CITY OF Tulsa
Board of Adjustment

Case Number: BOA-23497

Hearing Date: 02/14/2023 1:00 PM

Case Report Prepared by:

Austin Chapman

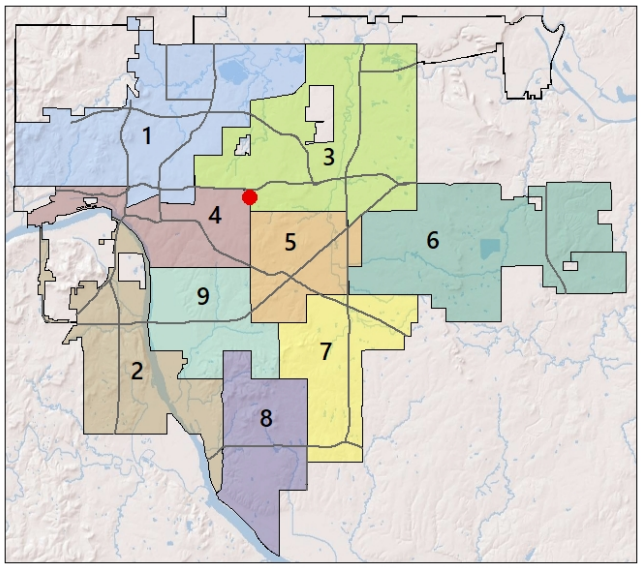
Owner and Applicant Information:

Applicant: Chyla Gibbs

Property Owner: SMITH, THERESE C REV TRUST

Action Requested: Special Exception to permit a Day Care Use in the RS-2 District (Table 5.020, Table 5-2) Variance to reduce the 12,000 square-foot minimum lot size and 100-foot minimum lot width for Special Exception uses in the RS-2 District (Sec. 5.030-A, Table 5-3); Variance to reduce the 25-foot setback for non-residential Special Exception uses from R-zoned lots (Sec. 5.030-B,Table note [4])

Location Map:



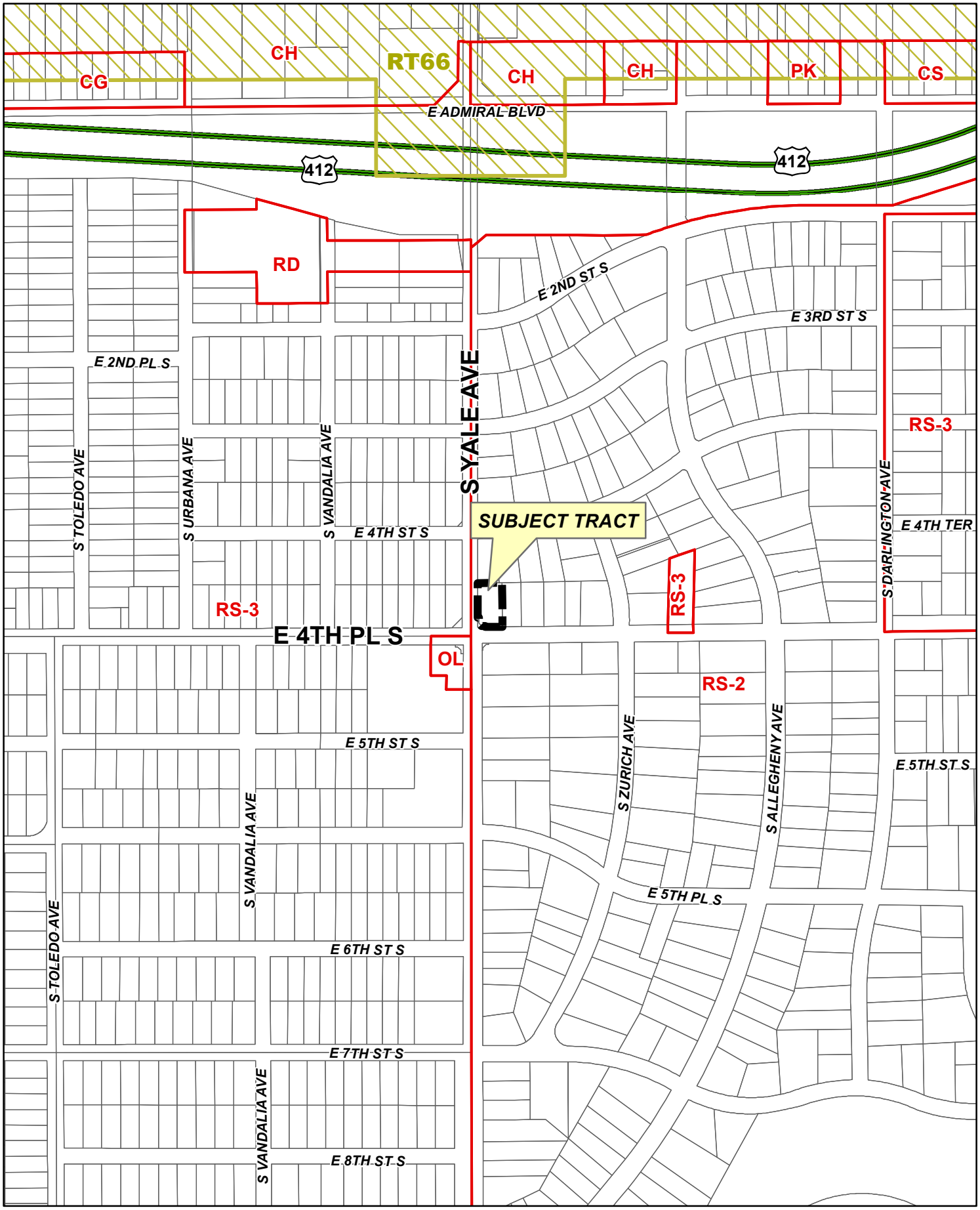
Additional Information:

Present Use: Vacant Office Space

Tract Size: 0.24 acres

Location: 4905 E. 4 Pl. S.

Present Zoning: RS-2



Feet
0 200 400

BOA-23497

19-13 03

N

Feet
0 200 400

Subject Tract

BOA-23497

19-13 03

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

Aerial Photo Date: 2020/2021

N

Feet
0 50 100

Subject Tract

BOA-23497

19-13 03

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

Aerial Photo Date: 2020/2021

N

BOARD OF ADJUSTMENT
CASE REPORT

STR: 9303 **Case Number:** BOA-23497

CD: 3

HEARING DATE: 02/14/2023 1:00 PM

APPLICANT: Chyla Gibbs

ACTION REQUESTED: Special Exception to permit a Day Care Use in the RS-2 District (Table 5.020, Table 5-2) Variance to reduce the 12,000 square-foot minimum lot size and 100-foot minimum lot width for Special Exception uses in the RS-2 District (Sec. 5.030-A, Table 5-3); Variance to reduce the 25-foot setback for non-residential Special Exception uses from R-zoned lots (Sec. 5.030-B,Table note [4])

LOCATION: 4905 E. 4 Pl. S. **ZONED:** RS-2

PRESENT USE: Vacant Office Space **TRACT SIZE:** 10406.53 SQ FT

LEGAL DESCRIPTION: LT 4 LESS E60 THEREOF & LESS BEG SWC THEREOF TH E24.50 N3.50 W12 NW12.67 N18 W3.50 S30.50 POB BLK 11, WHITE CITY ADDN CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

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 Growth".

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 purpose of **Areas of Growth** is to direct the allocation of resources and channel growth to where it will be beneficial and can best improve access to jobs, housing, and services with fewer and shorter auto trips. Areas of Growth are parts of the city where general agreement exists that development or redevelopment is beneficial. As steps are taken to plan for, and, in some cases, develop or redevelop these areas, ensuring that existing residents will not be displaced is a high priority. A major goal is to increase economic activity in the area to benefit existing residents and businesses, and where necessary, provide the stimulus to redevelop.

STATEMENT OF HARDSHIP: Applicant provide a separate exhibit provided in your packet.

STAFF ANALYSIS: The applicant is requesting Special Exception to permit a Day Care Use in the RS-2 District (Table 5.020, Table 5-2) Variance to reduce the 12,000 square-foot minimum lot size and 100-foot minimum lot width for Special Exception uses in the RS-2 District (Sec. 5.030-A, Table 5-3); Variance to reduce the 25-foot setback for non-residential Special Exception uses from R-zoned lots (Sec. 5.030-B,Table note [4])

Table 5-3: R District Lot and Building Regulations

Regulations	RE	RS-1	RS-2	RS-3	RS-4	RS-5	RD	RT	RM-0	RM-1	RM-2	RM-3	RMH
Minimum Lot Area (sq. ft.)													
Detached house	22,500	13,500	9,000	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	5,500
Patio house	–	–	–	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	–
Townhouse	–	–	–	4,500	4,500	2,200	2,750	1,600	1,600	1,600	1,600	1,600	–
Cottage house development	–	–	–	–	–	10,000	10,000	10,000	10,000	10,000	10,000	10,000	–
Duplex	–	–	–	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	–
Multi-unit house	–	–	–	–	–	3,300	6,900	5,500	5,500	5,500	5,500	5,500	–
Apartment/Condo	–	–	–	–	–	–	–	–	10,000	10,000	6,000	24,000	–
Mobile home park	–	–	–	–	–	–	–	–	–	–	–	–	[1]
Other allowed buildings/uses													
Permitted by right	22,500	13,500	9,000	6,900	5,500	5,500	5,500	5,500	5,500	5,500	5,500	5,500	5,500
Special exceptions	22,500	13,500	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000
Min. Lot Area per Unit (sq. ft.)													
Detached house	22,500	13,500	9,000	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	–
Patio house	–	–	–	6,900	5,500	3,300	5,500	5,500	5,500	5,500	5,500	5,500	–
Townhouse	–	–	–	4,500	4,500	2,200	2,750	1,600	1,600	1,600	1,600	1,600	–
Cottage house development	–	–	–	–	–	2,500	2,500	2,500	2,500	2,500	2,500	2,500	–
Duplex	–	–	–	3,450	2,750	1,650	2,750	2,750	2,750	2,750	2,750	2,750	–
Multi-unit house	–	–	–	–	–	1,100	1,800	1,800	1,800	1,375	1,100	900	–
Apartment/Condo	–	–	–	–	–	–	–	–	2,900	1,750	1,100	400	–
Other allowed buildings/uses													
Permitted by right	–	–	–	–	–	–	–	–	5,500	5,500	5,500	5,500	5,500
Special exceptions	22,500	13,500	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000
Minimum Lot Width (ft.)													
Detached house	150	100	75	60	50	30	50	50	50	50	50	50	–
Patio house	–	–	–	60	50	30	50	50	50	50	50	50	–
Townhouse	–	–	–	30	25	20	25	20	20	20	20	20	–
Cottage house development	–	–	–	–	–	75	75	75	75	75	75	75	–
Duplex	–	–	–	60	50	30	50	50	50	50	50	50	–
Multi-unit house	–	–	–	–	–	30	50	50	50	50	50	50	–
Apartment/Condo	–	–	–	–	–	–	–	–	100	100	50	100	–
Other allowed buildings/uses													
Permitted by right	150	100	75	60	50	50	50	50	50	50	50	50	50
Special exceptions	150	100	100	100	100	100	100	100	100	100	100	100	100
Minimum Street Frontage													
Residential bdgs/uses [2]	30	30	30	30	30	30	30	30	30	30	30	30	30
Min. Building Setbacks (ft.)													
Street [3]													
Arterial or fwy service rd.	35	35	35	35	35	35	35	35	10	10	10	10	35
Other streets	35	35	30	25	20	20	25	10	10	10	10	10	25
Side (interior) [4]	15	5	5	5	5	5	5	5[5]	5[6]	5[6]	5[6]	5[7]	10
Rear [4]	25	25	25	20	20	20	20	20	20	20	10	20	15
Min. Open Sp./Unit (sq. ft.)	12,000	7,000	5,000	4,000[8]	2,500	600	2,000	1,200	1,200	600	200	–	2,500
Max. Building Height (feet)	35	35	35	35	35	35	35	35	35	35	35	–	35

[4] Non-residential uses requiring special exception approval in R zoning districts require minimum 25-foot building setback from R-zoned lots that are vacant or occupied by residential uses.

Facts staff finds favorable for variance request:

- Property has direct access unto an arterial street (S. Yale Ave.) and a collector street (E. 4th Pl.).

Facts Staff find unfavorable for the variance request:

- Applicant has not provided informaiton about traffic flow unto the lot and the number of children to be served. The Board should consider the amount of traffic generated from the pick -up and drop off period and the applicant should take steps to prevent stacking unto the street.

SAMPLE MOTION:

Special Exception:
Move to _____ (approve/deny) a **Special Exception** to permit a Day Care Use in the RS-2 District (Table 5.020, Table 5-2)

- 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

Variances:

Move to _____ (approve/deny) a **Variance** to reduce the 12,000 square-foot minimum lot size and 100-foot minimum lot width for Special Exception uses in the RS-2 District (Sec. 5.030-A, Table 5-3); and a **Variance** to reduce the 25-foot setback for non-residential Special Exception uses from R-zoned lots (Sec. 5.030-B,Table note [4])

- 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."

Intersection of Yale and E. 4th Pl.

Facing East on E. 4th Pl. from subject property

Subject property

STATEMENT OF HARDSHIP:

SPECIAL EXCEPTION REQUEST FOR 4905 E. 4TH PL. TULSA, OK 74112

1/12/2023

1. The variances that are included with the special exception are that of the property having to have a 25ft setback from the surrounding home, it is impossible to meet that requirement in that the structure cannot be moved to satisfy the requirement. It is an existing structure and has been in place for several years. Also the structure does not meet the lot requirement of being 100 ft. wide, the lot is measured at 75ft wide which is a 25 ft. difference. Although it is not at 100 ft. wide it still provides an adequate amount of space for the purpose proposed for the dwelling without any interruption to the flow of the neighboring structures. The final variance that is included is the structure has to be 12,000 sq. ft., the properties square footage is a little over 10,000 square ft., this variance is also challenging to meet like stated before the structure is already existing and it is impossible to change to meet this variance as well. The hardship is that although these are the requirements put in place arduous to impossible to meet and with the small differences that are apparent, they do not cause any significant problems to the surrounding dwellings. The property cannot be moved and it is not practical as a residence, it had been vacant for the last 4 or so years and before the property became vacant it was operated as a commercial insurance business that maintained for 10 plus years. The occupants left the dwelling, when the prior owner passed away and the structure was placed in a trust which ultimately went up for sale and was then purchased by the current owner whom was under the impression of it being a commercial property.

2. It is not necessary to inforce the provisions that are being requested for the intended purpose because the intended purpose will not negatively change or hinder the quality of the neighborhood.

3. The conditions of the property are unique because the property had been used as a commercial dwelling, no one has lived in the property for over 15-20 years or more. The property faces a main street (4th Pl.) and sits on the corner of an arterial street (Yale avenue). Other properties that are in this zoning code typically do not have the access of a corner lot of two main streets. Although it is in a neighborhood it is not the typical residence.

4. The practical difficulty was not self-imposed by the owner, as stated before the property has been this way for several years. The property cannot be made any bigger, it is unique in its own way. The current owner has just recently purchased the property as it is currently and has not created or self-imposed any of the variances that are being addressed.

5. If these variances are granted they are the minimum variances that are required to afford relief, there are no other variances or any other major requirements that are needed to establish the intended purpose.

6. The variances that are being requested will in no shape alter the character of the neighborhood, the structure had been sitting vacant, it has not had anyone living in it as a residence in several years, no one has actually requested to live there (it looks like a business), it has been operating

as a business in its prior use for many years. The structure fronts an arterial street, it will not substantially or permanently impair the use or development of the adjacent property.

7. The variance is to be granted it will not cause determent to the public good, it is to improve the good of the community. It will not deter the spirit or intent of this zoning code or the comprehensive plan. The variance would allow exceptional quality childcare for people in the neighborhood and be a community beacon to those in need. It also will provide jobs to individuals that are qualified and are able to pass a state required background check. Childcare centers are spread out all around the Tulsa area, which makes it difficult sometimes for parents that may have to travel miles out of the way to drop their children off before work. There is a need for more childcare facilities all around to help the growing demand of a good quality childcare providers.

DEVELOPMENT SERVICES
175 E 2ND ST., STE 405
TULSA,OK 74103
918-596-9456

CITY OF TULSA

CORRECTIONS SUMMARY

ZCO-137756-2023 (4905 E 4TH PL S Tulsa, OK 74112) Markup Summary #1

Note (4)

Subject: Note
Page Label: 1
Status:
Author: danabox
Date: 1/12/2023 10:05:10 AM
Color:

5.030-A Table of Regulations
The lot and building regulations of Table 5-3 apply to all principal uses and structures in R districts, except as otherwise expressly stated in this zoning code.
Review Comment:Per table 15-3 an RS-2 zoned lot requires a Minimum lot width of 100 feet for Special Exceptions. You are proposing a lot width of 75 feet for a Detached House. If you are unable to meet the Minimum lot width requirements mentioned above, then you will need to apply to the City of Tulsa Board of Adjustment (BOA) for a Variance to reduce the required Minimum lot width requirements.

Subject: Note
Page Label: 1
Status:
Author: danabox
Date: 1/12/2023 10:06:37 AM
Color:

5.030-A Table of Regulations
The lot and building regulations of Table 5-3 apply to all principal uses and structures in R districts, except as otherwise expressly stated in this zoning code.
Review Comment: Per table 15-3 an RS-2 zoned lot requires a Minimum lot area of 12,000 feet for Special Exceptions. You are proposing a lot area of 10,400 feet for a Detached House. If you are unable to meet the Minimum lot area requirements mentioned above, then you will need to apply to the City of Tulsa Board of Adjustment (BOA) for a Variance to reduce the required Minimum lot width requirements.

Subject: Note
Page Label: 1
Status:
Author: danabox
Date: 1/12/2023 10:15:43 AM
Color:

Sec. 45.070-G A family child care home may not be established on any lot located within 300 feet of another lot occupied by a family child care home if any boundary of the subject lot abuts the same street.
Review Comment: Provide a spacing map to show the closest family child care home is over 300 feet from your family child care home.

This constitutes a Plan Review to date in response to the information submitted with and after 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 client. Any code items not reviewed are still in force, and it shall be the responsibility of the owner and design professional(s) to ensure that all code requirements are satisfied.

DEVELOPMENT SERVICES
175 E 2ND ST., STE 405
TULSA,OK 74103
918-596-9456

CITY OF TULSA

CORRECTIONS SUMMARY

Subject: Note
Page Label: 1
Status:
Author: danabox
Date: 1/12/2023 9:59:10 AM
Color:

Sec.5.020 Table 5-2: Your proposed Day Care is designated a Public, Civic and Institutional/Day Care use and is located in an RS-2 zoning district. Review Comments: Day Care uses are only allowed in an RS-3 zoned lot by Special Exception. Submit a Special Exception reviewed and approved per Sec.70.120 to allow Day Care in a RS-2 zoned district. Contact the Tulsa Planning Office at 918-584-7526 for next steps and further instruction.

This constitutes a Plan Review to date in response to the information submitted with and after 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 client. Any code items not reviewed are still in force, and it shall be the responsibility of the owner and design professional(s) to ensure that all code requirements are satisfied.

SCOPE
Surveying Company

Mortgage Inspection Report

Scope Surveying Company, LLC / Phone number: 918-853-0488 / Address: 2032 Utica Sq.
PO Box 52841, Tulsa, OK 74152 / CA No. 8542, Expires 6/30/2023 / Date: May 19, 2022

To order a mortgage inspection report, send your survey order form to: orders@scopeosc.net

LEGAL DESCRIPTION:

Lot Four (4) LESS the East Sixty (60) thereof and LESS Beginning at the Southwest corner of said Lot 4; thence N 88°11'42" E along the South line of said Lot 4 for a distance of 24.50 feet; thence N 01°16'18" W a distance of 3.50 feet; thence S 88°11'42" W running parallel to said South line for a distance of 12.00 feet; thence N 46°32'18" W for a distance of 12.67 feet; thence N01°16'18" W running parallel to the West line of said Lot 4 ford distance of 18.00 feet; thence S 88°11'42" W a distance of 3.50 feet to a point on said West line; thence S 01°16'18" E along the West line of said Lot 4 for a distance of 30.50 feet to the Point of Beginning, containing 220.75 square feet, more or less.

PHYSICAL ADDRESS:

4905 East 4th Place, Tulsa, OK 74112

BUYER: Therese C. Smith, Trustee of the Therese C. Smith Revocable Trust dated March 1, 2013

SELLER: G.L. "Pete" Larkin, Trustee of The G.L. "Pete" Larkin Family Trust dated June 7, 1996

CLIENT: Apex Title

TCS

FLOOD PLAIN STATEMENT

This property lies in zone X-Unshaded flood hazard area per F.I.R.M Map No. 40143C0243L as last revised October 16, 2012.

SURVEYOR'S NOTES

-The property described hereon is subject to the terms, conditions, provisions, covenants, restrictions, easements, limitations, and setback lines contained in the recorded plat listed hereon.
-Any Special Exceptions (S/E) shown on this drawing are from title commitment 22160786, dated April 29, 2022.
7. Easement, BK 587 PG 165, (Affects along rear / north end of lot; width not given in document)

-Date of Field Inspection: 4/15/2022

-Proj. No. 2302

Converse Surveying and Engineering, Inc

2313 Silverfield Ln. Edmond, OK 73025 \ Phone: 405-826-1355 \
E-Mail: cseoklahoma@gmail.com \ CA No. 2977, Expires June 30, 2022

I, Delbert W. Converse, Licensed Professional Land Surveyor No. 1262 in the State of Oklahoma, do hereby certify that the Mortgage Inspection Report was prepared for the client. It is not a land or boundary survey plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines. I further certify that the improvements on the above described parcel on the date of field inspection except utility connections are entirely within the parcel, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted. For the purpose of this certificate fences and landscape features are not considered to be improvements.

Delbert W. Converse, OK LS 1262

5/19/2022

Date of Certification