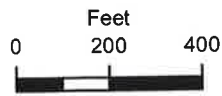


SUBJECT TRACT



BOA-23071

3.1



**BOARD OF ADJUSTMENT
CASE REPORT**

STR: 9319

Case Number: **BOA-23071**

CZM: 47

CD: 9

HEARING DATE: 02/109/2021 (*Continued from 01/12/2021*) 1:00 PM

APPLICANT: Lou Reynolds

ACTION REQUESTED: Variance of Section 80.020-B of the Tulsa Zoning Code to permit a portion of an existing covered patio to be located within the five foot (5') side street setback of a lawfully nonconforming lot in an RS-3 District for property located at 3541 S. Rockford Avenue

LOCATION: 3541 S ROCKFORD AV

ZONED: RS-3

PRESENT USE: Residential

TRACT SIZE: 7000.12 SQ FT

LEGAL DESCRIPTION: W. 50 OF LT-16-BLK-4, PARRAMORE ADDN

RELEVANT PREVIOUS ACTIONS: None.

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 at the NE/c of S. Rockford Ave. and E. 36th St. The lot is non-conforming with respect to minimum lot width. RS-3 zoning districts require 6' wide lots and this lot is only 50'.

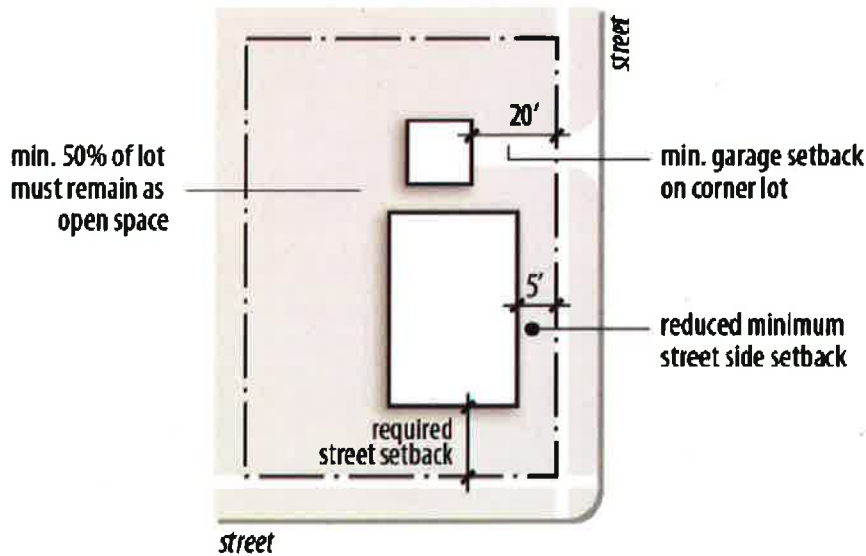
STAFF COMMENTS: The applicant is requesting a **Variance** of Section 80.020-B of the Tulsa Zoning Code to permit a portion of an existing covered patio to be located within the five foot (5') side street setback of a lawfully nonconforming lot in an RS-3 District for property located at 3541 S. Rockford Avenue

3.2

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.

Figure 80-1: Detached House on Nonconforming Lot in R District



Non-conforming lots are able to reduce their side street setbacks to 5' under certain conditions, this means the applicant is seeking to reduce their side setback from 5' instead of the typical 15' as required in a conforming RS-3 zoned lot. This application originally involved a request to allow a swimming pool in the side street setback but has since removed the request for the swimming pool and is only seeking relief for the patio structure which was built over the setback line. According to the applicant the fence will be moved out of the City right-of-way to comply with the zoning code.

STATEMENT OF HARDSHIP: See attached comments from the applicant.

SAMPLE MOTION: Move to _____ (approve/deny) a **Variance** of Section 80.020-B of the Tulsa Zoning Code to permit a portion of an existing covered patio to be located within the five foot (5') side street setback of a lawfully nonconforming lot in an RS-3 District for property located at 3541 S. Rockford Avenue

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."*



Subject property

Exhibit "A"

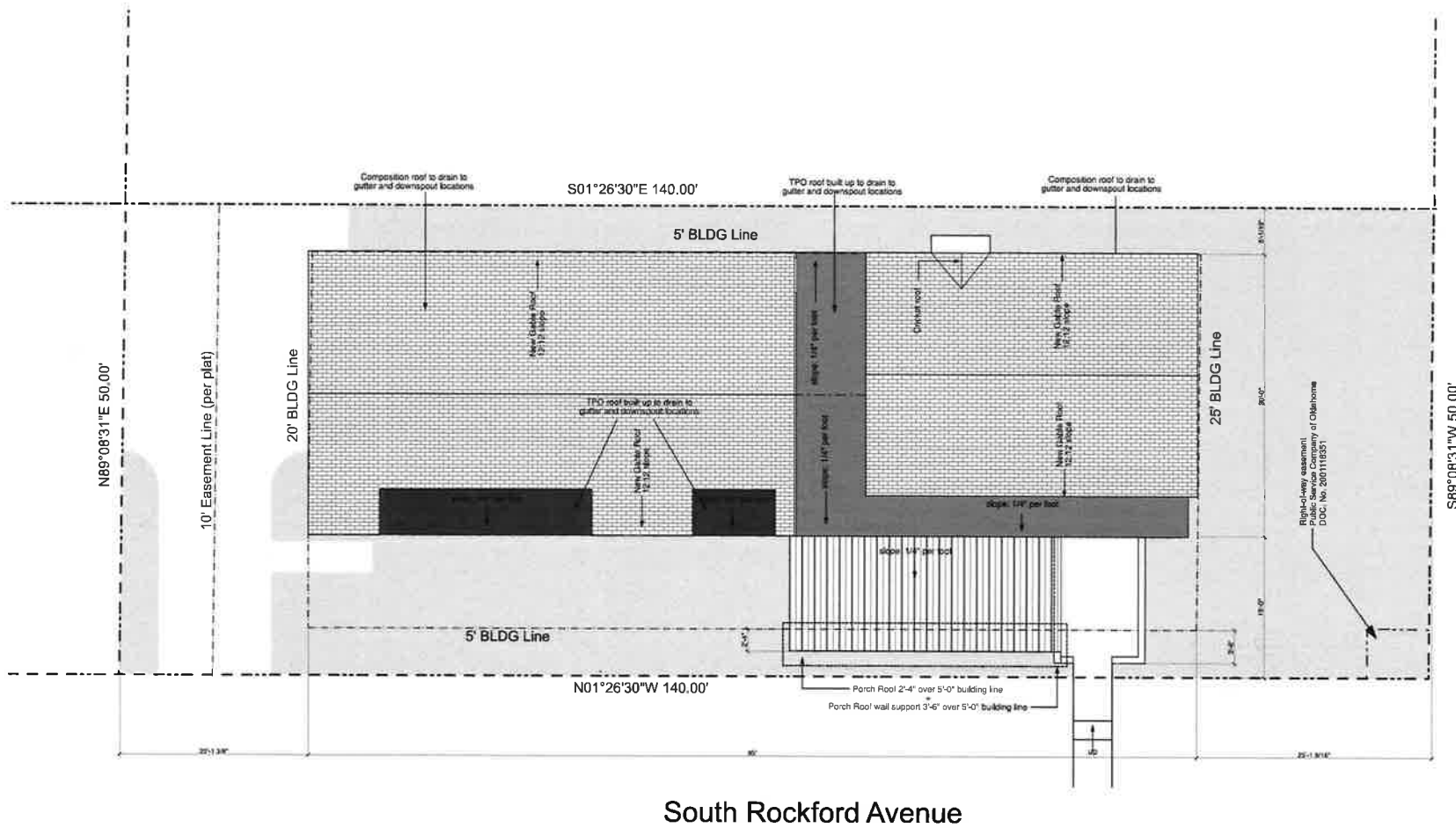
The Applicant requests a Variance of Section 80.020-B of the Tulsa Zoning Code (the "Code") to permit a portion of an existing covered patio to be located within the five foot (5') side street setback of a lawfully nonconforming lot in an RS-3 District for property located at 3541 S. Rockford Avenue (the "Property").

The Property is located at the northeast corner of S. Rockford Ave. and E. 36th Street. The lot was platted in 1926 as part of the Parramore Addition and split into two, 50-foot-wide lots shortly thereafter in 1929. The Property is lawfully nonconforming as a lot of record established before July 1, 1970, prior to the adoption of the Code.

In 2019, a new residence was constructed on the Property as a spec house. After obtaining a new survey of the Property, the owner learned that a portion of the patio roof and wall support were built into the five foot (5') side street setback. The patio roof encroaches 2'4" and the support wall encroaches 3'6" in the setback. A site plan showing the encroachments is attached hereto as **Exhibit "B"**.

The patio roof is attached to west side of the house, with a wall support located on its south side. The wall support also serves as a privacy/sound barrier from activity along 36th Street. The patio opens into the yard facing north and west. The Code allows decks and patios less than 30 inches above grade, and fences and walls to be located within setbacks. However, at approximately 10' tall, the patio roof and wall support integrated into the roof are not permitted obstructions by right.

The error at the time of construction of the residence and the narrowness of the nonconforming corner lot are unique to the Property and result in unnecessary hardship to the owner. The requested Variance is *de minimus* in nature and will not cause substantial detriment to the public good or impair the spirit and intent of the Code.



East 36th Street

South Rockford Avenue

1 Site Plan
SCALE 3/8" = 1'-0"

perkins
architects
perkinsarchitects.com

2200 South
Ulrica Place
Suite 250
Tulsa, Oklahoma 74124
P 918 742 8844

client:

1503 Residence
1503 East 36th Street Tulsa, OK
74105

drawing:
Site Plan

date: 1/20/21

A-100

3.7

Sparger, Janet

From: Pam Deatherage <Pam.Deatherage@kktarchitects.com>
Sent: Saturday, January 9, 2021 2:28 PM
To: esubmit; Chapman, Austin
Subject: RE: Tulsa Board of Adjustment - Case Number: BOA-23071

I am a neighbor, across the street from this house:
Pamela Deatherage, 1516 East 36th Street, Tulsa, Ok 74105

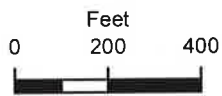
This house was constructed with the design to use City of Tulsa street right-of-way for their own private property (fenced in), which caused problems this summer when sidewalks were constructed in the neighborhood, causing a pedestrian crossing on Rockford Avenue, mid-block between 34th and 35th Streets.

The original house construction appears to violate required green space, permeable ground to absorb stormwater, much needed in this area of smaller storm sewer lines. Building a pool of hard surfaces would aggravate the existing condition.

In the matter of the pool, only ***IF the pool is out of the street right-of-way***, and ***IF the zoning code requirements for permeable landscaping are fulfilled as published***, then I can support this change. I don't care where he puts the pool, just not to interfere with stormwater issues.

Shame on the City of Tulsa and INCOG for allowing all the houses built in the last 10 years that do not have sidewalks and do not support stormwater runoff.

PAMELA DEATHERAGE



Subject Tract

BOA-23071

19-13 19

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

Aerial Photo Date: February 2018



3.9



Subject Tract

BOA-23071

19-13 19

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

Aerial Photo Date: February 2018



3.10