



# BOARD OF ADJUSTMENT CASE REPORT

STR: 8210  
CZM: 51  
CD: 2

Case Number: **BOA-23347**

**HEARING DATE:** 05/10/2022 1:00 PM

**APPLICANT:** Tom Beverage

**ACTION REQUESTED:** Special Exception to permit an Accessory Dwelling Unit in the AG-R District (Sec. 45.031-D)

**LOCATION:** 3045 W 77 ST S

**ZONED:** AG-R

**PRESENT USE:** Vacant with a residence under construction

**TRACT SIZE:** 100624.01 SQ FT

**LEGAL DESCRIPTION:** NE NW NW SW LESS S25 FOR RDS SEC 10 18 12,

**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 East of the NE/c of E. 77<sup>th</sup> St. S. and S. 33<sup>rd</sup> W. Ave. property is located approximately 350-feet East of the boundary line between the City of Tulsa and the City of Sapulpa.

**STAFF COMMENTS:** The applicant is requesting a **Special Exception** to permit an Accessory Dwelling Unit in the AG-R District (Sec. 45.031-D), included in your packet is a copy of Sec. 45.031 including the supplemental regulations for ADU's.

The property is included in the West Highlands/ Tulsa Hills Small Area Plan Area, included in that plan is a goal stating the following, taken from page 13 of the West Highlands/ Tulsa Hills Small Area Plan available at <http://tulsaplanning.org/plans/West-Highlands-Tulsa-Hills-Small-Area-Plan.pdf> :

2.7 Support a change to the zoning code that enables a property owner to construct and rent an accessory dwelling unit (commonly known as “mother-in-law flat”) on their residential-zoned property. Support Board of Adjustment applications asking for such uses in this area.

**SAMPLE MOTION:** Move to \_\_\_\_\_ (approve/deny) a **Special Exception** to permit an Accessory Dwelling Unit in the AG-R District (Sec. 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.



***Subject Property***

supporting structure (excluding any guy lines) to the nearest point on the residential zoning district boundary line, excluding R-zoned freeways.

## **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]

#### **2. 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-C2.

### **45.030-B      Carports**

Carports are allowed in R zoning districts. Any carport that occupies all or a portion of the street setback or street yard area must be approved in accordance with the special exception procedures of Section 70.120 and comply with the regulations of Section 90.090-C1.

## **Section 45.031      ADU, Accessory Dwelling Units in R, AG, and AG-R Districts**

### **Section 45.031-A Definition**

A dwelling unit that is located in an accessory building on the same lot as a detached house to which it is accessory and subordinate.

Examples of ADUs include carriage houses, garage apartments, and mother-in-law flats.

### **Section 45.031-B Purpose**

1. The purpose of allowing accessory dwelling units within R, AG, and AG-R districts is to:
  - a. accommodate new housing units while preserving the character of existing neighborhoods;
  - b. allow efficient use of the city's existing housing stock and infrastructure;
  - c. provide housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and

- d. provide a means for residents—particularly seniors, single parents, and empty-nesters—to remain in their homes and neighborhoods, and obtain extra income, security, companionship and assistance.
2. The ADU supplemental regulations are also intended to help ensure that that new buildings and modifications to existing buildings are designed with sensitivity to their context in terms of building placement, proportions, building materials, and similar design features.

### **Section 45.031-C      Applicability**

These regulations apply to all accessory dwelling units, as defined by Section 45.031-A.

### **Section 45.031-D      Regulations**

#### **1. 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.

#### **6. 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]

[1] For detached accessory buildings, including accessory dwelling units, located within rear setbacks, see Section 90.090-C2.

## 7. Building and Fire Codes

All accessory dwelling units are subject to applicable building and fire codes.

## 8. Additional Regulations for Accessory Dwelling Units

### a. Entrances

Building entrances to accessory dwelling units may not face the nearest side or rear property line unless there is an alley abutting that property line.

### b. Setbacks

An accessory dwelling unit must be located at least 10 feet behind the detached house. This required 10-foot separation distance must be open from the ground to the sky except that it may include walkways, patios, decks and similar structures that do not exceed 30 inches in height above finished grade.

### c. Exterior Finish Materials

The exterior finish material of any new accessory dwelling unit must be the same or visually match in type, size and placement, the exterior finish material of the detached house.

### d. Roof Pitch

The roof pitch any new accessory dwelling unit must be the same as the predominant roof pitch of the principal building.

## Section 45.040 Compressed Natural Gas (CNG) Refueling Appliances

Private (restricted access), consumer-oriented (home), CNG refueling appliances are permitted as an accessory use to lawfully established household living uses in all zoning districts.

## Section 45.050 Dumpsters

### 45.050-A Regulations

Dumpsters established or placed on or after the effective date specified in [Section 1.030](#) are subject to the following regulations:

1. Dumpsters may only be placed with the written permission of the owner of the subject property.
2. Dumpsters must be located on a dustless, all-weather surface.
3. Dumpsters may not:
  - a. Obstruct motorized or non-motorized traffic;

**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

**Tom Beverage**  
[icecoldchief@yahoo.com](mailto:icecoldchief@yahoo.com)

3/28/2022

**APPLICATION NO: ZON LOD 112620**

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

**Project Location: 3045 W 77<sup>th</sup> St S**

**Description: Detached Accessory Building/ADU**

#### 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. SUBMIT TWO (2) SETS [4 SETS IF HEALTH DEPARTMENT REVIEW IS REQUIRED] OF REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
2. 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.
3. A COPY OF A "RECORD SEARCH" [  ] 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 <http://tulsaplanning.org/plans/TulsaZoningCode.pdf>

**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. **Definitions: Dwelling Unit**

A room or group of rooms arranged, intended, or designed as a habitable unit, containing kitchen, bath and sleeping facilities, for not more than one household living independently of any other household.

#### **Section 45.031 ADU, Accessory Dwelling Units in R, AG, and AG-R Districts**

##### **Section 45.031-D Regulations**

A dwelling unit that is located in an accessory building on the same lot as a detached house to which it is accessory and subordinate.

Examples of ADUs include carriage houses, garage apartments, and mother-in-law flats.

**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 AG-R zoned area.

2. **55.090-F Surfacing.** All off-street drives and parking areas must be surfaced with a dustless, all-weather surface unless otherwise expressly stated in this zoning code. Pervious pavement or pervious pavement systems are allowed subject to the supplemental regulations of §55.090-F4. Parking area surfacing must be completed prior to initiation of the use to be served by the parking.

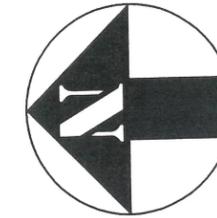
**Review Comments:** Revise site plan to indicate a dustless all-weather parking surface from the public street to the proposed garage or apply to the Board of Adjustment for a Variance (section 70.120) to allow a material other than an approved material meeting the requirements of 55.090-F.











RIGHT SIDE OF BUILDING

70'-0"

5050 WINDOW

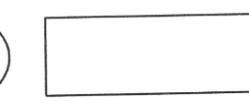
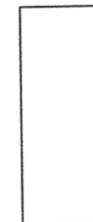
T.V.

3068

PORCH

17'-3"

15'-3"



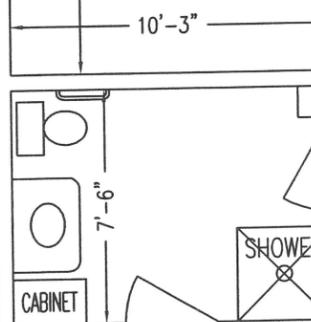
ISLAND

FRIG.

REAR SIDE OF BUILDING

GARAGE/SHOP

FRONT OF BUILDING  
40'-0"



CABINET

SHOWER

KITCHEN

3030 WINDOW

H.W.

HVAC

CABINETS

5050 WINDOW

SHELVES

CLOSET

OFFICE

5050 WINDOW

5'-3"

4'-6"

12'-7/2"

3'-6"

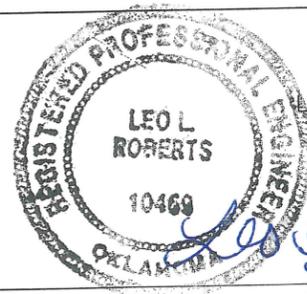
7'-6"

10'-3"

LEFT SIDE OF BUILDING

LEO L. ROBERTS, P.E.  
CA 2908

*Edp 6-30-22*



LEO L. ROBERTS

10469

*Leo L. Roberts*  
*3/8/22*

PROJECT LOCATION : HARTMAN RESIDENCE  
3045 W. 77th ST.  
TULSA, OK 74132  
TULSA COUNTY

FLOOR PLAN  
SCALE: NONE

NO	DATE	REVISION	BY
A	03-08-22	ADDED WINDOWS AND SHOWER	CJJ

LEO L. ROBERTS, P.E.  
8809 N 145 E AVE  
OWASSO, OK 74055  
918-272-8680

LEO L. ROBERTS, P.E.  
(918) 272-8680 - 8809 N. 145TH E. AVE. - OWASSO, OK 74055

40'x70'x12' - POST FRAME BUILDING  
TULSA HILLS, OK 74132

SHEET  
S2

FILE: TUOK022252      FEBRUARY 22, 2022      DRAWN BY: CJD

14.13



W 71st ST S

W 72nd ST S

S 36th W Ave

W 72nd PL S

S 26th W Ave

S 35th W Ave

W 73rd ST S

W 73rd ST S

W 74th ST S

W 76th ST S

PARK ST

W 77th ST S

S 30th W Ave

S 28th W Ave

S 26th W Ave

S 33rd W Ave

W 78th ST S

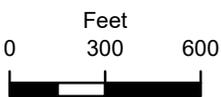
W 79th ST S

W 79th ST S

S 30th W Ave

W 80th ST S

W 81st ST S



Subject Tract

**BOA-23347**

18-12 10

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

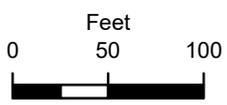
Aerial Photo Date: 2020/2021



14.14



**W 77TH ST S**



**Subject  
Tract**

**BOA-23347**

18-12 10

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

Aerial Photo Date: 2020/2021



**14.15**