



CITY OF Tulsa

Board of Adjustment

Case Number: BOA-23516

Hearing Date: 04/11/2023 1:00 PM

Case Report Prepared by:

Austin Chapman

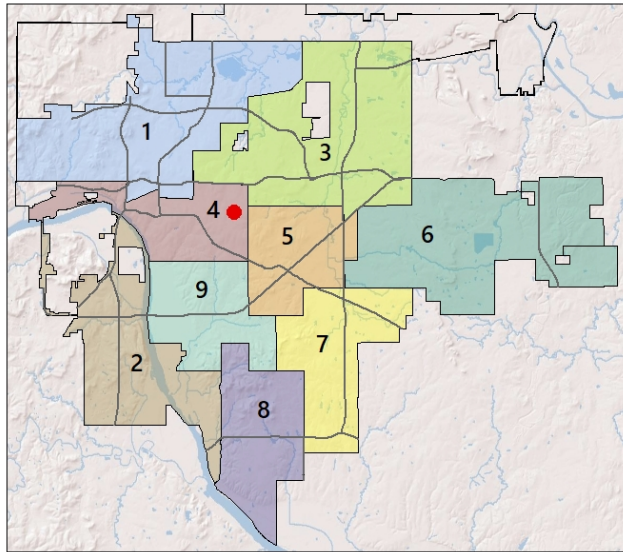
Owner and Applicant Information:

Applicant: Cody Fussell

Property Owner: Cody C And Starla D Fussell

Action Requested: Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6)

Location Map:



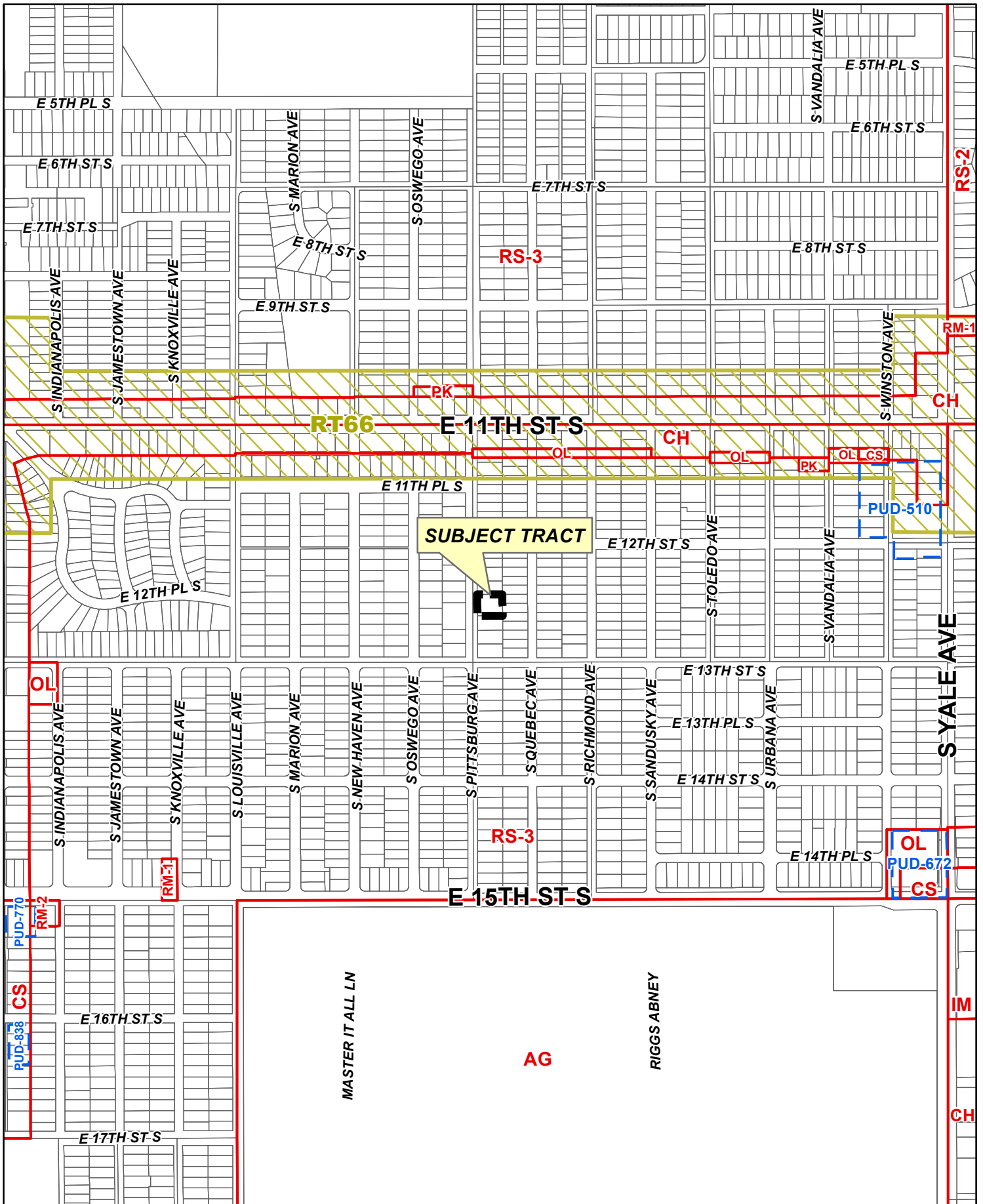
Additional Information:

Present Use: Residential

Tract Size: 0.39 acres

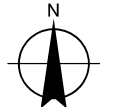
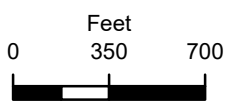
Location: 1227 S. Pittsburgh Ave.

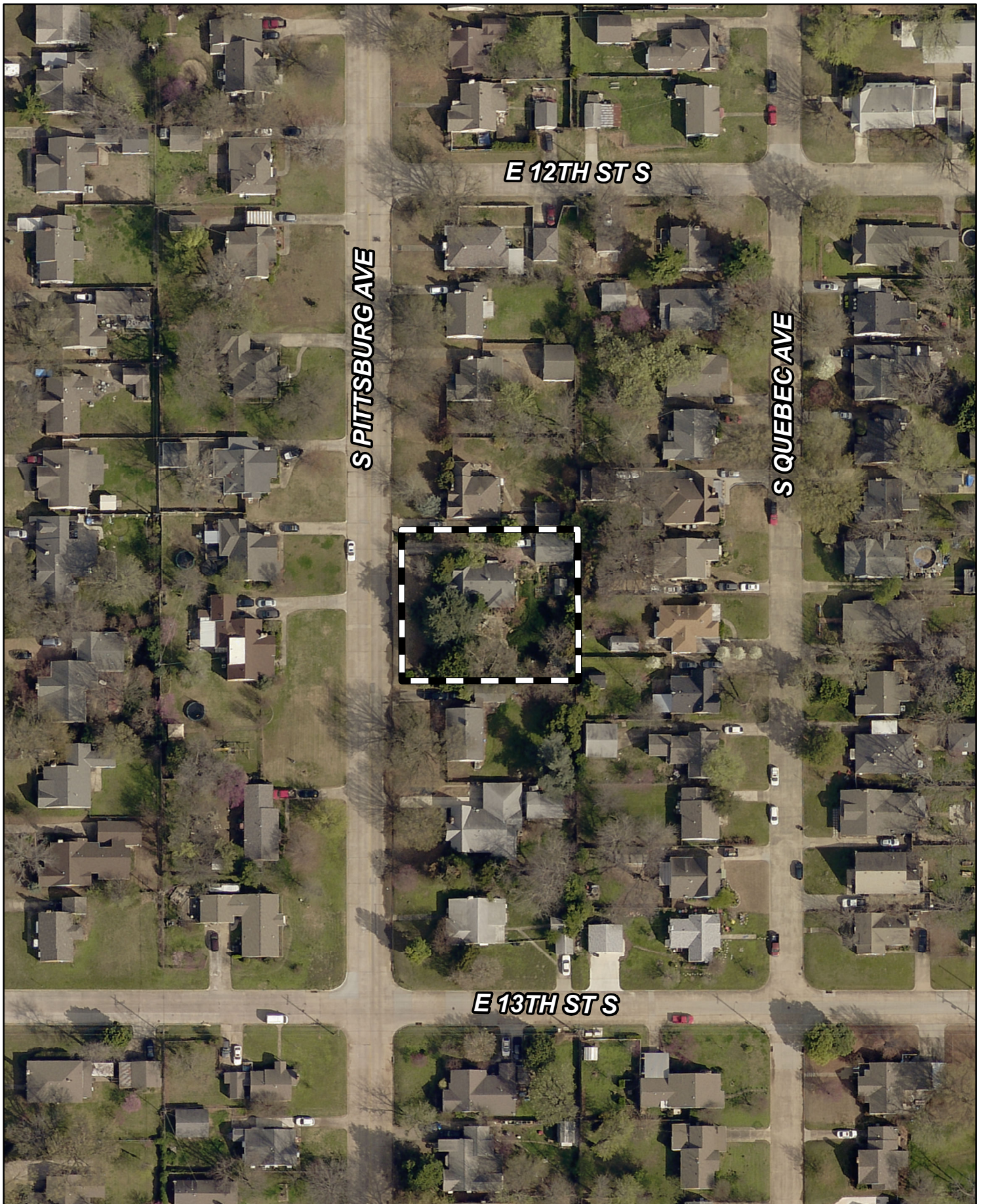
Present Zoning: RS-3



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19-13 09





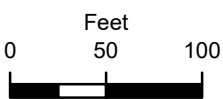
E 12TH ST S

S PITTSBURG AVE

S QUEBEC AVE



E 13TH ST S

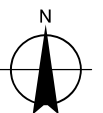


BOA-23516

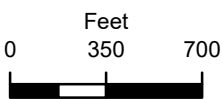
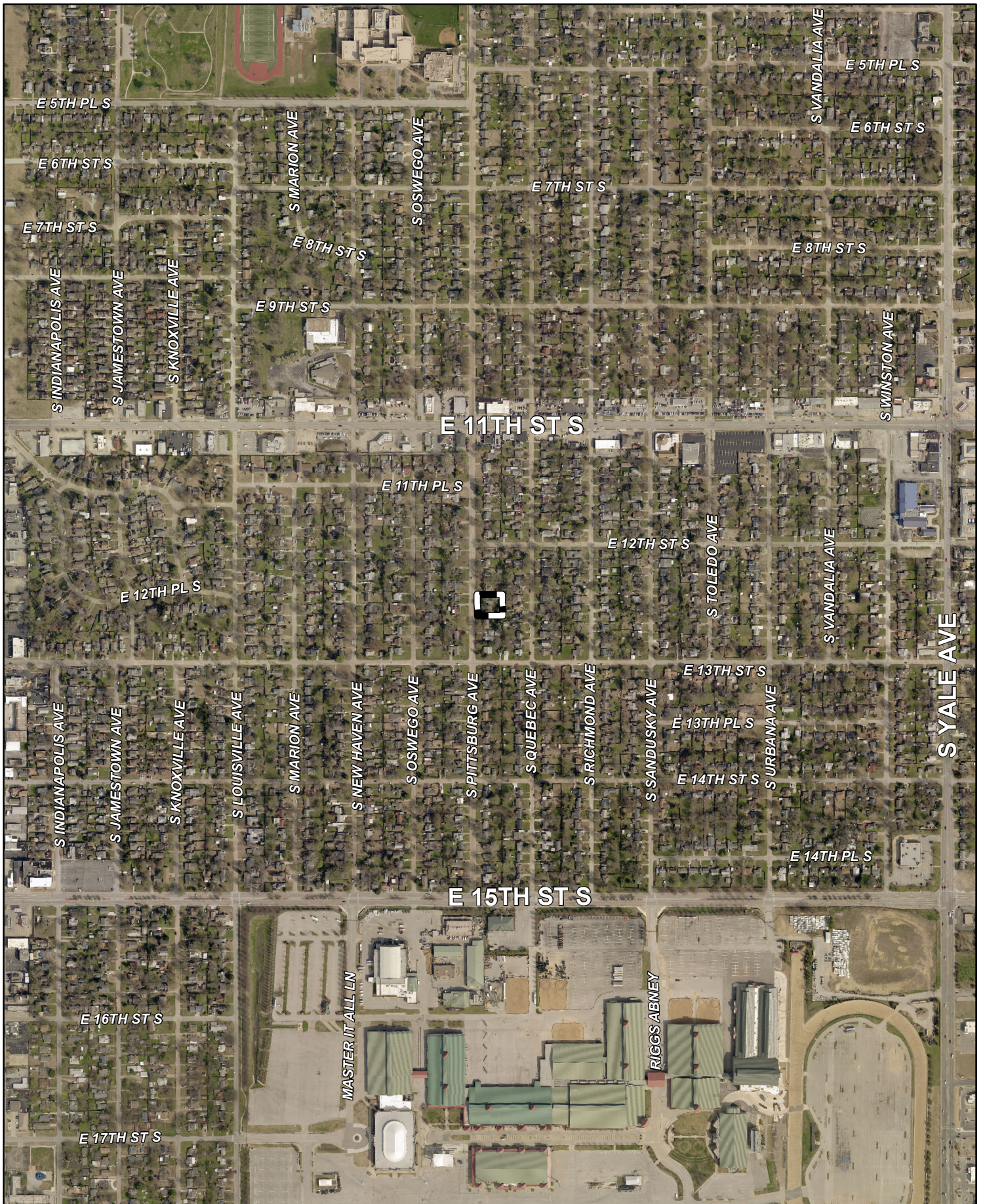
Note: Graphic overlays may not precisely align with physical features on the ground.

19-13 09

Aerial Photo Date: 2020/2021



9.3



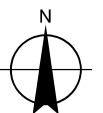
Subject Tract

BOA-23516

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

19-13 09

Aerial Photo Date: 2020/2021



9.4

BOARD OF ADJUSTMENT CASE REPORT

STR: 9309

Case Number: BOA-23516

CD: 4

HEARING DATE: 04/11/2023 1:00 PM

APPLICANT: Cody Fussell

ACTION REQUESTED: Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6)

LOCATION: 1227 S. Pittsburg Ave.

ZONED: RS-3

PRESENT USE: Residential

TRACT SIZE: 16801.16 SQ FT

LEGAL DESCRIPTION: LTS 6 & 7 & N20 OF LT 8 BLK 8, BEVERLY HILL 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 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:

1. *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:* **The intent of the project is to convert/add the south parking bay of the existing garage to the existing quarters apartment , with the expansion of a small sunroom to the south wall of the expanded apartment. The existing 2-car garage and small quarters apartment was constructed in 1938, with a five foot portion of the existing apartment encroaching on the 10' utility easement. We purchased the property in 1991 with the understanding that the allowance of the Accessory Dwelling Unit already existed, and that encroachment of the easement had been permitted or approved with the original construction.**

2. *That literal enforcement of the subject zoning code provision is not necessary to achieve the provision’s intended purpose:* **Since the house and detached garage are located on an oversized lot, consisting of two**

lots plus 20', we propose that the addition of a small sunroom/greenhouse to the garage that would result in a minor exceedance of the 40% floor area rule of the principal residential structure is a reasonable request.

