



City of Broken Arrow
Meeting Agenda
Board of Adjustment

City of Broken Arrow
Council Chambers
220 S 1st Street
Broken Arrow OK
74012

Richard Carter
Steve Knight
Randy Cherry
Stanley Evetts
Robert Whitlock

Monday, May 13, 2019

5:00 PM

Council Chambers

1. Call to Order

2. Roll Call

3. Consideration of Consent Agenda

- A. [19-564](#) Approval of Board of Adjustment Meeting Minutes held, April 8, 2019

Attachments: [04 08 2019 Board of Adjustment Minutes.docx](#)

4. Public Hearings

- A. [19-563](#) Public hearing, consideration, and possible action regarding BOA 721, Lois McCleary Property, 0.30 acres, R-2, request to allow a recreational vehicle to be parked in front of the building line of a single-family residence, located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue

Attachments: [2-PUBLISHED BOA STAFF REPORT, FEBRUARY 11, 2019](#)
[3-PUBLISHED BOA STAFF REPORT, APRIL 8, 2019](#)
[4-CASE MAP](#)
[5-AERIAL](#)
[6-SURVEY](#)
[7-COUNTRY CLUB ESTATES ADDITION](#)
[8-MINI MOTORHOME VARIANCE - CONDITION 6](#)
[9-MINI MOTORHOME VARIANCE PRESENTATION, MAY 13, 2019](#)
[10-APPLICANT RESPONSE TO DEVELOPMENT SERVICES DEPARTMENT](#)

5. General Board Business

6. Remarks, Inquiries, and/or Comments by the Board and/or Staff (No Action)

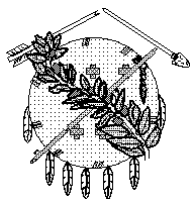
7. Adjournment

NOTICE:

- 1. IF YOU HAVE A DISABILITY AND NEED ACCOMMODATION IN ORDER TO PARTICIPATE IN THE MEETING, PLEASE CONTACT THE PLANNING DIVISION AT 918 259 8412 TO MAKE ARRANGEMENTS.**
- 2. EXHIBITS, PETITIONS, PICTURES, ETC. PRESENTED TO THE BOARD OF ADJUSTMENT MAY BE RECEIVED AND DEPOSITED IN CASE FILES TO BE MAINTAINED AT BROKEN ARROW CITY HALL.**
- 3. RINGING/SOUND ON ALL CELL PHONES AND PAGERS MUST BE TURNED OFF DURING THE MEETING.**

Posted on _____ 2018, at _____ am/pm.

CITY CLERK



City of Broken Arrow

Request for Action

File #: 19-564, **Version:** 1

**Broken Arrow Board of Adjustment
05-13-2019**

To: Chairman and Board Members
From: Development Services Department
Title:

Approval of Board of Adjustment Meeting Minutes held, April 8, 2019

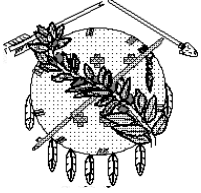
Background: Minutes recorded for the Board of Adjustment Meeting of April 8, 2019.

Attachments: 04 08 2019 Board of Adjustment Minutes

Recommendation: Approve minutes of Board of Adjustment Meeting, April 8, 2019, as presented.

Reviewed and Approved By: Larry R. Curtis

ALY



City of Broken Arrow

Minutes Board of Adjustment

City Hall
220 S 1st Street
Broken Arrow OK
74012

Chairman Stanley Evetts
Vice Chairman Randy Cherry
Board Member Steve Knight
Board Member Harold Tohlen

Monday, April 8, 2019

Time 5:00 p.m.

Council Chambers

1. Call to Order

Chairman Stanley Evetts called the meeting to order at approximately 5:00 p.m.

2. Roll Call

Present: 3 - Harold Tohlen, Randy Cherry, Stanley Evetts

Absent: 1 - Steve Knight

3. Consideration of Consent Agenda

There was no Consent Agenda.

4. Public Hearings

- A. 19-412 Public hearing, consideration, and possible action regarding BOA-721, Lois McCleary Property, 0.30 acres, R-2, request to allow a recreational vehicle to be parked in front of the building line of a single-family residence, located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue**
Plan Development Manager Larry Curtis reported Staff and the applicant requested this Item be tabled until the May 13, 2019 Meeting. He explained the applicant was unable to attend this meeting.

MOTION: A motion was made by Randy Cherry, seconded by Harold Tohlen.

Move to table this Item until the May 13, 2019 Board of Adjustment Meeting

The motion carried by the following vote:

Aye: 3 - Harold Tohlen, Randy Cherry, Stanley Evetts

Mr. Curtis stated notice would be sent out via mail, newspaper publishing, as well as sign placement on the property. Ms. Amanda Yamaguchi stated signs were not typically placed on the property for Board of Adjustment cases; however, this could be done if Mr. Curtis requested. Assistant City Attorney Tammy Ewing stated she would look into the matter and signs would be posted if required.

5. General Board Business

- A. 19-403 Consideration and possible approval of 2019 Board of Adjustment meeting schedule**
Plan Development Manager Larry Curtis stated this Item had been approved by City Council and as such he asked this Item to be struck from the Agenda.

MOTION: A motion was made by Randy Cherry, seconded by Harold Tohlen.

Move to strike this Item from the Agenda

The motion carried by the following vote:

Aye: 3 - Harold Tohlen, Randy Cherry, Stanley Evetts

- B. 19-404 Election of Chairman and Vice Chairman for the Board of Adjustment for 2018-2019**
Mr. Randy Cherry nominated Mr. Stan Evetts for Chairman of the Board of Adjustment.

MOTION: A motion was made by Randy Cherry, seconded by Harold Tohlen.

Move to elect Mr. Stan Evetts as Chairman of the Board of Adjustment

The motion carried by the following vote:

Aye: 3 - Harold Tohlen, Randy Cherry, Stanley Evetts

Mr. Stan Evetts nominated Mr. Randy Cherry for Vice Chairman of the Board of Adjustment

MOTION: A motion was made by Stan Evetts, seconded by Harold Tohlen.

Move to elect Randy Cherry as Vice Chairman of the Board of Adjustment

The motion carried by the following vote:

Aye: 3 - Randy Cherry, Harold Tohlen, Stanley Evetts

6. Remarks, Inquiries and/or Comments by the Board and/or Staff (No Action)

There were no Remarks, Inquiries and/or Comments by the Board and/or Staff.

7. Adjournment

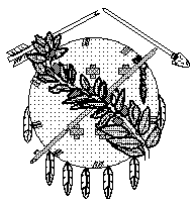
The meeting adjourned at approximately 5:07 p.m.

MOTION: A motion was made by Harold Tohlen, seconded by Randy Cherry.

Move to adjourn

The motion carried by the following vote:

Aye: 3 - Harold Tohlen, Randy Cherry, Stanley Evetts



City of Broken Arrow

Request for Action

File #: 19-563, Version: 1

Broken Arrow Board of Adjustment

05-13-2019

To: Chairman and Board Members
From: Development Services Department
Title:

Public hearing, consideration, and possible action regarding BOA 721, Lois McCleary Property, 0.30 acres, R-2, request to allow a recreational vehicle to be parked in front of the building line of a single-family residence, located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue

Background:

Applicant: Lois McCleary
Owner: Lois McCleary
Developer: NA
Surveyor: Collins Land Surveying, Inc.
Location: One-third mile east of Elm Place (161st E. Avenue), north of Jaspser Street (131st Street) at 8202 S. Ash Avenue
Size of Tract 0.30 acres
Number of Lots: 1
Present Zoning: R-2
Comp Plan: Level 2

BOA 721 involves a request for a variance to allow a recreational vehicle (RV) to be parked in front of the building line of a single-family residence. The property is located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue.

According to Tulsa County records, the house at 8202 S. Ash Avenue was built in 1987. Applicant purchased the property in June 2017. Applicant states that the RV is her primary vehicle that she also uses for her work as a photographer. Applicant further states that her lot is narrow with insufficient space to park behind the front building line and that her RV is comparable in size to parking a full size pickup truck.

Section 5.4.K.4 of the Zoning Ordinance limits the amount of camping or travel trailer, hauling trailer, or recreational vehicle to one per household on any residential lot to one (1) for a period not to exceed twenty-four (24) hours unless such is located behind the front building line. In 2018, Code Enforcement had 184 cases involving recreational vehicles or trailers parked in front of the building line.

On February 11, 2019, the Board of Adjustment heard and denied this variance request (3-0 vote). Subsequent to this meeting, it was determined that two of the Board of Adjustment members had not yet been reappointed.

The City Council has since reappointed the Board members. Accordingly, re-hearing the variance request is necessary. The public hearing notice was published in the newspaper, public hearing notices were mailed to property owners within 300 feet of the property, and a sign was posted on the property for the April 8, 2019 Board of Adjustment meeting. After giving proper notice of the variance request, the applicant informed staff that she would not be available to attend the April 8, 2019 meeting, and the Board of Adjustment continued this item to the May 13, 2019 meeting at the applicant's request. The public hearing notice was published in the newspaper, public hearing notices were mailed to property owners within 300 feet of the property, and a sign was posted on the property for the May 13, 2019 meeting as well.

For a variance to be granted, there are six conditions that must be found by the Board of Adjustment.

1. There are unique physical circumstances or conditions, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.

Analysis:

The home at 8202 S. Ash Avenue was built in 1987. Access to the property is from S. Ash Avenue, which is a low design speed, low traffic count cul-de-sac street. The lot associated with BOA 721 is 95 feet in width, which is consistent with most interior lots in the Country Club Estates Addition. Corner lots are typically 115 feet wide, and cul-de-sac lots vary in width. Applicant states that the property at 8202 Ash Avenue is one of the narrowest lots in the neighborhood. In reviewing the Country Club Estates plat, staff concluded there are 38 lots with 95 feet of lot frontage. The property is zoned R-2 which requires a front setback of 25 feet and side setbacks of five feet on one side and ten feet on the other. With 11 feet, 3 inches on the north side of the residence, the property exceeds the zoning requirement for side setbacks. Therefore, no unique physical circumstances or conditions were found to be peculiar to the affected property.

2. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.

Analysis:

In examining an aerial photo and through a site visit, two homes were observed to have recreational vehicles that were parked along the side of the home. One of these homes is on a 95-foot-wide lot. The house on this particular property is smaller than the house at 8202 S. Ash Avenue; thus, the footprint allows for wider side yards. The other home is on a 115-foot-wide corner lot with a wider side yard. No unusual circumstances or conditions exist on this property or throughout the neighborhood in which the property is located.

3. Such physical circumstances or conditions were not created by the applicant.

Analysis:

The home has existed on the property since 1987, and the applicant purchased the property in June 2017. The setback requirements for the location of this lot within the subdivision includes a 35-foot front building line and 5-foot side setbacks. Placement of the house on the lot meets all setback requirements. According to the lot survey (attached), the north side yard is 11 feet 3 inches. Applicant states that the side yard is too narrow to park her recreational vehicle on either side of the house particularly because the overhang of the house extends into the side yard. The applicant's desire to park a recreational vehicle on the lot is a circumstance created by the applicant. Therefore, this condition is not met.

4. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Ordinance.

Analysis:

No physical circumstances or conditions have been identified that would preclude the property from being reasonably developed in conformity with the provisions of this Ordinance. The property is developed with one single-family house and meets all setbacks in conformity with the Zoning Ordinance. The request to allow a recreational vehicle to be parked in front of the front building line exceeds what is permitted by this Ordinance.

5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.

Analysis:

While the City does not enforce covenants, Item Number (1) of the Deed of Dedication and Covenants states that “No lot shall be used except for residential purposes.” Further, Item Number (9) states that “Trucks with tonnage in excess of $\frac{3}{4}$ ton shall not be permitted to park on the streets, driveways.” Approval of a variance to allow a recreational vehicle to be parked in front of the building line on this property may alter the character of the neighborhood.

6. The variance, if granted, would be the minimum variance that will afford relief and is the least modification possible of the provisions of this Ordinance that are in question.

Analysis:

Granting a variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence is the minimum variance required.

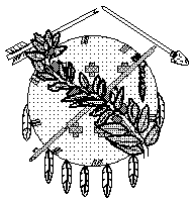
Attachments: Published BOA Staff Report, February 11, 2019
Published BOA Staff Report, April 8, 2019
Case map
Aerial
Survey
Country Club Estates Addition
Mini Motorhome Variance - Condition 6
Mini Motorhome Variance Presentation, May 13, 2019
Applicant Response to Development Services Department Analysis

Recommendation:

By State law and by the City of Broken Arrow Zoning Ordinance, for a variance to be granted, all six conditions listed above must be met. In Staff’s opinion, the request for a variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence 8202 S. Ash Avenue does not meet the six conditions for the Board to grant a variance. Conditions 1 through 5 have not been met but Condition 6 has been met. Therefore, Staff recommends that BOA 721 be denied.

Reviewed and Approved by: Larry Curtis

LRC: JMW



City of Broken Arrow

Request for Action

File #: 19-195, **Version:** 1

Broken Arrow Board of Adjustment

02-11-2019

To: Chairman and Board Members
From: Development Services Department
Title:

Public hearing, consideration, and possible action regarding BOA 721, Lois McCleary Property, 0.30 acres, R-2, request to allow a recreational vehicle to be parked in front of the building line of a single-family residence, located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue

Background:

Applicant: Lois McCleary
Owner: Lois McCleary
Developer: NA
Surveyor: Collins Land Surveying, Inc.
Location: One-third mile east of Elm Place (161st E. Avenue), north of Jaspser Street (131st Street) at 8202 S. Ash Avenue
Size of Tract 0.30 acres
Number of Lots: 1
Present Zoning: R-2
Comp Plan: Level 2

BOA 721 involves a request for a variance to allow a recreational vehicle (RV) to be parked in front of the building line of a single-family residence. The property is located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue.

According to Tulsa County records, the house at 8202 S. Ash Avenue was built in 1987. Applicant purchased the property in June 2017. Applicant states that the RV is her primary vehicle that she also uses for her work as a photographer. Applicant further states that her lot is narrow with insufficient space to park behind the front building line and that her RV is comparable in size to parking a full size pickup truck.

Section 5.4.K.4 of the Zoning Ordinance limits the amount of camping or travel trailer, hauling trailer, or recreational vehicle to one per household on any residential lot to one (1) for a period not to exceed twenty-four (24) hours unless such is located behind the front building line. In 2018, Code Enforcement had 184 cases involving recreational vehicles or trailers parked in front of the building line.

For a variance to be granted, there are six conditions that must be found by the Board of Adjustment.

1. There are unique physical circumstances or conditions, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.

Analysis:

The home at 8202 S. Ash Avenue was built in 1987. Access to the property is from S. Ash Avenue, which is a low design speed, low traffic count cul-de-sac street. The lot associated with BOA 721 is 95 feet in width, which is consistent with most interior lots in the Country Club Estates Addition. Corner lots are typically 115 feet wide, and cul-de-sac lots vary in width. Applicant states that the property at 8202 Ash Avenue is one of the narrowest lots in the neighborhood. In reviewing the Country Club Estates plat, staff concluded there are 38 lots with 95 feet of lot frontage. The property is zoned R-2 which requires a front setback of 25 feet and side setbacks of five feet on one side and ten feet on the other. With 11 feet, 3 inches on the north side of the residence, the property exceeds the zoning requirement for side setbacks. Therefore, no unique physical circumstances or conditions were found to be peculiar to the affected property.

2. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.

Analysis:

In examining an aerial photo and through a site visit, two homes were observed to have recreational vehicles that were parked along the side of the home. One of these homes is on a 95-foot-wide lot. The house on this particular property is smaller than the house at 8202 S. Ash Avenue; thus, the footprint allows for wider side yards. The other home is on a 115-foot-wide corner lot with a wider side yard. No unusual circumstances or conditions exist on this property or throughout the neighborhood in which the property is located.

3. Such physical circumstances or conditions were not created by the applicant.

Analysis:

The home has existed on the property since 1987, and the applicant purchased the property in June 2017. The setback requirements for the location of this lot within the subdivision includes a 35-foot front building line and 5-foot side setbacks. Placement of the house on the lot meets all setback requirements. According to the lot survey (attached), the north side yard is 11 feet 3 inches. Applicant states that the side yard is too narrow to park her recreational vehicle on either side of the house particularly because the overhang of the house extends into the side yard. The applicant's desire to park a recreational vehicle on the lot is a circumstance created by the applicant. Therefore, this condition is not met.

4. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Ordinance.

Analysis:

No physical circumstances or conditions have been identified that would preclude the property from being reasonably developed in conformity with the provisions of this Ordinance. The property is developed with one single-family house and meets all setbacks in conformity with the Zoning Ordinance. The request to allow a recreational vehicle to be parked in front of the front building line exceeds what is permitted by this Ordinance.

5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.

Analysis:

While the City does not enforce covenants, Item Number (1) of the Deed of Dedication and Covenants states that “No lot shall be used except for residential purposes.” Further, Item Number (9) states that “Trucks with tonnage in excess of $\frac{3}{4}$ ton shall not be permitted to park on the streets, driveways.” Approval of a variance to allow a recreational vehicle to be parked in front of the building line on this property may alter the character of the neighborhood.

6. The variance, if granted, would be the minimum variance that will afford relief and is the least modification possible of the provisions of this Ordinance that are in question.

Analysis:

Granting a variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence is the minimum variance required.

Attachments: Case map
Aerial
Survey
Country Club Estates Addition
Variance Request Presentation

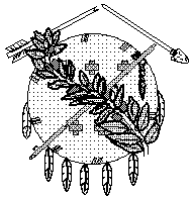
Recommendation:

By State law and by the City of Broken Arrow Zoning Ordinance, for a variance to be granted, all six conditions listed above must be met. In Staff’s opinion, the request for a variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence 8202 S. Ash Avenue does not meet the six conditions for the Board to grant a variance. Conditions 1 through 5 have not been met but Condition 6 has been met. Therefore, Staff recommends that BOA 721 be denied.

Reviewed by: Larry Curtis

Approved by: Michael Skates

LRC: JMW



City of Broken Arrow

Request for Action

File #: 19-412, Version: 1

**Broken Arrow Board of Adjustment
04-08-2019**

To: Chairman and Board Members
From: Development Services Department
Title:

Public hearing, consideration, and possible action regarding BOA 721, Lois McCleary Property, 0.30 acres, R-2, request to allow a recreational vehicle to be parked in front of the building line of a single-family residence, located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue

Background:

Applicant: Lois McCleary
Owner: Lois McCleary
Developer: NA
Surveyor: Collins Land Surveying, Inc.
Location: One-third mile east of Elm Place (161st E. Avenue), north of Jaspser Street (131st Street) at 8202 S. Ash Avenue
Size of Tract 0.30 acres
Number of Lots: 1
Present Zoning: R-2
Comp Plan: Level 2

BOA 721 involves a request for a variance to allow a recreational vehicle (RV) to be parked in front of the building line of a single-family residence. The property is located one-third mile east of Elm Place (161st E. Avenue), north of Jasper Street (131st Street) at 8202 S. Ash Avenue.

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Section 5.4.K.4 of the Zoning Ordinance limits the amount of camping or travel trailer, hauling trailer, or recreational vehicle to one per household on any residential lot to one (1) for a period not to exceed twenty-four (24) hours unless such is located behind the front building line. In 2018, Code Enforcement had 184 cases involving recreational vehicles or trailers parked in front of the building line.

On February 11, 2019, the Board of Adjustment heard and denied this variance request (3-0 vote). Subsequent

to this meeting, it was determined that two of the Board of Adjustment members had not yet been reappointed. The City Council has since reappointed the Board members. Accordingly, re-hearing the variance request is necessary. After the public hearing notices were published, the applicant informed staff that she would not be available to attend the April 8, 2019 Board of Adjustment meeting. Therefore, the applicant requests that the Board of Adjustment continue this item.

For a variance to be granted, there are six conditions that must be found by the Board of Adjustment.

1. There are unique physical circumstances or conditions, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.

Analysis:

The home at 8202 S. Ash Avenue was built in 1987. Access to the property is from S. Ash Avenue, which is a low design speed, low traffic count cul-de-sac street. The lot associated with BOA 721 is 95 feet in width, which is consistent with most interior lots in the Country Club Estates Addition. Corner lots are typically 115 feet wide, and cul-de-sac lots vary in width. Applicant states that the property at 8202 Ash Avenue is one of the narrowest lots in the neighborhood. In reviewing the Country Club Estates plat, staff concluded there are 38 lots with 95 feet of lot frontage. The property is zoned R-2 which requires a front setback of 25 feet and side setbacks of five feet on one side and ten feet on the other. With 11 feet, 3 inches on the north side of the residence, the property exceeds the zoning requirement for side setbacks. Therefore, no unique physical circumstances or conditions were found to be peculiar to the affected property.

2. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.

Analysis:

In examining an aerial photo and through a site visit, two homes were observed to have recreational vehicles that were parked along the side of the home. One of these homes is on a 95-foot-wide lot. The house on this particular property is smaller than the house at 8202 S. Ash Avenue; thus, the footprint allows for wider side yards. The other home is on a 115-foot-wide corner lot with a wider side yard. No unusual circumstances or conditions exist on this property or throughout the neighborhood in which the property is located.

3. Such physical circumstances or conditions were not created by the applicant.

Analysis:

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4. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Ordinance.

Analysis:

No physical circumstances or conditions have been identified that would preclude the property from being reasonably developed in conformity with the provisions of this Ordinance. The property is developed with one single-family house and meets all setbacks in conformity with the Zoning Ordinance. The request to allow a recreational vehicle to be parked in front of the front building line exceeds what is permitted by this Ordinance.

5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.

Analysis:

While the City does not enforce covenants, Item Number (1) of the Deed of Dedication and Covenants states that “No lot shall be used except for residential purposes.” Further, Item Number (9) states that “Trucks with tonnage in excess of $\frac{3}{4}$ ton shall not be permitted to park on the streets, driveways.” Approval of a variance to allow a recreational vehicle to be parked in front of the building line on this property may alter the character of the neighborhood.

6. The variance, if granted, would be the minimum variance that will afford relief and is the least modification possible of the provisions of this Ordinance that are in question.

Analysis:

Granting a variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence is the minimum variance required.

Attachments: Published PC Staff Report, February 11, 2019
Case map
Aerial
Survey
Country Club Estates Addition
Variance Request Presentation

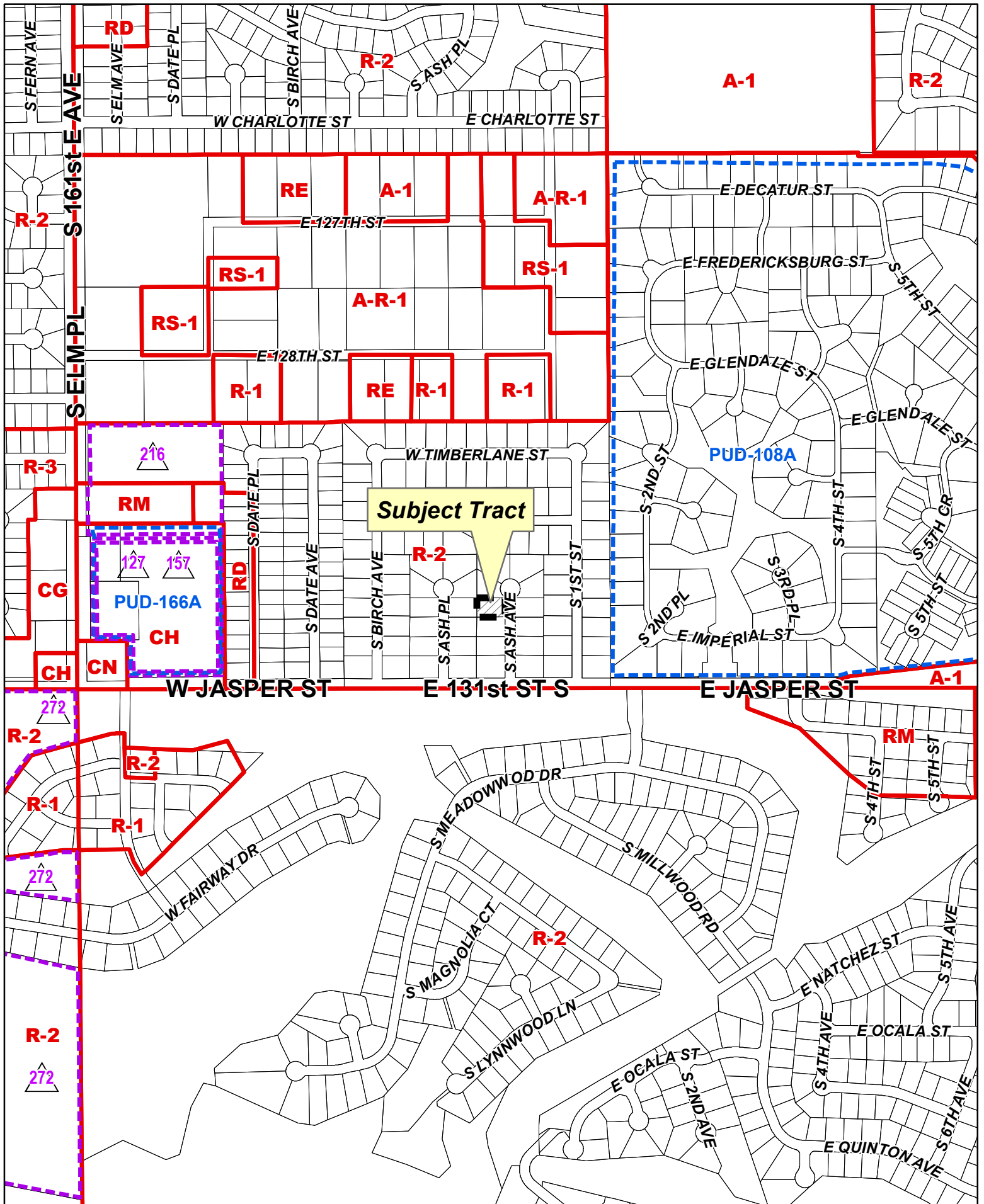
Recommendation:

Continue BOA-721.

Reviewed by: Larry Curtis

Approved by: Michael Skates

LRC: JMW

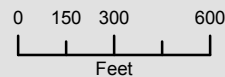


300' Radius



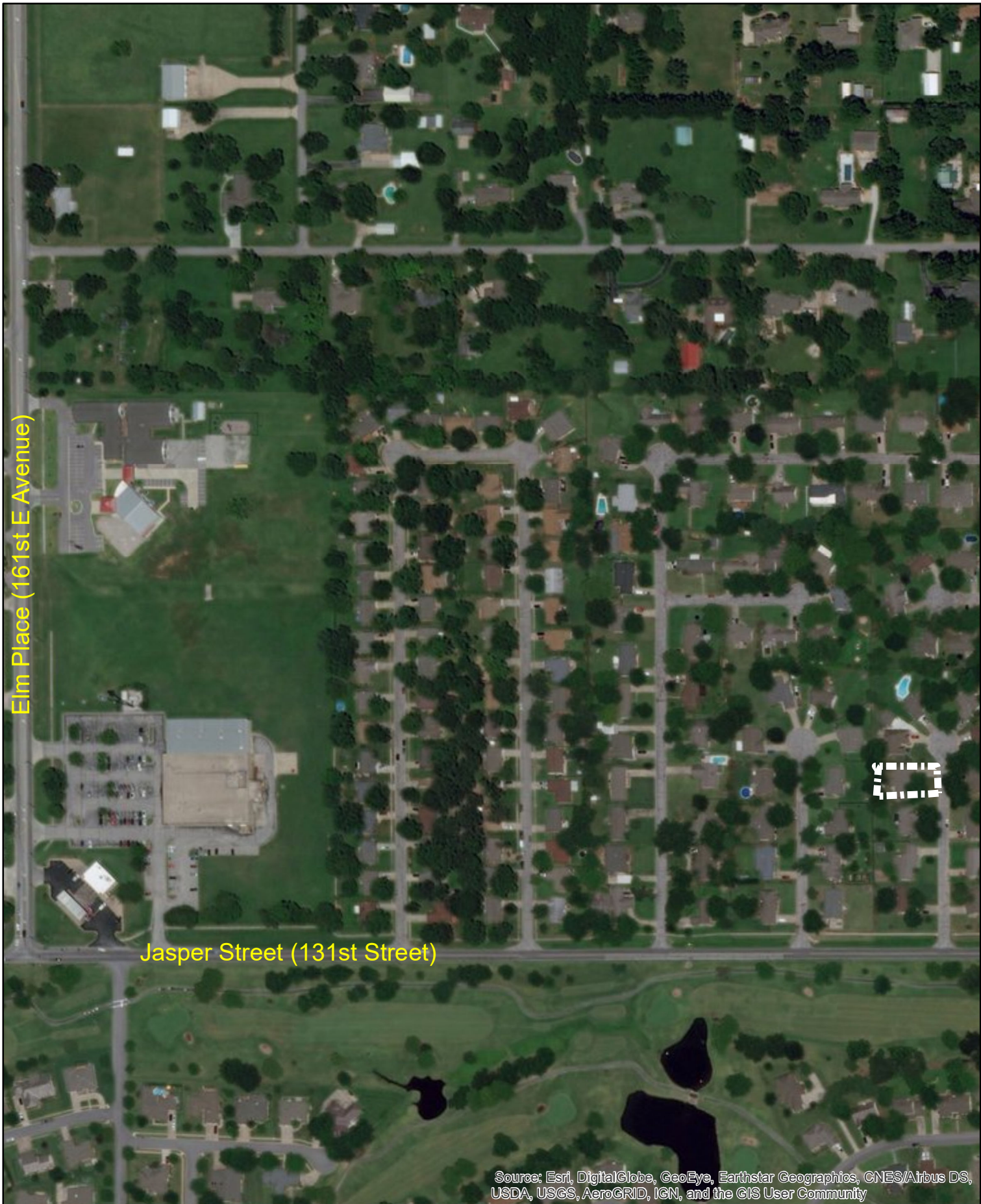
Subject
Tract

BOA-721



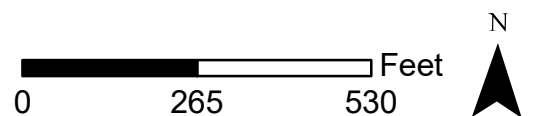
02 17-14





BOA-721
Lois McCleary Property

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



REGISTERED LAND SURVEYOR'S INSPECTION
PLAT AND CERTIFICATE FOR MORTGAGE
LOAN PURPOSE

COLLINS LAND SURVEYING, INC.

3340 W. 151st ST. S. - P.O. Box 250
KIEFER, OK. 74041

OFFICE (918)321-9400 FAX (918)321-9404

J.O. NO.: 17-05-132

First American Title
Customer: & Trust Company

Borrower: McCleary, Lois R.
2241736-TU02

Plat No: 3293

B/L=Building Line
U/E=Utility Esmt.
F/E=Fence Esmt.

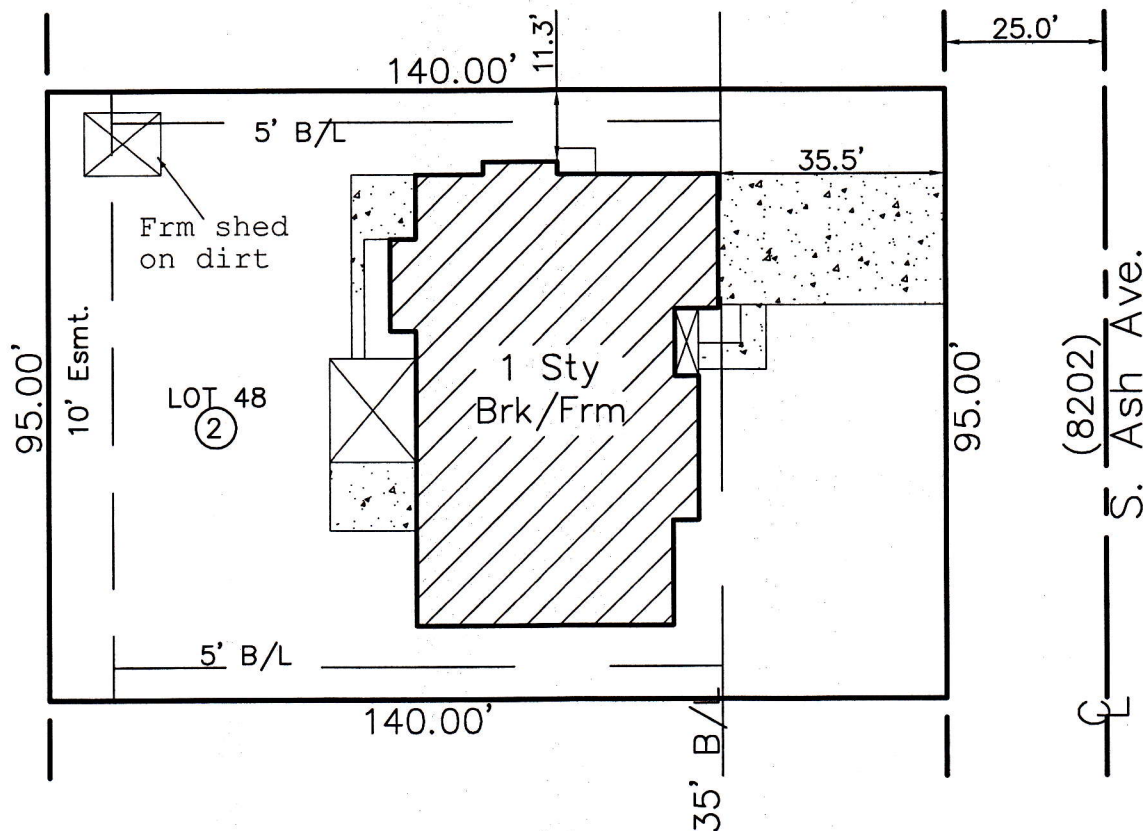
OB/L-Out Building Line
SW/E=Sidewalk Esmt.
R/W=Right of Way

D/E=Drainage Esmt.
B/E=Buried Tele. & Elec. Cable Esmt.
S/E=Service Entrance

SCALE: 1"=30'



SUBJECT PROPERTY LIES WITHIN FLOOD ZONE "UNSHADED X" AN AREA OF MINIMAL FLOOD HAZARD AS SHOWN ON FIRM MAP#400236 0456L, DATED 10/16/2012.



THIS PLAT IS MADE FOR AND AT THE REQUEST OF: First American Title & Trust Company /

Gateway Mortgage Group, LLC, ISAOA/ATIMA

FOR MORTGAGE LOAN PURPOSES ONLY COVERING LEGAL DESCRIPTION AS PROVIDED

Lot Forty-eight (48), Block Two (2), COUNTRY CLUB ESTATES
ADDITION to the City of Broken Arrow, Tulsa County, State of
Oklahoma, according to the recorded Plat No. 3293.

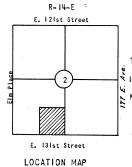
Property address: 8202 South Ash Avenue, Broken Arrow, Oklahoma

SURVEYORS STATEMENT

COUNTRY CLUB ESTATES

An addition to
Broken Arrow, OklahomaAn addition in the SE 1/4, SW 1/4 of Section 2, T.17-N,
R.14-E, Tulsa County, Oklahoma

UNPLATTED



OWNERS

Frank D. Moskowitz
Jack H. Morse
William P. Morse
Michael T. Myers
Donald F. D. Stafford
1701 S. Boston
Tulsa, Oklahoma

ENGINEER & SURVEYOR

Jack L. Spradling & Associates
4880 E. 30
Tulsa, Oklahoma

UNPLATTED

UNPLATTED

1322.51' to S.W. Corner of Sec. 2

N 89° 50' 28" W

OWNERS CERTIFICATE OF DEED OF DEDICATION AND COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

That, Frank D. Moskowitz, Jack H. Morse, William P. Morse, Michael T. Myers, and Donald F. D. Stafford, being the owners of the whole lot in and to a certain tract of land shown and described as The Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 2, Township 17 North, Range 14 East of the Indian Base Meridian, Tulsa County, Oklahoma, according to the S. S. Government Survey Record, containing forty (40) acres, more or less and have caused the same to be surveyed, staked, and platted into lots, blocks and streets, existing the same as Country Club Estates Addition to the City of Broken Arrow, Oklahoma.

Whereas the above named owner being owners of maintaining conformity to the improvement and providing protection for the future owner of the same named addition and further to provide the necessary streets and other improvements, do hereby declare themselves as shown on said plat, and upon the following restrictive covenants for the mutual benefit of themselves and their successors in title to all or any portion of said tract, hereinafter referred to as lots, and do create covenants as hereinafter declared to which it shall be incumbent upon or their successors to adhere and observe in perpetuity, to-wit:

- No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height.
- The first floor area of the main structure, exclusive of open porches and garages, shall be not less than 1,600 square feet, or 1,800 square feet in the case of a two-story dwelling.
- No building shall be located on any lot nearer than 35 feet to the front lot line, or nearer than 15 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line.
- Construction of new buildings shall be permitted, it being the intent of this covenant to prohibit the moving of any existing building onto a lot and remodeling or converting same into a dwelling unit in this subdivision.
- No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the architectural control committee as to quality of workmanship and materials, harmony of exterior design with existing structures, and as to location with respect to topography and final grade elevation.
- The architectural control committee is composed of Michael T. Myers, Donald F. D. Stafford & Leon Regalado. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining member shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the three members of a majority of the lot shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or reduce to it any of its powers and duties.
- The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in an event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will be deemed to be given and the related covenants shall be deemed to have been fully complied with.
- No dwelling shall be erected or placed on any lot having a width or square foot area less than that shown on recorded plat.
- Exposed exterior wall area, exclusive of doors, windows and gable area, shall be 90 percent masonry or masonry veneer. Masonry material shall be of quality and appearance equal or superior to the standard clay or shale common brick, color stamped Portland Cement Brick or quarter round. Exterior wall materials, exclusive of the required masonry area, shall be of standard construction material selected and designed to suit the architectural appearance of the building.
- No dwelling shall hereafter be erected or placed upon any lot which has a roof composed of asphalt composition material, or a roof pitch of less than 2/12 (in 12). No asbestos material is to be used on the exterior walls.
- No fence shall be constructed or allowed to remain in front of the minimum building setback line.
- Trucks with tongue in excess of 8 1/2 feet shall not be permitted to park on the streets, alleyways, or lots overnight and no vehicle of any size which normally transports inflammable or explosive cargo may be kept in subdivision at any time.
- No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be so or may become an annoyance or nuisance to the neighborhood.
- No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.
- No sign of any kind shall be displayed to the public view on any lot except upon a professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or sign used by a seller to advertise the property during the construction and sales period.
- All easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and it is further affirmed that no driveway, fence or other obstruction shall be placed in any easement and that full right of ingress and egress shall have at all times over any dedicated easement for the location, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use, maintenance operation or installation of such utility.
- No lot drilling, oil development operations, oil refining, evaporating or shifting operations of any kind shall be permitted upon or in structure designed for residential use or on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes.
- No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers, all incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

- No fence, wall, hedge or other planting which obstructs sight lines at elevations between 2 and 6 feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines indicated.
- No individual water supply system or sewerage disposal system shall be permitted on any lot.
- Overhead pole lines may be installed along the east side of said additions; however, all supply of electric service shall be located underground in the easement ways reserved for general utility services, shown on the attached plat. Service conduits and transformers shall not be located in the easement ways reserved for general utility services, shown on the attached plat. To all houses which may be located on all lots in said addition may run from the nearest service conduit or transformer to the point of usage determined by the location and construction of such house as may be located upon said lot; provided that upon the installation of such a service cable in a particular house, the supplier of electric service shall thereafter be deemed to have a definitive, permanent, effective, and exclusive right of any easement on said lot, covering a five foot strip extending from the service conduit or transformer to the service entrance of said house.
- The supplier of electric service, through its proper agents and employees, shall at all times have right of access to all such easement ways shown on said plat, or previous for in this deed of dedication for the purpose of installing, maintaining, removing or replacing any portion of said underground electric facilities as installed by it.
- The owner of each lot shall be responsible for the protection of the underground facilities located on his property and shall prevent the alteration of grade or any construction activity which may interfere with said electric facilities. Repairs or cost of relocation, required by violation of this covenant shall be paid for the owner of the lots.
- The foregoing covenants shall be enforceable by the supplier of electric service, and the owner of each lot agrees to be bound hereby.
- These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.
- Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.
- Invalidation of any one of these covenants by judgments or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

The undersigned owners further dedicate to the public use all easements and right-of-way as shown and designated on the accompanying plat for the purpose of construction, maintaining, operating, repairing or removing streets, sanitary sewers and other necessary facilities, telephone lines, electric power lines, gas lines, water lines, and drainage structures with right of ingress and egress upon said right-of-way for the uses and purposes aforesaid, so long as the foregoing easements are used for public use.

Dated this 24th day of May, 1972.

Jack L. Spradling
Jack H. Morse
William P. Morse
Michael T. Myers
Donald F. D. Stafford

STATE OF OKLAHOMA
COUNTY OF TULSA

Before me, the undersigned, a Notary Public in and for the said county and state on this 24th day of May, 1972, personally appeared Jack L. Spradling, a Registered Land Surveyor in the State of Oklahoma, and that the above plat is a true and correct representation of the same as the same was submitted to me by the said Jack L. Spradling, and that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal this 24th day of May, 1972.

My commission expires 08/15/1973

SURVEYOR'S CERTIFICATE

I, Jack L. Spradling, a Registered Land Surveyor in the State of Oklahoma, do hereby certify that I have plotted into Lots, Blocks, and Streets, Country Club Estates Addition to the City of Broken Arrow, Oklahoma, and that the above plat is a true and correct representation of said survey.

STATE OF OKLAHOMA
COUNTY OF TULSA

Before me, the undersigned, a Notary Public in and for the said county and state on this 19th day of May, 1972, personally appeared Jack L. Spradling, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal this 19th day of May, 1972.

My commission expires 08/15/1973

CERTIFICATE OF APPROVAL
I HEREBY CERTIFY THAT
PLAT WAS SUBMITTED BY
JACK L. SPRADLING TO THE
CITY OF OKLAHOMA
ON 05-19-72
BY C.E.

Statement from the Applicant:

At one point in my business and technology career, I worked as the Program Manager for a large financial services company. My role was to resolve issues with customers who did not fit within our normal lending policies, many of whom were angry, frustrated and sometimes threatening action against the company. The “one size fits all” assembly line approach to lending does not work for a lot of people with special circumstances. In order to resolve problems I needed to fully understand our policies and create exception policies that would enable us to approve loans that were still financially sound and would benefit the company and the customers. Often it was a case of looking more closely at the customer’s information and other times I needed to get approval from our Legal and Operations Executives. When trends were identified, I wrote new exception policies that incorporated our findings, making it a smoother process for future customers. My experience in that role equates very well to this situation with City Code (one size fits all) and the Variance (exception) process.

My situation is unique. My property is unique. My lifestyle is unique. I don’t fit into the normal process in respect to the City Code: Zoning Ordinance Section 5.4.K.4. My property does not enable me to fit my mini motorhome behind my building line. The mini motorhome is my primary vehicle that I use multiple times per week, particularly as a professional photographer, so storing it offsite is not an option. Under ordinary circumstances, my mini motorhome would probably go unnoticed by Code Enforcement because I use it so much. At my previous residence in the San Francisco Bay Area, arguably one the most regulated areas in the country, I was able to park my mini motorhome in my driveway without any problem. Unfortunately, here in Broken Arrow, the neighbors next to me have engaged in a campaign of harassing, bullying and persecuting me to the point that I had to apply for a variance from the city in order to protect myself. To the best of my knowledge, the rest of my neighbors in my development support me in being able to park my mini motorhome in my driveway.

While I understand the city’s position in regard to Zoning Ordinances and their unwillingness to grant variances, there is a process in place for people who don’t fit the normal circumstances. Most importantly, when a circumstance warrants a variance, the Development Services Department should be writing a fair analysis of the situation, not one that is designed to direct the Board of Adjustment to vote against it without even considering all the circumstances, including the information that I provide.

At the previous hearing I was asked if I read the Covenants for my development before I bought my property. I did not. They were not provided to me and I did not think to seek them out. I worked with a local realtor from Keller Williams, the same company that sold my previous house for me. They were very competent in the sale of my home and for that reason, I chose to work with the local branch here in Broken Arrow. I relied on their expertise and local

knowledge to buy my house in Broken Arrow. The agent was aware that I had a mini motorhome but never mentioned anything about any possible problems. As an experienced project manager, I looked out for risks, such as whether the neighborhood would be a good fit for me. I chose a relaxed neighborhood without a Home Owners Association because I didn't want that kind of environment. There was nothing visible in the neighborhood that caused me to question whether I could park my mini motorhome in my driveway, as I did at my previous home. I am requesting this variance so that I can park my mini motorhome in my driveway.

Thank you,

Lois McCleary

The following is my response to the Development Services Department Analysis, dated 2-11-2019. For easy reference, the numbered conditions and Development Services Department statements preface each of my responses (in Blue text).

1. There are unique physical circumstances or conditions, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.

Analysis:

The home at 8202 S. Ash Avenue was built in 1987. Access to the property is from S. Ash Avenue, which is a low design speed, low traffic count cul-de-sac street. The lot associated with BOA 721 is 95 feet in width, which is consistent with most interior lots in the Country Club Estates Addition. Corner lots are typically 115 feet wide, and cul-de-sac lots vary in width. Applicant states that the property at 8202 Ash Avenue is one of the narrowest lots in the neighborhood. In reviewing the Country Club Estates plat, staff concluded there are 38 lots with 95 feet of lot frontage. The property is zoned R-2 which requires a front setback of 25 feet and side setbacks of five feet on one side and ten feet on the other. With 11 feet, 3 inches on the north side of the residence, the property exceeds the zoning requirement for side setbacks. Therefore, no unique physical circumstances or conditions were found to be peculiar to the affected property.

The statements in the above Analysis by the Development Services Department address the adherence of the home to the building code, not the size and shape of the lot in relation to the size and shape of the building, which is the point of the condition.

As stated in the Analysis submitted by the Development Services Department, my lot is among the narrowest lots in the neighborhood at 95 feet. The house that was originally built on this lot was a much smaller 2-story house that was destroyed in a fire. A completely new, much larger house was eventually built on the lot. Although the style of the house blends well with the houses in the neighborhood, it is completely unique. The new house was built to conform to the building code, but it did not allow for enough space on either side for parking the mini motorhome.

Therefore, the unique physical circumstances of the property **DO MEET THE REQUIREMENTS of Condition #1.**

2. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.

Analysis:

In examining an aerial photo and through a site visit, two homes were observed to have recreational vehicles that were parked along the side of the home. One of these homes is on a 95-foot-wide lot. The house on this particular property is smaller than the house at 8202 S. Ash Avenue; thus, the footprint allows for wider side yards. The other home is on a 115-foot-wide corner lot with a wider side yard. No unusual circumstances or conditions exist on this property or throughout the neighborhood in which the property is located.

The statements in the above Analysis by the Development Services Department contradict their own conclusion. The Development Services Department observed that the unusual condition of a larger home on a smaller lot does NOT exist throughout the neighborhood. Other homes on lots of this size are smaller.

Of the two other homes with recreational vehicles parked on property, only the smaller footprint of the homes allow for side yards wide enough for parking on the side.

The subject property consists of the narrowest lot size and contains a unique house that is the largest in the neighborhood, having replaced a much smaller house that was destroyed in a fire.

Therefore, the unusual circumstances or conditions do not exist throughout the neighborhood and **DO MEET THE REQUIREMENTS of Condition #2.**

3. Such physical circumstances or conditions were not created by the applicant.

Analysis:

The home has existed on the property since 1987, and the applicant purchased the property in June 2017. The setback requirements for the location of this lot within the subdivision includes a 35-foot front building line and 5-foot side setbacks. Placement of the house on the lot meets all setback requirements. According to the lot survey (attached), the north side yard is 11 feet 3 inches. Applicant states that the side yard is too narrow to park her recreational vehicle on either side of the house particularly because the overhang of the house extends into the side yard. The applicant's desire to park a recreational vehicle on the lot is a circumstance created by the applicant. Therefore, this condition is not met.

The statements in the above Analysis by the Development Services Department assert that the reason for requesting a variance is the justification for denying it.

No reasonable person in the applicant's situation of buying this property from a knowledgeable local realtor and observing the relaxed condition of the neighborhood would expect to have a problem complying with the code pertaining to parking a mini motorhome in the driveway. In fact, the variance would not have been necessary, because the mini motorhome is so

frequently in use, if it were not for the persistent and unreasonable reporting by a neighbor for more than a year and a half. The applicant is seeking relief from this campaign of harassment that the Broken Arrow Police are unable to resolve and requesting help from the City in the form of a variance.

Therefore, the physical circumstances or conditions were not created by the applicant and **DO MEET THE REQUIREMENTS of Condition #3.**

4. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Ordinance.

Analysis:

No physical circumstances or conditions have been identified that would preclude the property from being reasonably developed in conformity with the provisions of this Ordinance. The property is developed with one single-family house and meets all setbacks in conformity with the Zoning Ordinance. The request to allow a recreational vehicle to be parked in front of the front building line exceeds what is permitted by this Ordinance.

The statements in the above Analysis by the Development Services Department fail to address the actual condition as it relates to the variance request.

The property is completely and correctly developed according to the building code. However, because there is insufficient space on the side of the house to park the mini motorhome alongside, a variance is needed. The applicant cannot reasonably be expected to remove a section of the house or garage to make room for the mini motorhome that is barely larger than a van or a pickup truck. Variances have been granted by the Board of Adjustment to builders who build structures too close together by mistake. This variance request, which is basically a parking permit, is a very minor accommodation compared to permanent structures that have been incorrectly spaced too close together.

Therefore, because of the physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this ordinance and **DOES MEET THE REQUIREMENTS of Condition #4.**

5. The variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.

Analysis:

While the City does not enforce covenants, Item Number (1) of the Deed of Dedication and Covenants states that "No lot shall be used except for residential purposes." Further, Item Number (9) states that "Trucks with tonnage in excess of ¾ ton shall not be permitted to park on the streets, driveways." Approval of a variance to allow a recreational vehicle to be parked in front of the building line on this property may alter the character of the neighborhood.

The statements in the above Analysis by the Development Services Department are not correct arguments for the condition. Since the City does not enforce covenants, they should not be using them as a means to deny a variance. Furthermore, the lot is only used for residential purposes. The mini motorhome is not a truck and cannot be evaluated as a truck.

Parking the mini motorhome in the driveway does not substantially or permanently impact the neighborhood. This is much less impactful and a completely different situation from a building code variance that would be permanent and such variances have been approved by the Board of Adjustment in other cases.

Furthermore, the remediation of planting trees, shrubs and flowers to screen the mini motorhome from view minimizes any visual impact.

In addition, the neighbor whose complaints necessitated this request for variance is in violation of covenants as he runs a business out of his garages. In fact, the basis for his complaint stems partially from the fact that the mini motorhome may block his house from view on one side and prevent customers from finding his business. At the February 11 hearing, although he said, "I usually spend my days figuring out how to meet code, not getting past it", he also stated that he bought his house so he could "build a shop...cover it up and have a nice tackle store". This type of complaint should be thrown out on the basis that he is demanding this variance be denied so he can continue violating the covenants. The City may not enforce the covenants, but they should not aid a citizen in violating them.

Therefore, the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property and **DOES MEET THE REQUIREMENTS of Condition #5.**

6. The variance, if granted, would be the minimum variance that will afford relief and is the least modification possible of the provisions of this Ordinance that are in question.

Analysis:

Granting a variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence is the minimum variance required.

The variance to allow a recreational vehicle to be parked in front of the building line of a single-family residence would be limited by the following:

1. The variance is for this property only.
2. The mini motorhome must be of the same size as the existing Leprechaun 210QB model, or smaller.

3. Impact to neighborhood aesthetics is minimized with a landscaped screen of trees, shrubs and flowers.
4. The mini motorhome must be used as the primary vehicle by the homeowner, as measured by annual mileage.
5. Motorhome functionality is required for the safety and security of the homeowner and their property when in use.
6. The variance is non-transferable when the property is sold.

Therefore, the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this ordinance that are in question and **DOES MEET THE REQUIREMENTS of Condition #6.**