

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
October 01, 2012 6:00 PM**

STAFF PRESENT:

Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

ATTENDING:

See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 6:00 PM.

ROLL CALL

Members Present: Jeff Wilson, Dave Hill, and Murray King.

Members Absent: Darrell Mullins and Larry Whiteley.

MINUTES

1. Approval of Minutes for September 04, 2012

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Murray King made a MOTION to APPROVE the Minutes of September 04, 2012 as presented by Staff. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, & Hill

NAY: None.

ABSTAIN: None.

MOTION CARRIED: 3:0:0

OLD BUSINESS

Chair Jeff Wilson asked Erik Enyart if there was any Old Business. Mr. Enyart reported that he had none. No action taken.

NEW BUSINESS

3. (Continued from September 04, 2012)

BBOA-568 – Roger O. Nunley, Jr. Discussion and possible action to approve a Variance from the accessory building maximum floor area restriction per Zoning Code Section 11-8-8.B.5 to allow a new 960 square foot addition to an existing 2,000 square foot accessory structure for property in the RS-2 Single Family Dwelling District. Property located: Part of Lot 1, Block 2, *Southern Memorial Acres No. 2*; 8703 E. 124th St. S.

Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: *Bixby Board of Adjustment*
From: *Erik Enyart, AICP, City Planner*
Date: *Wednesday, September 19, 2012*
RE: *Report and Recommendations for:
BBOA-568 – Roger O. Nunley, Jr.*

LOCATION: – 8703 E. 124th St. S.
– Part of Lot 1, Block 2, *Southern Memorial Acres No. 2*

LOT SIZE: 0.2 acre, more or less

ZONING: RS-2 Residential Single Family District

SUPPLEMENTAL ZONING: None

EXISTING USE: Detached accessory storage building

REQUEST: Variance from the accessory building maximum floor area restriction per Zoning Code Section 11-8-8.B.5 to allow a new 960 square foot addition to an existing 2,000 square foot accessory structure for property in the RS-2 Single Family Dwelling District

SURROUNDING ZONING AND LAND USE: RS-1, RS-2, & AG; Single-family residential and vacant lots in Houser Addition zoned RS-1 and in *Southern Memorial Acres No. 2* zoned RS-2, with drainage channel land owned by the City of Bixby to the east zoned RS-1, RS-2, and AG.

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES:

BBOA-372 – Roger Nunley, Jr. – Request for Variance from the 750 square foot restriction of Zoning Code Section 240.2.e to permit a 2,000 square foot accessory building for subject property – BOA Approved 10/01/2001.

RELEVANT AREA CASE HISTORY:

BBOA-158 – Kenneth Grindstaff – Request for Variance from the 600 square foot restriction of Zoning Code Section 240.2.e to permit a 750 square foot accessory building for property located six (6) blocks to the south of subject property at 12455 S. 86th E. Ave. – BOA Approved 03/10/1986.

BBOA-558 – John Ryel – Request for Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a replacement 1,200 square foot accessory structure in the south, rear yard for property in the RS-1 Single Family Dwelling District for property located one (1) block to the northwest of subject property at 8512 E. 123rd St. S. – BOA Approved 05/07/2012.

BACKGROUND INFORMATION:

This application was Continued from the September 04, 2012 Regular Meeting as the Applicant was not in attendance to represent his application. Staff notified the Applicant of the Continuance to this meeting by cell phone voicemail on September 05, 2012.

ANALYSIS:

Subject Property Conditions. The subject property is located at the east dead-end of 124th St. S., addressed 8703 E. 124th St. S. It is part of a platted lot, contains a 2,000 square foot accessory building on approximately 6787 square feet (0.2-acres), and is Zoned RS-2.

Adjacent to the west is the Applicant's house on a lot addressed 8701 E. 124th St. S. To the north is the City's right-of-way for the upstream tributary to Fry Creek # 1. Abutting to the east is S. 88th E. Ave., which was evidently removed when the Fry Creek # 1 system was constructed. There is no roadway south of the tributary abutting to the north. Beyond this to the east is the Fry Creek # 1 right-of-way.

Tests and Standard for Granting Variance. Oklahoma State Statutes Title 11 Section 44.107 and Bixby Zoning Code Section 11-4-8.A and .C together provide the following generalized tests and standards for the granting of Variance:

- Unnecessary Hardship.
- Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
- Finding of No Substantial Detriment or Impairment.
- Variance would be Minimum Necessary.

Nature of Variance. The Applicant is requesting a Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 960 square foot addition to an existing 2,000 square foot accessory structure for property in the RS-2 Residential Single Family District. Per the submitted drawing and the Applicant's statement, the building would be extended to the east matching the same north and south lines of the existing building.

Zoning Code Section 11-8-8.B.5 provides:

"5. In the RE and RS districts, detached accessory buildings may be located in a rear yard, provided the accessory building(s) in the aggregate do not cover more than twenty percent (20%) of the area of the rear yard or exceed eight hundred (800) square feet of floor area, whichever is less.

No accessory building shall exceed the height of the primary dwelling on the lot.

In the RE and RS districts, lots containing at least one acre of lot area shall be permitted to exceed the eight hundred (800) square foot floor area limitation by 11.6 percent. Further, lots containing 1.25 acres or more of lot area shall be permitted to exceed eight hundred (800) square feet by an additional 11.6 percent for each one-fourth ($\frac{1}{4}$) of an acre over one acre, provided that in no case shall accessory building(s) in the aggregate exceed the square footage of the first floor of the primary dwelling or two thousand four hundred (2,400) square feet, whichever is less, or cover more than twenty percent (20%) of the area of the rear yard. (Ord. 2031, 12-21-2009)"

As the subject property is in the RS-2 residential zoning district and contains approximately 0.2 acres, the maximum allowable detached accessory building size is 800 square feet.

However, per BBOA-372 – Roger Nunley, on October 01, 2001, the Bixby Board of Adjustment approved a Variance from the (then) 750 square foot restriction of Zoning Code Section 240.2.e to permit a 2,000 square foot accessory building for the subject property. It appears, per GIS and aerial data, that the existing storage building is approximately 2,000 square feet. Therefore, the maximum allowable square footage has already been reached. To add additional square footage to the existing building would require a new Variance from Zoning Code Section 11-8-8.B.5.

The "sliding scale" was introduced as a measure of flexibility, along with an increase in the basic maximum square footage from 750 square feet to 800 square feet, by Ordinance # 2031, approved December 21, 2009. It was designed to allow people to have larger accessory buildings, if they had enough land so that the accessory building did not dominate the parcel aesthetically and so detract from the neighborhood. The "sliding scale" was calculated in order to start at 800 square feet and increase regularly for each $\frac{1}{4}$ acre increment to the maximum of 2,400 square feet, which requires a lot containing slightly more than 3.25 acres.

This is the fourth application for Variance which has been received since the added flexibility was created, and it is requesting a Variance to exceed even the new flexibility. The first was BBOA-550 – Mitch & Gail Pilgrim, which the Board approved 12/05/2011 for that property located in Bixhoma Lake Estates. The second was BBOA-558 – John Ryel, which the Board approved 05/07/2012 for that property located in the Houser Addition. Most recently, on August 06, 2012, the Board of Adjustment denied an application to build a 5,000 square foot addition to an existing 900 square foot accessory

building for an unplatted 1-acre tract at 14426 S. Harvard Ave. (BBOA-565 – Robert Campbell III & Karen M. Campbell).

Unnecessary Hardship. The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because “[It] would prevent [the] expansion of [the] Building.”

Staff does not dispute that this claim is true. The Board must find, however, that this prohibition amounts to an Unnecessary Hardship.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The Applicant responded to the question asking how the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional by stating, “Double variance on neighbor at 8512 E. 123rd St. across creek drainage ditch.”

The implied claim appears to reference the large accessory building approved in May 2012 in the case of BBOA-558 – John Ryel. Staff does not immediately see how this response addresses this test and standard. However, Staff believes that the following facts may be considered arguments in support of this test and standard:

1. The subject property was approved for the existing 2,000 square foot accessory building in 2001.
2. The Variance was approved during a period of time when 750 square feet was the maximum, which basic minimum has been increased to 800 square feet by Ordinance # 2031, approved December 21, 2009. The approved Variance was effectively diminished in scale when the basic minimum was increased. This should be seen as an argument favoring somewhat of an increase in the 2,000 square foot storage building.
3. The Applicant is proposing to expand the building to the east by 960 square feet, or 48%.
4. The area of expansion, per statements from the Applicant’s building contractor, aerial data, and a site inspection, is already used for storage of a large RV. The Applicant could construct, by right, a carport, shed-roof, or lean-to type covering over this area, provided it was permanently open on at least two (2) sides and met the requirements for carports. The full enclosure of the proposed storage building addition would not be significantly different from a large carport-type covering open on at least two (2) sides.
5. The accessory building is located in an area which does not see much traffic, as it is at the east dead-end of 124th St. S., which dead-ends into the City’s Fry Creek Ditch # 1 and the City’s sanitary sewer “126 Center” lift station.

The subject property is exceptionally small, approximately 6787 square feet (0.2-acres), due to being reduced in size by the acquisition of right-of-way for the upstream tributary to Fry Creek # 1, probably in the late 1990s. Prior to the acquisition, per the plat of Southern Memorial Acres No. 2 and GIS estimates, the whole lot contained just over 19,000 square feet (4/10 acre). However, these facts would appear unresponsive of the application recognizing the intent of the ‘sliding scale.’

Finding of No Substantial Detriment or Impairment. The Applicant claims that the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan because “No houses around. Only pump station, [Fry Creek # 1] Land East of property, make property Look Better.”

The Applicant’s argument is self-explanatory.

Of the several fundamental purposes for imposing maximum accessory building size and rear yard placement restrictions, Staff believes the primary reason is for the sake of consistency of design, proportionality, and mode of placement of structures (aesthetics).

The subject property has had a 2,000 square foot building of the same size since 2001, evidently without protest from surrounding property owners. The Board of Adjustment approved it as the principal use of that parcel, as the owner’s home is on the lot to the west. Therefore, the 2,000 square foot storage building necessarily ‘dominates’ its parcel, rendering that purpose moot. The building addition will be to the east of the existing building, in the direction of the Fry Creek Ditch # 1 and the City’s lift station and in the opposite direction from residential homes. For all these reasons, Staff believes that the primary purpose is not as critical a concern in this instance.

The Board may also consider that there appear to be several other detached accessory buildings in Houser Addition and Southern Memorial Acres No. 2 which, by a cursory investigation, appear to exceed the current, and former 750 square foot maximum standards for the same. One of these appears to have been sanctioned, under a former 600 square foot maximum standard, in 1986 per BBOA-158. It is located four (4) blocks to the south of subject property at 12455 S. 86th E. Ave. Although approved by

that application for a 750 square foot building, per aerial and GIS data, the building that is now on that property measures closer to 1,000 square feet in size. There are several in Houser Addition which appear to be oversized, but Houser Addition is not connected to the subject property in the Southern Memorial Acres No. 2 by a through street (S. 88th E. Ave. was evidently removed when the Fry Creek # 1 system was constructed).

As it regards accessory buildings on other properties in the area, although the presence of other area properties with oversized accessory buildings would appear to support the Applicant's cause, nonconformities are generally not recognized as adequate for justification of the creation of new nonconformities by Variance.

See also the arguments listed under the Peculiar, Extraordinary, or Exceptional Conditions or Circumstances test and standard for possible application of those arguments to this test and standard.

For all the reasons set forth above, Staff believes that that approval of the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan.

Finding of Minimum Necessary. Recognizing the intent behind the "sliding scale" flexibility provision, Staff believes it should be somewhat more difficult to justify this test and standard. If the Board is amenable to this application, it must find that the proposed 960 square foot addition to the existing 2,000 square foot accessory building, a 48% increase, when 800 square feet is the maximum absent the previously-approved Variance, is the Minimum Necessary to Alleviate the Unnecessary Hardship.

Staff Recommendation. Except as noted otherwise hereinabove, Staff believes that the arguments provided by the Applicant and Staff appear to substantially meet the tests and standards of the Zoning Code and State Statutes. To the extent the arguments are found lacking, the Board may wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting.

Chair Jeff Wilson confirmed with Erik Enyart that the subject property contained the existing storage building on a lot separate from the Applicant's dwelling.

Chair Jeff Wilson asked Applicant Roger Nunley of 8701 E. 124th St. S. if his claim was not that there were unique circumstances pertaining to the subject property, and that it contained not a house, just a storage building. Mr. Nunley confirmed, stating this was "right." Mr. Wilson asked if his claim was not also that the unique circumstances also included the weird size and configuration of the lot [formed by the] abutting [Public drainage properties], and Mr. Nunley confirmed, stating "Yes."

Dave Hill made a MOTION to APPROVE the BBOA-568. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, & Hill
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	3:0:0

Patrick Boulden in about this time.

Erik Enyart explained the Decision of Record process with Roger Nunley.

4. **BBOA-569 – Sutherland’s**. Discussion and possible action to approve a Variance from the 30’ maximum height restriction of Zoning Code Section 11-9-21.D.1 and any other Zoning Code regulation preventing an existing ground sign from being elevated to approximately 33 feet and 8 ¾ inches in height for property in the CS Commercial Shopping Center District.
Property located: Lot 2, Block 1, *Wal-Mart Stores Addition*, Less & Except the E. 200’ thereof; 15050 S. Memorial Dr.

Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: *Bixby Board of Adjustment*
From: *Erik Enyart, AICP, City Planner*
Date: *Friday, September 14, 2012*
RE: *Report and Recommendations for:
 BBOA-569 – Sutherland’s*

LOCATION: – *15050 S. Memorial Dr.*
 – *Lot 2, Block 1, Wal-Mart Stores Addition, Less & Except the E. 200’ thereof*
LOT SIZE: *3 acres, more or less*
ZONING: *CS Commercial Shopping Center District*
SUPPLEMENTAL ZONING: *Corridor Appearance District*
EXISTING USE: *A Use Unit 14 Sutherland’s building materials and hardware store*
REQUEST: *Variance from the 30’ maximum height restriction of Zoning Code Section 11-9-21.D.1 and any other Zoning Code regulation preventing an existing ground sign from being elevated to approximately 33 feet and 8 ¾ inches in height for property in the CS Commercial Shopping Center District*

SURROUNDING ZONING AND LAND USE:
North: *CS; The Doc’s Country Mart grocery store, the Med-X pharmacy/drugstore, and other businesses in the in the Spartan Family Shopping Center strip commercial center in the Wal-Mart Stores Addition, and the abandoned Railroad Right-of-Way containing a storage shed sales lot and the Bixby Auto Sales lot to the north of that.*
South: *(Across 151st St. S.) CG & RS-2; The QuikTrip gasoline service station and convenience store and single-family residential in the Jim King Addition.*
East: *CG & CH; The Sonic Drive-In fast food restaurant, the O’Reilly Auto Parts sales business, and the Taco Bueno fast food restaurant, all in the Wal-Mart Stores Addition, with the Bixby Car Wash and AT&T Cellular World store across Memorial Dr. both zoned CH.*
West: *CS/IL/IM/PUD 50; Vacant commercial lots along the 151st St. S. frontage zoned CS and commercial and heavy commercial businesses zoned IL and IM in Jade Crossing and Jade Crossing II, all with PUD 50.*

COMPREHENSIVE PLAN: *Medium Intensity + Commercial Area + Regional Trail.*

PREVIOUS/RELATED CASES: *(Not necessarily a complete list)*
BZ-45 – Warren Morris – Request for IH, IL, CG, & CS zoning for all of the E/2 SE/4 of this Section (80 acres, includes all of Wal-Mart Stores Addition) – Approved for IM, IL, and CS zoning only by the City Council 10/1976 (Ord. # 320).
[Final] Plat of Wal-Mart Stores Addition – Request for [Final] Plat approval for the Wal-Mart Stores Addition (includes subject property) – Planning Commission recommended Conditional Approval on 02/23/1981 and the City Council Approved 03/02/1981 (plat recorded 07/15/1981).
BBOA-263 – Jerry W. Ledford – Request for Special Exception to allow a Use Unit 18 (Sonic Drive-In) drive-in restaurant in the CS district on the E. 200’ of the S. 150’ of Lot 2, Block 1, Wal-Mart Stores Addition (parent tract for subject property) – BOA Conditionally Approved at a Special Meeting on 05/10/1993 after a split vote (2:2:1) at the 05/03/1993 Regular Meeting.

BL-170 – Jerry W. Ledford – Request for Lot-Split approval to split the E. 200' of the S. 150' from Lot 2, Block 1, Wal-Mart Stores Addition (parent tract for subject property) for the Sonic Drive-In fast food restaurant – PC Conditionally Approved 05/17/1993.

BL-212 – Ted Sack for Wal-Mart Stores – Request for Lot-Split approval split the E. 200' of the N. 135' from Lot 2, Block 1, Wal-Mart Stores Addition (parent tract for subject property) for the O'Reilly Auto Parts sales business – PC approved 08/26/1996.

AC-12-06-02 – Sutherlands – Request for Planning Commission approval of an LED / Electronic Message Center (EMC) ground sign for Sutherland's on the subject property – PC Approved (ratified approval of an approved Sign Permit) 06/18/2012.

RELEVANT AREA CASE HISTORY:

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property is zoned CS and consists of Lot 2, Block 1, Wal-Mart Stores Addition, Less and Except the E. 200' thereof. The E. 200' was separated by Lot-Splits in 1993 (BL-170; Sonic Drive-In) and 1996 (BL-212; O'Reilly Auto Parts). The building on the subject property is occupied by a Use Unit 14 Sutherland's building materials and hardware store. It was formerly a Wal-Mart retail store, when Wal-Mart was the anchor tenant of the shopping center in the Wal-Mart Stores Addition. The shopping center to the north of the subject property is known as the Spartan Family Shopping Center and is under different ownership. To the northeast of the subject property is the Taco Bueno fast food restaurant on an outparcel lot platted with the Wal-Mart Stores Addition.

The subject property is relatively flat and appears to drain to the south to 151st St. S., which in turn drains to the east and to the west toward Bixby Creek.

Tests and Standard for Granting Variance. Oklahoma State Statutes Title 11 Section 44.107 and Bixby Zoning Code Section 11-4-8.A and .C together provide the following generalized tests and standards for the granting of Variance:

- Unnecessary Hardship.
- Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
- Finding of No Substantial Detriment or Impairment.
- Variance would be Minimum Necessary.

Nature of Variance. Per AC-12-06-02 – Sutherlands, on June 18, 2012, the Planning Commission approved (ratified approval of an approved Sign Permit) an LED / Electronic Message Center (EMC) ground sign for Sutherland's on the subject property. The sign was approved and constructed for placement on the 151st St. S. frontage, just east of the subject property's driveway connection to the street. It is a single-faced sign and faces east toward the 151st St. S. and Memorial Dr. intersection, tilted slightly to the south. It was approved for construction at the 30' maximum height restriction of Zoning Code Section 11-9-21.D.1.

A portion of the pylon extends above the EMC sign element, presumably allowing for its elevation.

The Applicant is requesting a Variance from the 30' maximum height restriction of Zoning Code Section 11-9-21.D.1 and any other Zoning Code regulation preventing an existing ground sign from being elevated to approximately 33 feet and 8 ¾ inches in height for property in the CS Commercial Shopping Center District.

General. The application form does not itself include arguments, but rather points to a submitted narrative, an undated letter from Chris Jones, Controller for Sutherland Lumber & Home Center, Inc. Without specifically identifying which statements are meant to address the different tests and standards for granting Variance, the Applicant's narrative provides:

"Store signage has been proven to be one of the most effective methods of promoting that brand. The ability to be able to effectively identify our stores, through maximizing signage opportunities, continues to have a direct correlation in enabling our stores to fully service the local market.

We believe that having this new pylon at the proposed height would have great benefits at the location mentioned above. In addition the EMC would also benefit the community itself [by] providing local time, date and current temperature and could be helpful w/ providing Amber alert information.

We request that you allow a variance so that we may place an illuminated pylon sign with EMC located at the new desired height. Please advise our national sign supplier listed below of your decision on this matter."

Although the submitted narrative does not appear to make this claim, Staff would expect that the Applicant may describe concerns for the visibility of the EMC sign to stopped traffic at the 151st St. S.

and Memorial Dr. intersection. The view may be somewhat hindered by the storage building (for sale) located in front of and just below the sign.

The subject property would have street frontage and thus the ability to place a ground sign on Memorial Dr., which has a much higher traffic count than 151st St. S., had the two (2) outparcels not been split and sold in the 1990s.

During the Public Hearing and consideration of this application at the meeting, the Board may wish to ask the Applicant for claims along these lines of argumentation.

Staff Recommendation. The Board must find that the provided arguments are adequate for the justification of Variance in accordance with the tests and standards provided in State Statutes and the Bixby Zoning Code.

Erik Enyart stated that the Applicant had made some statements in their letter, but he was not sure if they could be applied to the tests and standards of the State Statutes and Zoning Code for granting Variance. Mr. Enyart stated that he would leave that judgment up to the Board.

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Applicant's representative Peter Janzen of 1801 N. Willow Ave., Broken Arrow, 74012, was present and stated that he was representing *Sutherland's*. Mr. Janzen stated that the current sign cabinet was mounted about four (4) feet lower than the 30' maximum height limitation, as the identification sign was permitted but had not been installed yet. Mr. Janzen stated that there was a [storage building] shed in the way of the sign which reduced visibility. Mr. Janzen stated that *Sutherland's* was willing to upgrade the sign to allow Amber Alerts for use by the City of Bixby.

Chair Jeff Wilson asked Peter Janzen what was unique about this specific site. Mr. Janzen responded citing, specific to this site, the location of the intersection and the speed of traffic going by.

Someone asked why the pole was sticking above the existing sign. Peter Janzen stated that the pole always extends above the sign, "then we clip it after the cabinet is installed. The customer saw the pole and asked why they can't go that high." Mr. Janzen stated that this was the reason the application was filed.

Debbie Hunter of 15017 S. Grant St. stated that she owned the building that she had bought from Ron Kelley and drove by this sign every day. Ms. Hunter expressed interest in placing a sign on Grant St. advertising the businesses along Grant St. Ms. Hunter stated that, in that case, if [*Sutherland's*] sign goes that high, it will block the view of [the Grant St.] sign. Ms. Hunter stated, "I love the sign and may want one similar."

Debbie Hunter and Peter Janzen discussed the height of the sign and its distance from Memorial Dr. Mr. Janzen stated, "Maybe they'll get the lion's share because they're first, but stated that he did not think elevating *Sutherland's* sign would obstruct the view of a sign at Grant St.

Chair Jeff Wilson asked Debbie Hunter to indicate where her business was located in relation to the subject property and sign location. Ms. Hunter approached the Board members and indicated the location of her property on a case map.

Erik Enyart clarified with Peter Janzen that the Electronic Message Board element had been installed but that the *Sutherland's* 4'-high identification sign element had not yet been mounted.

Mr. Janzen confirmed this was correct and that the identification sign had been permitted, just not yet installed. Mr. Enyart advised the Board that the full sign could be seen on the 11" X 17" exhibit attached to the back of the agenda packet. Mr. Janzen stated that the exhibit was correct, but if [the Variance is approved], "they'll put the LED on top and the ID on bottom."

Debbie Hunter and Peter Janzen discussed these matters further.

Chair Jeff Wilson clarified with Peter Janzen that the sign would "go up 3' no matter what." Mr. Janzen confirmed this was accurate, but that it was more complicated than that: [if the Variance was approved], the LED would be elevated 7' [or more], and [he and his client] would reapply [for sign permit] to put the ID cabinet on the bottom.

Dave Hill asked Debbie Hunter where her proposed sign would go. Ms. Hunter stated that it would go on Ron Kelley's property [along 151st St. S.]. Mr. Hill stated, "What they're asking for would not block your sign." Peter Janzen stated, "I think it's negligible."

Jim Stephens of Sandman Property Services, 2331 S. Columbia, [Tulsa, OK] stated that he represented the owner of the [abutting] [Spartan Family] Shopping Center. Mr. Stephens stated that he had driven around the intersection and had no difficulty viewing the sign. Mr. Stephens expressed doubt that the application met the criteria for Variance. Mr. Stephens stated that there was nothing irregular about the property. Mr. Stephens stated that, as for the shed, the owner could move it or keep it. Mr. Stephens stated that he could see the sign just fine. Mr. Stephens asserted that the application "doesn't meet any of the criteria" for granting Variance. Mr. Stephens stated that he did not see a hardship. Dave Hill asked Mr. Stephens who he was, and Mr. Stephens stated that he was with the Spartan Family Shopping Center, and that [he and other parties] were interested in the matter. Mr. Hill asked Mr. Stephens if he was referring to the shopping center with the "tall sign on Memorial." Mr. Stephens responded, "Yes, and it is permitted and in good shape."

Discussion ensued.

Chris Sutherland arrived around this time.

Chair Jeff Wilson asked to entertain a Motion. Murray King made a MOTION to DENY BBOA-569. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, & Hill
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	3:0:0

Chris Sutherland stated, "I'm the owner" [of *Sutherland's*] and asked for clarification of the matter.

Chair Jeff Wilson stated that the application failed to satisfy the elements of State Statutes [for granting Variance], such as unique [circumstances], hardship, and minimum Variance required to alleviate the hardship.

Dave Hill stated “I can see it just fine,” and admonished Chris Sutherland, “if the [storage] building blocks your [sign], move it. Mr. Sutherland stated [he had requested the Variance because of the] “the trees, the angles, the stoplight.” Mr. Sutherland stated, “You could see it better if it was higher.” Mr. Hill complimented the sign’s appearance. Mr. Sutherland stated that the pole was already there and “we’ll paint it black.” Mr. Sutherland stated that [the idea for the Variance] came together after the drawings were done and he saw that the sign would be better if it was put higher up on the pole.

Chair Jeff Wilson stated that there was certain criteria required for a Variance, and that this application didn’t meet it.

Chris Sutherland asked if the sign could be higher if it was “zoned off premise.” A Board member responded that it would be much more valuable if billboard signs were permitted at all.

Those members of the public in attendance left at this time.

2. Approval of schedule of meetings and application cutoff dates for 2013

Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the memo and proposed schedule from the agenda packet as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Wednesday, September 19, 2012
RE: Board of Adjustment meeting schedule and application deadlines for 2013

The following is proposed to be the amended 2013 schedule for the Board of Adjustment:

<u>DATE</u>	<u>TIME</u>	<u>PLACE OF MEETING</u>
January 07, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
February 04, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
March 04, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
April 01, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
May 06, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
June 03, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
July 01, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
August 05, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
September 03, 2013 (Tue	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
October 07, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
November 04, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby
December 02, 2013	6:00 PM	116 W. Needles, City Hall Council Chambers, Bixby

APPLICATION DEADLINES

Four (4) weeks prior to the meeting, or the Bixby Bulletin’s Public Notice publication deadline plus one (1) working day, whichever is sooner. The City Manager shall have the authority to make an exception to the deadline in cases of hardship or unusual circumstances.

Erik Enyart observed that, other than the month of September, in which the meeting would be the day after the Labor Day holiday, all other months would have the meeting on the first Monday of the month.

Chair Jeff Wilson made a MOTION to APPROVE the schedule of meetings and application cutoff dates for 2013. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, & Hill
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 3:0:0

ADJOURNMENT

Dave Hill made a MOTION to ADJOURN. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, & Hill
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 3:0:0

The meeting was Adjourned at 6:23 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary