

**AMENDED BOARD OF ADJUSTMENT
CASE REPORT**

STR: 0235

Case Number: **BOA-23015**

CZM: 28

CD: 1

HEARING DATE: 10/27/2020 1:00 PM

APPLICANT: Tom Neal

ACTION REQUESTED: Special Exception to allow an Accessory Dwelling Unit in an RS-4 District (45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-B, 45.031-D.6); Variance to allow a nonconforming lot to have less than 50% open space (Sec. 80.020-B); Variance to allow more than 30% coverage by an Accessory Dwelling Unit in the rear setback in an RS-4 District (Section 90.090-C); Variance to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C)

LOCATION: 1129 N DENVER AV W

ZONED: RS-4

PRESENT USE: Residential

TRACT SIZE: 6952.2 SQ FT

LEGAL DESCRIPTION: LT 9 BLK 6, THE POWDER AND POMEROY ADDN

RELEVANT PREVIOUS ACTIONS:

Subject property: None.

Surrounding Properties:

BOA-21447; On 07.10.12 the Board **approved** a variance to allow a two-story detached accessory building. Property located 1152 North Denver Ave.

BOA-12599; On 05.19.83 the Board **approved** a variance to permit two dwelling units on a single lot of record. Property located 1132 North Cheyenne Ave.

RELATIONSHIP TO THE COMPREHENSIVE PLAN: The Tulsa Comprehensive Plan identifies the subject property as part of an "Existing Neighborhood" and an "Area of Stability".

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.

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.

ANALYSIS OF SURROUNDING AREA: The subject tract is located North of the NE/c of N. Denver Ave. and W. Latimer St.

STAFF COMMENTS: The applicant is requesting **Special Exception** to allow an Accessory Dwelling Unit in an RS-4 District (45.031-D); **Variance** to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-B, 45.031-D.6); **Variance** to allow a nonconforming lot to have less than 50% open space (Sec. 80.020-B); **Variance** to allow more than 30% coverage by an Accessory Dwelling Unit in the rear setback in an RS-4 District (Section 90.090-C); **Variance** to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C)

A copy of “**Sec. 45.030:Accessory Building and Carports in R Districts**” , “**Sec. 45.031: Accessory Dwelling Units in R, AG, and AG-R Districts**”, is included in your packets.

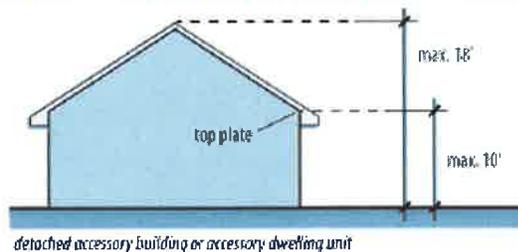
80.020-B Nonconforming Lots in Residential Zoning Districts

In residential zoning districts, a single detached house may be erected on a nonconforming lot without complying with the minimum lot area, minimum lot area per unit, minimum lot width, minimum street frontage or minimum open space per unit requirements of the subject zoning district, **provided that at least 50% of the lot area remains as open space.** All other lot and building regulations apply, except that detached houses may be erected on corner lots that are nonconforming with regard to lot width, subject to a reduced minimum street side building setback of 5 feet. Garages that are accessed through a side yard abutting a street must be set back at least 20 feet.

2. Detached Accessory Buildings, including Accessory Dwelling Units, in RE, RS, RD Districts and RM Zoned Lots Used for Detached Houses or Duplexes.

- a. Detached accessory buildings, including Accessory Dwelling Units, may be located in rear setbacks provided that:
 - (1) The building does not exceed one story or 18 feet in height and is not more than 10 feet in height to the top of the top plate; and

Figure 90-9: Maximum Height of Accessory Buildings, Including Accessory Dwelling Units In Rear Setbacks (RE, RS and RD Districts or RM Zoned Lots Used for Detached Houses or Duplexes)



- (2) Building coverage in the rear setback does not exceed the maximum limits established in **Table 90-2:**

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

Zoning District	Maximum Coverage of Rear Setback
RS-1 and RE Districts	20%
RS-2 District	25%
RS-3, RS-4, RS-5 and RD Districts	30%
RM zoned Lots Used for Detached Houses or Duplexes	30%

Applicant is allowed ~~500 801.6~~ sf of floor area for their ADU, they are proposing a ~~1,144 1,584~~ sf ADU.

Applicant is allowed a single story ADU, they are proposing an ADU that is 26' in height and 19' 9" at the top of the top plate.

Applicant is required to maintain 50% (3,476 sf) open space on the lot, they are proposing 30% (2,110 sf) of open space.

Applicant is allowed to only cover 30% of the rear setback. Applicant is proposing 57% coverage in the rear setback.

STATEMENT OF HARDSHIP: Original garage was sized for Model T cars and needs new garage to fit modern sized cars. Lot is extremely non-conforming ADU is for owner's family and guests.

SAMPLE MOTION:

Special Exception:

Move to _____ (approve/deny) a **Special Exception** to allow an Accessory Dwelling Unit in an RS-4 District (45.031-D)

- Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.
- Subject to the following conditions (including time limitation, if any):
_____.

The Board finds that the requested Special Exception will be in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Variances:

Move to _____ (approve/deny) a **Variance** to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-B, 45.031-D.6); **Variance** to allow a nonconforming lot to have less than 50% open space (Sec. 80.020-B); **Variance** to allow more than 30% coverage by an Accessory Dwelling Unit in the rear setback in an RS-4 District (Section 90.090-C); **Variance** to allow a detached Accessory Dwelling Unit to exceed one story or 18 feet in height and to exceed 10 feet in height to the top of the top plate. (Section 90.090-C)

- 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.”*

DANA L. BOX
ZONING OFFICIAL
PLANS EXAMINER II

TEL (918) 596-9657
danabox@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

LOD Number: 1
Tom Neal
2507 E. 11th St.
Tulsa, OK 74104

September 9, 2020

Phone: 918-231-7372

APPLICATION NO: **ZCO-068002-2020**

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: 1129 N. Denver

Description: Accessory Dwelling Unit (ADU)-Garage and Garage Apt.

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
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

****REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd 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.** (SEE #2, BELOW)**

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. **IF SUBMITTING REVISIONS FOR APPLICATIONS THAT PREVIOUSLY UTILIZED PAPER PLANS, EMAIL THE REVISED PLANS TO COTDEVSVC@CITYOFTULSA.ORG OR SUBMIT ELECTRONIC PLAN REVISIONS ON THE PORTAL AT [HTTPS://TULSAOK.TYLERTECH.COM/ENERGOV4934/SELFSERVICE](https://tulsaok.tylertech.com/energov4934/selfservice). YOU WILL NEED TO REGISTER ON THE PORTAL IF YOU HAVE NOT PREVIOUSLY DONE SO. ****
3. INFORMATION ABOUT THE ZONING CODE, BOARD OF ADJUSTMENT (BOA), PLANNING COMMISSION (TMAPC), AND THE TULSA PLANNING OFFICE AT INCOG CAN BE FOUND ONLINE AT WWW.TULSAPLANNING.ORG; IN PERSON AT 2 W. 2ND ST., 8TH FLOOR, IN TULSA; OR BY CALLING 918-584-7526 AND ASKING TO SPEAK TO SOMEONE ABOUT THIS LETTER OF DEFICIENCY.

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT <http://tulsaplanning.org/plans/TulsaZoningCode.pdf>

ZCO-068002-2020

1129 N. Denver Ave.

September 9, 2020

Note: As provided for in Section 70.130 you may request the Board of Adjustment (BOA) 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 a representative at the Tulsa Planning Office 918-584-7526 or esubmit@incog.org. 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. Sec. 45.030-B RS-2, RS-3, RS-4, RS-5 or RM Districts

In RS-2, RS-3, RS-4 and RS-5 districts, the total aggregate floor area of all detached accessory buildings and accessory buildings not erected as an integral part of the principal residential building may not exceed 500 square feet or 40% of the floor area of the principal residential structure, whichever is greater.

Review comments: You are proposing 1584 square ft of detached accessory structure floor area. The proposed detached structure exceeds 500 square ft and 40% of the size of your house. Based on the size of your house of 2004 square feet, you are allowed 801.6 square ft of detached accessory structures floor area on your lot. Reduce the size of your proposed detached accessory structure to be less than 801.6 square ft of total floor area or apply to BOA for a variance to allow a detached accessory structure to exceed 40% of the floor area of the principal residential structure.

2. Section 45.031-D Regulations Where Allowed

Accessory dwelling units are allowed by special exception in RE, RS, AG, and AG-R districts on lots occupied by a detached house. Accessory dwelling units are allowed by right in RD, RT, RM and RMH districts on lots occupied by a detached house.

Review comments: Apply to INCOG for a special exception to allow an Accessory Dwelling Unit in an RS-4 zoned area.

3. Sec. 80.020-B Nonconforming Lots in Residential Zoning Districts

In residential zoning districts, a single detached house may be erected on a nonconforming lot without complying with the minimum lot area, minimum lot area per unit, minimum lot width, minimum street frontage or minimum open space per unit requirements of the subject zoning district, provided that at least 50% of the lot area remains as open space. All other lot and building regulations apply, except that detached houses may be erected on corner lots that are nonconforming with regard to lot width, subject to a reduced minimum street side building setback of 5 feet. Garages that are accessed through a side yard abutting a street must be set back at least 20 feet.

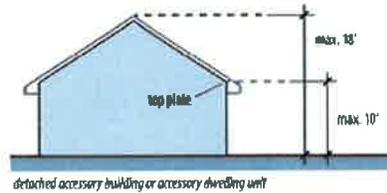
Review Comments: The proposed lot is considered an existing nonconforming lot. You are allowed to use 50% of the lot size as open space. You are proposing less than 50% of the lot size to be open space. Revise plans to indicate compliance or apply to INCOG for a variance to allow this lot to have less than 50% of the lot to be open space.

4. Sec. 90.090-C. Detached Accessory Buildings, including Accessory Dwelling Units, in RE, RS, RD Districts and RM Zoned Lots Used for Detached Houses or Duplexes.

a. Detached accessory buildings, including Accessory Dwelling Units, may be located in rear setbacks provided that:

(1) The building does not exceed one story or 18 feet in height and is not more than 10 feet in height to the top of the top plate; and

Figure 90-9: Maximum Height of Accessory Buildings, Including Accessory Dwelling Units In Rear Setbacks (RE, RS and RD Districts or RM Zoned Lots Used for Detached Houses or Duplexes)



Review Comments: The proposed Accessory Dwelling Unit (ADU) exceeds one floor in height and exceeds the allowed maximum of 10' to top plate and 18' maximum in height. Revise plans to indicate compliance or apply to INCOG for a variance.

(2) Building coverage in the rear setback does not exceed the maximum limits established in Table 90-2:

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

Zoning District	Maximum Coverage of Rear Setback
RS-1 and RE Districts	20%
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RS-3, RS-4, RS-5 and RD Districts	30%
RM zoned Lots Used for Detached Houses or Duplexes	30%

Review Comments: The proposed Accessory Dwelling Unit (ADU) exceeds the allowed 30% maximum coverage in the rear setback. Revise plans to indicate compliance or apply to INCOG for a variance.

c. Nonconforming detached accessory buildings in the rear yard that are set back less than 3 feet from interior lot lines may be expanded or demolished and reconstructed without complying with the 3-foot setback requirements, provided that the reconstructed or expanded building complies with all of the following requirements:

- (1) It is no closer to any interior lot line than the existing nonconforming structure;
- (2) It is not over one story in height;
- (3) It does not cover more of the required rear yard than permitted in §90.090-C2.a(2); and
- (4) It does not exceed 500 square feet in floor area if the building does not comply with the setback requirements of §90.090-C2.b.

Review Comments: The proposed Accessory Dwelling Unit (ADU) exceeds the allowed 30% maximum coverage in the rear setback. Revise plans to indicate compliance or apply to INCOG for a variance.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

<http://tulsaplanning.org/plans/TulsaZoningCode.pdf>

Please notify the reviewer via email when your revisions have been submitted

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.

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.