

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
May 05, 2014 6:00 PM**

In accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Section 311, the agenda for this meeting was posted on the bulletin board in the lobby of City Hall, 116 W. Needles Ave., Bixby, Oklahoma on the date and time as posted thereon, a copy of which is on file and available for public inspection, which date and time was at least twenty-four (24) hours prior to the meeting, excluding Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

STAFF PRESENT:
Erik Enyart, AICP, City Planner

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, Darrell Mullins, and Murray King.
Members Absent: Larry Whiteley.

MINUTES

1. Approval of Minutes for April 07, 2014

Chair Jeff Wilson introduced the item. Discussion ensued regarding how many and which members present at this meeting were present at the April meeting.

Chair Jeff Wilson declared this item would be CONTINUED to the June 02, 2014 Regular Meeting.

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-587 – Tommy L. Atkins.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-8-8.B.9 to allow a 12’ X 24’ carport within the required north side yard setback for property within the RS-1 Residential Single-Family District.

Property located: Lot 16, Block 3, *Southern Memorial Acres*; 11707 S. 84th E. Ave.

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, April 30, 2014*
RE: *Report and Recommendations for:
 BBOA-587 – Tommy L. Atkins*

LOCATION: – 11707 S. 84th E. Ave.
 – Lot 16, Block 3, *Southern Memorial Acres*
LOT SIZE: *Approximately 2/3 acre*
ZONING: *RS-1 Residential Single Family District*
REQUEST: *Special Exception per Zoning Code Section 11-8-8.B.9 to allow a 12’ X 24’ carport within the required north side yard setback for property within the RS-1 Residential Single-Family District*
SURROUNDING ZONING AND LAND USE: *RS-1; Single family residential homes and vacant lots in Southern Memorial Acres and Southern Memorial Acres Extended.*
COMPREHENSIVE PLAN: *Low Intensity + Residential Area*
PREVIOUS/RELATED CASES: *None found*
RELEVANT AREA CASE HISTORY: *(not a complete list)*

BBOA-34 – James Wilson – Request for Interpretation of Zoning Code Section 1240(a) (current Section 11-11-5.A) to determine if the exception for side yard setbacks along a public street applied to accessory buildings; pertained to property located to the northeast of subject property, Lot 5, Block 12, Amended Southwood Extended, 9110 E. 116th St. – BOA interpreted “accessory structures are considered as coming under the intent of said section” on 10/12/1976.

BBOA-53 – Sharon Stone – Request for Special Exception for a home occupation (nursery growing and delivery business from a 12’ X 14’ greenhouse) on property located approximately 2 blocks to the east of subject property, Lot 12, Block 12, Southern Memorial Acres Extended, 11731 S. 86th E. Ave. – BOA Conditionally Approved 10/03/1978.

BBOA-57 – Lyle J. Davis Jr. – Request for Variance from the 15’ side yard setback along a public street for an existing detached garage on property located to the northeast of subject property, Lot 5, Block 12, Amended Southwood Extended, 9110 E. 116th St. S. – BOA Approved 02/13/1979.

BZ-164 – Kenny Gibson for C.W. James – Request for rezoning from RS-1 to RD for duplexes on Lot 1, Block 15, Southern Memorial Acres Extended, located to the south of subject property at 11912 S. 85th E. Ave. – Planning Commission hearing advertised for 05/29/1985. No information found in case file to indicate disposition. PC Minutes for calendar year 1985 not found. Assumed Withdrawn, Denied by City Council, or recommended for Denial by PC and not appealed to City Council due to lack of approval ordinance and lack of representation on the Zoning Map.

BBOA-168 – Pam Heuser – Request for Variance to allow a 1,280 square foot detached accessory building on Lot 18, Block 3, Southern Memorial Acres Extended, located 2 lots to the south of subject property at 11717 S. 84th E. Ave. – BOA Conditionally Approved 06/09/1986.

BBOA-210 – Linda M. Crowl – Request for Variance from the 600 square foot maximum detached accessory building restriction to be permitted to construct a 1,050 square foot detached accessory

building on property located 6 lots to the west of subject property, Lot 10, Block 3, Southern Memorial Acres, 8315 E. 117th Pl. S. – BOA Conditionally Approved 05/01/1989.

BBOA-215 – Cheryl McNair – Request for (1) a Variance from street frontage/lot-width requirements to allow a Lot-Split and (2) a Variance from the 600 square foot maximum detached accessory building restriction to be permitted to construct a 650 square foot detached accessory building on property located 2 lots to the west of subject property, Lot 14, Block 3, Southern Memorial Acres, 8347 E. 117th Pl. S. – BOA Approved 09/05/1989.

BBOA-387 – Joe A. Ray – Request for Variance to construct a 1,200 square foot detached accessory building on property located approximately 1 block to the southwest of subject property, Lot 13, Block 4, Southern Memorial Acres, 8249 E. 118th St. S. – BOA Conditionally Approved 08/05/2002.