3. *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:* **Following consultation with the City of Tulsa Planning Staff during the preparation of the draft Site Plan for this project, it was learned that a Building Permit for the remodel and expansion of the existing garage /apartment could not be issued due to the existing encroachment of the utility easement without either the approval of a restrictive construction agreement or partial vacation of the utility easement. Given the uncertainties and financial risks associated with those options, the proposal was modified to reposition the existing footprint of the garage /apartment outside of the utility easement (5' to the west).**

4. *That the alleged practical difficulty or unnecessary hardship was not created or self-imposed by the current property owner:* **As noted in the response to question #1, the existing Accessory Dwelling Unit portion of the garage was constructed 1938.**

5. *That the variance to be granted is the minimum variance that will afford relief:* **The additional square footage of the proposed sunroom is requested to provide enough usable living space within the expanded apartment.**

6. *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:* **the proposed design elements of this project will be consistent with the residential character of the neighborhood, as well as resolve the existing encroachment of the utility easement.**

7. *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:* **The purpose of this project is to provide a small Accessory Dwelling Unit of sufficient size and design (i.e., handicap accessible) to accommodate a temporary residence option for aging parents.**

STAFF ANALYSIS: The applicant is requesting a Special Exception to allow an Accessory Dwelling Unit in an RS-3 District (45.031-D); and Variance to allow the floor area of detached accessory buildings to exceed 500 square feet and 40% of the floor area of the principal residential structure (Section 45.030-A, 45.031-D.6)

Included in your packets are a copy of Sections 45.030 and 45.031 of the code containing regulations related to accessory buildings and Accessory Dwelling Units.

Facts staff finds favorable for variance request:

- Applicant is seeking relief to add a 160 square foot greenhouse/ sunroom addition to the existing garage/ apartment.. The applicant is allowed by code 678 square feet of accessory buildings, the applicant is requesting a total of 846 aggregate square foot of accessory building on the lot.

Facts Staff find unfavorable for the variance request:

- None.

Other comments from staff: The applicant is moving the existing structure out of the utility easement. As it stands not the existing garage/apartment building is 2-feet 11-inches from the side property line, code would prescribe 5-feet. This non-conformity will not be expanded.

SAMPLE MOTION:

Special Exception:

Move to _____ (approve/deny) a _____

- 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.

Variance:

Move to _____ (approve/deny) a _____

- 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

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-C](#).

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 [§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 §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

