

**TULSA COUNTY BOARD OF ADJUSTMENT
CASE REPORT**

TRS: 7408

CASE NUMBER: CBOA-2848

CZM: 63

CASE REPORT PREPARED BY: Robi Jones

HEARING DATE: 09/15/2020 1:30 PM

APPLICANT: Mathew and Laura Cain

ACTION REQUESTED: Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E)

LOCATION: 12591 E 132 ST S

ZONED: RS

FENCELINE: Broken Arrow

PRESENT USE: Residential

TRACT SIZE: 1.3 acres

LEGAL DESCRIPTION: S283 W200 E1095 N595 N/2 LESS S25 FOR RD SEC 8 17 14 1.299ACS,

RELEVANT PREVIOUS ACTIONS:

Subject Property: None Relevant

Surrounding Property:

CBOA-2543 June 2015: The Board approved a Variance of the allowed square footage for accessory buildings in the RS district from 750 sq. ft. to 1,225 sq. ft., on property located at 12106 East 131st Street South.

CBOA-2461: on 4.16.13, the Board approved a *variance* of the allowed square footage for detached accessory buildings from 750 SF to 1200 SF in the RS district. LOCATED: 12640 E 131st ST

CBOA-2301: on 7.15.08, the Board approved a *variance* of the allowed square footage for accessory buildings from 750 SF to 1800 SF. LOCATED: 13135 S 121st Ave

ANALYSIS OF SURROUNDING AREA: The subject tract is located in a single-family neighborhood with residential uses and RS zoning.

STAFF COMMENTS:

The applicant is before the Board requesting a **Variance** to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E)

Section 240.2.E permits accessory buildings in the RS district up to 750 SF of floor area. The provision of the Code attempts to establish and maintain development intensity of the district, preserve the openness of living areas and avoid overcrowding by limiting the bulk of structures.

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The applicant provided the following statement, "Building will be primarily used to store our pick-up truck and used as a shop for residential use only. Storage of tools and personal items."

According to the submitted drawing, the applicant is proposing to construct a 40' x 50' (2,000 SF) accessory building in the rear yard. The existing storage building is 500 SF so the total square footage in aggregate would be 2,500 SF.

If inclined to approve, the Board may consider any condition it deems necessary and reasonably related to the request to ensure that the proposed accessory building is compatible with and non-injurious to the surrounding area.

Sample Motion:

"Move to _____ (approve/deny) a Variance to permit a detached accessory building to exceed 750 sq. ft. in an RS District (Sec.240.2-E)

Per the Conceptual Plan(s) shown on page(s) _____ of the agenda packet.

Subject to the following conditions, if any: _____.

Finding the hardship to be _____.

Finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a Variance to reduce the permitted building setback from a R District from 75 feet to 5 feet to permit an auto shop (Section 930), subject to outside storage. The hardship is that the area is converting to industrial but still has small pockets of residential lots. There is to be a screening fence on the west; for the following property:

**LTS 7 & 8 BLK 5; LT 9 BLK 5; LT 11 BLK 5; LT 10 BLK 5, OPPORTUNITY HGTS,
OF TULSA COUNTY, STATE OF OKLAHOMA**

2543—Johnny Blaylock

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Action Requested:

Variance of the allowed square footage for accessory buildings in the RS District from 750 square feet to 1,225 square feet (Section 240.2.E). **LOCATION:** 12106 East 131st Street South, Broken Arrow

Presentation:

Johnny Blaylock, 12106 East 131st Street South, Broken Arrow, OK; stated he would like to be able to clean up his yard by erecting a three car garage in the rear of his property. The garage he has currently is too small for him to park his large pickups in; a 1-Ton flatbed and a diesel truck. He plans to erect a privacy fence on the side of the house but it will be in front of the proposed garage, and will plant flowers in front of the fence for aesthetics.

Mr. Walker asked Mr. Blaylock about the portable buildings that are currently on the property. Mr. Blaylock stated there are two portable buildings; one will be removed and the other will be moved back to the side of the proposed garage and attached to make it look more barn like in appearance.

Mr. Blaylock stated that he would like to have a gate between the house and the proposed garage, and the east side of the proposed garage will be used for storage for his personal items, i.e., charcoal grill, lawnmower, etc.

Mr. Dillard asked Mr. Blaylock why he was going install a privacy fence because there is an existing chain link fence. Mr. Blaylock stated the chain link fence is going to be removed. Mr. Blaylock stated the County claimed 25 feet of his property to resurface the road and the chain link will come out then. Because of the loss of the 25 feet he is trying to move everthing back to make his house look better. Mr. Blaylock came forward and used a map from the Board's agenda packet to show how the privacy fence and gate would be oriented with the house and yard.

Interested Parties:

Suzanne Rausch, 13125 South 121st East Avenue, Broken Arrow, OK; stated she lives directly west of where the proposed garage will be. She and her husband built their

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house about seven years ago and in about 2012 Mr. Blaylock applied for a incorporation of his business, and it is listed as welding and car repair. Ms. Rausch stated that is what Mr. Blaylock does in the evenings and on the weekends. Ms. Rausch stated that her bedrooms are on the rear of her house and occasionally Mr. Blaylock starts early or works late, and they can hear it. She would like to be able to sell her house if she ever need to and having the proposed building next to her house will be a hardship on her.

Mr. Walker stated that, based on the zoning, the Board will specify no commercial work. Ms. Rausch brought forth a piece of paper that she said was Mr. Blaylock's incorporation paper that she obtained from the internet.

Rebuttal:

Mr. Blaylock came forward and stated that he would like to have a copy of the paper that was presented by Ms. Rausch because he has never applied for a corporation. Mr. Blaylock stated he does have a Federal Identification Number that he has had for many years. The Board allowed Mr. Blaylock to see and read the paper presented by Ms. Rausch.

Mr. Blaylock feels that Ms. Rausch has been singling him out, yet there is an approved 2,000 square foot garage immediately next to her house where the owner builds hot rods and cars. Across the street from Ms. Rausch another home owner works on hot rods and cars. Mr. Blaylock stated that he is doing what he can to survive by working five days a week at K C Automotive from 8:00 A.M. to 5:30 P.M. and he also does field service work and has for 30 years. If his neighbor or friend needs help he will help them. If the church calls asking for help he will help. If that is breaking the law he is sorry. He has lived in his house for 14 years and this is the only problem he has ever had.

Mr. Dillard asked Mr. Blaylock where K C Automotive is located. Mr. Blaylock stated that it is located at 131st and South Memorial, and he has worked there for ten years.

Mr. Blaylock asked the Board what he could do about a privacy fence that Ms. Rausch installed on his property, and he has a survey stating such. Mr. West stated that would be a civil lawsuit between the two property owners.

Mr. Blaylock stated that he has never met Ms. Rausch; she has never come to his house nor said anything to him about noise or anything else, though he has met and spoke with Mr. Rausch. Mr. Blaylock stated that he used to do ornamental iron work in his yard when the Rausch's were building their house and she never complained.

Comments and Questions:

None.

Board Action:

On **MOTION** of **CRALL**, the Board voted 4-0-0 (Crall, Dillard, Hutchinson, Walker "aye"; no "nays"; no "abstentions"; Charney "absent") to **APPROVE** the request for a Variance

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of the allowed square footage for accessory buildings in the RS District from 750 square feet to 1,225 square feet (Section 240.2.E), subject to no commercial activity can take place in the residential area. The hardship is an oversized lot that is almost an acre in size; for the following property:

PRT N/2 NE BEING PRT TR K N240 W200 E2345 N595 LESS N50 FOR RD SEC 8 17 14 .872AC, OF TULSA COUNTY, STATE OF OKLAHOMA

NEW BUSINESS

None.

OTHER BUSINESS

None.

BOARD COMMENTS

None.

There being no further business, the meeting adjourned at 2:48 p.m.

Date approved: 8/18/15
David E. Werner
Chair (

UNFINISHED BUSINESS

NEW APPLICATIONS

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Case No. 2461—Lesley Clouse

Action Requested:

Variance to allow a detached accessory structure in an RS District to exceed 750 square feet (Section 240.2.E) and be built at 1,200 square feet. Location: 12640 East 131st Street South

Presentation:

Lesley Clouse, 12640 East 131st Street, Tulsa, OK; stated that he wants to replace a smaller building that has been razed with a little larger building for the storage of his lawn equipment, gardening equipment and vehicles.

Mr. Charney asked Mr. Clouse if he was going to use the building as a business or any type of commercial use. Mr. Clouse stated that the building was for his personal use and nothing more.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **DILLARD**, the Board voted 3-0-0 (Charney, Dillard, Draper "aye"; no "nays"; no "abstentions"; Osborne, Walker "absent") to **APPROVE** the request for a Variance to allow a detached accessory structure in an RS District to exceed 750 square feet (Section 240.2.E) and be built at 1,200 square feet. The lot size is larger enough to accommodate to requested building size, and it is conducive to the surrounding neighborhood; for the following property:

**N312 W200 E1095 N595 N/2 LESS N25 and S25 FOR RD SEC 8 17 14 1.201ACS,
OF TULSA COUNTY, STATE OF OKLAHOMA**

Interested Parties:

Gary Tanner, 1210 South Detroit, Tulsa, Oklahoma, with US Cellular, stated they could bolt a wood privacy fence to the outside of the chain link fence if required.

Board Action:

On **Motion of Dillard**, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to **APPROVE**, a Special Exception to permit a 100 ft. monopole communications tower in the AG district (Section 310), finding the application complies with the 11 factors per Section 1204.3.E, with condition for wood fence to be bolted to the exterior of the chain link fence, on the following described property:

LT 1 BLK 1, CROSSROADS CHRISTIAN CENTER, Tulsa County, State of Oklahoma

Case No. 2301

Action Requested:

Variance of the maximum size of a detached accessory building permitted in the RS district from 750 sq. ft. to 1,800 sq. ft. (Section 240.2.E), located: 13135 South 121st East Avenue.

Presentation:

Lester Walters, 1002 South Powell, Wagoner, Oklahoma, 74467, stated the applicant purchased property in Broken Arrow. He stated that the size of the lot is about 1.2 acres. He planned to store some classic cars, and personal items. They proposed to use the same materials for the exterior of the accessory building as the house. He submitted a petition of the neighbors (Exhibit A-1), which were all in support. He has a privacy fence.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

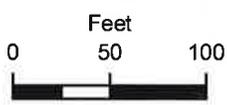
On **Motion of Charney**, the Board voted 3-0-0 (Walker, Dillard, Charney "aye"; no "nays"; no "abstentions"; Tyndall, Hutson "absent") to **APPROVE** a Variance of the maximum size of a detached accessory building permitted in the RS district from 750 sq. ft. to 1,800 sq. ft. (Section 240.2.E), as submitted with the hardship being the size of the lot and the needs for storage; subject to exterior façade to match the house; no revenue generating business operated out of the accessory building, on the following described property:

Variance of the maximum size of a detached accessory building permitted in the RS district from 750 sq. ft. to 1,800 sq. ft. (Section 240.2.E)

W JASPER ST

S 125 E AVE

E 132 STS



Subject Tract

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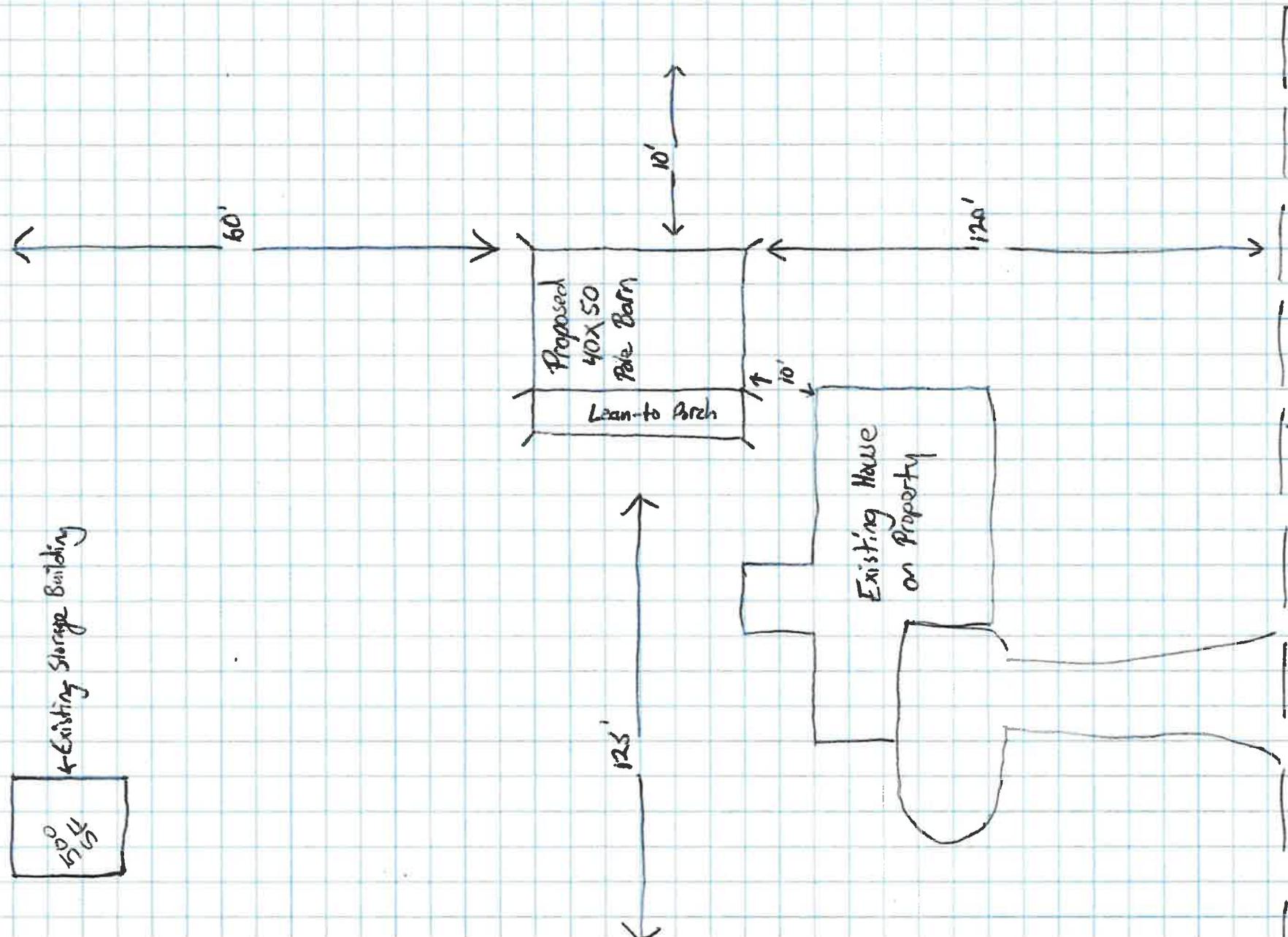
Note: Graphic overlays may not precisely align with physical features on the ground.

Aerial Photo Date: February 2018





Cain Site Plan



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