BBOA-397 – Jerry Stone – Request for Variance to construct an addition of 24' X 30' (720 sq. ft.) to an existing 24' X 40' detached garage for a total of 1,680 square feet on property located to the northeast of subject property, Lot 5, Block 12, Amended Southwood Extended, 9110 E. 116th St. S. – BOA Approved 02/03/2003.

BBOA-434 – Craig Bay – Request for Variance to be permitted to construct a 30' X 60' (1,800 square feet) 'shop' accessory building on Lot 5, Block 7, Southern Memorial Acres Extended, located approximately 2 blocks to the south of subject property at 11848 S. 84th E. Ave. – BOA Denied 12/06/2004.

BBOA-471 – David Caffey – Request for (1) Variance from the Zoning Code to allow a garage accessory structure as a principal use prior to the construction and occupancy of the principal dwelling, and (2) Variance from the 750 square foot accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 1,176 square foot garage accessory structure in the RS-1 Residential Single Family District for property located approximately 3 blocks to the northeast of subject property, Lot 4, Block 11, Southern Memorial Acres Extended, at 11717 S. 87th E. Ave. – BOA Conditionally Approved 03/03/2008.

BBOA-571 – Jeff Berg – Request for Variance from the 35' front yard setback per Zoning Code Section 11-7B-4.A.1 Table 3, to allow an add-on to an existing, nonconforming residence in the RS-1 Residential Single-Family District for property located approximately 3 blocks to the southeast of subject property, Lot 16, Block 9, Southern Memorial Acres Extended, at 11795 S. 85th E. Ave. – BOA Approved 03/04/2013.

BACKGROUND INFORMATION:

At the March 23, 2009 City Council (“Council”) meeting, the Council approved a temporary moratorium on new carport permits until it had time to study the matter.

On April 27, 2009, the Council approved an item to authorize Staff to proceed with a possible amendment to the Zoning Code to provide a Special Exception requirement when located in required yards and other Zoning regulations for carports.

Per Zoning Code Section 11-11-8.B.6 as previously written, carports were allowed in required yards by right. The amendment’s primary effect was to (1) add a Special Exception requirement for carports when located in required yards / setbacks, and (2) add location and appearance standards for all carports.

On June 22, 2009, the Council approved an agenda item to direct staff to prepare an ordinance amending the Zoning Code, based on the recommendations by the Planning Commission on 06/15/2009, the City Planner, and the City Attorney. The Council approved Ordinance # 2020 on July 27, 2009, which included certain last-minute changes as recommended by Staff June 22, 2009 and as the Council indicated favor for at that meeting. That last-minute change removed most of the “rigidity” originally borrowed from the City of Tulsa Zoning Code example, and put in its place more flexibility for the Board of Adjustment to determine size and appearance standards on a case-by-case basis, and after considering the surrounding context of the property in question.

The changes to the Zoning Code per Ordinance # 2020 are as follows:

Section 11-7B-3.B.1.b was amended as follows:

“b. A detached accessory building shall not be located in the front or side yard.”

Section 11-8-8.B.6 was amended as follows:

“6. Swimming pools, tennis courts, patios, fallout and other protective shelters in the rear yard only, unless approved for a Special Exception in accordance with the substantive and procedural standards for the same set forth in this Zoning Code. Carports shall comply with the Special Exception and other carport regulations set forth in this Zoning Code.”

New Section 11-8-8.B.9 is as follows:

“9. Carports may be permitted in required yards by Special Exception, as provided in Chapter 4 of this Title. Carports in all other areas shall be permitted by right, provided such carport does not cover an area of more than 400 square feet and provided that no portion of a carport structure shall be nearer to the side lot lines than the principal building on the lot, nor five (5) feet, whichever is a greater distance from the side lot line.

No portion of any carport structure shall extend more than twenty (20) feet from the front of the existing principal building. Carports may be a detached accessory structure or an integral part of the principal building. The maximum floor area limitations of this Title pertaining to accessory buildings shall not apply to carports.”

11-4-9: SPECIAL EXCEPTION:

“A. General: The board of adjustment, upon application and after hearing, subject to the procedural and substantive standards hereinafter set forth, may grant the following special exceptions:....”

New Section 11-4-9.A.8 is as follows:

“8. Within an R district, any type of carport occupying a portion of a required yard, subject to the requirements of Section 11-8-8.B.9 of this Title. When evaluating the requested Special Exception, the Board shall consider the following factors:

- a. The existence, location, and design of other carports in the immediate vicinity of the request;*
- b. Any possible sight obstruction to motorists at street intersections;*
- c. The visual impact of the proposed carport on the streetscape of the neighborhood;*
- d. The uniqueness of the request and whether granting the Special Exception will set a precedent for justifying other carports throughout the neighborhood;*
- e. The compatibility of the carport with the architectural style of the dwelling and the predominant architectural style of the neighborhood; and*
- f. Constructive criticism and suggestions from property owners within the neighborhood.”*

ANALYSIS:

Property Conditions. *The subject property contains a single-family house on approximately 2/3 of an acre, and is zoned RS-1 Residential Single-Family Low Density District. The subject property slopes downward moderately to the east to an un-named upstream tributary of Fry Creek Ditch # 1.*

Special Exception Request. *The Applicant is requesting a Special Exception per Zoning Code Section 11-8-8.B.9 to allow a 12' X 24' carport within the required north side yard setback. See the Compatibility section of this report for further analysis.*

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity and (2) Residential Area. The proposed carport by Special Exception attending the existing single-family dwelling would not be inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use. Surrounding zoning is RS-1 and land uses consist of single-family residential homes and vacant lots in the Southern Memorial Acres and Southern Memorial Acres Extended subdivisions. The proposed carport by Special Exception attending the existing single-family dwelling would not be inconsistent with the surrounding Zoning and land use patterns.

Compatibility. In a letter dated March 31, 2014, the Applicant describes the request thus:

“The proposed carport will sit parallel to my existing home and will be approximately 35ft from the existing street. The carport will sit in a protected area away from, not only the street, but other homes.

Materials will be cohesive with the environment and will match my home. It will not conflict with the existing neighborhood structures. The design will be in harmony with my neighborhood.

There are several existing carports in our neighborhood and I feel the proposed structure will be accepted by the Board as well as our neighbors.”

Staff did not observe other carports in the immediate vicinity, but such may be found upon closer inspection. At the Public Hearing for this application, the Applicant may be able to identify locations within the Applicant’s neighborhood, depending on how far out the neighborhood is deemed to extend.

Staff has found, however, that there have been several Variances granted to exceed maximum sizes for detached accessory buildings in the immediate neighborhood, identified for purposes of the Relevant Area Case History section of this report as primarily consisting of the Southern Memorial Acres and Southern Memorial Acres Extended subdivisions. The houses on either side of the subject property, addressed 8347 E. 117th Pl. S. and 11717 S. 84th E. Ave., were granted Variances to exceed the maximum sizes in effect at the times of applications. Also within approximately three (3) blocks of the subject property, two (2) others were approved, and one (1) was denied (that one being the largest proposed, at 1,800 square feet).

The lots abutting on either side of the subject property are vacant, the south/easterly of which also belongs to the Applicant, per Tulsa County Assessor’s parcel records. The north/westerly one belongs to the owner of the house to the north/west.

The carport would set back from the right-of-way approximately 35 feet, according to the Applicant’s statement and a previously provided plot plan, and so the location would be less conspicuous than a traditional carport which is erected in front of the house or the attached garage. The Board would be within its right to request a copy of the site plan be provided for review as a part of this application. The provided plans also indicate the structure would be relatively substantial, and not cheap in construction or appearance. The quality of construction proposed should be made a Condition of Approval, if approval is granted.

Staff Recommendation. *Unless constructive criticism from neighbors reveals need for approval conditions, Staff has no objection, subject to (1) substantial conformance to the plans provided by the Applicant and (2) full compliance with carport standards in the Zoning Code, including the paved parking surface requirement.*

Dave Hill asked Applicant Tommy Atkins of 11707 S. 84th E. Ave. if the property did not already have a carport on it. Mr. Hill clarified with Mr. Atkins that Mr. Atkins had the vacant lot to the south, which did have a carport on it. Mr. Atkins stated that it used to have a [hauling] trailer under it, but it was not big enough for a fifth-wheel trailer. Mr. Atkins stated it was also not big enough for to protect his new Ford dually from the hail, which was 7” longer and also would not fit in the garage anymore.

Tommy Atkins and the Board members reviewed the site plan on page 24 of the Agenda Packet.

Chair Jeff Wilson recognized Raymond C. McNair of 8347 E. 117th Pl. S. from the Sign-In Sheet. Mr. McNair stated, “I’m on his side,” and indicated favor for the application. Mr. McNair noted that his neighbor was going to be 4’ into the setback and that this was on a curve, and indicated it would not look inappropriate.

Chair Jeff Wilson noted that the carport would [appear to] be set back somewhat behind the house [due to the curve of the street].

Raymond McNair noted that there was another [vacant] lot between his house and Tommy Atkins' house.

Tommy Atkins stated that the carport would be a wood structure with shingles matching the house.

Discussion ensued.

Murray King and Darrell Mullins indicated favor for the application.

Chair Jeff Wilson observed that the application met the criteria for the Special Exception, and made a MOTION to APPROVE BBOA-587 subject to the Staff Recommendations as listed in the Staff Report. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT

Chair Jeff Wilson made a MOTION to ADJOURN. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

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

The meeting was Adjourned at 6:14 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary