



**CITY OF**  
**Tulsa**  
**Board of Adjustment**

**Case Number: BOA-23508**

**Hearing Date: 03/28/2023 1:00 PM**

**Case Report Prepared by:**

Austin Chapman

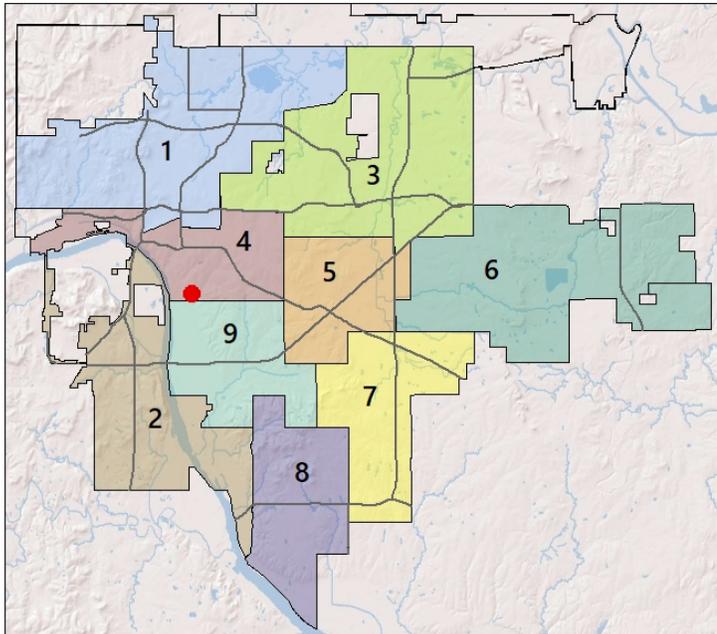
**Owner and Applicant Information:**

**Applicant: Debra Cherny and Willie Fritz Nolan**

**Property Owner: Same and applicant.**

**Action Requested:** Variance to allow a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure in an RS-3 district (Sec. 45.030-B); Variance to allow a detached accessory building to exceed one story or 18 feet in height (Sec 90.090-C); Variance to reduce the required 35-foot setback from an arterial street in the RS-3 Zoning District (Sec. 5.030, Table 5-3)

**Location Map:**



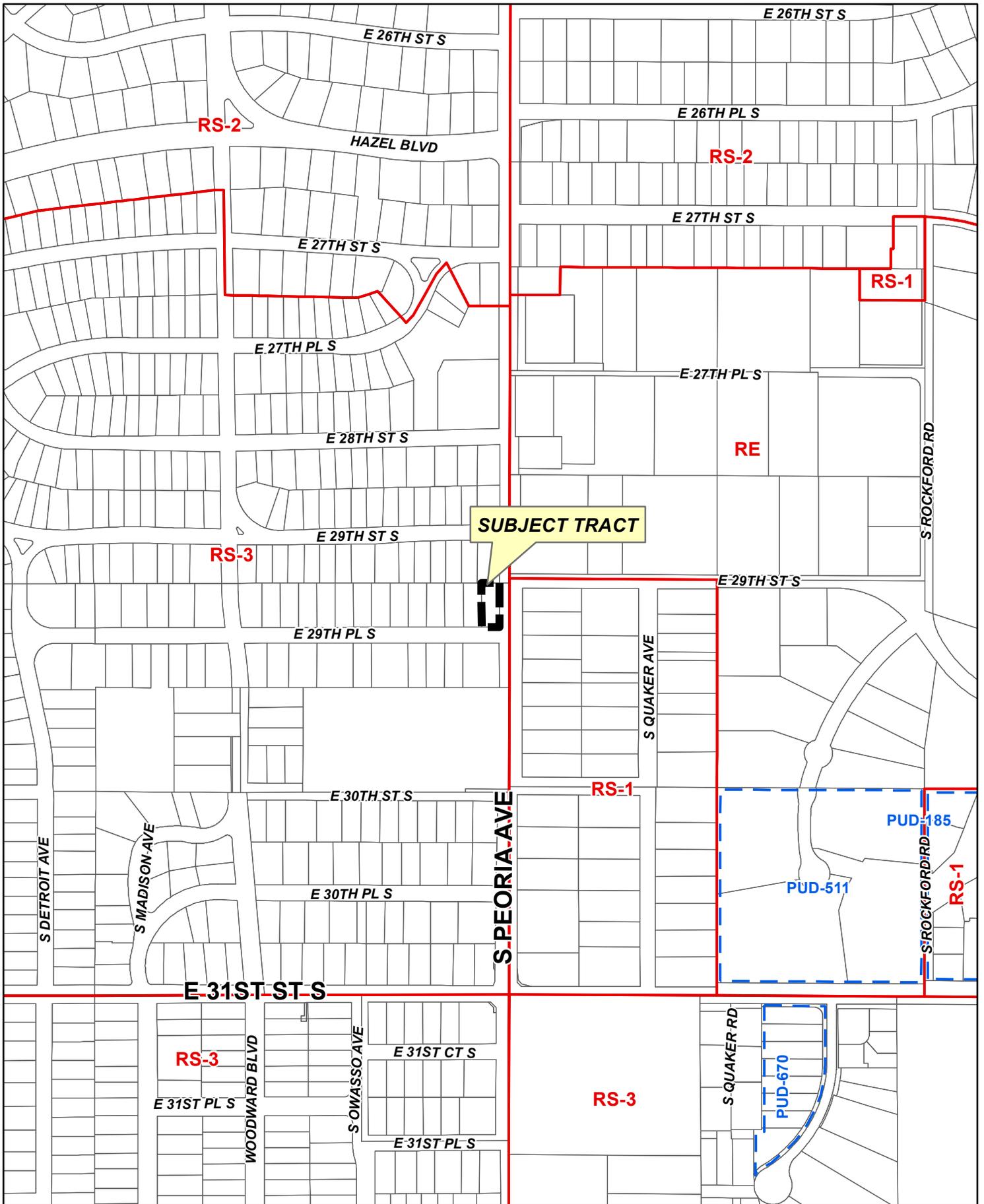
**Additional Information:**

**Present Use: Residential**

**Tract Size: 0.19 acres**

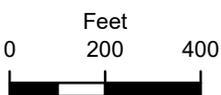
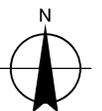
**Location: 1263 E. 29 Pl. S.**

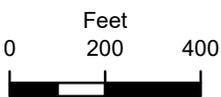
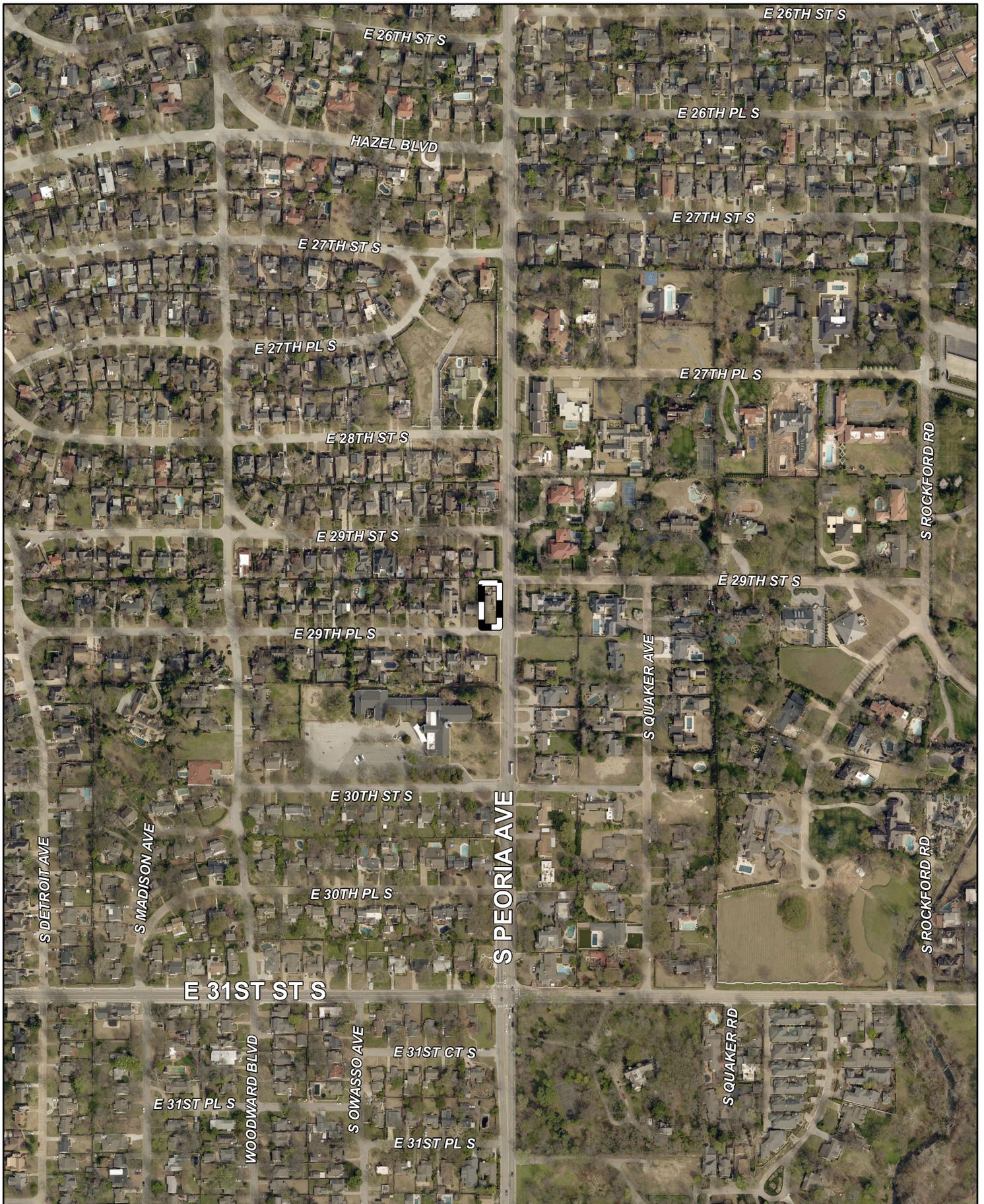
**Present Zoning: RS-3**



**BOA-23508**

19-12 13





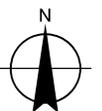
Subject Tract

**BOA-23508**

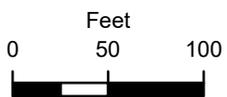
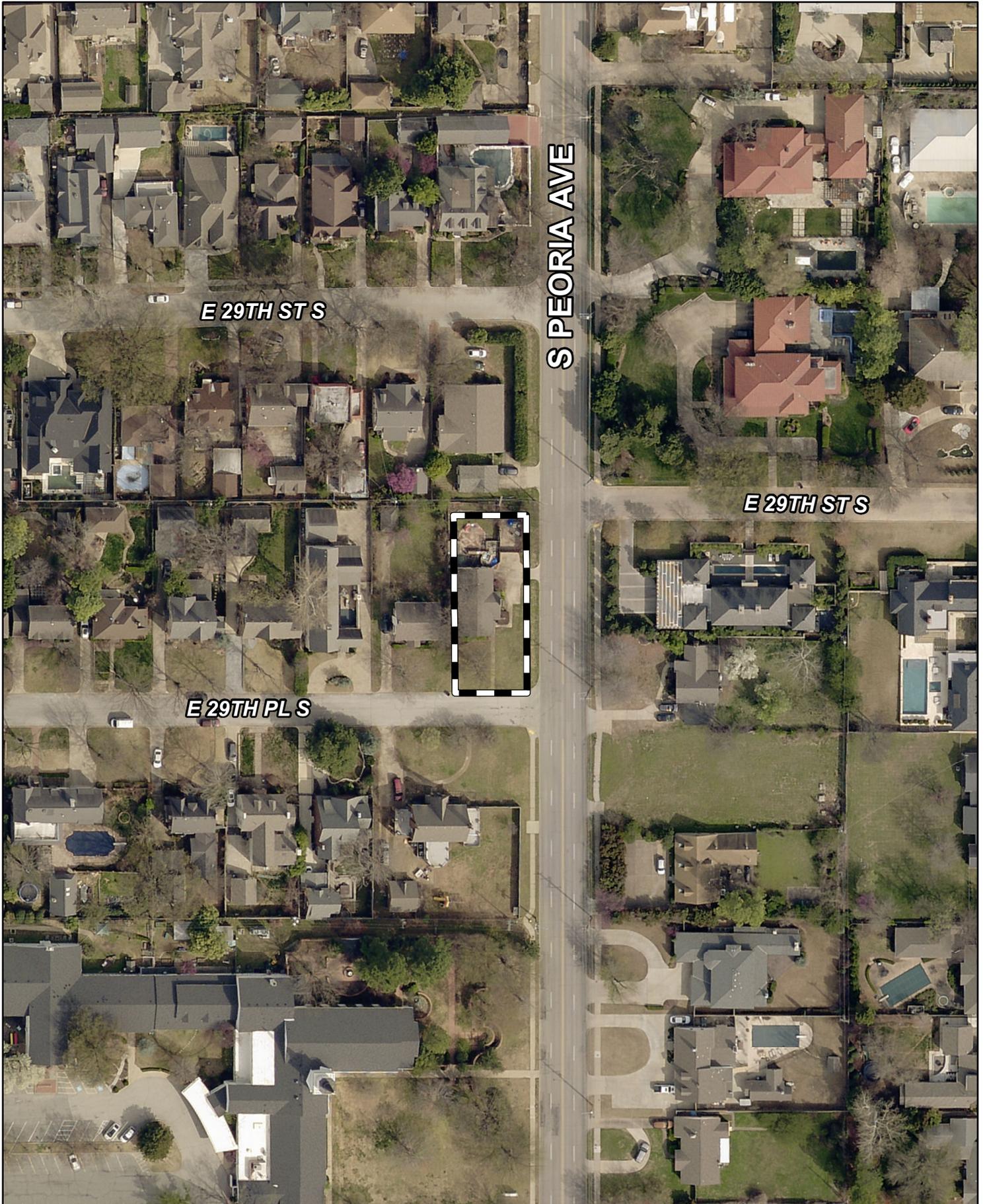
Note: Graphic overlays may not precisely align with physical features on the ground.

19-12 13

Aerial Photo Date: 2020/2021



5.3



 Subject Tract

**BOA-23508**

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

Aerial Photo Date: 2020/2021

19-12 13



5.4

# BOARD OF ADJUSTMENT CASE REPORT

**STR:** 9213

**Case Number:** BOA-23508

**CD:** 4

**HEARING DATE:** 03/28/2023 1:00 PM

**APPLICANT:** Debra Cherny and Willie Fritz Nolan

**ACTION REQUESTED:** Variance to allow a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure in an RS-3 district (Sec. 45.030-B); Variance to allow a detached accessory building to exceed one story or 18 feet in height (Sec 90.090-C); Variance to reduce the required 35-foot setback from an arterial street in the RS-3 Zoning District (Sec. 5.030, Table 5-3)

**LOCATION:** 1263 E. 29 Pl. S.

**ZONED:** RS-3

**PRESENT USE:** Residential

**TRACT SIZE:** 8119.62 SQ FT

**LEGAL DESCRIPTION:** LT 1 BLK 1, SUNSET TERRACE, INDIAN WOODS AMD CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA

## **RELEVANT PREVIOUS ACTIONS:**

### **Surrounding properties:**

**BOA-22045;** On 03.22.16 the Board **approved** a Special Exception to permit a carport in the street yard of S. Peoria and an increase in the allowed square footage.

**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.

**STATEMENT OF HARDSHIP:** See attached exhibit provided by the applicant.

**STAFF ANALYSIS:** The applicant is requesting a **Variance** to allow a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure in an RS-3 district (Sec. 45.030-B); **Variance** to allow a detached accessory building to exceed one story or 18 feet in height (Sec 90.090-C); and **Variance** to reduce the required 35-foot setback from an arterial street in the RS-3 Zoning District (Sec. 5.030, Table 5-3)

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
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

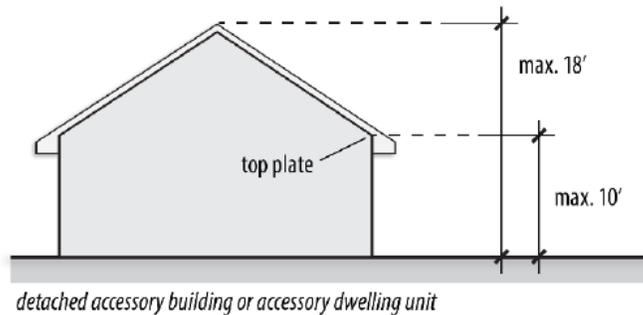
**RS-2, RS-3, RS-4, RS-5 and RM Districts**

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-C](#).

- (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](#):

**Facts staff finds favorable for variance request:**

- The existing residence is undersized for much of the development occurring in this part of town and the existing structure lacks a functional garage.
- The relief requested on the size is minimal, the property is allowed 638.4 square feet and the requested size is 676 square feet.
- The 35-foot setback from Peoria encompasses most of the property and leaves little area for construction.

**Facts Staff find unfavorable for the variance request:**

- None.

Other Comments from Staff:

Peoria is a busy arterial street, staff would recommend if the Board is inclined to grant the variance, a condition would be the applicant obtain a right-of-way permit for the new curb-cut and meet the City of Tulsa Access Management Standards.

**SAMPLE MOTION:**

Move to \_\_\_\_\_ (approve/deny) a **Variance** to allow a detached accessory building to exceed 500 square feet and 40% of the floor area of the principal residential structure in an RS-3 district (Sec. 45.030-B); **Variance** to allow a detached accessory building to exceed one story or 18 feet in height (Sec 90.090-C); **Variance** to reduce the required 35-foot setback from an arterial street in the RS-3 Zoning District (Sec. 5.030, Table 5-3):

- 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 from S. Peoria Ave.*



*Subject property from 29<sup>th</sup> Pl.*

**Attachment: Answers to variance request questions.**

1. Due to our current expansion of our kitchen (permitted by the City of Tulsa) we have lost our garage and minimal storage space. My husband continues to park in the street (and, now myself) until a garage is built to house our vehicles. We are also paying almost \$500.00 a month in off-site storage, and this size of garage is needed to afford us ample storage space for all of our belongings and adequate covered parking.

Also, our request for said variance is barely over the existing limits, ie: 37.6 square feet on the garage dimension, and 5 ft. on the height regulation, as our home is not large and we need all of the storage we can get. In addition, we also plan a circular driveway, new fencing, new landscaping and lighting, all to enhance the value of our property, and in keeping with the look and feel of our Mapleridge neighborhood, with security also "top of mind".

2. We believe that the current code (in its literal verbiage) will not aide us in achieving our goal of ample storage space, parking facilities, or upgrading of aesthetics to bring our home more in line with the "look and feel" of our neighborhood.
3. Our property sits on the corner of 29<sup>th</sup> Place and South Peoria Avenue, and we have been told that the setbacks and other stipulations are identified to our corner home which makes it unique to our property
4. We did not create our circumstances as a married couple but are wanting to stay in our beautiful neighborhood of Mapleridge but need more room. We have always had a one-car garage, a very small home and limited storage and parking, so we decided to upgrade and invest in our home and neighborhood.
5. Yes, if we are granted this variance, it will serve our needs quite well and we will have no need to ask for another.
6. As stated above, our request for variance is "because" we want to upgrade our home to enhance our own property and our neighborhood. Nothing we are doing will hinder our neighbors, their properties, or infringe upon them at all. Our garage, circular drive, new fencing, landscaping and professional lighting will do nothing but elevate our corner of Mapleridge, and "hopefully" increase property values in our area.
7. We are law abiding citizens, volunteer in our community (myself at The City of Tulsa) with the Tulsa Police Department, and we appreciate set laws and never intend to break them. Our request from variance comes from a place of taking pride in our property, neighborhood and community.



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

# CITY OF TULSA

## CORRECTIONS SUMMARY

ZCO-131490-2022 (1263 E 29TH PL S Tulsa Tulsa, OK 74114)  
131490 REVISION 01232023\_v1.pdf Markup Summary #2

### Zoning Comments (2)



**Subject:** Zoning Comments  
**Page Label:** 4  
**Status:**  
**Author:** LParker  
**Date:** 1/26/2023 10:47:31 AM  
**Color:** ■

45.030-B RS-2, RS-3, RS-4, RS-5 or RM Districts  
In RS-2, RS-3, RS-4 and RS-5 districts, the total aggregate floor area of all detached accessory buildings 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.

Review comments: You are proposing 676 sq ft of detached accessory structure floor area. The proposed detached structure exceeds 500 sq ft and 40% of the size of your house. Based on the size of your house (1596 sf) you are allowed 638.4 sq ft of detached accessory structures floor area on your lot. Reduce the size of your proposed detached accessory structure to be less than 638.4 sq ft of total floor area.



**Subject:** Zoning Comments  
**Page Label:** 4  
**Status:**  
**Author:** LParker  
**Date:** 1/26/2023 10:48:57 AM  
**Color:** ■

90.90.C: Detached Accessory Buildings. Detached accessory buildings may be located in rear setbacks in RE, RS and RD districts, provided that 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.

Review Comments: Revise plans to indicate that the detached accessory building will 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.

5.10

PROPOSED GARAGE SITE PLAN - CHERNY CASA - REV A  
 FOR INDIAN WOODS (BLOCK 1 - LOT 1)

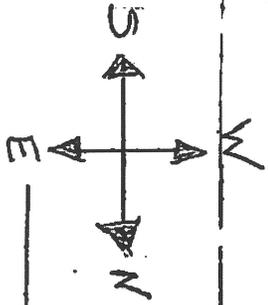
REV B

23 JAN 2023

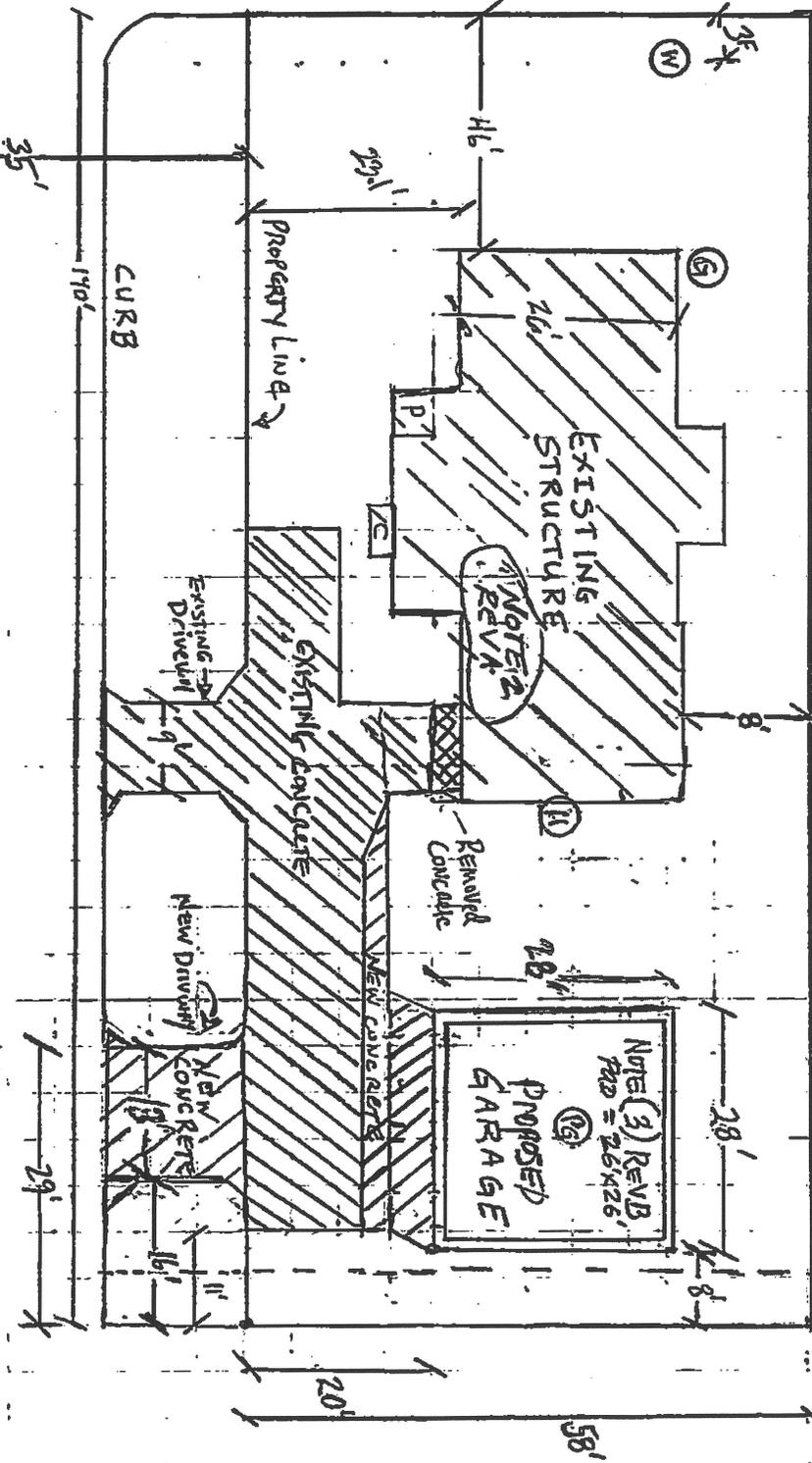
1263 E. 29TH PL

REV A - New Garage Plan.

REV B - TO FIX SCREW UPS - LOL



29TH PL  
 45' 58'



- (S) = Smiley Face = LOL
- C = Chimney (E)
- P = Porch (E)
- (G) GAS (E)
- (W) WATER (E)

- (E) = Existing
- (M) Electric Gable, Fiber (E)

SCALE: 1/4" = 20 FEET

- (R) - Proposed Garage (NOTE 5)

- Peak Height 23'
- Width for 20 Feet + 2' for Eaves (REV B)
- Wall Height 8 Feet

10' FT  
 5' 6" SETBACK  
 6' FT EASEMENT

NOTES: (1) REV A BASED UPON NEW GARAGE DIMENSIONS AND DESIGN - 10 JAN 2023  
 NOTE (2) REV A SIZE GETS BIGGER BASED UPON PERMIT  
 # BUDZ - 132456 - 2022 TO APPROXIMATELY 1500 SQ FEET.  
 NOTE (3) REV B - GARAGE PAD SIZE IS 26' X 26' WITH A 4 FOOT OVER HANG ALL AROUND STRUCTURE.

S. PEORIA (CENTERLINE)

FILE # SITE PLAN REV A REV B  
 (Drawn By FWH)