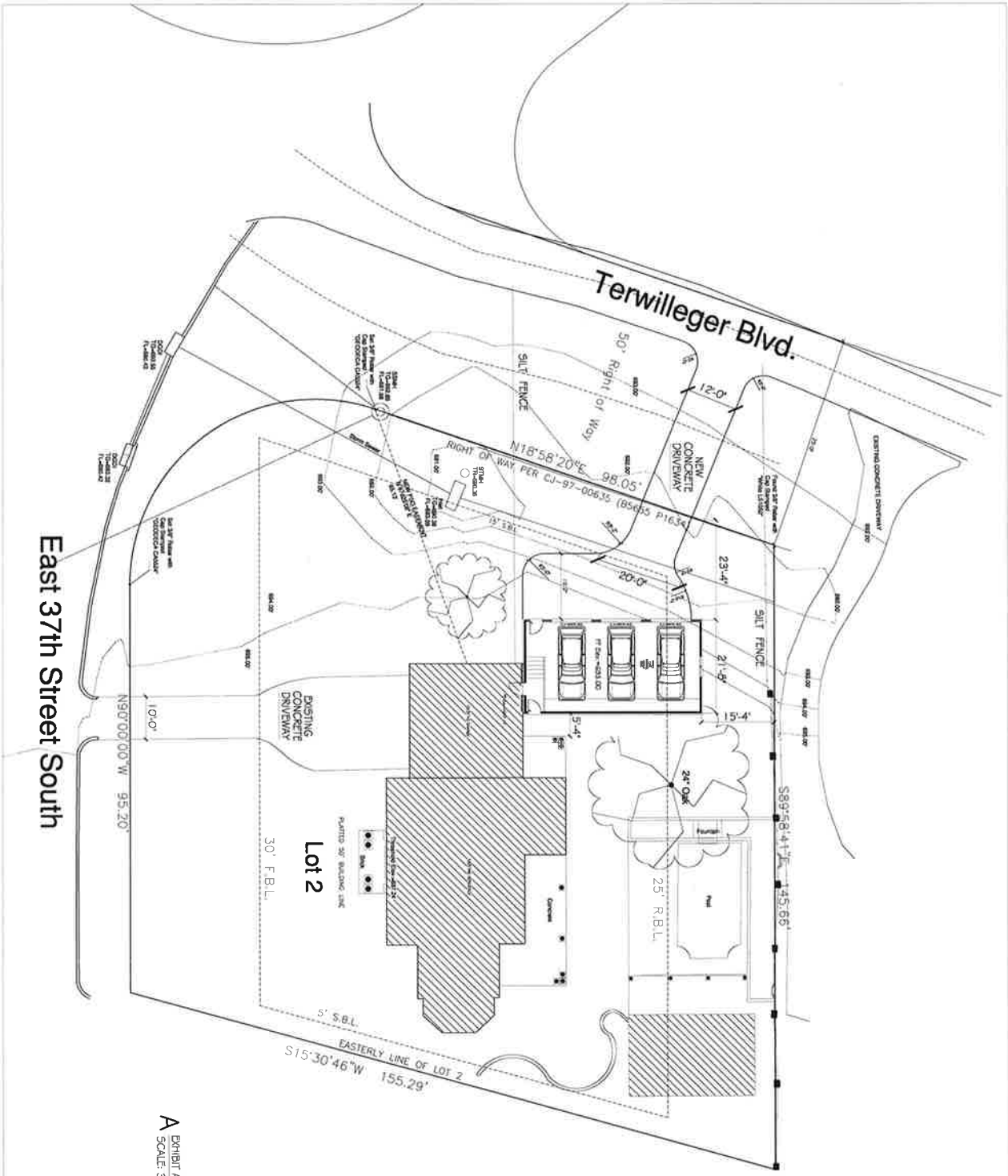
**Note:** All references are to the City of Tulsa Zoning Code. Link to Zoning Code:  
<http://www.tmapc.org/Documents/TulsaZoningCode.pdf>

**Please Notify Plans Examiner By Email When You Have Submitted A Revision. If you originally submit paper plans, revisions must be submitted as paper plans. If you submit online, revisions must be submitted online**

## END –ZONING CODE REVIEW

**NOTE:** THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.



East 37th Street South

Terwilleger Blvd.

Lot 2

A EXHIBIT A  
SCALE: 3/32"=1'-0"



**Legal Description:** ...  
**Notes:** ...  
**Legend:** ...

AI.O

PROJECT # 14-1-101



**HOLLINGER ENTERPRISES, LLC**  
 GARAGE ADDITION  
 2103 E. 37TH STREET S.

HOLLINGER ENTERPRISES, LLC  
 7715 E. 111th Street S., Suite 100  
 Tulsa, Okla, 74133  
 918-364-3433  
 HOLLINGER@OLP.NET



2.21



2.22



2.23



2.24

## Chapman, Austin

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**From:** L J Bennett <tallfamilymom@gmail.com>  
**Sent:** Sunday, August 23, 2020 6:36 PM  
**To:** esubmit  
**Subject:** Case Number BOA-22982, Hearing scheduled August 25, 2020

Hello INCOG, Mr. Austin Chapman, and Tulsa Planning Board -

My name is Lynda Bennett and my husband and I live at 2024 E. 37th Street, Tulsa. I am sending this e-mail in opposition to the variance requested in Case Number: BOA-22982. Unfortunately, I will not be able to attend the August 25, 2020 meeting in person.

I am opposed to the 17 foot requested variance in that it sets precedence for narrower building requirements in the rest of this neighborhood. The neighborhood is known for the large distance between homes which creates a unique setting. The beauty of this neighborhood is in part due to the distance between homes.

I also am vehemently opposed to any variance, even though not specifically addressed in the Application, due to potential flooding issues and concerns. Even though I (we) did not live in our current home at 2024 E. 37th Street during the 1984 flood, we did live in Tulsa and saw the horrific impact the flooding had. We helped friends clean up after 15 feet of water flooded their garage. Neighbors just to the east of us on 37th Street told us that there was a rushing river that spanned most of Terwilliger and went from the east side of our home to the west side of their home. Patio furniture, grills, and all types of detritus were seen rushing down Terwilliger between our homes. This area is part of a creek bed and additional paving, such as a large garage and/ or driveway, can only endanger the future any permeable land in this area.

Even though the flooding is assumed to have been addressed after the 1984 flood with a very large storm drain, I would like to direct the Board of Adjustment/ Tulsa Planning Staff to the flooding that occurred in Houston during and after hurricane Harvey in 2017. If you recall, a large part of Katy, TX, east of Houston, was originally designated as flood plain. However, that was "forgotten" over time and large subdivisions, such as Cinco Ranch, were built in that flood plain. When Harvey hit, there was catastrophic flooding which devastated thousands of homes and families. I do not want that to happen in Tulsa, and specifically to our home and the surrounding neighborhood homes.

I know this sounds harsh, but someone's error or lack of planning should not create an emergency on my part. I do not want there even to be a possibility of future flooding in our neighborhood.

I am empathetic with the homeowners, but can only suggest a smaller garage and gravel driveway.

Thank you for allowing me input, and I hope everyone in the neighborhood can continue to remain friendly with each other.

Respectfully -  
Lynda Bennett

## Chapman, Austin

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**From:** T. Bennett <tallfamily@hotmail.com>  
**Sent:** Sunday, August 23, 2020 6:21 PM  
**To:** esubmit  
**Subject:** City of Tulsa zoning variance. BOA 22982

To: The Members of the City of Tulsa Board of Adjustment  
August 20, 2020  
Re: BOA.22982

Dear Members of the Board,

My wife and I have lived in our current residence at 2024 East 37th Street, (diagonally opposite the subject property) for very close to 35 years. While we claim no standing because of our tenure here, we have seen (and delighted in) many changes in the neighborhood over those years. Additionally, I believe that ours is the only property with sight lines of both the front and side of the subject property. Although I know many of our neighbors, I have never met the Browns but I'm certain that they have made every attempt to comply with the zoning rules and regulations. However, I am skeptical about the basis of their hardship in this application and refer to the following excerpts from their statements:

***"The existing residence was built in the late 1950's with an under sized two car garage and a single lane driveway only 10' wide."***

This driveway was a standard "two car" driveway until the previous owner narrowed it to a single lane for most of it's length. To my knowledge, there is no reason that this can't be restored to it's earlier width except that to do so would limit driveway expansion options elsewhere on the property.

***"In order for cars to leave the residence they are required to back down a 10' driveway..."***

Our property at 2024 E 37th has the same driveway configuration - two car garage narrowing to single car driveway. It has always struck us as an odd layout and don't know why the original owners opted for this. At various times, we had five drivers (two adults and three children) and it never occurred to us that backing down a driveway should test a driver's ability. If backing down a fairly flat, straight driveway is problematic, will the property owners allow their children to park their Hummer in the proposed garage? Backing out of that location requires turns, navigating a material incline and backing while turning at right angles onto a single lane street (Terwilliger) that is only 14' wide with sight lines obstructed by significant vegetation.

***"This situation is not only dangerous for the family but also pedestrians."***

If the use of the extant driveway is truly dangerous for the family and pedestrians, then is it reasonable to assume that if the variance is allowed, the family will cease this "dangerous" practice and no longer use the 10' driveway or park in the street? In fact, if it is dangerous, why do they allow their children, guests and/or staff to do it?

Our property is adjacent to undeveloped property (2020 East 37th Street). While the current owners of that property have expressed their desire to maintain this property as-is, it is naive to assume that will be the status quo indefinitely. If/when this property is developed, someone wishing to push the envelope by building over the setback lines could refer to the structure being contested here as precedent. I don't believe that the property owner's "hardship" is based on safety or even an understandable desire for more convenient access to their high performance vehicles, but the hardship is that they were misled, albeit unintentionally, by a city inspector, for which I would understand it they sought recourse from the city. But such an error by the city must not taint all future construction in this, or any, neighborhood.

Respectfully,

Tom Bennett  
2024 East 37th Street  
Tulsa, OK. 74105

## Chapman, Austin

---

**From:** Malcolm E. Rosser IV <mac.rosser@crowedunlevy.com>  
**Sent:** Monday, August 24, 2020 8:07 AM  
**To:** Chapman, Austin  
**Cc:** Wilkerson, Dwayne; Good, Felicity  
**Subject:** RE: BOA-22982 (address: 2103 E 37 St S)

Austin – over the weekend, my client in this matter (the applicant owner), Sig Brown, met with his neighbor to the north, who would be most affected by the requested variance. They discussed possible ways to resolve the matter. They both thought it would be helpful if this case could be continued to the next Board meeting to give them time to discuss the matter more fully and hopefully reach an agreed resolution. So I am writing to request that this case be continued to the September 8 meeting.

Please pass this on to the Board. Thanks for your help, and let me know if you have any questions.

Regards,

Mac



**Malcolm E. Rosser IV**  
Attorney at Law

500 Kennedy Building  
321 South Boston Avenue  
Tulsa, OK 74103

direct line: 918.592.9838  
mobile: 918.230.4246  
direct fax: 918.599.6328  
[mac.rosser@crowedunlevy.com](mailto:mac.rosser@crowedunlevy.com)  
[v-card](#) · [bio](#) · [website](#)

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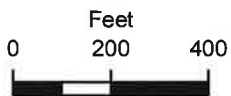
**From:** Chapman, Austin [mailto:ACHapman@incog.org]  
**Sent:** Tuesday, August 18, 2020 4:52 PM  
**To:** Malcolm E. Rosser IV  
**Cc:** Tammy Shaddox; Wilkerson, Dwayne  
**Subject:** RE: BOA-22982 (address: 2103 E 37 St S)

I have replaced these exhibits and the hardship statement to the packet. I will update my staff report to reflect your are withdrawing the Special Exception Request.

---

**From:** Malcolm E. Rosser IV <mac.rosser@crowedunlevy.com>  
**Sent:** Tuesday, August 18, 2020 4:14 PM  
**To:** Chapman, Austin <ACHapman@incog.org>  
**Cc:** Tammy Shaddox <tammy.shaddox@crowedunlevy.com>; Wilkerson, Dwayne <DWilkerson@incog.org>  
**Subject:** RE: BOA-22982 (address: 2103 E 37 St S)

Austin – we have prepared a revised site plan that allows the driveway to be in compliance with the code; see attached. The total driveway width between street and property line is 22' and total width between property line and setback lines is 30'. So we will not need the special exception.



Subject  
Tract

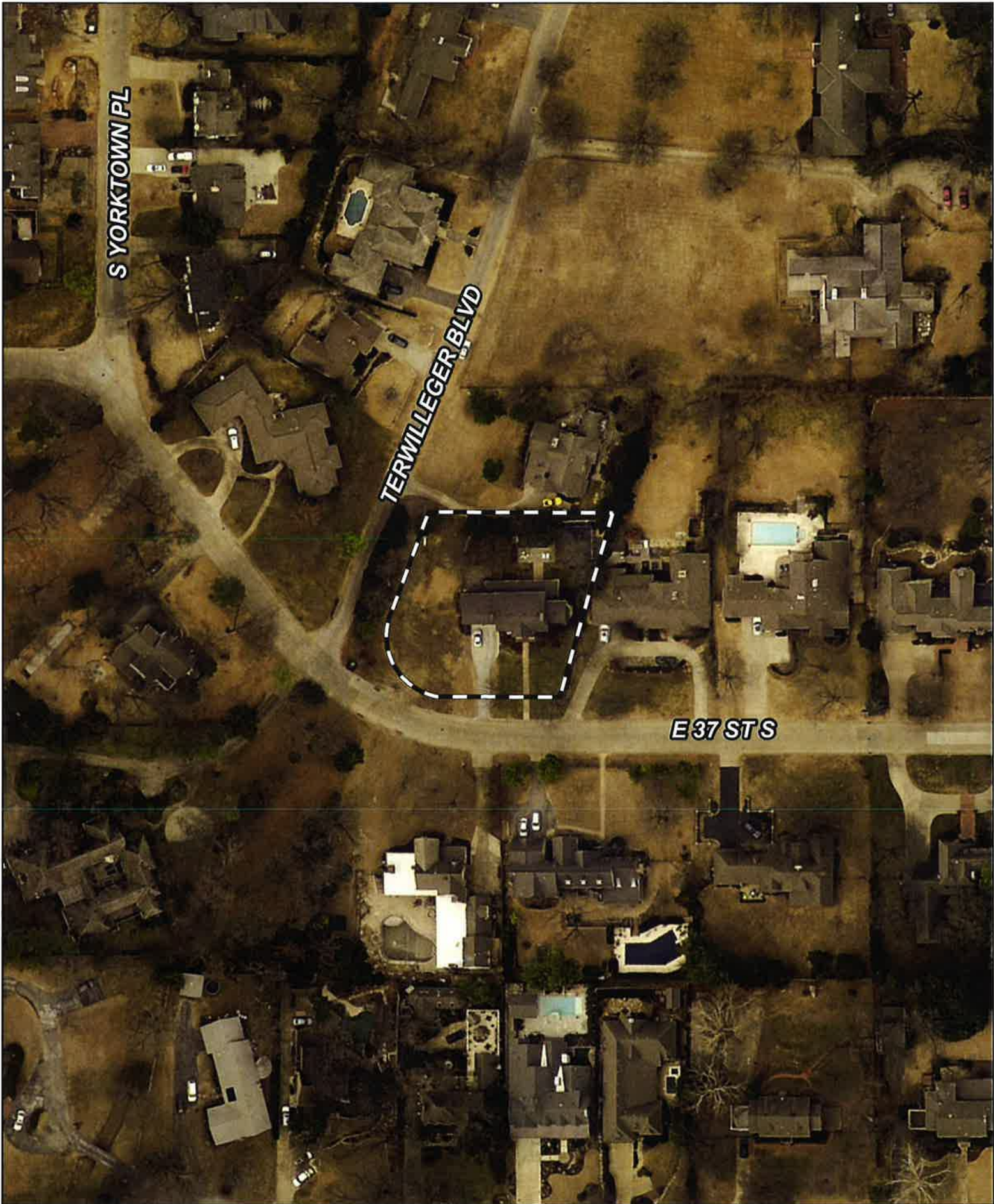
**BOA-22982**

19-13 19

Note: Graphic overlays may not precis  
align with physical features on the groi

Aerial Photo Date: February 2018

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S YORKTOWN PL

TERWILLEGER BLVD

E 37 STS



Subject Tract

**BOA-22982**

19-13 19

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

Aerial Photo Date: February 2018

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2.30

**From:** [Malcolm E. Rosser IV](#)  
**To:** [Chapman, Austin](#)  
**Cc:** [Wilkerson, Dwayne](#); [Good, Felicity](#); [Siegmond Brown](#); [Greg](#)  
**Subject:** RE: BOA-22982 (address: 2103 E 37 St S)  
**Date:** Monday, September 7, 2020 3:14:46 PM

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Austin – my client Sig Brown has continued to have discussions with the neighbor to the north. They are close to reaching a resolution. However, they were both out of town this holiday weekend, so they were not able to finalize their discussions. They both would like to request one more continuance to allow them time to reach a final agreement.

In addition, late in the day on September 3 (last Thursday), Mr. Brown and his contractor Greg Hollinger received an e-mail from Jeff Taylor in the City permitting office saying that “there is a concern” regarding the new driveway layout. He did not provide any details. We are trying to run down exactly what the concern is.

I generally don’t like having to request more than one continuance, but in this case I think it’s justified and that it would give the parties an opportunity to reach an agreed resolution and to figure out what the issue is with respect to the driveway. That’s why I’m requesting this continuance. Please pass this on to the Board. As always, thanks for your help, and let me know if you have any questions.

Regards,  
Mac



**Malcolm E. Rosser IV**  
Attorney at Law

500 Kennedy Building  
321 South Boston Avenue  
Tulsa, OK 74103

direct line: 918.592.9838  
mobile: 918.230.4246  
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