

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
November 03, 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
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, JR Donelson, Murray King, and Darrell Mullins.

Members Absent: Larry Whiteley.

MINUTES

1 Approval of Minutes for August 04, 2014

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Murray King made a MOTION to APPROVE the Minutes of August 04, 2014 as presented by Staff. JR Donelson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, Donelson, & Mullins

NAY: None.

ABSTAIN: None.

MOTION CARRIED: 4:0:0

OLD BUSINESS

2. **BBOA-589 – Randy Even for Paul Reynolds.** Discussion and possible action to approve plans for matching exteriors for an Accessory Dwelling Unit conditionally approved on August 04, 2014 per case # BBOA-589 for property in the RE Residential Estate District.

Property located: Lot 12, Block 1, *Bixby Ranch Estates*, City of Bixby, Tulsa County, Oklahoma; 13466 E. 205th 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: *Tuesday, October 28, 2014*
RE: *Report and Recommendations for:
BBOA-589 – Randy Even for Paul Reynolds (Outstanding Condition of Approval)*

LOCATION: – *Lot 12, Block 1, Bixby Ranch Estates, City of Bixby, Tulsa County, Oklahoma*
– *13466 E. 205th St. S.*

LOT SIZE: *5 acres, more or less*

ZONING: *RE Residential Estate District*

REQUEST: *Approve plans for matching exteriors for an Accessory Dwelling Unit conditionally approved on August 04, 2014 per case # BBOA-589 for property in the RE Residential Estate District*

SURROUNDING ZONING AND LAND USE: *RE & AG; Single-family rural residential homes and vacant/wooded lots zoned RE to the west, north, east, and southeast in Bixby Ranch Estates, and vacant/wooded land to the south zoned AG in unincorporated Tulsa County.*

COMPREHENSIVE PLAN: *Vacant, Agricultural, Rural Residences, and Open Land + Residential Area*

PREVIOUS/RELATED CASES:

BBOA-589 – Randy Even for Paul Reynolds – *Request for Special Exception per Zoning Code Section 11-8-5 to allow an Accessory Dwelling Unit in an RE Residential Estate District for subject property – BOA Conditionally Approved 08/04/2014.*

BBOA-590 – Randy Even for Paul Reynolds – *Request for Variance from the matching exterior materials requirement of Zoning Code Section 11-8-5.G for a proposed Accessory Dwelling Unit in an RE Residential Estate District for subject property – BOA Approved a temporary Variance for five (5) years on 08/04/2014.*

BBOA-595 – Randy Even for Paul Reynolds – *Request for Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new, approximately 50' X 72', 3,600 square foot accessory building in the rear yard for property in the RE Residential Estate District for subject property – BOA Approved Variance for 3,000 square feet on 08/04/2014.*

RELEVANT AREA CASE HISTORY: *(not a complete list; includes only accessory building BOA cases in Bixby Ranch Estates; does not include cases in unincorporated Tulsa County)*

BBOA-369 – Lorrie Penrose & Garret Roth – *Request for Special Exception to allow a 3,081 square foot detached garage for storing vintage vehicles for property at 20227 S. 138th E. Ave. in Bixby Ranch Estates – Approved 08/06/2001.*

BBOA-371 – Michael Gonker & Rebecca L. Holloway – *Request for Special Exception to allow a 1,900 square foot detached garage for property at 13108 E. 201st St. S. in Bixby Ranch Estates – BOA Approved 09/04/2001.*

BBOA-394 – Larry & Tammi McBurnett – *Request for Variance to allow a 30' X 50' (1,500 square foot) metal garage and storage building for property at 13821 E. 203rd St. S. in Bixby Ranch Estates – BOA Approved 11/04/2002.*

BBOA-422 – Alan R. Harris – Request for Variance to allow a 1,596 square foot detached garage for property at 13118 E. 205th St. S. (abutting subject property to the east) – BOA Approved 06/07/2004.

BBOA-462 – Wes Jones – Request for Variance to allow a 1,500 square foot accessory building for property at 13262 E. 205th St. S. (2 lots to the west of subject property) – BOA Approved 11/05/2007.

BBOA-465 – Jeff Seager – Request for Variance to allow a 30' X 40' (1,200 square foot) accessory building for property at 14015 E. 205th St. S. – BOA Approved for 1,500 square feet 11/05/2007.

BACKGROUND INFORMATION:

History of Accessory Dwelling Units (ADUs). One of the several changes the “General Cleanup” Zoning Code Text Amendment (Ord. # 2031 approved December 21, 2009) made included providing an approval process for Accessory Dwelling Units (ADUs). Zoning Code Section 11-2-1 now provides a definition for an ADU:

“DWELLING UNIT, ACCESSORY (ADU): A subordinate residential unit incorporated within, attached to, or detached from a single-family residential unit and having its own sleeping, cooking, and sanitation facilities. Such subordinate unit shall not be subdivided or otherwise segregated in ownership from the principal residential unit. Such unit shall not be occupied by more than three (3) persons. See Section 11-8-5.”

Section 11-8-5 was amended to read as follows:

“11-8-5: ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD:

Not more than one single-family dwelling may be constructed on a lot, except in the case of a lot which is within an approved planned unit development or an Accessory Dwelling Unit (ADU) approved by Special Exception as follows:

- A. A lot of record which is subject to a restrictive covenant prohibiting more than one (1) dwelling unit per lot shall not be eligible for an ADU Special Exception;
- B. The Board of Adjustment shall consider the specific plans for the ADU and its relation to the principal dwelling and surrounding neighborhood and shall place reasonable conditions on the Special Exception approval as may be necessary to prevent undue adverse impacts;
- C. ADUs, if detached from the principal dwelling, shall meet the requirements prescribed for a detached accessory building;
- D. An ADU shall not be subdivided or otherwise segregated in ownership from the primary residential unit;
- E. An ADU shall not contain more than one (1) bedroom;
- F. Manufactured and modular homes shall not be used as ADUs;
- G. ADUs, whether detached from or attached to the principal dwelling, shall match the exterior materials of the primary residential unit and comply with the restrictive covenants affecting the lot, if any;
- H. An ADU shall not be considered in calculating livability space or land area per dwelling.”

ADUs are recognized as part of the same Use Unit 6 single family dwelling use for those lots of record on which they are located. They are structured such that they depend on the continued existence of the principal dwelling, and may be considered something like a “satellite” of the principal home.

BBOA-589, now Conditionally Approved, was third Special Exception for an ADU requested under the new ADU amendment to the Zoning Code. The first, BBOA-524 – Richard Ekhoﬀ, was Conditionally Approved 08/02/2010 for an acreage located at 9024 E. 101st St. S. The second, BBOA-579 – Paul & Jimme Beth Hefner for Mary Elizabeth Brown, was Conditionally Approved 07/01/2013 to construct an

ADU as a building addition to the existing barn building on a 16-acre agricultural tract at 9013/9017 E. 161st St. S. (not since constructed, however).

History of the Application. On August 04, 2014, the Board of Adjustment approved BBOA-589 with the five (5) Conditions of Approval as recommended by Staff plus a restriction on occupancy to family members pursuant to the City Attorney's statements on occupancy and rental. The five (5) listed Conditions of Approval were:

1. The ADU approval shall only extend to that part of the proposed accessory building as proposed by the Applicant.
2. The ADU shall fully comply with the Building Code.
3. If the Board of Adjustment does not approve a Variance from the matching exterior materials standard of Zoning Code Section 11-8-5.G per BBOA-590, the Applicant shall prepare plans showing how the proposed accessory building will be made to match the house, which plans must be submitted for presentation, at a later meeting date, to the Board of Adjustment and approved by the Board as a part of this application. This application shall not be deemed fully approved until such has occurred.
4. If the ADU building is ever substantially damaged, meaning for these purposes that the cost to repair such damage would exceed 50% of the pre-damaged value of the building, the Special Exception shall expire and be automatically vacated and the ADU use of the building addition shall not be restored, absent further Zoning approval as may be then required.
5. If any of the facilities necessary to support living quarters (sleeping, kitchen/cooking, sanitation, etc.) are disabled or removed, the Special Exception shall expire and be automatically vacated and the ADU use of the building shall not be restored, absent further Zoning approval as may be then required.