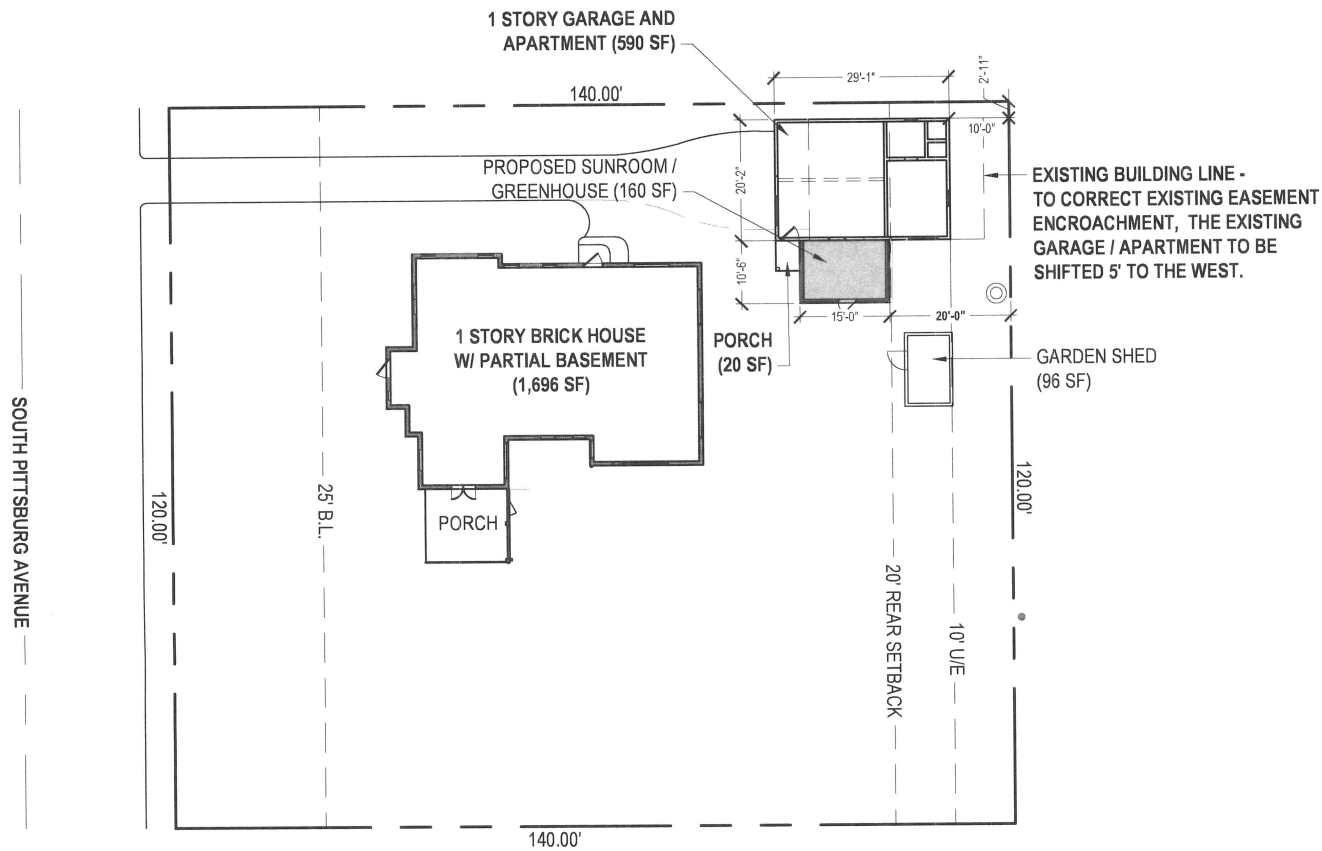
Private (restricted access), consumer-oriented (home), CNG refueling appliances are permitted as an accessory use to lawfully established household living uses in all zoning districts.

Section 45.050 Dumpsters

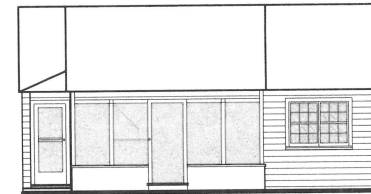
45.050-A Regulations

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

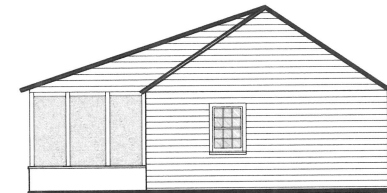
1. Dumpsters may only be placed with the written permission of the owner of the subject property.
2. Dumpsters must be located on a dustless, all-weather surface.
3. Dumpsters may not:
 - a. Obstruct motorized or non-motorized traffic;
 - b. Reduce any sidewalk or walkway designed for the passage of pedestrians to less than 5 feet in width;



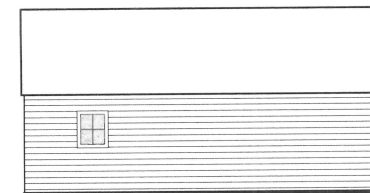
West Elevation



South Elevation

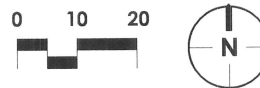


East Elevation



North Elevation

SITE PLAN
SCALE: 1"=20'-0"



**1227 SOUTH PITTSBURG AVENUE
TULSA, OKLAHOMA 74112**
LOTS 6, 7 & N 20' OF LOT 8, BLK 8
BEVERLY HILL ADDITION