

SUBJECT TRACT



BOA-23026

19-13 19

8.1



BOARD OF ADJUSTMENT CASE REPORT

STR: 9319

Case Number: **BOA-23026**

CZM: 47

CD: 9

HEARING DATE: 11/10/2020 1:00 PM

APPLICANT: Tom Neal

ACTION REQUESTED: Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); 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); Variance to allow the floor area of an Accessory Dwelling Unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2; 45.031-D6.a)

LOCATION: 1523 E 35 ST S

ZONED: RS-3

PRESENT USE: Residential

TRACT SIZE: 11900.64 SQ FT

LEGAL DESCRIPTION: W. 25 OF LT-18 ALL OF LT-19-BLK-2, PARRAMORE ADDN

RELEVANT PREVIOUS ACTIONS:

Subject Property: None.

Surrounding Properties:

BOA-11974; On 05.27.82 the Board approved a variance from 400 sf to 520 sf for detached accessory building. Property located 1571 E. 35th St.

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

An **Existing Neighborhood** is intended to preserve and enhance Tulsa's existing single-family neighborhoods. Development activities in these areas should be limited to the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects, as permitted through clear and objective setback, height, and other development standards of the zoning code.

The **Areas of Stability** include approximately 75% of the city's total parcels. Existing residential neighborhoods, where change is expected to be minimal, make up a large proportion of the Areas of Stability. The ideal for the Areas of Stability is to identify and maintain the valued character of an area while accommodating the rehabilitation, improvement or replacement of existing homes, and small-scale infill projects. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life. The concept of stability and growth is specifically designed to enhance the unique qualities of older neighborhoods that are looking for new ways to preserve their character and quality of life.

ANALYSIS OF SURROUNDING AREA: The subject tract is located 35th St. between S. Rockford and S. Trenton Ave.

8.2

STAFF COMMENTS: The applicant is requesting Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); 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); Variance to allow the floor area of an Accessory Dwelling Unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2; 45.031-D6.a)

Section 45.030 Accessory Buildings and Carports in R Districts

45.030-A Accessory Building Size

1. RE and RS-1 Districts

In RE and RS-1 districts, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, and accessory buildings not erected as an integral part of the principal residential building may not exceed 750 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1]

RS-2, RS-3, RS-4, RS-5 and RM Districts

In RS-2, RS-3, RS-4, RS-5 or RM, zoned lots used for detached houses or duplexes, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, 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. [1]

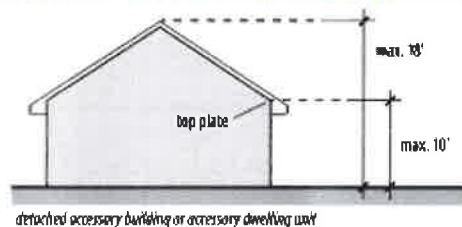
[1] For detached accessory buildings, including accessory dwelling units, located within rear setbacks see §90.090-C.2.

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%

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.

2. Number

No more than one accessory dwelling unit is allowed per lot.

3. Methods of Creation

An accessory dwelling unit may be created only through the following methods:

- a. Constructing an accessory dwelling unit on a lot with a new or existing detached house; or
- b. Converting or increasing existing floor area within an accessory building on a lot with an existing detached house.

4. Density (Minimum Lot Area and Lot Area per Unit)

No additional lot area or lot area per unit is required for the accessory dwelling unit.

5. Open space (Minimum open space per unit)

No additional open space is required for the accessory dwelling unit.

Accessory Dwelling Unit Size

a. RE and RS-1 Districts

In RE and RS-1 districts, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, may not exceed 750 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1]

b. RS-2, RS-3, RS-4, RS-5, and RM Districts

In RS-2, RS-3, RS-4, RS-5 or RM zoned lots used for detached houses, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, may not exceed 500 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1]

The applicant is proposing a 1,871 square foot structure. By right the applicant would be allowed to build a 693 square foot structure based on the existing residential structure that is 1,734 square feet. The height of the structure would be 24 feet at its peak and 17 feet to the top of the top plate.

STATEMENT OF HARDSHIP: Home owner wants to build a garage apartment to house 90 year old father on ground floor and his caretaker. Adding second floor of garage to avoid covering all of back yard.

SAMPLE MOTION:

Special Exception

Move to _____ (approve/deny) a Special Exception to allow an Accessory Dwelling Unit in an RS-3 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.

Variance

Move to _____ (approve/deny) a **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); **Variance** to allow the floor area of an Accessory Dwelling Unit to exceed 500 square feet or 40% of the floor area of the principal residential structure (Section 45.030-A2; 45.031-D6.a)

- 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."*



Facing East 35 St. S.



Facing West 35 St. S.



Subject property

Case No. 11973 (continued)

applicant returning to the Board for an evaluation of the operation, to run with this applicant only, on the following described property:

Lot 7, Block 5, Walnut Creek III Addition, Tulsa County, Oklahoma.

Case No. 11974

Action Requested:

Variance - Section 240.2 - Permitted Yard Obstructions - Request for a variance from 400 square feet to 520 square feet for an accessory building in the rear yard. This property is located at 1571 East 35th St.

Presentation:

Timothy Kunz, 1571 East 35th Street, was present to address the Board and submitted a plot plan (Exhibit "K-1"). Mr. Kunz is proposing to construct a 20' x 26' garage on his property. He advised the Board that there was previously an 18' x 18' garage on the subject property which has been torn down. Mr. Kunz advised that he plans to use a portion of the garage as his personal workshop.

Protestants: None.

Board Comments:

Mr. Lewis asked what the garage would be constructed of and Mr. Kunz stated that it would be constructed of wood.

Mrs. Purser asked if there were other framed detached garages in the neighborhood and Mr. Kunz answered in the affirmative.

Mr. Lewis asked if the workshop would be used for a commercial use and Mr. Kunz stated that it would not.

Board Action:

On MOTION of SMITH and SECOND by WAIT, the Board voted 4-0-0 (Lewis, Purser, Smith, Wait, "aye"; no "nays"; no "abstentions"; Victor, "absent") to approve a Variance (Section 240.2 - Permitted Yard Obstructions) from 400 square feet to 520 square feet for an accessory building in the rear yard, on the following described property:

Lot 15, Block 2, Parramore Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 11975

Action Requested:

Variance - Section 207 - Street Frontage Required - Request for a variance from the street frontage requirement of 30' to 0'. This property is located at 6600 South Gary Avenue.

Presentation:

The applicant was not present to address the Board.

Mr. Smith advised that the case needs to be continued so that the case can be acted upon by the Planning Commission before it comes before this Board.

5.27.82:363(13)

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

October 8, 2020

Phone: 918-231-7372

APPLICATION NO: **ZCO-069255-2020**

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: **1523 E. 35th St.**

Description: **New Garage and Two Garage Apartments**

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. ****PURSUANT TO FEDERAL, STATE, AND LOCAL DECLARATIONS OF EMERGENCY ARISING FROM THE COVID-19 THREAT AND AS DIRECTED BY THE ADMINISTRATION, OUR OFFICE IS CLOSED TO THE PUBLIC UNTIL FURTHER NOTICE. PAPER SUBMITTALS (INCLUDING REVISIONS AND ADDENDUM) FOR ANY PROJECT IS NOT ACCEPTED AT THIS TIME. IF SUBMITTING REVISIONS FOR APPLICATIONS THAT PREVIOUSLY UTILIZED PAPER PLANS, EMAIL THE REVISED PLANS TO COTDEVSVCS@CITYOFTULSA.ORG OR SUBMIT ELECTRONIC PLAN REVISIONS ON THE PORTAL AT [HTTPS://TULSAOK.TYLERTECH.COM/ENERGOV4934/SELFERVICE](https://tulsaok.tylertechnology.com/energov4934/selfservice). YOU WILL NEED TO REGISTER ON THE PORTAL IF YOU HAVE NOT PREVIOUSLY DONE SO. **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-069255-2020

1523 E.35th St.

October 8, 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. **Section 45.030-A2** In RS-2, RS-3, RS-4 and RS-5 or RM, zoned lots used for detached houses or duplexes, the total aggregate floor area of all detached accessory buildings and accessory buildings including accessory dwelling units, 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. (1) For detached accessory buildings, including accessory dwelling units, located within the rear setback, see 90.090-C2.

Review comments: You are proposing a detached accessory structure with approximately 1,871 square feet of combined floor area, which exceeds the 40% or 500 square foot maximum. Reduce the size of your proposed detached accessory structures to be less than 40% or 500 square feet or apply to BOA for a variance to allow a combination of all detached accessory structures to exceed 40% or 500 square feet.

2. Section 45.031 ADU, Accessory Dwelling Units in R, AG and AG-R Districts

Section 45.031-D Regulations

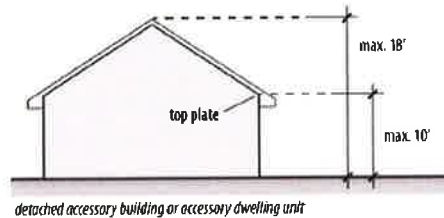
- **Where Allowed** Accessory dwelling units are allowed by special exception in RE, RS, AG, and AG-R districts on lots occupied by a detached house. Accessory dwelling units are allowed by right in RD, RT, RM and RMH districts on lots occupied by a detached house.
- **Number** No more than one accessory dwelling unit is allowed per lot.
- **Methods of Creation** An accessory dwelling unit may be created only through the following methods:
 - Constructing an accessory dwelling unit on a lot with a new or existing detached house; or
 - Converting or increasing existing floor area within an accessory building on a lot with an existing detached house.
- **Density (Minimum Lot Area and Lot Area per Unit)** No additional lot area or lot area per unit is required for the accessory dwelling unit.
- **Open space (Minimum open space per unit)** No additional open space is required for the accessory dwelling unit.
- **Accessory Dwelling Unit Size**
 - RS-2, RS-3, RS-4, RS-5, and RM Districts In RS-2, RS-3, RS-4, RS-5 or RM zoned lots used for detached houses, the total aggregate floor area of all detached accessory buildings, including accessory dwelling units, may not exceed 500 square feet or 40% of the floor area of the principal residential structure, whichever is greater. [1] For detached accessory buildings, including accessory dwelling units, located within rear setbacks, see Section 90.090-C2.

Review comments: The proposed detached structure indicates a garage and two accessory dwelling units (ADU's) comprised of approximately 1,871 square feet on two floors. An ADU requires a Special Exception in a RS-3 zoning district. Further, no more than one ADU is allowed per lot.

Apply to the Board of Adjustment for an ADU in RS-3 zoning. Further, request a variance for the proposed detached accessory structure to be more than 40% or 500 square feet AND a variance to allow two ADU's on the same lot.

3. **Sec. 90.90.C: Detached Accessory Buildings.** Detached accessory buildings may be located in rear setbacks in RE, RS and RD districts, provided that 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.

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: Revise plans to indicate that the detached accessory building will 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 or apply to the BOA for a variance to allow an accessory structure to exceed the maximum heights allowed.

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.

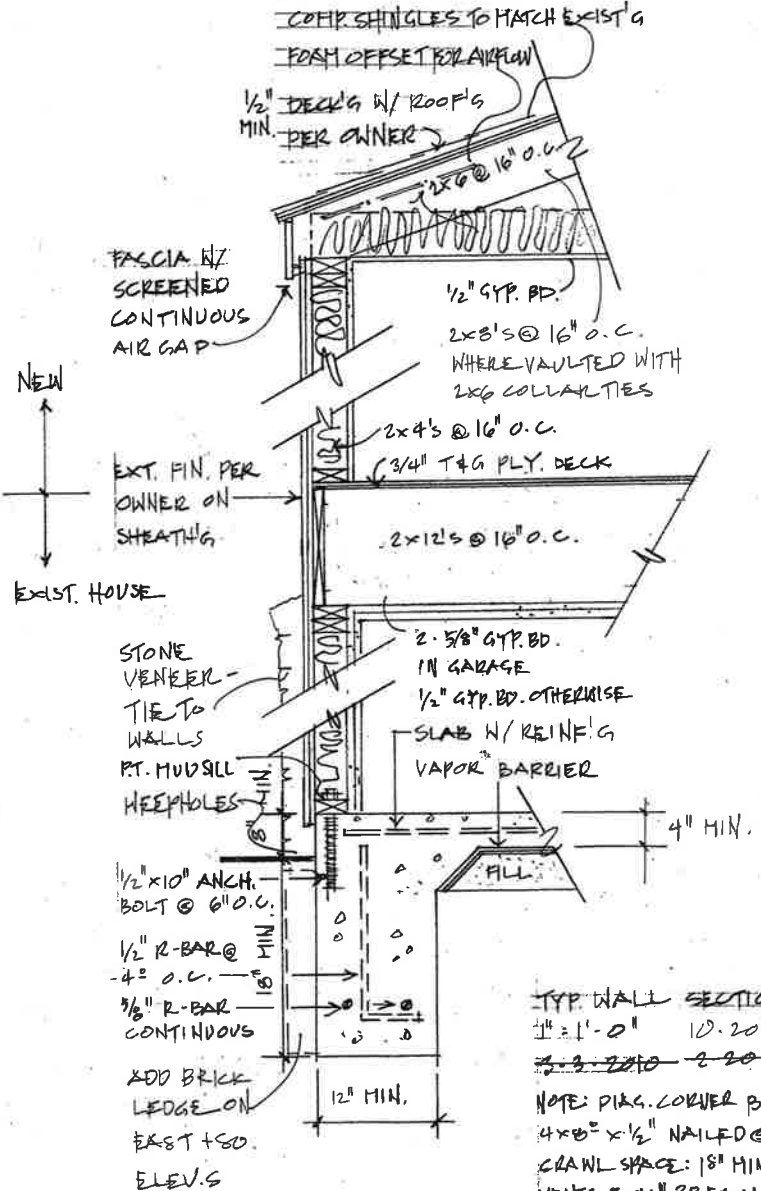
A hard copy of this letter is available upon request by the applicant.

END – ZONING CODE REVIEW

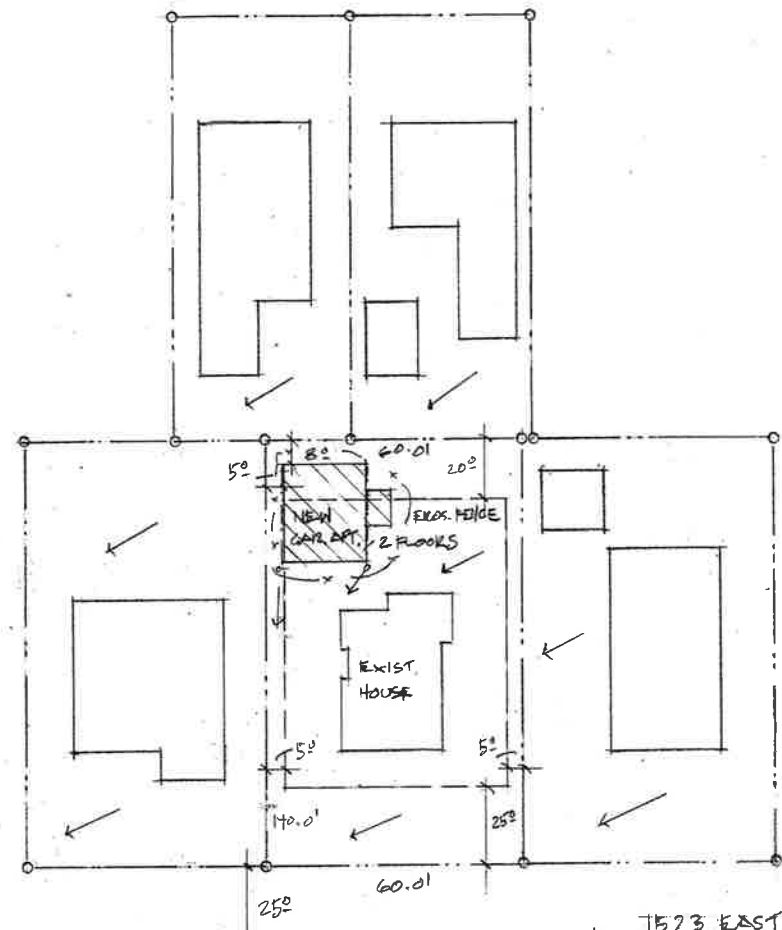
NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

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.

mclog



TYP. WALL SECTION
1" = 1'-0" 10.2020
~~3.3.2010 2.2019~~
NOTE: PIRG. CORNER BRAC'G
4x8" x 1/2" NAIL'D @ 8" O.C.
CRAWL SPACE: 18" MIN. CLEAR
VENTS 8x16" 3" FROM CORNER
8" O.C. 18x22" ACCESS DOOR

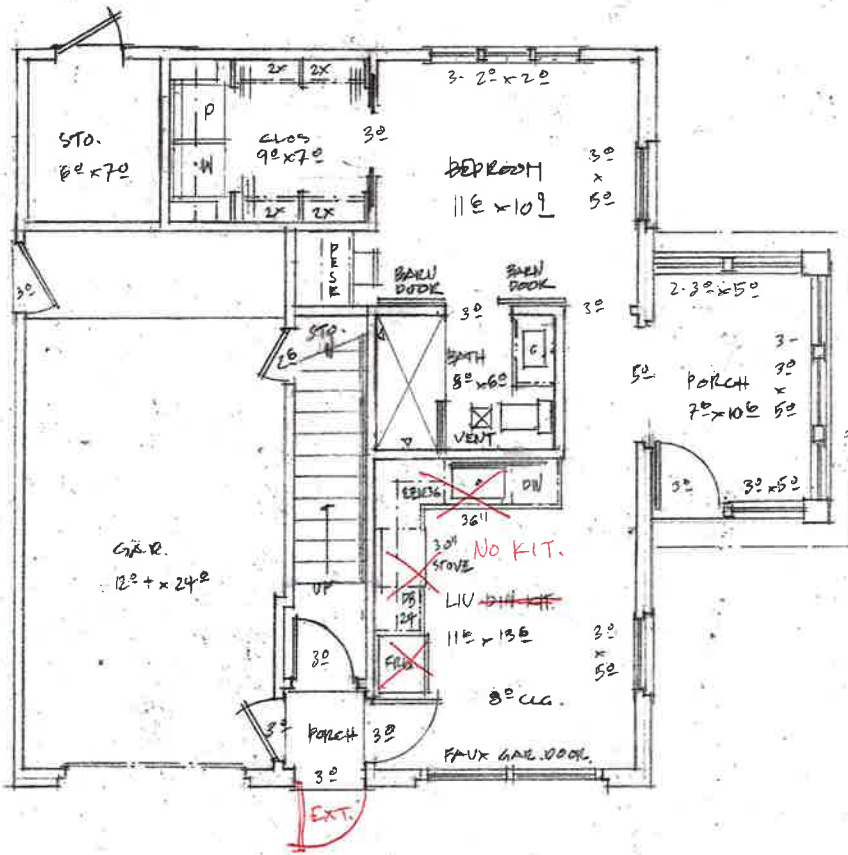


SITE DRAINAGE PLAN 1" = 40' NORTH

NEW FOOT PRINT: 896 #, ALLOWED: 693 #
MAX COVERAGE REQ. REAR YD: 360 #
COVERED: 360 # NEW GAR. REPLACES EXIST.
OF SIM. ROOF AREA.

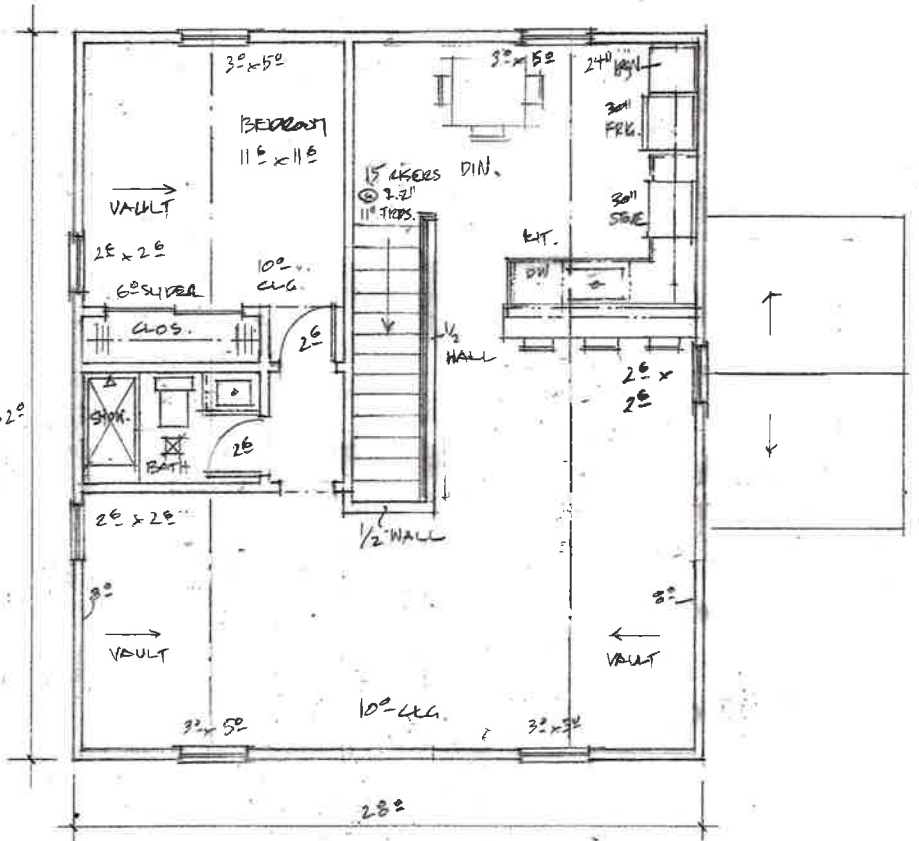
7523 EAST 35TH ST.
TULSA - OKLA 74209
10.2020

TOM NEAL
DESIGN
Associate member, American Institute of Architects
918.231.7372



1ST FLOOR 3/16" = 1'-0"

ONE ADU ONLY:
 DOWNSTAIRS SUITE
 FOR SENIOR (90 Y. OLD)
 UPSTAIRS FOR CARETAKERS



2ND FLOOR 3/16" = 1'-0"

1525 EAST 35TH STREET
 TULSA - OKLAHOMA 12-2019
 10-2020 ~~8-2020~~

TOM NEAL
DESIGN
 Associate member, American Institute of Architects
 918.231.7372



SOUTH ELEV. $\frac{3}{16}'' = 1'-0''$

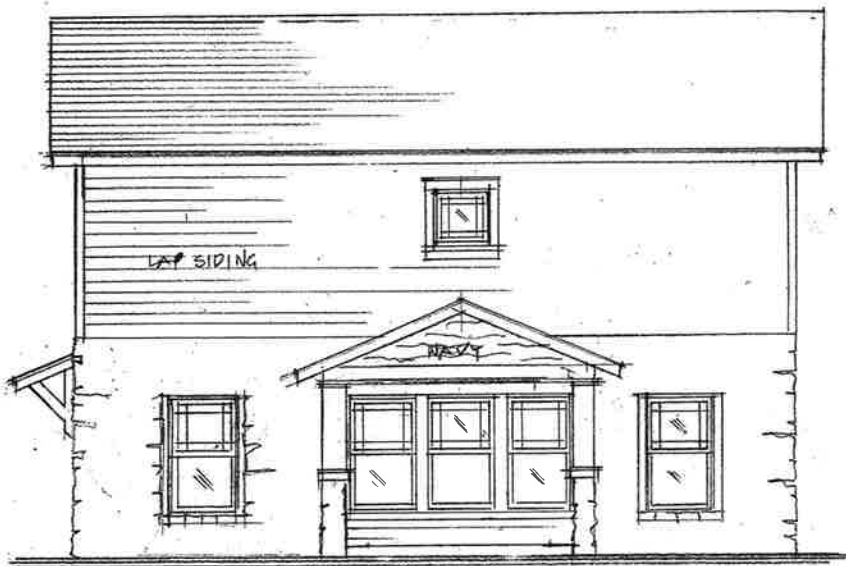


NORTH ELEV. $\frac{3}{16}'' = 1'-0''$

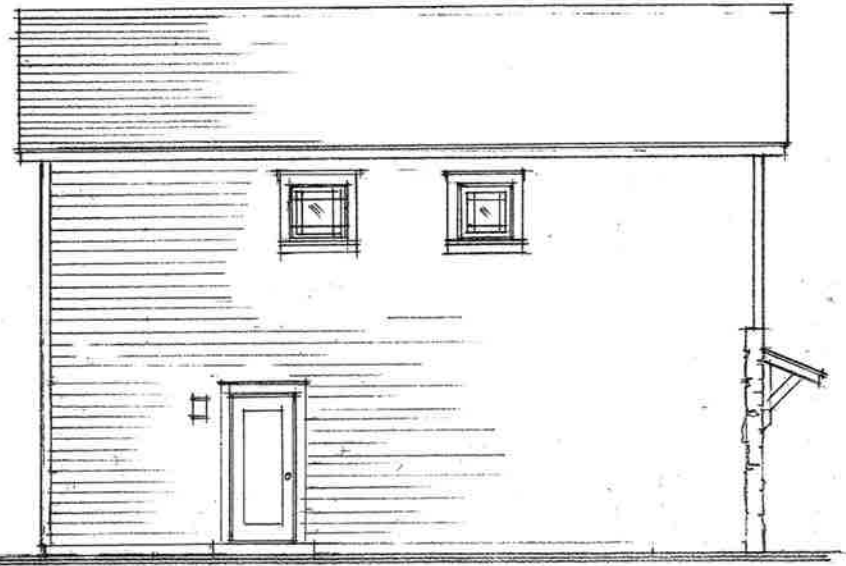
1523 EAST 35TH STREET
 TULSA - OKLAHOMA 74209
 10-2020 - 8-2020

TOM NEAL
DESIGN
 Associate member, American Institute of Architects
 918.231.7372

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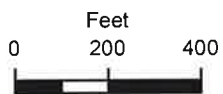
EAST ELEV. 3/16" = 1'-0"



WEST ELEV. 3/16" = 1'-0"

1523 EAST 35TH STREET
TULSA, OKLAHOMA 74109
8.20.10

TOM NEAL
DESIGN
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BOA-23026

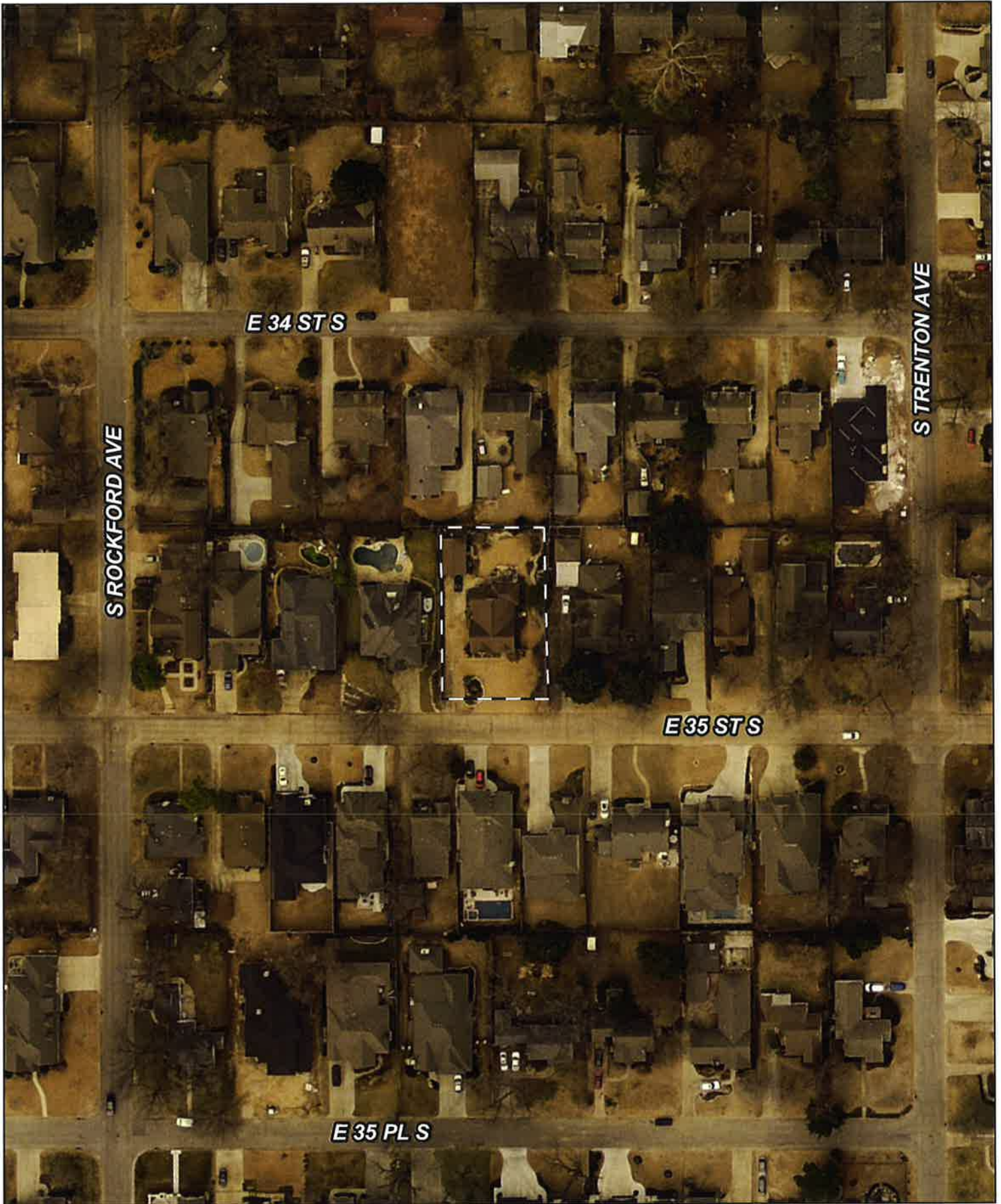
19-13 19

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

Aerial Photo Date: February 2018



8.16



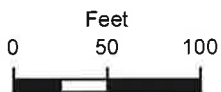
S ROCKFORD AVE

E 34 ST S

S STRENTON AVE

E 35 ST S

E 35 PL S



Subject Tract

BOA-23026

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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