The third Condition of Approval remains outstanding at this point. At the same August 04, 2014 meeting, the Board Approved a temporary Variance for five (5) years, subject to Board of Adjustment approval of plans for matching exteriors as per the approval conditions of BBOA-589.

On October 01, 2014, Staff received new plans for the ADU building and information on how the ADU exteriors will compare to that of the principal dwelling. The plans have been revised from the set provided the Board of Adjustment in August to reflect the reduced size (3,000 square feet) and a slightly altered ADU building location on the lot. The new location will comply with Zoning Code requirements.

ANALYSIS:

Property Conditions. The subject property is a vacant/wooded lot containing approximately 5 acres and zoned RE. In the second quarter of 2014, the City of Bixby issued a Building Permit to allow the construction of a residence on the lot, and house and ADU construction are proceeding.

General. Zoning Code Section 11-8-5.G provides, "ADUs, whether detached from or attached to the principal dwelling, shall match the exterior materials of the primary residential unit and comply with the restrictive covenants affecting the lot, if any."

In satisfaction of the matching materials requirement, the Applicant had provided a narrative and a drawing. Staff has paraphrased the proposed plans as follows:

1. Masonry Exterior: House will have partial rock, and ADU will have 4'-tall matching rock "wainscoat" applied to the front/north elevation.
2. Non-Masonry Exterior: gray color (to match)
3. Roofing: Both to be dark gray color; house to have asphalt shingles and ADU to have metal roof.
4. Front Door, Garage Door, and Windows: Matching

The applicant in the case of BBOA-524 proposed, and the Board of Adjustment approved plans to upgrade an existing metal storage building with approximately 3' of brick "wainscoat" matching that used on the house, adding a veranda with columns matching the house, adding wood trim with detail and paint to match the existing on the house, and painting the door and window trim to match the existing used on the front of the house.

The applicant in the case of BBOA-579 was approved to add an ADU extension to an existing barn building, but matching exteriors was not required since the principal dwelling on the lot was a manufactured home.

Staff Recommendation. Staff has no objection to the plans for matching exteriors.

Randy Even clarified that he could not guarantee the gray paint would match between the metal structure and the house due to the manufacturer's availability. Mr. Even stated that his client may use the rock on the corners of the building but substitute brick for the "wainscoat" between them.

There being no further discussion, Murray King made a MOTION to APPROVE the plans for the matching exteriors per BBOA-589 as presented. JR Donelson SECONDED the Motion. Roll was called:

ROLL CALL:

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

NEW BUSINESS

3. Approval of schedule of meetings and application cutoff dates for 2015

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: Tuesday, October 28, 2014
RE: Board of Adjustment meeting schedule and application deadlines for 2015

The following is proposed to be the amended 2015 schedule for the Board of Adjustment:

| <u>DATE</u> | <u>TIME</u> | <u>PLACE OF MEETING</u> |
|--------------------------|--------------------|---------------------------------------------------|
| January 05, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| February 02, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| March 02, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| April 06, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| May 04, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| June 01, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| July 06, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| August 03, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| September 08, 2015 (Tue) | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| October 05, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| November 02, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |
| December 07, 2015 | 6:00 PM | 116 W. Needles, City Hall Council Chambers, Bixby |

APPLICATION DEADLINES

Four (4) weeks prior to the meeting, or the [Tulsa Business & Legal News'] 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.

JR Donelson made a MOTION to APPROVE the schedule of meetings and application cutoff dates for 2015. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT

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

ROLL CALL:

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

Meeting was Adjourned at 6:06 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary