

BOA-23371

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BOARD OF ADJUSTMENT CASE REPORT

STR: 9308

Case Number: **BOA-23371**

CZM: 37

CD: 4

HEARING DATE: 06/14/2022 1:00 PM

APPLICANT: Tom Neal

ACTION REQUESTED: **Special Exception** to allow an Accessory Dwelling Unit in the RS-3 District (45.031-D); **Variance** to allow the floor area of Detached Accessory Buildings/ Dwelling Units to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6); **Variance** to allow a Detached Accessory Building/ 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 in the rear setback (Section 90.090-C2); **Variance** to allow a Detached Accessory Building in the 5-foot side setback (Sec. 90.090-C, Table 90-1)

LOCATION: 1724 S DELAWARE AV E

ZONED: RS-3

PRESENT USE: Residential

TRACT SIZE: 7775.49 SQ FT

LEGAL DESCRIPTION: LT 5 BLK 1, WILSON VIEW SECOND 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 on the West side of S. Delaware Ave. in between E. 17th St. S. and S. Columbia Pl.

STATEMENT OF HARDSHIP: Existing garage only accommodates one car and ADU w/ garage will house 2nd Car and provide guest housing for family visiting. Garage apartments are found though out neighborhood.

STAFF COMMENTS: The applicant is requesting **Special Exception** to allow an Accessory Dwelling Unit in the RS-3 District (45.031-D); **Variance** to allow the floor area of Detached Accessory Buildings/ Dwelling Units 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 Detached Accessory Building/ 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 in the rear setback and to allow more than 30% coverage of the rear setback by an Accessory Building/Dwelling Unit in the RS-3 District (Section 90.090-C2); **Variance** to allow a Detached Accessory Building in the side setback (Sec. 90.090-C, Table 90-1)

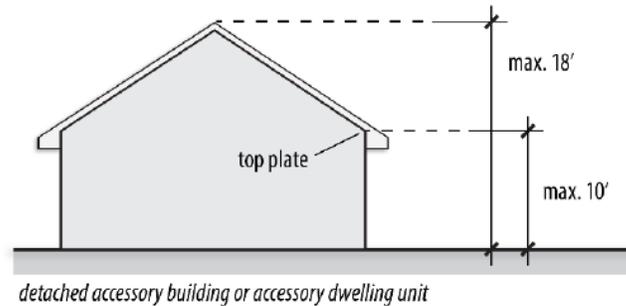
Included in your packet are copies of Sections 45.030 and 45.031 containing regulations for Accessory Building and Accessory Dwelling Units.

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

- (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](#):

Square Footage of Accessory Building Allowed: 716.8 square feet (Principal structure is 1,792 square feet per the Tulsa County Assessor)

Proposed: 1,272 square feet

Height of Accessory Building Allowed: 10-feet at the top plate and 18-feet to peak

Proposed: 19-feet at the top plate and 24-feet at the peak

Required Side Setback: 5-feet

Proposed: 3-feet

Staff agrees with the applicant that detached garages are common in the general neighborhood, but staff could not discern how many in the immediate area are in comparable scale to this proposed project. Detached garages appear to be predominantly one-story in height around the subject property.

SAMPLE MOTION: Move to _____ (approve/deny) a **Special Exception** to allow an Accessory Dwelling Unit in the 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.

Move to _____ (approve/deny) a **Variance** to allow the floor area of Detached Accessory Buildings/ Dwelling Units to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6); **Variance** to allow a Detached Accessory Building/ 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 in the rear setback (Section 90.090-C2); **Variance** to allow a Detached Accessory Building in the 5-foot side setback (Sec. 90.090-C, 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 **Variances** 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."*

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;



Subject property



Facing North on Delaware



Facing South on Delaware Ave.

NOTE: DIA. CORNER BRACING 4x8x1/2" SHEATH'G NAILED EDGES 6" O.C. CTR 12" O.C.

1/2" MIN. DECK'G COMP. SHINGLES ON 30# FELT, FOAM OFFSET

2x8's @ 16" O.C. W/ 2x6 COLLAR TIES @ 16" O.C.

1/2" GYP. BD.

3/4" T+G PLY

2x12's @ 16" O.C.

2x 5/8" TYPE 'X' GYP. BD.

2x4's @ 16" O.C.

1/2" x 10" ANCH. BOLT @ 6" O.C.

2x6 MUDDSILL

VAPOR BARRIER

FILL

1/2" R. BAR @ 4" O.C.

5/8" R. BAR CONT.

ALT. W/ RAFTER TAILS W/ VENT HOLES

FIBER-CEMENT SID'G ON SHEATH'G + HOUSEWRAP

8" MIN.

18" MIN.

24" MIN.

3"

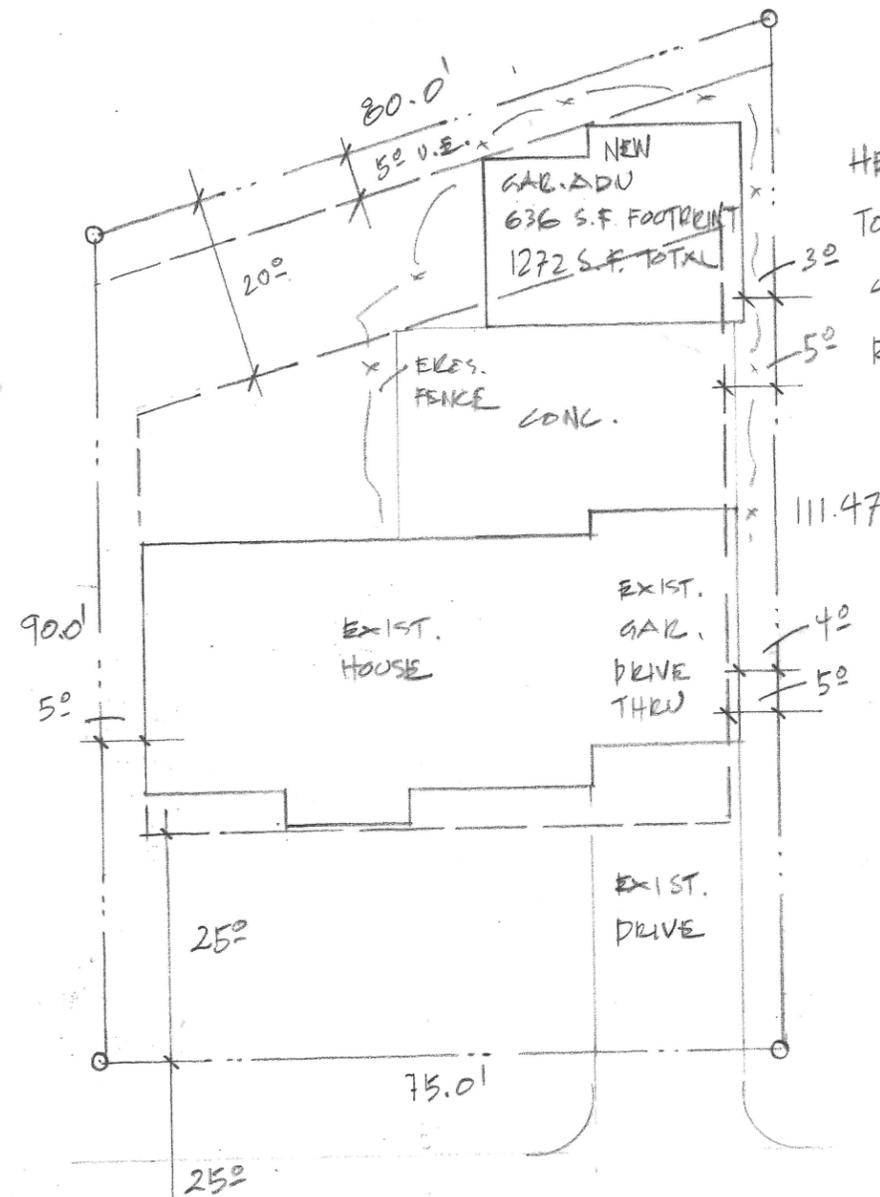
12" MIN.

WALL SECTION 1" = 1'-0" 11.2020

TOM NEAL DESIGN

Associate member, American Institute of Architects

918.231.7372



HEIGHT: 24'
TOP PLATE: 19'
468 S.F. REAR
REAR MAX COV.

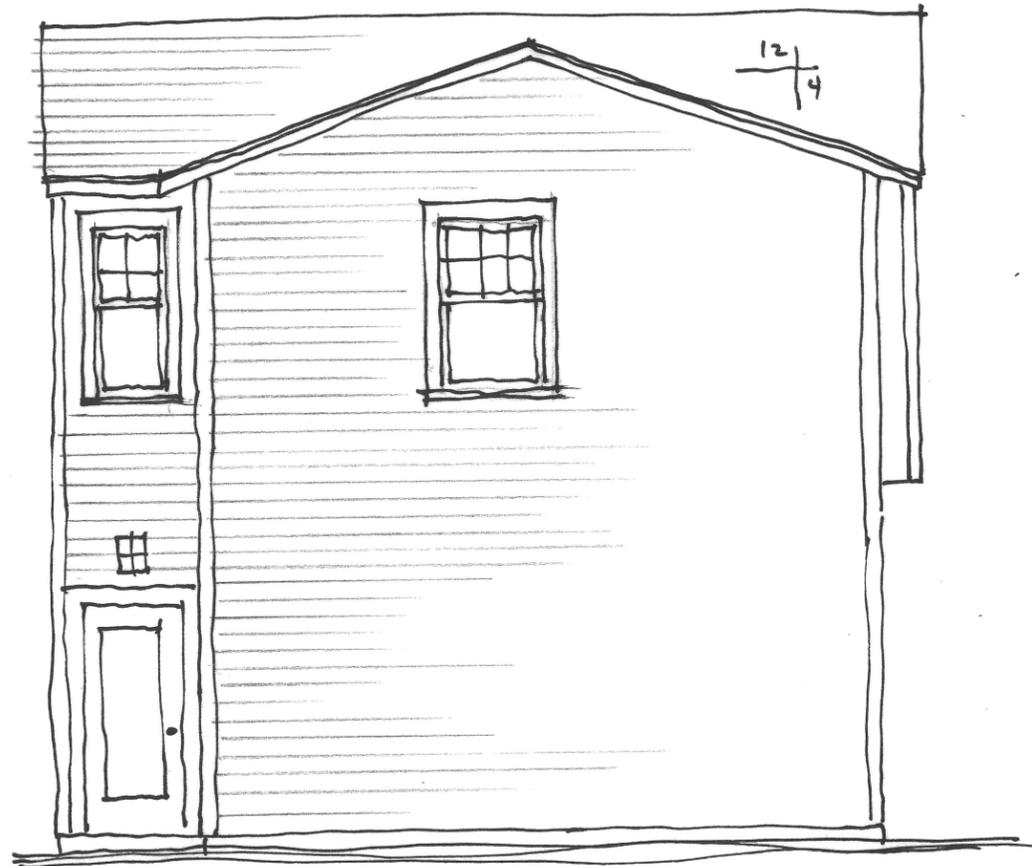
SO. DELAWARE AVE.
SITE PLAN 1" = 20' NORTH

DEBERT
1724 SO. DELAWARE AVE.
TULSA, OKLA 5.2022

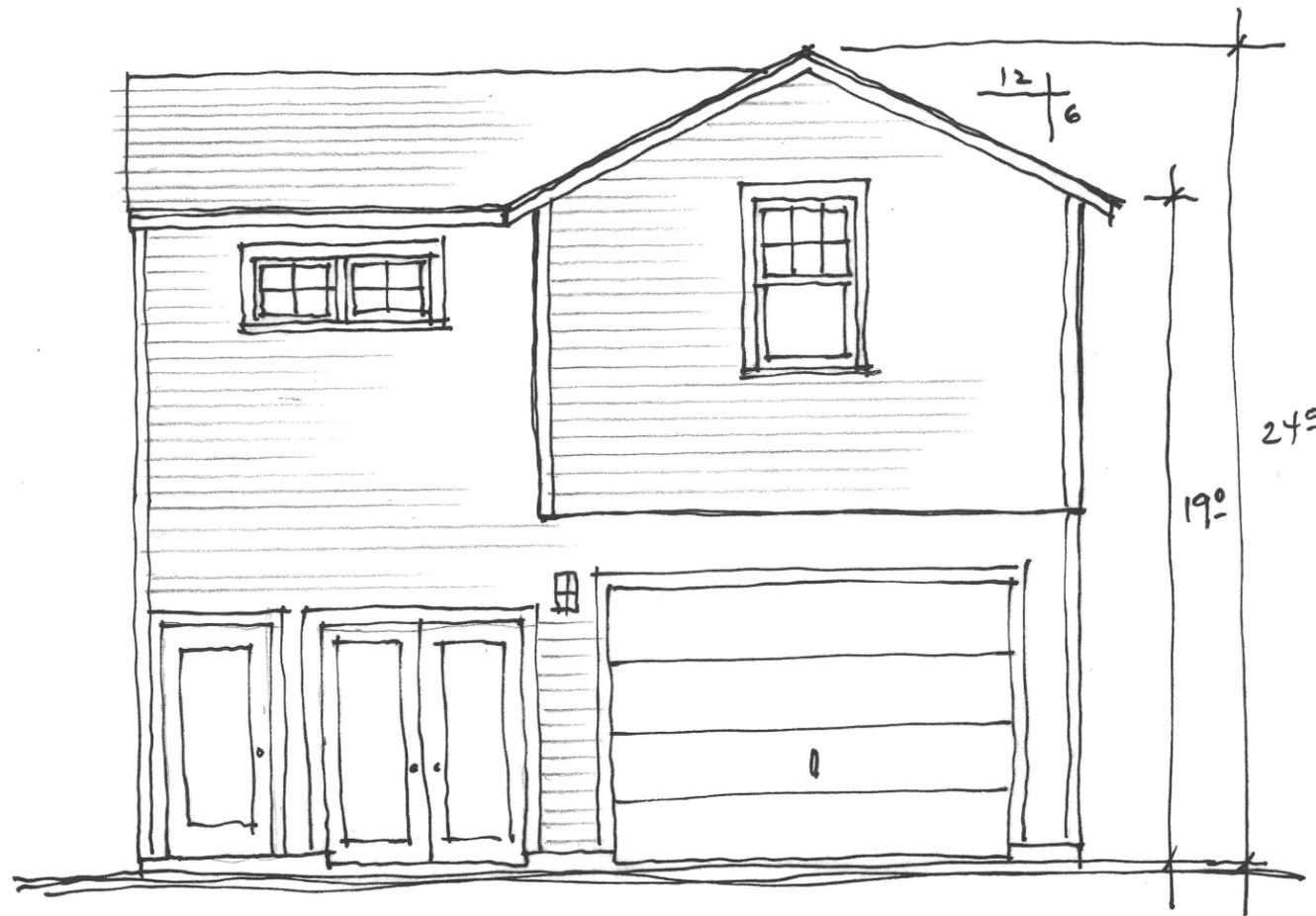
TOM NEAL DESIGN

Associate member, American Institute of Architects

918.231.7372



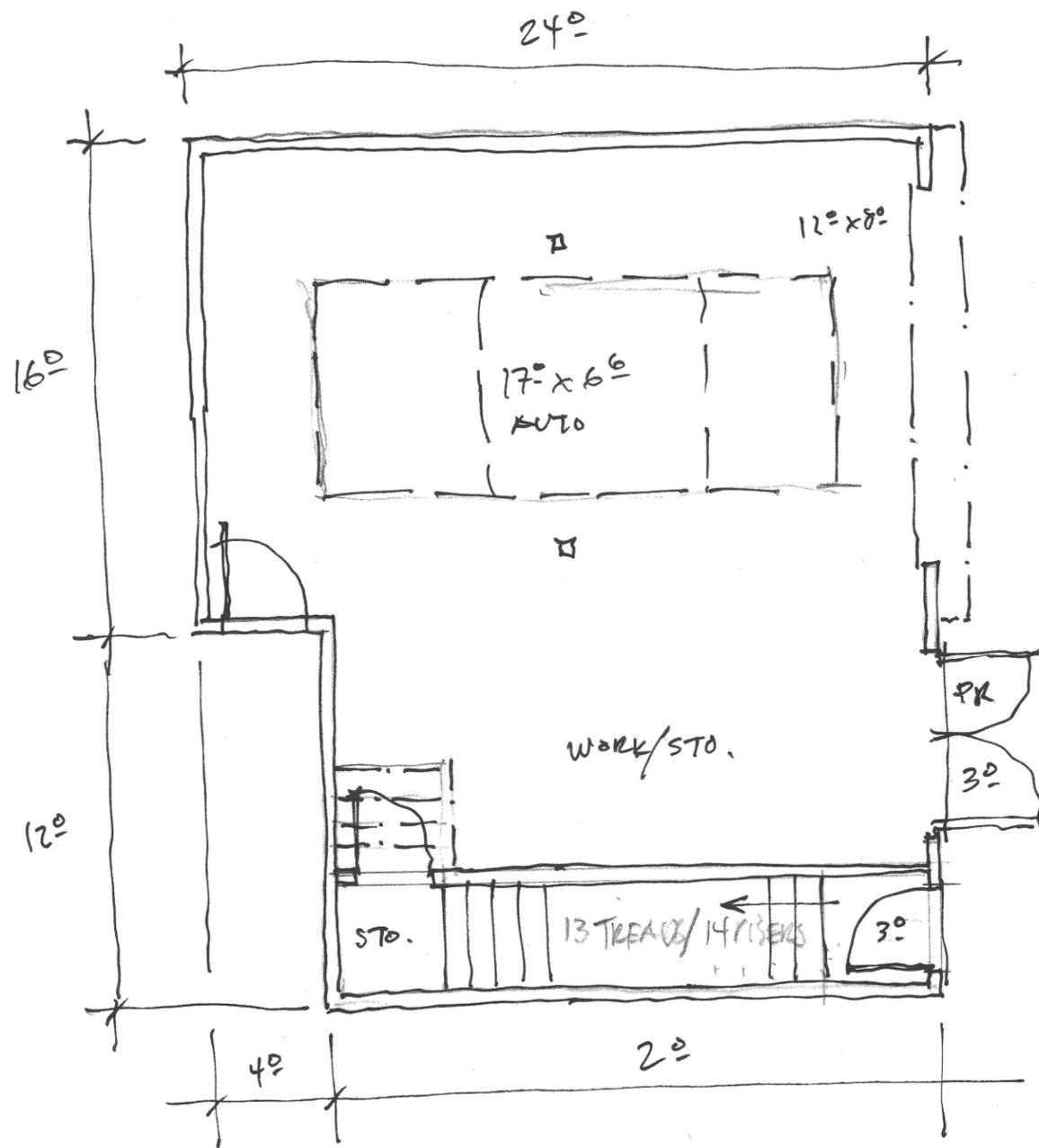
SOUTH $\frac{3}{16}'' = 1'-0''$



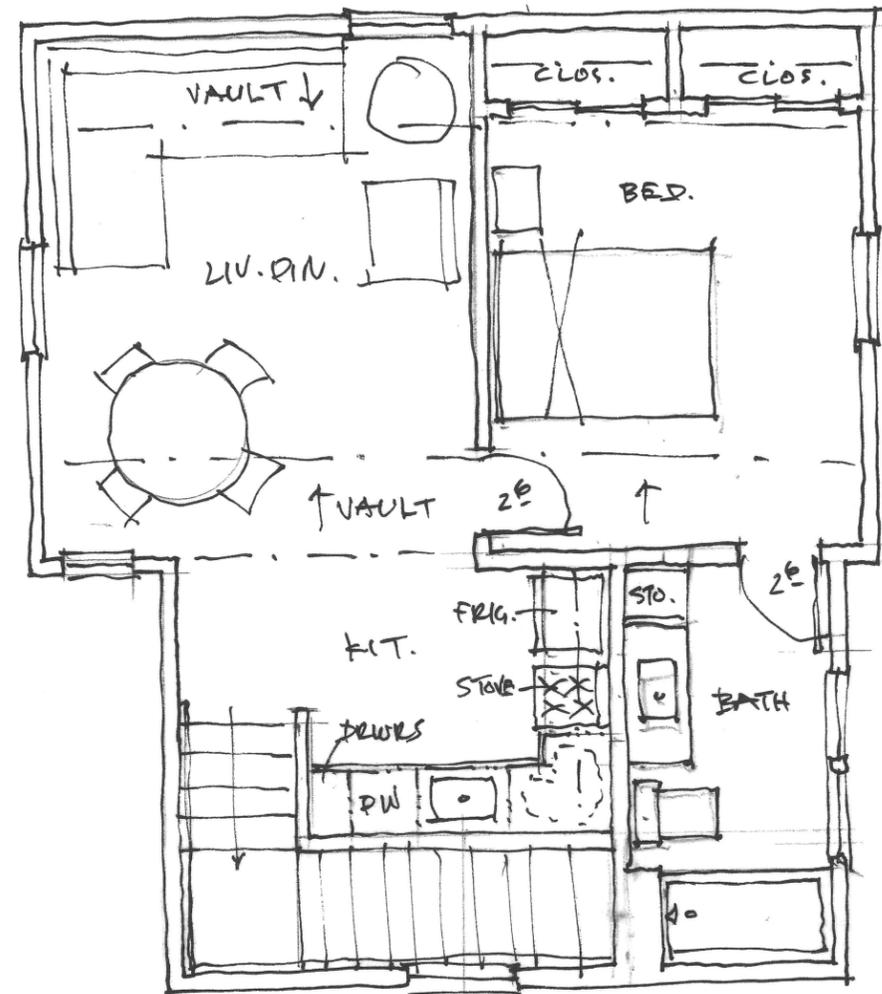
EAST

DEIBERT
1724 SO. DELAWARE AVE.
TULSA, OKLA 5.2022

TOM NEAL
DESIGN
Associate member, American Institute of Architects
918.231.7317



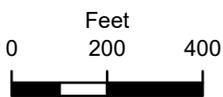
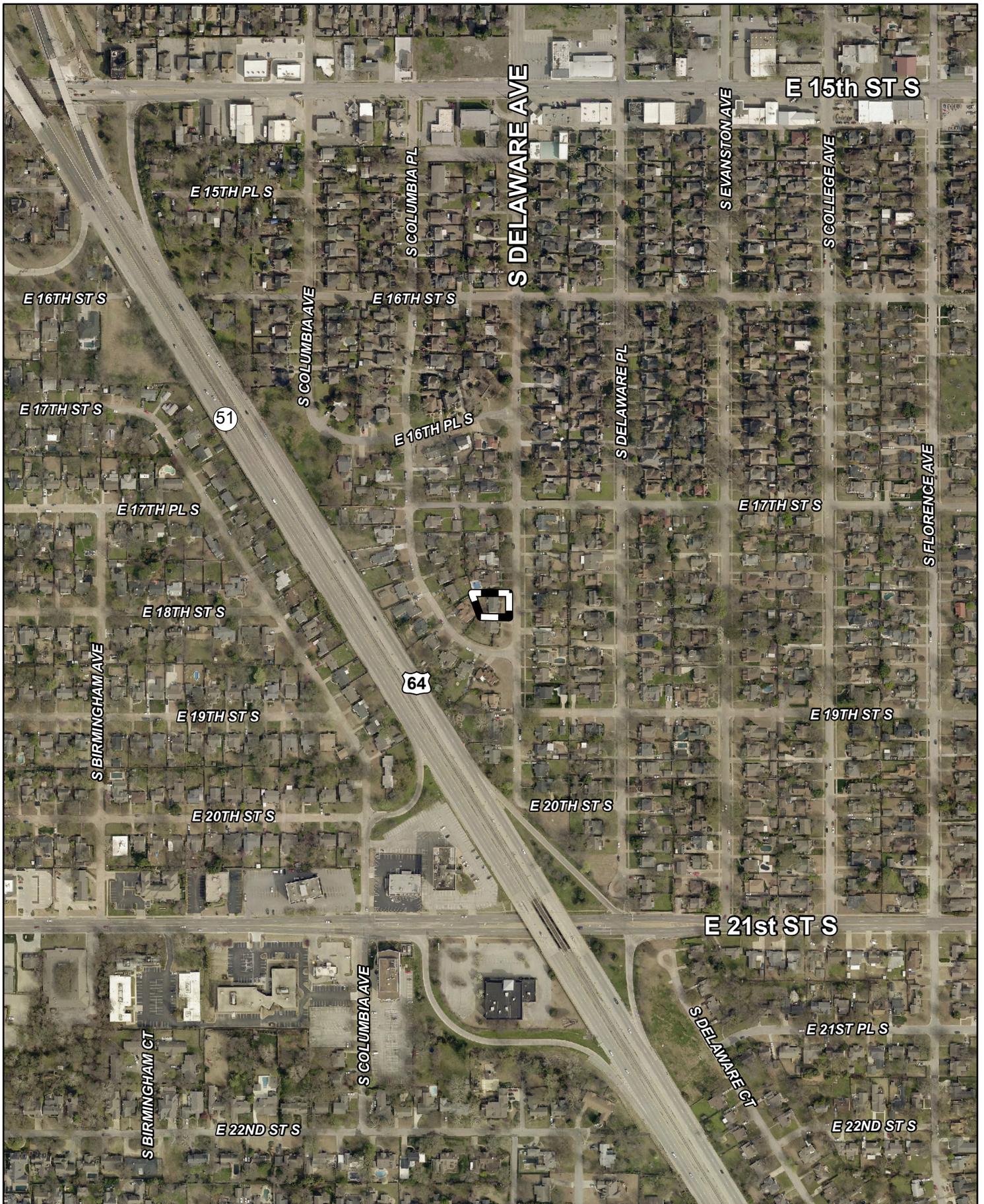
1ST. $\frac{3}{16}'' = 1'-0''$



2ND

DEIBERT 5.12.2022

TOM NEAL
DESIGN
Associate member, American Institute of Architects
918.231.7372



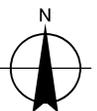
Subject
Tract

BOA-23371

19-13 08

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

Aerial Photo Date: 2020/2021

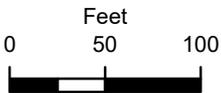


19.13



51

64



Subject Tract

BOA-23371

19-13 08

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

Aerial Photo Date: 2020/2021



19.14

From: [Bud Davis](#)
To: [esubmit](#)
Subject: BOA 23371
Date: Sunday, June 5, 2022 7:15:12 PM

Hello!

I am the property owner at 1730 S. Delaware Ave. My next door neighbor, Debbie, is planning some construction at her home and I would like to go on record as being in favor. The upgrade will make our street more aesthetically pleasing, and will increase the value of her home and the nearby homes, including mine.

Debbie is an ideal neighbor - friendly, quiet, keeps a very clean property, is friendly, etc.

Please feel free to contact me with questions.

Thank you!
Kenneth "Bud" Davis

From: [FRED KLEIN](#)
To: [esubmit](#)
Subject: case #BOA23371
Date: Tuesday, June 7, 2022 2:18:34 PM

We live across the street from Debbie Diebert and have no concerns about the construction of the garage on her property.

Fred and Theresa Klein
1717 S, Delaware Avenue
Tulsa, 74104