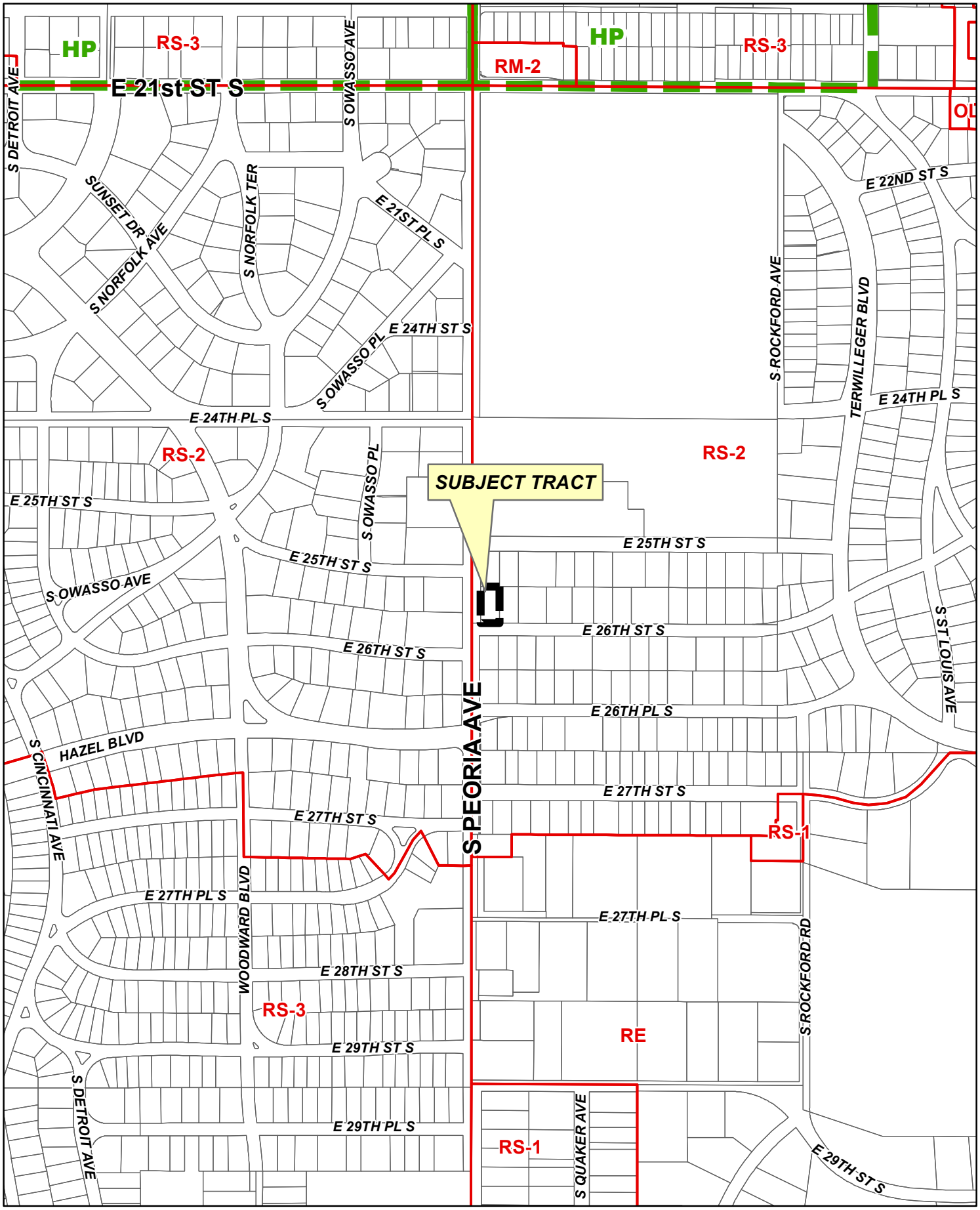

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BOA-23331

19-13 18

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BOARD OF ADJUSTMENT
CASE REPORT

STR: 9318 Case Number: **BOA-23331**
CZM: 37
CD: 4

HEARING DATE: 04/26/2022 1:00 PM

APPLICANT: Pool Creations Inc.

ACTION REQUESTED: Variance to permit a swimming pool within the required 35' side street setback (Sec. 5.030, Table 5-3; Sec. 90.090, Table 90-1)

LOCATION: 1305 E 26 ST S **ZONED:** RS-2

PRESENT USE: Residential **TRACT SIZE:** 10876.98 SQ FT

LEGAL DESCRIPTION: LT 17, TRAVIS HGTS SECOND ADDN

RELEVANT PREVIOUS ACTIONS:

Subject Property:

BOA-22059; On 04.26.16 the Board **approved** a Special Exception to permit a carport in the Peoria Street yard with modifications of the allowable height and square footage and a variance of the allowable coverage by a detached accessory building in the rear yard.

Surrounding properties:

BOA-23049; On 12.09.20 the Board **approved** a Variance to permit a swimming pool within the required 35' side street setback. Property located 1306 E. 26th St. S.

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. Peoria Ave and E. 26th St. S. Peoria Ave is Classified as an Urban Arterial at this location and would trigger a 35-foot street setback.

The applicant is seeking to reduce the setback from 35-foot to 23-feet or as described on the site plan 58-feet from the center of Peoria Ave.

STATEMENT OF HARDSHIP: We are asking for a variance on the 70-foot setback from the center of Peoria for a swimming pool placement. There are many homes as well as other swimming pools in the immediate area that are within the required setback. A variance is needed for pool placement in the backyards.

STAFF COMMENTS: The applicant is requesting **Variance** to permit a swimming pool within the required 35' side street setback (Sec. 5.030, Table 5-3; Sec. 90.090, Table 90-1)

Table 90-1: Permitted Setback Obstructions in R Zoning Districts

Obstruction	Setback		
	Street	Side	Rear
Accessory buildings (see also §90.090.C2)	No	No	Yes
Air conditioning units	No	Yes	Yes
Arbors and trellises	Yes	Yes	Yes
Awnings, canopies, light shelves and architecturally integrated solar shading devices projecting no more than 2 feet into the setback	Yes	Yes	Yes
Barbeque pits and outdoor fireplaces	No	No	Yes
Bay windows projecting no more than 2 feet into the setback	Yes	Yes	Yes
Carports	Yes [1]	Yes [2]	Yes [2]
Chimneys and flues projecting no more than 2 feet into the setback	Yes	Yes	Yes
Clotheslines	No	Yes	Yes
Decks, patios, and other features and structures less than 30 inches in height above grade	Yes	Yes	Yes
Eaves and gutters projecting no more than 2 feet into the setback	Yes	Yes	Yes
Fences and walls (see also Section 45.080)	Yes	Yes	Yes
Fire escapes projecting no more than 4.5 feet into the setback	Yes	Yes	Yes
Flagpoles and similar features	Yes	Yes	Yes
Geothermal heat pumps and geothermal heat exchange system equipment up to 4 feet in height above grade	No	No	Yes
Green houses and hoop houses	No	No	Yes
Insulation added to the outside of the exterior wall of an existing building	Yes	Yes	Yes
Plants and cold frames	Yes	Yes	Yes
Rainwater harvesting equipment projecting no more than 4.5 feet into the setback	Yes	Yes	Yes
Recreational equipment (e.g., swing sets, playground equipment, tree houses, etc.)	No	No	Yes
Satellite dish antennas	See Section 45.180		
Signs (see also Chapter 60)	Yes	Yes	Yes
Sills, belt courses, cornices and similar architectural features projecting no more than 2 feet into the setback	Yes	Yes	Yes
Solar energy systems, building-mounted	No	Yes	Yes
Solar energy systems, ground-mounted	No	No	Yes
Swimming pools and tennis courts	No [3]	No	Yes
Vehicle parking/storage, inoperable (see also Section 45.140)	No	No	Yes
Wheelchair lifts and ramps that meet federal, state and local accessibility standards	Yes	Yes	Yes

Table 90-1 Notes

The Board may consider the existing lot development which includes a house that is non-conforming with respect tot eh required setback from Peoria Ave.

SAMPLE MOTION:

Move to _____ (approve/deny) a **Variance** to permit a swimming pool within the required 35' side street setback (Sec. 5.030, Table 5-3; Sec. 90.090, Table 90-1)

- 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

Board Action:
On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Flanagan absent) to **APPROVE** the request for a full **REFUND** of $350.00; for the following property:

LT 7 LESS N147.9 FOR HWY & LESS S10 THEREOF FOR ST BLK 1, FOSTER SUB, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

****

NEW APPLICATIONS

FILE COPY

22059—Aaron Sattre

Action Requested:
Special Exception to permit a carport in the Peoria Avenue street yard with modifications to allowable height, square footage (Section 90.090-C.1); Variance of the allowable coverage of the rear yard by detached accessory buildings in the RS-2 District (Section 90.090-C.2). **LOCATION:** 1305 East 26th Street South **(CD 4)**

Ms. Moye informed the Board that the Staff Report on page 3.3 in the Board's agenda packet needs to have a correction. On page 3.3 under "Staff Comments" it states "The Board approved a Special Exception" and it should actually read "The applicant is requesting a Special Exception".

Presentation;
Aaron Sattre, 1305 East 26th Street, Tulsa, OK; no formal presentation was made but the applicant was available for any questions from the Board.

Mr. Henke asked Mr. Sattre when the house was built. Mr. Sattre stated that the house was built in 1930.

Mr. Van De Wiele asked Mr. Sattre if the portion he was covering with the carport was the existing driveway. Mr. Sattre answered affirmatively and stated that it is the existing driveway.

Mr. Van De Wiele asked Mr. Sattre if the entirety of the driveway was inside the fence line. Mr. Sattre answered affirmatively.

Interested Parties:
Brian Easlon, 1268 East 26th Street, Tulsa, OK; stated he lives southwest of the subject property. Mr. Easlon stated that he in favor of this request. He has seen the plans and has the clearest view of the subject proposed project area. He believes it will

be aesthetically pleasing to the neighborhood and will bring great value to the neighborhood and the subject property.

Comments and Questions:
None.

Board Action:
On **MOTION** of **WHITE**, the Board voted 4-0-0 (Henke, Snyder, Van De Wiele, White "aye"; no "nays"; no "abstentions"; Flanagan absent) to **APPROVE** the request for a Special Exception to permit a carport in the Peoria Avenue street yard with modifications to allowable height, square footage (Section 90.090-C.1); Variance of the allowable coverage of the rear yard by detached accessory buildings in the RS-2 District (Section 90.090-C.2), subject to conceptual plans 3.9, 3.10 for the height, and 3.14 for the style. The Board has found the hardship to be that the house was built in 1930 and the proposed carport will accommodate today's vehicles with protection from the elements. There are other similar applications in the neighborhood. Finding the 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. The Board determines 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; for the following property:

LT 17 BLK 1, TRAVIS HGTS SECOND ADDN, CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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; for the following property:

LOT 6 BLOCK 2, DELAWARE PARK, City of Tulsa, Tulsa County, State of Oklahoma

23049—Justin Kingsley

FILE COPY

Action Requested:
Variance to permit a swimming pool within the required 35-foot side street setback (Section 5.030, Table 5-3 & Section 90.090, Table 90-1). **LOCATION:** 1306 East 26th Street South **(CD 4)**

Presentation:
Justin Kingsley, 3301 East 176th Street North, Skiatook, OK; stated the client would like to have swimming pool. The house has a garage on the back with a driveway that goes all the way back which prohibits placing the pool in the rear. The only access door to the backyard is on the west side of the property and it opens up onto an existing deck. The original pool size has been shrunk to allow for the pool edge to be five feet from the house. The wooden deck will be removed and there will be no decking on the west side, it will be a raised wall. There are power lines running along the south property line and the pool will be 32 feet from the center of Peoria.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Variance to permit a swimming pool within the required 35-foot side street setback (Section 5.030, Table 5-3 & Section 90.090, Table 90-1), subject to conceptual plan submitted today. The Board has found the hardship to be the site location is on a corner as well as being on an arterial street corner, and existing conditions prevent the pool being elsewhere on the lot. 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;

BOA - 23049

FILE COPY

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; for the following property:

LT 16 BLK 2, TRAVIS HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

23050—Cody Welch

Action Requested:
Minor Special Exception to amend a previously approved site plan for a Moderate-Impact Medical Marijuana processing (Moderate-impact Manufacturing & Industry Use) in the IL District (Section 70.120). **LOCATION:** 165 South 122nd Avenue East **(CD 3)**

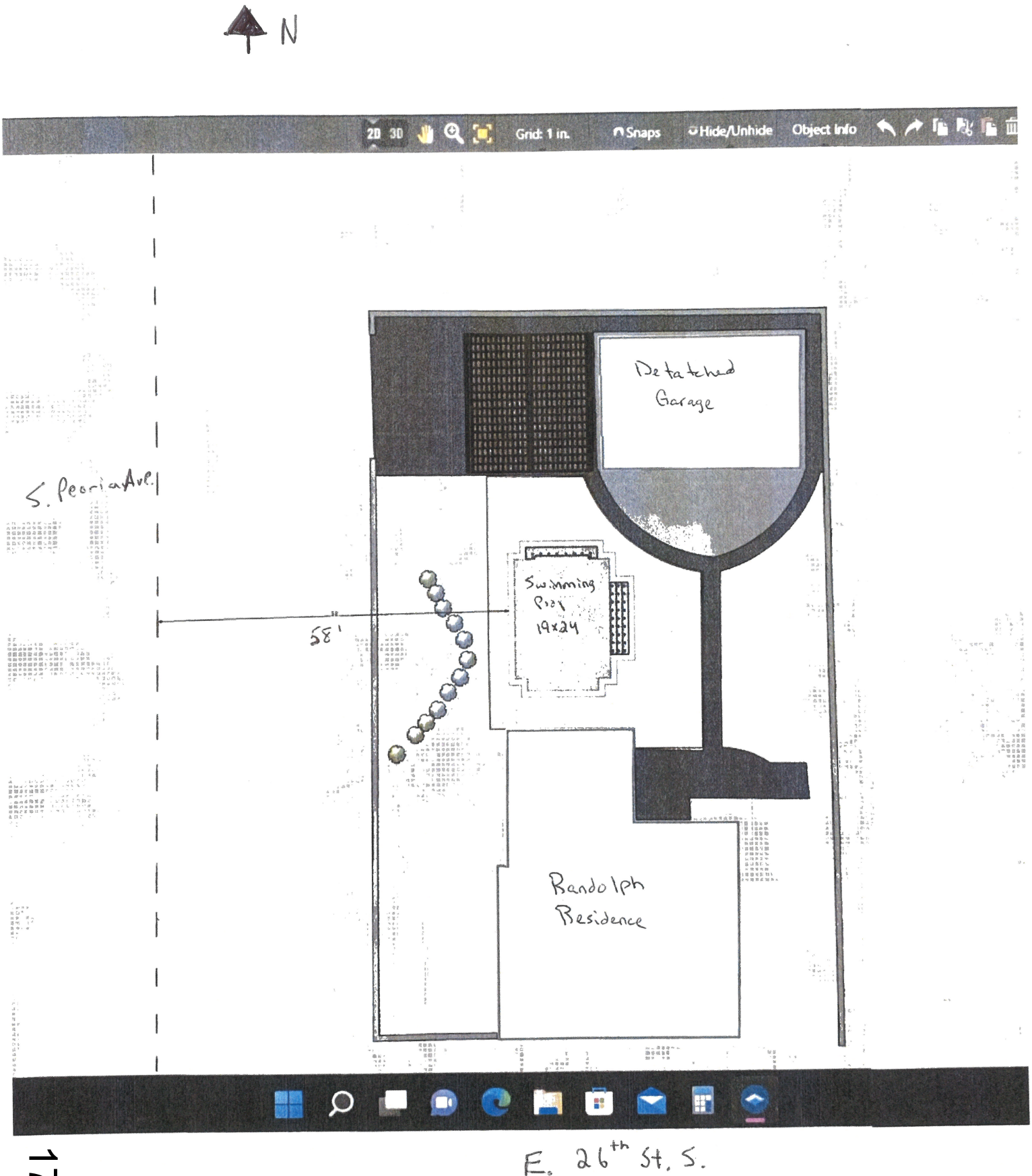
Presentation:
Cody Welch, 2878 East 34th Street, Tulsa, OK; stated the Board approved his proposition in August and he now has to rename is area to Suite C on the advisement of Adam Murray in the Permit Office. He has to move a bathroom door to be compliant with the City of Tulsa and OMMA.

Mr. Van De Wiele asked Mr. Welch if he would now be doing business in Suite C and not in Suite B. Mr. Welch stated the whole area was Suite B and his proposed area is a 10 x 20 room within Suite B, and that room has been redesignated as Suite C with the City of Tulsa.

Interested Parties:
There were no interested parties present.

Comments and Questions:
None.

Board Action:
On **MOTION** of **RADNEY**, the Board voted 4-0-0 (Brown, Radney, Shelton, Van De Wiele "aye"; no "nays"; no "abstentions"; Bond absent) to **APPROVE** the request for a Minor Special Exception to amend a previously approved site plan for a Moderate-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2D 3D
Grid: 1 in.
Snaps
Hide/Unhide
Object Info
Detached Garage
S. Peoria Ave.
Swimming Pool 19x24
58'
Randolph Residence
E. 26th St. S.

17.10

Description:

Pool Review

Submittal Status	Received Date	Due Date	Completed Date
Requires Re-submit	02/23/2022	03/09/2022	03/15/2022

Planning/Zoning • Requires Re-submit • Taylor Jeff • Completed : 03/09/2022

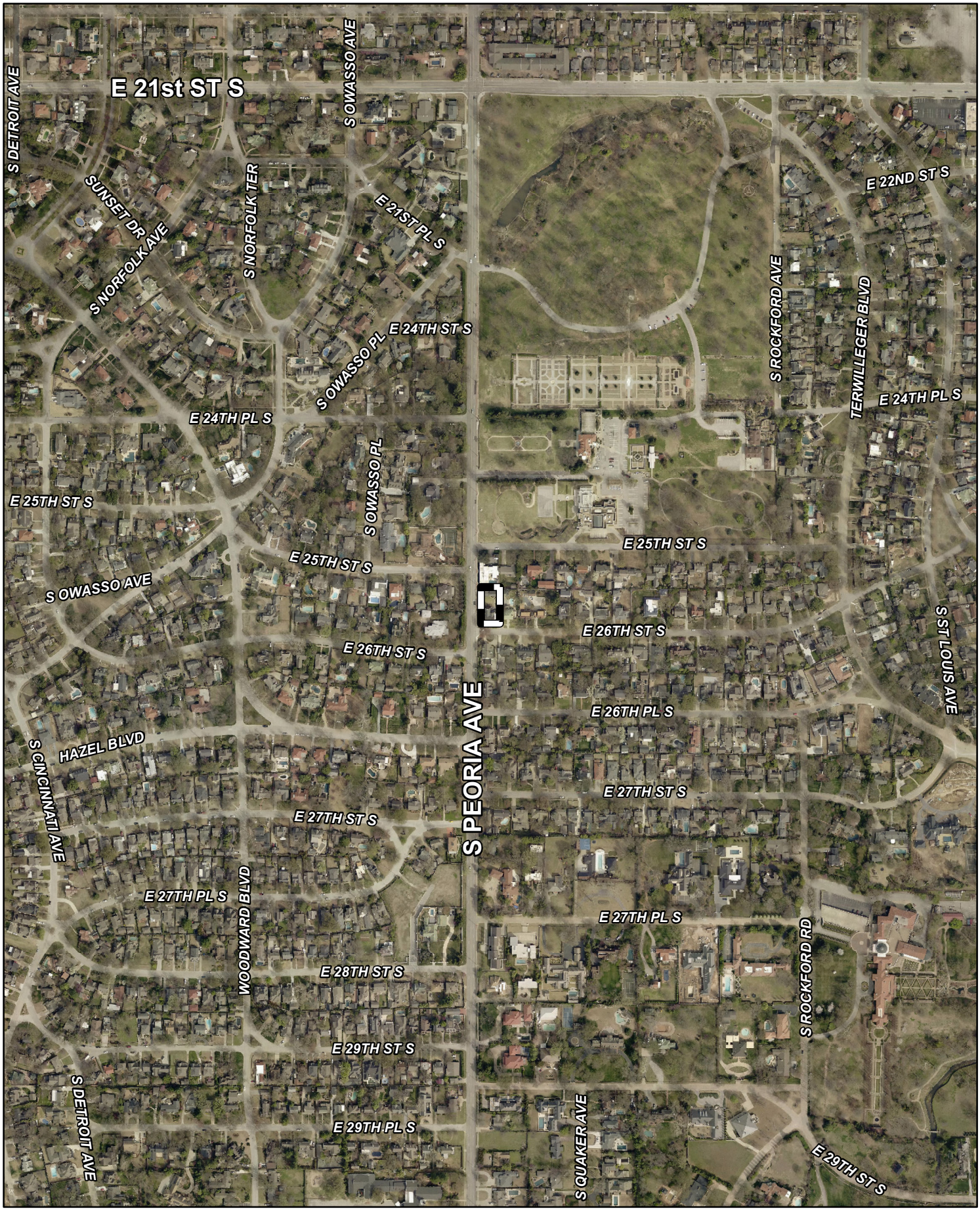
Due Date	Completed Date
03/09/2022	03/09/2022

Correction (1)

Correction Type	General	Category	General Correction
Corrective Action	Revise plans to indicate a 70' setback from center of Peoria ROW to pool or apply to BOA for a variance to allow less than 70' from center of Peoria.		
Comment	70' required side setback required from center of arterial street known as Peoria to pool.		

Water/Sewer/Drainage • Approved • Westbrook Randy • Completed : 02/25/2022

Building • Approved • Taylor Jeff • Completed : 03/10/2022



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Subject Tract

BOA-23331

19-13 18

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

Aerial Photo Date: 2020/2021

N

17.12

Feet
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Subject Tract

BOA-23331

19-13 18

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

Aerial Photo Date: 2020/2021

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