

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
August 05, 2013 6:00 PM**

STAFF PRESENT:

Erik Enyart, AICP, City Planner

ATTENDING:

John Sommer
Steve Olsen, AIA
See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 6:02 PM.

ROLL CALL

Members Present: Jeff Wilson, Dave Hill, Darrell Mullins, Murray King, and Larry Whiteley.
Members Absent: None.

MINUTES

1. Approval of Minutes for July 01, 2013

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of July 01, 2013 as presented by Staff. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Mullins, Wilson, Whiteley, & Hill
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

OLD BUSINESS

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

NEW BUSINESS

- 2. **BBOA-581 – Steve Olsen for St. Clement of Rome Catholic Church.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow an existing Use Unit 5 church in an RS-3 Residential Single-Family District. Property located: The N/2 of the N/2 of the NW/4 of the SW/4, Section 24, T17N, R13E, Less & Except right-of-way of record; 15501 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: Monday, July 29, 2013
RE: Report and Recommendations for:
 BBOA-581 – Steve Olsen for St. Clement of Rome Catholic Church

LOCATION: – 15501 S. Memorial Dr.
 – The N/2 of the N/2 of the NW/4 of the SW/4, Section 24, T17N, R13E, Less & Except right-of-way of record

SIZE: 9 ½ acres, more or less

ZONING: RS-3 Residential Single-Family District

SUPPLEMENTAL ZONING: Corridor Appearance District (partial)

EXISTING USE: Use Unit 5 church and agricultural land

REQUEST: Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow an existing Use Unit 5 church in an RS-3 Residential Single-Family District

SURROUNDING ZONING AND LAND USE:

North: RS-3; Single family residential in Ramsey Terrace and the [Original Town of] Bixby.

South: CS, OL, & RS-3; Single family residential zoned RS-3 and agricultural land zoned CS, OL, and RS-3, all in Devine-Ellard Addition.

East: (Across S. B Ave.) RS-3; Right-of-way for the City of Bixby’s downtown drainage system, a vacant lot, and single family homes in the [Original Town of] Bixby.

West: (Across Memorial Dr.) CS, AG, & CG; The First United Methodist Church of Bixby on approximately 29 acres zoned CS & AG and the former Bixby Lumber Co. / Building Solutions business on 2.2 acres zoned CG to the northwest, the Horizon Animal Hospital, Inc. (formerly the Cottom Veterinary Clinic) veterinary business zoned CG and a vacant lot zoned CS to the west, and two houses and vacant land further west and to the southwest zoned CS and RM-2.

COMPREHENSIVE PLAN: Development Sensitive + “Public + Quasi-Public” + Community Trail

PREVIOUS/RELATED CASES: None found.

RELEVANT AREA CASE HISTORY: A partial list of relevant cases is described in the analysis below.

BACKGROUND INFORMATION:

Staff has received a site plan application proposing a building addition to an existing Use Unit 5 church, namely, the St. Clement of Rome Catholic Church. Per the site plans (prepared by different sources), the building addition will contain approximately 1,567.8 square feet, 1,980 square feet, or 2,007 square feet.

The RS-3 district allows Use Unit 5 by Special Exception. According to records, the subject property has never been approved for a Special Exception, or received any other form of zoning approval for the existing land use. Per Deacon John Sommer and Rev. Leo Ugonna Ahanotu in a meeting on 12/15/2011, and as repeated by Mr. Sommer in a meeting on 04/19/2013, the church was built in the 1950s, and so predates the original early 1970s Zoning Ordinance. Thus, the Use Unit 5 use of the property is legally nonconforming, or “grandfathered.” However, the nonconformity provisions of

the Zoning Code prevent the expansion of a legally nonconforming use. Therefore, the Applicant is requesting a Special Exception at this time, to allow for the expansion.

ANALYSIS:

Subject Property Conditions. The subject property of approximately 9 ½ acres is zoned RS-3 and contains the Use Unit 5 St. Clement of Rome Catholic Church. The westerly/front approximately ½ is developed with church campus improvement, and the easterly approximately ½ is a field which may at times be agriculturally-used. It is relatively flat and appears to drain to the east to the City of Bixby's downtown drainage system lying east of B Ave., with a portion draining to the southwest to a low-lying area at Memorial Dr. and Stadium Rd.

The subject property is approximately 1,250' deep and has 331.08' of frontage on Memorial Dr., and has two (2) driveway connections thereto ("circle drive"), providing regular access to the building and site from a Public street.

The subject property also has 331.66' of frontage on S. B Ave., but there is no driveway connection thereto, nor is one proposed by this expansion project. Per the [existing conditions] Cover Sheet drawing C1.1 and aerial and GIS data, it appears that the subject property extends almost halfway into the asphalt pavement for S. B Ave. Although parcel records and the provided information do not reflect a right-of-way or easement according to documents filed of record, it would appear that some prescriptive easement or right-of-way is in effect for this roadway, which may date back to or around the recording of the plat of [the original town of] Bixby, Indian Territory, on 05/27/1902. Determination of such easement or right-of-way is beyond the scope of this analysis, and is merely pointed out for the sake of mutual understanding.

Finally, the subject property has 80' of right-of-way along the south dead-end of S. A Ave.

Site Plan drawing C1.2 represents an existing gravel parking lot toward the northwest lot corner and an existing concrete parking lot just south of the church building.

The site plan proposes a building addition to the back/east side of the building complex. As a part of the development, the church will construct an access drive along the north side of the building to afford access to the eastern end of the building, per the Fire Marshal.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Development Sensitive, (2) "Public + Quasi-Public," and (3) Community Trails.

The existing Use Unit 5 church should be considered not inconsistent with the Comprehensive Plan. The "Public + Quasi-Public" designation was likely specifically intended to recognize the existing church's use in situ.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily CS, CG, OL, and RS-3.

Uses to the north, east, and south are primarily single family residential in Ramsey Terrace, the [Original Town of] Bixby, and Devine-Ellard Addition. The City of Bixby's downtown drainage system is to the east across S. B Ave. Across Memorial Dr. to the west is a mixture of CS, AG, & CG, and includes the First United Methodist Church of Bixby on approximately 29 acres and the former Bixby Lumber Co. / Building Solutions business on 2.2 acres zoned CG to the northwest, the Horizon Animal Hospital, Inc. (formerly the Cottom Veterinary Clinic) veterinary business zoned CG and a vacant lot zoned CS to the west, and two houses and vacant land further west and to the southwest zoned CS and RM-2.

There are several businesses, churches, and other non-residential uses along Memorial Dr. between 151st St. S. and 161st St. S. The First United Methodist Church of Bixby was constructed on approximately 29 acres pursuant to a Building Permit issued in 2005. The church building and the large parking lot to the north are on the portion zoned AG, with a southerly wing of the building and additional parking areas within the CS zoning district portion. Staff found no record of Special Exception approval for the church use in the AG district area, but Use Unit 5 is allowed by right in the CS district.

The Bixby Freewill Baptist Church is located on approximately 3 acres to the south at the southeast corner of the intersection of Memorial Dr. and Bixby Creek at 15801 S. Memorial Dr. BBOA-17 – Berton Perry was a request for Special Exception to allow a Use Unit 5 church in the AG district for subject property, which the Board of Adjustment Conditionally Approved April 21, 1975.

The Downtown Bixby Church of Christ is located on approximately 11 acres at the southwest corner of the intersection of Bixby Creek and S. Memorial Dr. at 15802 S. Memorial Dr. BBOA-450 – John Reynolds was an application for "Special Exception to Section 11-7A-2, for Use Unit 5, Community

Services Facility (Church), and Use Unit 9, to place a modular Church Office building, on Agricultural Zoned Property” for the front approximately 5.9 acres of that campus. The Board of Adjustment Conditionally Approved both on February 05, 2007. Most of the front parcel is zoned CS, including all of the improvements on the land, and so did not require a Special Exception. The westerly approximately 5 acre parcel was acquired after the church was permitted for construction. It was not a part of BBOA-450 and has not yet been approved for a Special Exception for Use Unit 5 church use. It is presently vacant/agricultural land.

The Bixby Christian Church is located on approximately four (4) acres two (2) blocks to the southeast at 555 S. B Ave. Per early 1970s case maps, it appears it too predated the original Zoning Ordinance. It was the subject of a request for Special Exception to allow a Use Unit 9 mobile home as a parsonage in the AG district per BBOA-233 – Bixby Christian Church, but was withdrawn by the Applicant on November 05, 1990.

Staff believes that the proposed Use Unit 5 church use has been and will continue to be compatible with existing and future surrounding land uses and zoning patterns, provided that any future major building or use expansions be properly planned for by means of platting and Detailed Site Plan approval.

Scale and Intensity of Use. Churches tend to be fairly intensive land uses when developed, in terms of traffic, building scale, use activity, and infrastructure demands, and in that regard they are comparable to commercial and office developments. Recognizing that the Use Unit 5 church facility may be permitted in an AG district by Special Exception, rather than rezoning which would otherwise be required, the platting requirement of Zoning Code Section 11-8-13 is effectively circumvented. However, recognizing that this is an existing, long-established church, the 1,567.8 or 1,980 or 2,007 square feet building addition represents only about a 14% to 18% increase to the 11,433.4 building complex, and that Staff has already administratively reviewed the site plan in accordance with the Corridor Appearance District requirements, Staff believes that a subdivision plat and Detailed Site Plan should not be required at this time. Future expansions, however, should be subject to a subdivision plat or plat waiver and Planning Commission approval of a Detailed Site Plan, to include review of the site plan itself, building plans, lighting plans, landscape plans, sign plans, and screening/fence plans.

Staff Recommendation. Based on the Comprehensive Plan and surrounding zoning and land use patterns, Staff believes that the proposed Use Unit 5 church use would be in harmony with the spirit and intent of the Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff recommends Approval, subject to any future expansions requiring (1) subdivision plat or plat waiver approval and (2) Planning Commission approval of a Detailed Site Plan, to include review of the site plan itself, building plans, lighting plans, landscape plans, sign plans, and screening/fence plans.

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Deacon John Sommer stated that the additional building area would be used for (1) additional meeting space, to accommodate the church’s growing membership, and (2) additional classrooms for the religious education of the children. Responding to a question regarding the recommended Conditions of Approval, Deacon Sommer stated that the church had “all intentions to follow the permit requirements.”

Chair Jeff Wilson asked to entertain a Motion. Murray King made a MOTION to APPROVE BBOA-581, subject to any future expansions requiring (1) subdivision plat or plat waiver approval and (2) Planning Commission approval of a Detailed Site Plan, to include review of the site plan itself, building plans, lighting plans, landscape plans, sign plans, and screening/fence plans. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Mullins, Whiteley, & Hill
NAY: None.
ABSTAIN: Wilson.
MOTION CARRIED: 4:0:1

During the Roll Call, Chair Jeff Wilson explained that he was recusing himself since he was a member of the church.

Larry Whiteley asked Deacon John Sommer if the church did not also own property on 161st St. S., and Deacon Sommer responded, "Yes." Mr. Whiteley asked if the church ever intended to develop that land, and Deacon Sommer responded that the Bishop wanted to build a church and school, but that there were some limitations that the City had informed them of. Deacon Sommer noted that the land was actually owned by a Catholic Cemetery organization, not [this parish], although this church had an option on it. Deacon Sommer stated that there were some ideas from the City that were very appealing regarding land on Harvard Ave. [at 151st St. S.], based on the [Arkansas River] bridge plans [at or about Yale Ave.].

Darrell Mullins confirmed with Deacon Sommer that the church was growing. Deacon Sommer stated that a large part of the growth was Hispanic families.

ADJOURNMENT

Chair Jeff Wilson asked to entertain a Motion to Adjourn. Larry Whiteley made a MOTION to ADJOURN. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, Mullins, Whiteley, & Hill
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

The meeting was Adjourned at 6:20 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary