AGENDA
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 WEST NEEDLES
BIXBY, OK 74008
April 01, 2013 6:00 PM

CALL TO ORDER

MINUTES

3 1. Approval of Minutes for March 04, 2013

OLD BUSINESS

NEW BUSINESS

10 2. **BBOA-572 – Spencer Thompson.** Discussion and possible action to approve a Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 30' X 50' (1,500) square foot accessory building in the rear yard for property in the RS-1 Residential Single-Family District.
Property located: The W/2 E/2 NE/4 NE/4 NW/4 of Section 11, T17N, R13E; 7702 E. 131st St. S.

25 3. **BBOA-573 – Bixby Public Schools.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 Community Center and/or a Use Unit 5 public school facility in an AG Agricultural District.
Property located: Part of the W/2 W/2 NE/4 of Section 24, T17N, R13E; 23 N. Riverview Rd.

43 4. **BBOA-574 – John Filbeck for Riverview Missionary Baptist Church, Inc.** Discussion and possible action to approve a Variance from certain signage restrictions for a Use Unit 5 church in the RS-1 Residential Single-Family District.
Property located: All of the Reserve in *Gardenview Addition* a/k/a The W. 305' of the S/2 NW/4 NW/4 Less and Except right-of-way, and also part of the N. 65' of the NW/4 SW/4 NW/4, all in Section 12, T17N, R13E; 13201 S. Memorial Dr.

63 5. **BBOA-575 – Blake Fugett.** Discussion and possible action to approve a Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 40.25' X 60.25' (2,425) square foot accessory building in the rear yard for property in the RE Residential Estate District.
Property located: Part of the E/2 SW/4 of Section 22, T17N, R13E; 5257 E. 161st St. S.

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6. **BBOA-576 – Jack Selby for the Bixby Rotary Club and Bixby Funeral Service.** Discussion and possible action on an appeal of a sign building permit denial, and the interpretation on which it was based, pursuant to Zoning Code Sections 11-4-6 and 11-4-7, which permit proposed the construction of signs on property in the CG General Commercial District, and to allow the project development to proceed.
Property located: Part of the SW/4 NW/4 Section 12, T17N, R13E; Northeast corner of the intersection of 134th St. S. and Memorial Dr.

ADJOURNMENT

Posted By: Enyart

Date: 03/06/2013

Time: 1:45 PM

All items are for Public Hearing unless the item is worded otherwise

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MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
March 04, 2013 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, Murray King, Darrell Mullins, and Larry Whiteley.
Members Absent: None.

MINUTES

1. Approval of Minutes for January 07, 2013

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of January 07, 2013 as presented by Staff. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

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

During the Roll Call, Murray King explained that he was voting "Abstain" as he was not present at that meeting.

2. Approval of Minutes for February 04, 201[3] (Record of No Meeting)

Chair Jeff Wilson introduced the item. It was noted that the date needed to be corrected to 2013 from 2012. Erik Enyart noted that it was not just the agenda item but it was in the Minutes document as well.

Chair Jeff Wilson made a MOTION to have the City Planner correct the Minutes to 2013. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

Larry Whiteley made a MOTION to APPROVE the Minutes of February 04, 2013 (Record of No Meeting) as corrected. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	Wilson, Whiteley, King, Mullins, & 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

3. **BBOA-571 – Jeff Berg.** Discussion and possible action to approve a 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. Property located: Lot 16, Block 9, *Southern Memorial Acres Extended*; 11795 S. 85th 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:	*Thursday, February 28, 2013*
RE:	*Report and Recommendations for:*
	BBOA-571 – Jeff Berg

LOCATION:	*– 11795 S. 85th E. Ave.*
	– Lot 16, Block 9, Southern Memorial Acres Extended
LOT SIZE:	*0.4 acres, more or less*
ZONING:	*RS-1 Residential Single-Family District*
REQUEST:	*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*

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SURROUNDING ZONING AND LAND USE: RS-1; Residential single family homes on large lots in Southern Memorial Acres Extended.
COMPREHENSIVE PLAN: Low Intensity + Residential Area.
PREVIOUS/RELATED CASES: None found.
RELEVANT AREA CASE HISTORY: (not necessarily 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-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. – Approved by BOA 02/13/1979.

BBOA-73 – Jan R. Bemies – Request for Special Exception to be permitted to maintain a childrens' nursery on Lot 3, Block 15, Southern Memorial Acres Extended, located 1 block to the south at 11932 S. 85th E. Ave. – Withdrawn by Applicant 07/08/1980.

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 southwest 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-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 1 ½ blocks to the west at 11848 S. 84th E. Ave. – Denied 12/06/2004.

BBOA-428 – Russell Cozort – Request for Variance from an unspecified setback for a house located to the east of the subject property, Lot 6, Block 4, Twin Creeks II, 11709 S. 96th E. Pl. – Approved by BOA 09/07/2004.

BBOA-530 – Jeff DeLaughter – 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 RE Residential Estate District for a house located to the northeast of the subject property, Lot 6, Block 7, Amended Southwood Extended, 9110 E. 115th St. S. – Approved by BOA 10/06/2010.

BACKGROUND INFORMATION:
ANALYSIS:
Subject Property Conditions. The subject property consists of Lot 16, Block 9 in Southern Memorial Acres Extended, is zoned RS-1, and contains a single-family dwelling. Although it has an address on S. 85th E. Ave., it appears that the house actually faces, and has a driveway on E. 119th St. S.
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 subject property is located within an RS-1 Residential Single-Family District. For the RS-1 District, Zoning Code Section 11-7B-4.A.1 Table 3 requires minimum setbacks as follows: 35' front yard, 25' rear yard, and 10 and 5' for the side yards. Per the provided survey, the house encroaches six (6) feet into the 25' setback along 119th St. S. imposed by the plat of Southern Memorial Acres Extended. Thus, it encroaches 16 feet into the 35' minimum Zoning setback.

The house was erected in or around 1971 per Tulsa County Assessor's parcel data, and so would appear to be legally nonconforming as to the Zoning Code's front yard setback. The side and rear yard setbacks appear to be in order.

Zoning Code Section 11-11-6 prohibits the expansion of structurally nonconforming dwellings.

On April 05, 2012, Staff received a Building Permit application for a construction project proposing to construct a building addition onto the rear of the house. Staff advised the building contractor by email on that date that adding a building addition to a structurally nonconforming building would be a

prohibited alteration, as it would increase the nonconformity by extending the life of a nonconforming structure. Under the nonconformities regulations of the Zoning Code, the intent is for the nonconformity and/or structures to be abated in due course through attrition. Therefore, the Applicant requested a Variance of from the 35' front yard setback in the RS-1 district.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The Applicant claims that the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional by stating "It's a corner lot... It's previous construction was before current zoning ordinances..."

According to the Tulsa County Assessor's records, the house was built in 1971. The City of Bixby did not adopt a Zoning ordinance until circa the original late 1960s or early 1970s Zoning Ordinance # 234 (or possibly an earlier ordinance), but certainly by the April 02, 1974 Zoning Ordinance # 272.

Information is not readily available that would allow for the determination of (1) when this area was annexed by the City of Bixby and (2) made subject to 35' front yard setback from a Zoning Ordinance, (3) if any such was then in existence. It is assumed that the house on the subject property became legally nonconforming at the point at which it became subject to the RS-1 district's 35' front yard Zoning setback, which was likely shortly after construction.

Zoning Code Section 11-8-9.D provides a certain exception for situations where there are existing, [legally-nonconforming] homes on the block which encroach on front yard Zoning setback, as is the case in this application. Said Section provides:

> *"D. If the proposed building is to be located within two hundred feet (200') of an encroaching building on one side, but not both sides, and there are no intervening buildings, the front yard or building setback shall be the average of the otherwise required front yard or setback and the setback of the nearest front corner of the encroaching building."*

This situation applies to the present case, but the exception would not provide any relief, as the house on the lot abutting to the east, per GIS rough measurements, has an approximately 25' setback from 119th St. S. The average between a 25' setback and the otherwise-applicable 35' setback tied to 85th E. Ave. would be 30'. This condition or circumstance, stemming from its location at the street intersection, is unique relative to the typical lot in the RS-1 district.

The subject property may be determined to have Peculiar, Extraordinary, or Exceptional Conditions or Circumstances by virtue of the combination of the following facts:

- *First and foremost, the subject property is unique in that it is disadvantaged due to being a corner lot. If it were an interior lot, the house would likely be conforming as to front yard setback due to the exception provided in Zoning Code Section 11-8-9.D.*
- *According to an inspection of the plats, the Southern Memorial Acres Extended was platted March 29, 1965, presumably in unincorporated Tulsa County and subsequently annexed by Bixby.*
- *The plat of Southern Memorial Acres Extended only requires a 25' front-yard setback.*
- *Per County Assessor's records, the house on the subject property was constructed in 1971.*
- *The City of Bixby did not adopt a Zoning ordinance until circa the original 1974 Zoning Ordinance # 272.*
- *As noted elsewhere in this report, all the dwellings in the immediate area appear to encroach on the 35' Zoning setback.*
- *Most of the other dwellings in the immediate area appear to have been built in the same time frame, late 1960s and early 1970s, per Tulsa County Assessor's records, and so would also appear to be legally nonconforming.*

Unnecessary Hardship. The Applicant claims that an unnecessary hardship would be caused by the literal enforcement of the Zoning Code because "[It] would prevent an add on which would otherwise be appropriate... (Also this house sold through two other owners without problem including the garage extension)."

As claimed by the Applicant, the restriction from adding onto the subject property house could be considered an Unnecessary Hardship.

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 "All the houses in the immediate area encroach on

the new setbacks... (Also, the request is to build a small bathroom on the back not extending past current sunroom)."

Of the several fundamental purposes for imposing front yard setback restrictions, the primary reasons are (1) so that future street and highway expansions will not require condemnation/removal of the structure, and (2) for the sake of consistency of design, mode of placement, and orientation of structures (aesthetics).

East 119th Street South has a 50-foot-wide right-of-way, which meets current Bixby development standards for right-of-way width for the functional design of a minor local residential street. The TMAPC Major Street and Highway Plan does not designate it as a Major Street, and there are no other known plans to widen the right-of-way, nor does there appear to be current or projected need to do so. The first and principal reason for the front yard setback is thus not an issue in this case.

The fact that the house is only 19' from the front lot line does not appear to be unique to the subject property. Several other dwellings appear to encroach on the Zoning Code's 35' front yard setback. Of all of the properties touching the exterior boundaries of the subject property (when excluding intervening rights-of-ways), in clockwise order starting with the dwelling to the east, the following are approximate front yard setbacks per GIS rough measurements: 25', 26', 33', 35', 39', 28', and 28'.

Recognizing that the closest dwelling to the subject property which fronts on 119th St. S. has an approximate setback of 25', together with the angle at which the house is oriented on the lot, it would not appear that the continued existence of the subject property's 19' setback would compromise the aesthetic quality of the neighborhood.

Also, the proposed building addition would be in the rear of the dwelling, and not in the same direction as the encroachment (front yard).

Further, research of area case precedents indicate there have been other houses built in the surrounding neighborhood which encroached on Zoning setbacks, and all were granted Variances.

Finally, Zoning Code Section 11-11-5.A provides exceptions to certain bulk and area standards for subdivisions platted prior to April 02, 1974. Although the subject property qualifies as a lot platted prior to April 02, 1974, this relief does not specifically provide an exception for the front yard setback situation, but does demonstrate legislative intent to provide flexibility for older, nonconforming subdivisions and lots.

Recognizing the setbacks of existing structures in the immediate area, and the visual/aesthetic conditions this presents, and for all the other 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 house on the subject property lacks precisely 16' of setback, a Variance of 16' would appear to be the Minimum Necessary to Alleviate the Unnecessary Hardship.

Staff Recommendation. If the Board agrees with Staff that the above-set forth arguments are adequate for the justification of Variance in accordance with the tests and standards provided in State Statutes and the Bixby Zoning Code, Staff recommends Approval.

Darrell Mullins noted that, approximately two (2) years ago, there was a very similar situation at [91st] E. Ave. and [115th] St. S., which the Board approved.

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Applicant Jeff Berg of 11795 S. 85th E. Ave. stated that he submitted the application to try to be conforming to the City. Mr. Berg stated that, he was not sure when, but some time about two (2) sellers ago the garage was expanded, and he found out at some point that that was an issue. Mr. Berg stated that, evidently as a part of the City's drainage project along his street, his driveway was re-poured, and it was not in line with the garage. Mr. Berg stated that this would need to be fixed, so he was doing two (2) things to the property: (1) adding driveway and (2) adding a bathroom in the back of the house.

Chair Jeff Wilson asked to entertain a Motion. Darrell Mullins made a MOTION to APPROVE BBOA-570. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT

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

ROLL CALL:

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

The meeting was Adjourned at 6:13 PM.

APPROVED BY:

_____ _____

Chair Date

_____

City Planner/Recording Secretary

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BIXBY BOARD OF ADJUSTMENT
SIGN IN SHEET
DATE: March 04, 2013

NAME	ADDRESS	ITEM
1. Jeff Berg	11795 S. 85th E Ave	Variance
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CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

STAFF REPORT

To: Bixby Board of Adjustment

From: Erik Enyart, AICP, City Planner

Date: Wednesday, March 27, 2013

RE: Report and Recommendations for:
BBOA-572 – Spencer Thompson

LOCATION: – The W/2 E/2 NE/4 NE/4 NW/4 NE/4 of Section 11, T17N, R13E
– 7702 E. 131st St. S.

LOT SIZE: 0.625 acres, more or less

ZONING: RS-1 Residential Single-Family District

REQUEST: Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 30' X 50' (1,500) square foot accessory building in the rear yard for property in the RS-1 Residential Single-Family District

SURROUNDING ZONING AND LAND USE: RS-1, RS-4, AG, & IL; Rural residential along 131st St. S. in unplatted tracts and in *Poe Acreage* to the north and *Clyde Miller Acreage* to the northeast, with RS-4 and urban density single family residential to the southeast in *Abbie Raelyn Estates*, and agricultural and vacant land to the south/southwest zoned RS-1, AG, and IL

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES: (not a complete list)

BL-34 – Stella Harness – Request for Lot-Split approval separating subject property from its former eastern half addressed 7706 E. 131st St. S. – PC Recommended Approval 09/26/1977 subject to Board of Adjustment approval.

10

BBOA-41 – Stella Harness – Request for Variance from the Lot-Width requirement in the RS-1 district to allow for Lot-Split (cf. BL-34) – BOA Approved 01/10/1978.

RELEVANT AREA CASE HISTORY: (not a complete list)

BBOA-243 – John Little – Request for Variance of 600 square foot maximum floor area for detached accessory building in the RS-1 district to permit an additional 1,000 square feet for formerly 2.5-acre tract abutting to the west addressed 7516, 7710, & 7704 E. 131st St. S. – BOA Approved 08/05/1991 per case notes.

BBOA-366 – John Neerman – Request for Variance of 750 square foot maximum floor area for detached accessory building in the RMH district to permit a 36' X 45' (1,620 square foot) accessory building for property located to the northwest of subject property, Lot 3, Block 4, *La Casa Movil Estates*, addressed 12921 S. 73rd E. Ave. – BOA Approved 04/02/2001 on the Condition that no commercial use be permitted.

BBOA-398 – William & Sherri Nichols – Request for Variance of 750 square foot maximum floor area for detached accessory building in the RS-1 district to permit a 35.3' X 50.3' (1,775.59 square foot) accessory building for property located 1 block to the northw of subject property, Lot 6, Block 2, *Poe Acreage*, addressed 7712 E. 130th St. S. – BOA Approved 02/03/2003.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property is an unplatted tract of approximately 0.625 acres, addressed 8703 E. 124th St. S., and Zoned RS-1. Per the provided Mortgage Inspection Report survey drawing dated 9/15/11, it contains an existing house and two (2) accessory buildings of approximately 625 square feet and 80 square feet (705 square feet in aggregate). It is not clear, however, from current aerial photography whether the smaller storage building remains on the property.

According to a 10/2001 photograph in the Tulsa County Assessor's records for this property, behind/to the south of the second, smaller accessory building used to be a third, red accessory building, which appeared to be of a size somewhat between the smaller and larger accessory buildings.

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:

1. Unnecessary Hardship.
2. Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
3. Finding of No Substantial Detriment or Impairment.
4. 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 30' X 50' (1,500 square foot) accessory storage building for property in the RS-1 Residential Single Family

District. As noted above, the property presently contains two (2) accessory buildings of approximately 625 square feet and 80 square feet (705 square feet in aggregate). Thus, the third building would bring the aggregate to approximately 2,205 square feet. It is not clear, however, from current aerial photography whether the smaller storage building remains on the property.

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 ($^1/_4$) 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-1 residential zoning district and contains approximately 0.625 acres, the maximum allowable detached accessory building size is 800 square feet.

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 ¼ acre increment to the maximum of 2,400 square feet, which requires a lot containing slightly more than 3.25 acres.

This is the fifth 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*. 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). Most recently, on October 01, 2012, the Board approved BBOA-568 – Roger O. Nunley, Jr., allowing allow a new 960 square foot addition to an existing 2,000 square foot accessory structure for property in the RS-1 District at 8703 E. 124th St. S. in *Southern Memorial Acres No. 2*.

Unnecessary Hardship. The Applicant claims that an *Unnecessary Hardship* would be caused by the literal enforcement of the Zoning Code because "Needed storage for personal vehicles (storage building)." Elsewhere on the application form, the Applicant has further explained the need thus, "Storage building (30' X 50') to house all vehicles that [are] currently sitting outside. Vehicles needing to be housed ..boat, (2) 4x4 off road jeeps and lawn mowers (rider and push) and etc. Building is in accordance with similar building already existing. Please see attached pictures."

The argument appears to be that the failure to be granted Variance would deprive the owner of the right to exceed the aggregate maximum floor area for an accessory building, and as a result, lack of proper shelter for (some amount of) relatively expensive personal property. Staff does not dispute that this claim is true, and may amount 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, "This is in accordance with other property owners existing building[s]."

The implied claim appears to point to other properties in the area which have accessory building(s) which, as individual buildings or in aggregate with others, exceed the maximum aggregate floor area allowance on their respective lots.

Staff believes that the following facts may be considered additional arguments in support of this test and standard:

1. The subject property had three (3) storage buildings as of 10/2001, and may now only have one (1) or two (2).
2. The subject property is relatively large, and is less than 4/10 of an acre short of qualifying for a somewhat larger (892.8 square feet) accessory building aggregate maximum.
3. The subject property is exceptionally deep in relation to its lot width, and the proposed replacement accessory building would be located within the deep back yard. Subdivision Regulations Section 12-3-4.F prohibits new lots from exceeding a depth to width ratio of 2:1. At a lot depth to width ratio of 4 to 1, the subject property is relatively rare and somewhat unique.
4. The proposed replacement accessory building would be located in an area which is adjacent to the rear yards of two (2) other properties which also have deep rear yards.

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 "Existing properties surrounding mine [have] similar buildings [as] I wish to build and [they] did not affect mine or has caused any adverse property de-valuation or any safety hazards."

The Applicant's underlying argument appears to be that the aesthetic effect would not be as pronounced in this case due to the presence of other properties in the area with evidently excessively large accessory buildings.

The Applicant has provided a photograph of an accessory building on the property "next door," which would appear to be the one to the west as the one to the east does not appear to have an accessory building. Per GIS and aerial data, the property to the west appears to have three (3) or four (4) accessory buildings, perhaps at or approaching 2,500 square feet in aggregate. It was approved for Variance for "an additional 1,000 square feet" per BBOA-243 – John Little on 08/05/1991.

In addition to the one mentioned just above, the Applicant provided three (3) other photographs of what appear to be excessively large accessory buildings on properties in the area. Also, in addition to the Variance case mentioned just above, the area case history documents two (2) other Variances for excessively large accessory buildings in the area. Beyond these, there appear to be several other detached accessory buildings in *Poe Acreage*, *Clyde Miller Acreage*, and unplatted areas along 131st St. S. which, by a cursory investigation, appear to exceed the current 800, and former 600 and 750 square foot maximum standards for the same. Thus, it would appear that some of the apparently excessively large accessory buildings in the area were constructed absent Variances.

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.

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). Recognizing that the subject property previously had one (1) or two (2) other accessory buildings of somewhat less aggregate size for some time, evidently without protest from surrounding property owners, and that the replacement building will be located in the rear yard of a large, deep lot, in an area adjoining the rear yards of other deep-yard lots, Staff believes that the primary purpose is not as critical a concern in this instance. Building on the facts presented in this paragraph, it would appear that the proposed replacement accessory building would not "dominate the parcel aesthetically." See the arguments listed under the *Peculiar, Extraordinary, or Exceptional Conditions or Circumstances* test and standard for details on how those arguments can apply 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.*

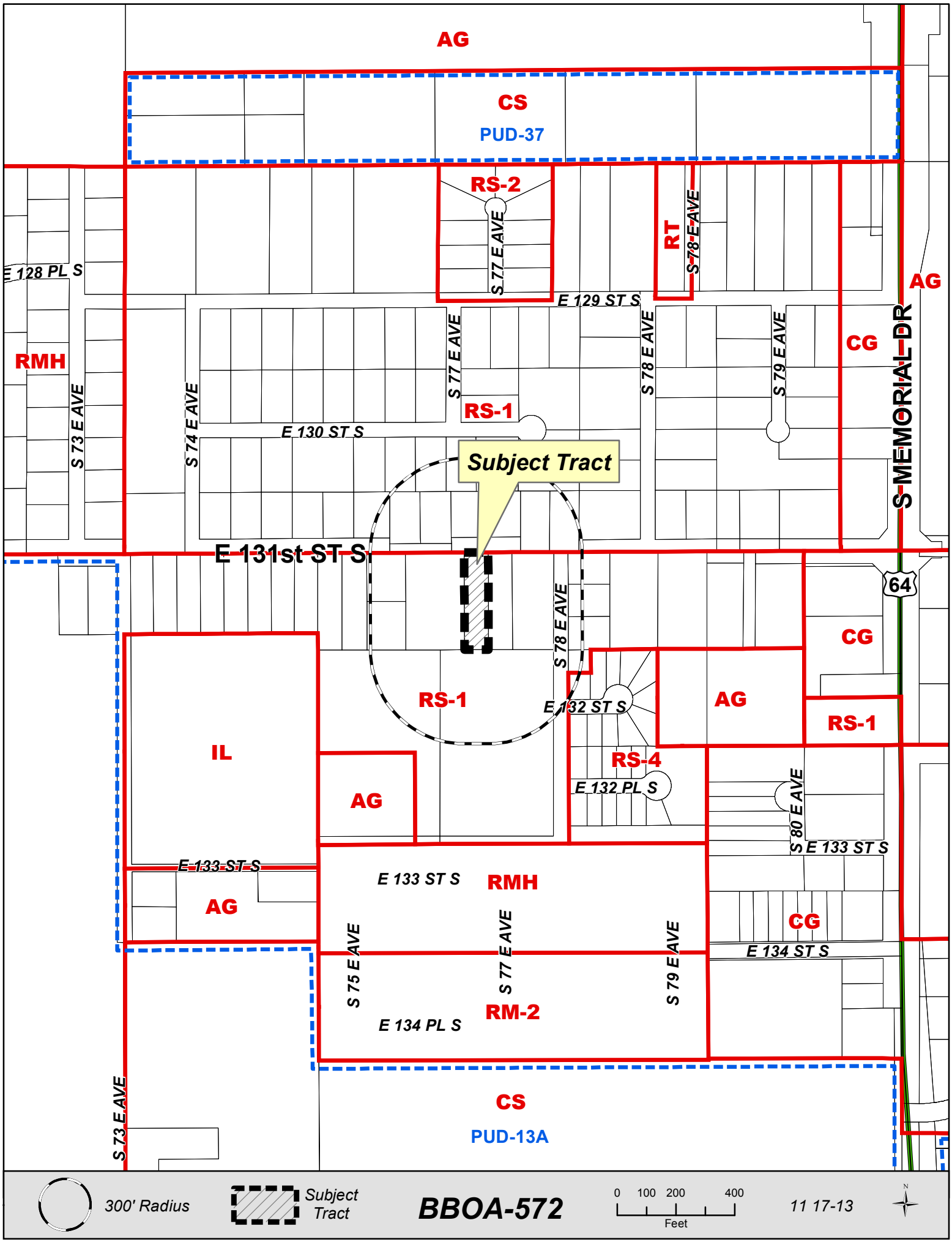
<u>Finding of Minimum Necessary</u>. The Applicant claims that the requested Variance would be the *Minimum Necessary to Alleviate the Unnecessary Hardship* because "Amount required is what is needed to house lawn mowers, off road vehicles and etc."

The provided argument is self-explanatory.

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 aggregate 2,205 square feet of accessory buildings, 2.8 times the 800 square foot maximum, 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 some of 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.


AG
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RS-1
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Subject Tract
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64
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RS-1
E 132 ST S
AG
RS-1
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RS-4
E 132 PL S
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S 80 E AVE
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RMH
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RM-2
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CS
PUD-13A
S 73 E AVE
300' Radius
Subject Tract
BBOA-572
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Feet
11 17-13
N

116 W. Needles
P.O. Box 70
Bixby OK 74008

151st
& S meeman

City of Bixby
Board of Adjustment Application

Applicant: William "Spencer" Thompson
Address: 7702 E. 131st St South Bixby OKLA. 74008
Telephone: 918-697-8905 Cell Phone: 918-697-8905 Email: Joe.Sally.Thompson@SBCGlobal.Net

Property Owner: William Spencer Thompson If different from Applicant, does owner consent? Yes
Property Address: 7702 E. 131st St. South Bixby OKLA. 74008
Existing Zoning: residental Existing Use: residental Use Unit #: _____
Proposed Use: No - change

LEGAL DESCRIPTION (If unplatted, attach a survey with legal description or copy of deed):

See attached mortgage inspection report

Does Record Owner consent to the filing of this application? [X] YES [ ] NO

If Applicant is other than Owner, indicate interest: _____

Is subject tract located in the 100 year floodplain? [ ] YES [ ] NO

Application for: [X] Variance [ ] Special Exception [ ] Appeal [ ] Interpretation

SET OUT BELOW THE SPECIFICS OF YOUR APPLICATION. WHERE APPLICABLE, INDICATE PERTINENT ORDINANCES, PROVISIONS, USES, DISTANCES, DIMENSIONS, ETC. YOU SHOULD ATTACH ANY PLOT PLANS, PHOTOGRAPHS, AND OTHER FACTUAL INFORMATION WHICH WILL ASSIST THE BOARD IN DETERMINING THE MERIT OF YOUR APPLICATION:

APPLICANTS FOR VARIANCE COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

a. Why would the literal enforcement of the Zoning Code create an unnecessary hardship?
Needed storage for personal vehicles (storage building)

b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?
This is in accordance with other property owners existing building.

c. Explain why the granting of a variance will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Zoning Code or Comprehensive Plan.
Existing properties surrounding mine has similiar buildings I wish to build and it did not affect mine or has caused any adverse property de-valuation or any safety hazards

d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.
Amount requested is what is needed to house lawn mowers, off road vehicles and etc.

17

City of Bixby
Board of Adjustment Application

APPLICANTS FOR A SPECIAL EXCEPTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the Special Exception and the Use Unit for the Special Exception as indicated in the Bixby Zoning Code. Explain why the Special Exception will be in harmony with the spirit and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Storage building ~~to~~ (30'x50') to house all vehicles that currently sitting outside. Vehicles needing to be housed about, (2) 4x4 off-road jeeps and lawnmowers (rider and push) and etc. Building is in accordance with similiar building already existing. Please see attached pictures.

APPLICANTS MAKING AN APPEAL OF A BUILDING OFFICIAL ACTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the appeal in detail:

APPLICANTS REQUESTING AN INTERPRETATION OF THE ZONING CODE OR MAP COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the request in detail:

BILL ADVERTISING CHARGES TO: _____ (NAME)

_____ (ADDRESS) (CITY) _____ (PHONE)

I do hereby certify that the information submitted herein is complete, true and accurate:

Signature: Steven Thompson Date: 2-20-2013

APPLICANT – DO NOT WRITE BELOW THIS LINE

BBOA-572 Date Received 02/22/2013 Received By Enya N Receipt # 01050576
Board of Adjustment Date 04/01/2013

1 Sign(s) at $ 50.00 each = $ 50.00; Postage $ — ; Total Sign + postage $ 50.00

FEES: Variance $75.00 or Special Exception $100.00 or Appeal/Interpretation $25.00 BASE FEE = $75.00 + ADD. 50 = TOTAL $125.00

BOA Action: _____ Conditions: _____

Date: _____ Roll Call: _____
Staff Rec. _____

18

WHITE SURVEYING COMPANY

• 9936 EAST 55TH PLACE TULSA, OKLAHOMA 74146 - (918) 663-5924

MORTGAGE INSPECTION REPORT

1"=40'

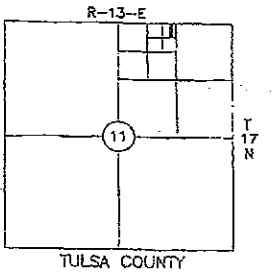
INVOICE NO.: OKCA 11-57697
MORTGAGOR: THOMPSON, SPENCER

CLIENT: OKLAHOMA CITY ABSTRACT & TITLE
FIDELITY NATIONAL TITLE INSURANCE CO.
1103015

LEGEND

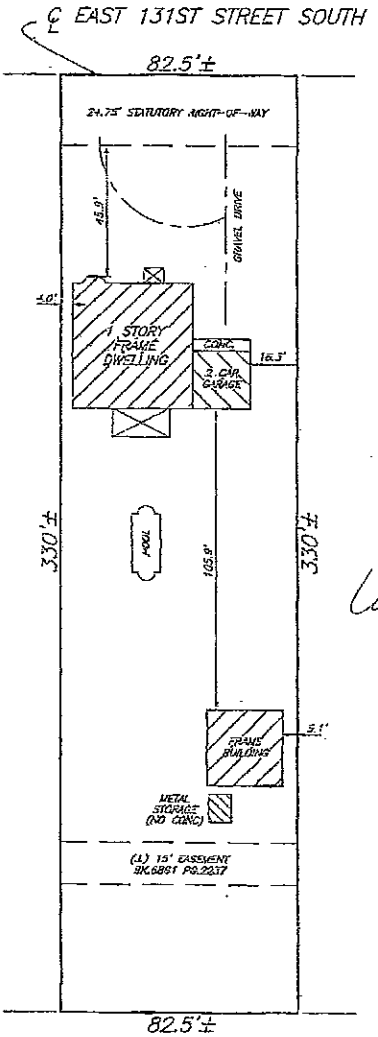
- —x— FENCE
- U/E UTILITY EASEMENT
- D/E DRAINAGE EASEMENT
- M/P METERING POINT
- B/E BURIED ELECTRIC & TELEPHONE CABLE EASEMENT (APPROXIMATE LOCATION)
- B.L. BUILDING LINE
- O.B.L. OUTBUILDING LINE

BEFORE YOU DIG, CALL OKIE 1-800-522-6543



TULSA COUNTY
LOCATION MAP

THIS PROPERTY LIES IN ZONE "X-UNSHADED" FLOOD HAZARD AREA PER F.I.R.M. COMMUNITY PANEL NO. 400207 0432K, AS LAST REVISED 8/3/2009.



PLAT NO. N/A

LEGAL DESCRIPTION AS PROVIDED:

THE WEST HALF (W/2) OF THE EAST HALF (E/2) OF THE NORTHEAST QUARTER (NE/4) OF THE NORTHEAST QUARTER (NE/4) OF THE NORTHWEST QUARTER (NW/4) OF NORTHEAST QUARTER (NE/4) OF SECTION ELEVEN (11), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE US GOVERNMENT SURVEY THEREOF, AND KNOWN AS 7702 EAST 131ST STREET SOUTH.

SURVEYOR'S STATEMENT

WHITE SURVEYING COMPANY, AN OKLAHOMA CORPORATION, AND THE UNDERSIGNED LICENSED PROFESSIONAL LAND SURVEYOR, UNDER CERTIFICATE OF AUTHORIZATION #CA1098 (RENEWAL DATE: JUNE 30, 2013), DO HEREBY STATE THAT IN OUR PROFESSIONAL OPINION THE ABOVE INSPECTION PLAT SHOWS THE DWELLING AS LOCATED ON THE PREMISES DESCRIBED, THAT IT IS ENTIRELY WITHIN THE DESCRIBED TRACT BOUNDARIES, AND THERE ARE NO ENCROACHMENTS THEREON BY VISIBLE PERMANENT IMPROVEMENTS, EXCEPT AS INDICATED. THAT THE ABOVE INSPECTION PLAT SHOWS ALL RECORDED PLAT EASEMENTS AND OTHER SUCH EASEMENTS WHICH HAVE BEEN DISCLOSED BY A CURRENT TITLE OPINION OR BY COMMITMENT FOR TITLE INSURANCE AND COPIES THEREOF PROVIDED TO US; THAT THIS INSPECTION PLAT WAS PREPARED FOR IDENTIFICATION PURPOSES ONLY FOR THE MORTGAGEE AND IS NOT A LAND OR BOUNDARY LINE SURVEY; THAT NO PROPERTY CORNERS WERE SET, AND IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING OR OTHER IMPROVEMENTS; THAT UNDERGROUND OR ABOVE GROUND UTILITIES WERE NOT FIELD LOCATED AND THEREFORE ARE NOT SHOWN ON THIS INSPECTION PLAT UNLESS SPECIFICALLY REQUESTED BY THE CLIENT; THAT THIS INSPECTION PLAT IS PREPARED SOLELY FOR THE CLIENT LISTED HEREON AS OF THIS DATE AND MAY NOT BE USED FOR ANY SUBSEQUENT LOAN CLOSING, REFINANCE, OR OTHER TRANSACTION; AND THAT NO RESPONSIBILITY OR LIABILITY IS ASSUMED HEREIN OR HEREBY TO THE PRESENT OR FUTURE LAND OWNER OR OCCUPANT.

WITNESS MY HAND AND SEAL THIS DATE: 9/15/11

WARNING! If the seal on this document is not RED, it is an unauthorized copy which may have been altered or modified, and cannot be used for any purpose without the written permission of White Surveying Company.

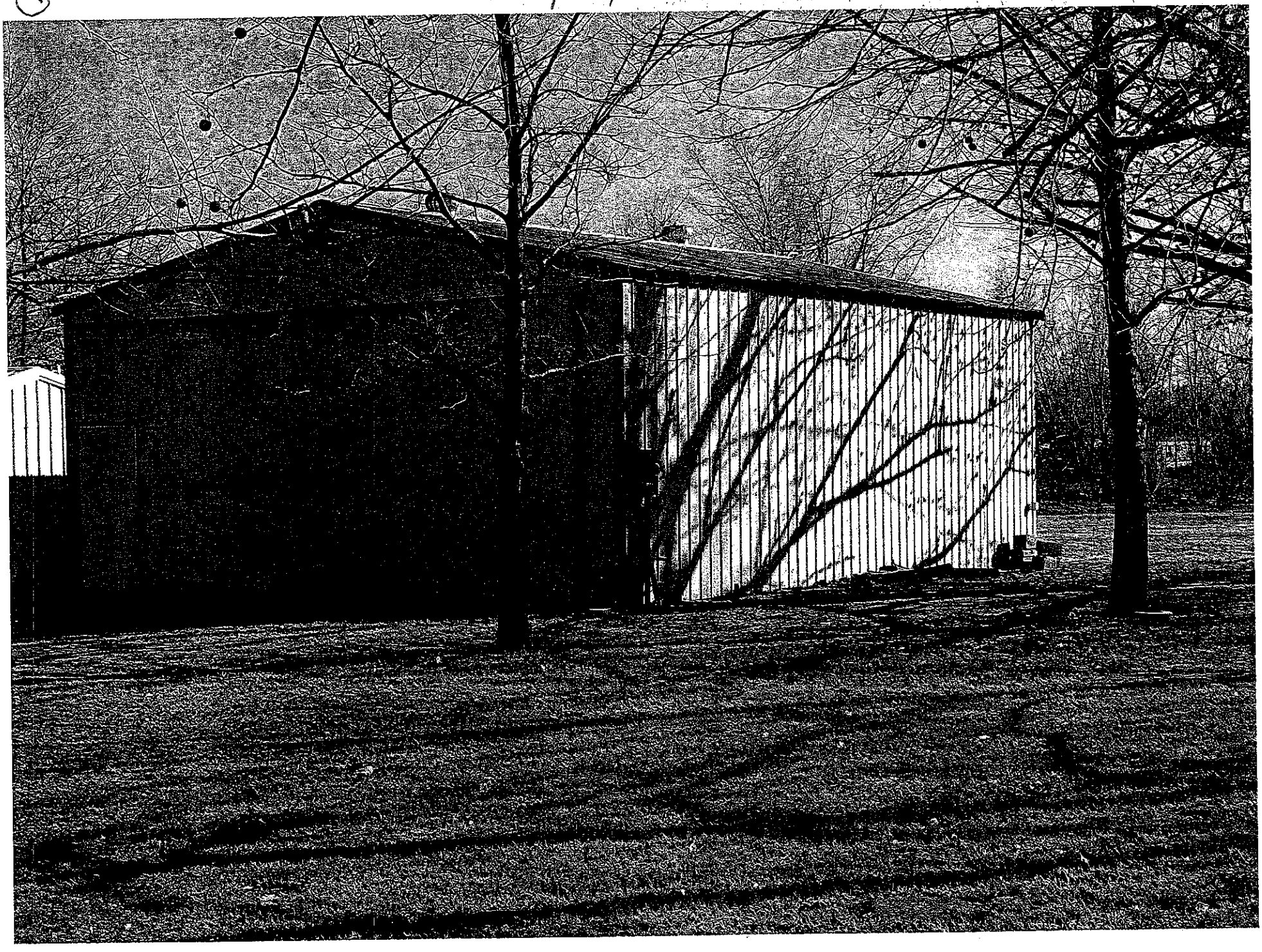
Copyright 2011 by White Surveying Company. All Rights reserved. No part of this plat may be reproduced, stored in a retrieval system, or transmitted in any form without prior written permission of White Surveying Company, P.O. Box 471676, Tulsa, Oklahoma.

SV - H:\17-17-13\AE\57697011.dwg 09/15/11

19

2

NEXT DOOR

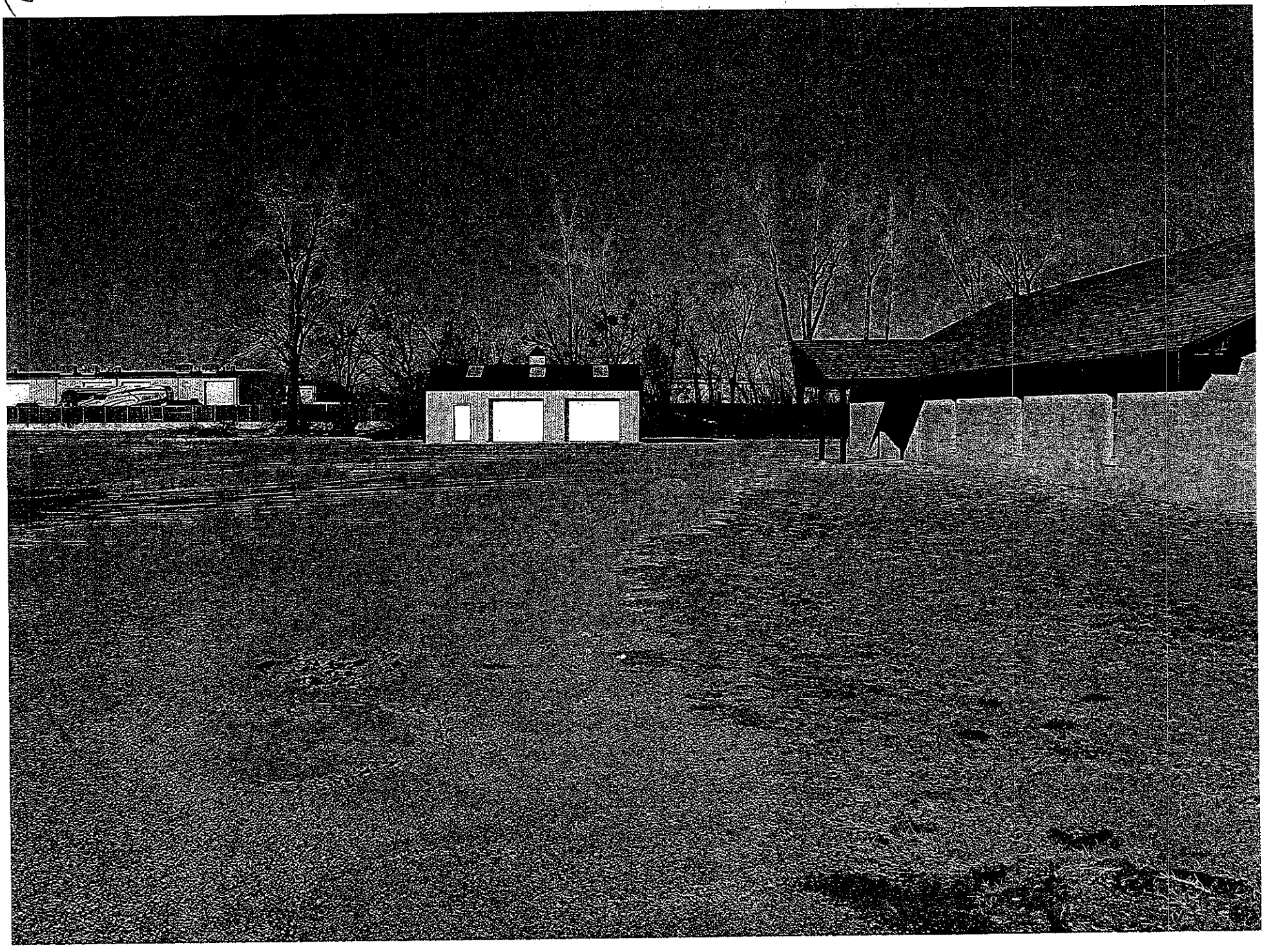


1 Block East

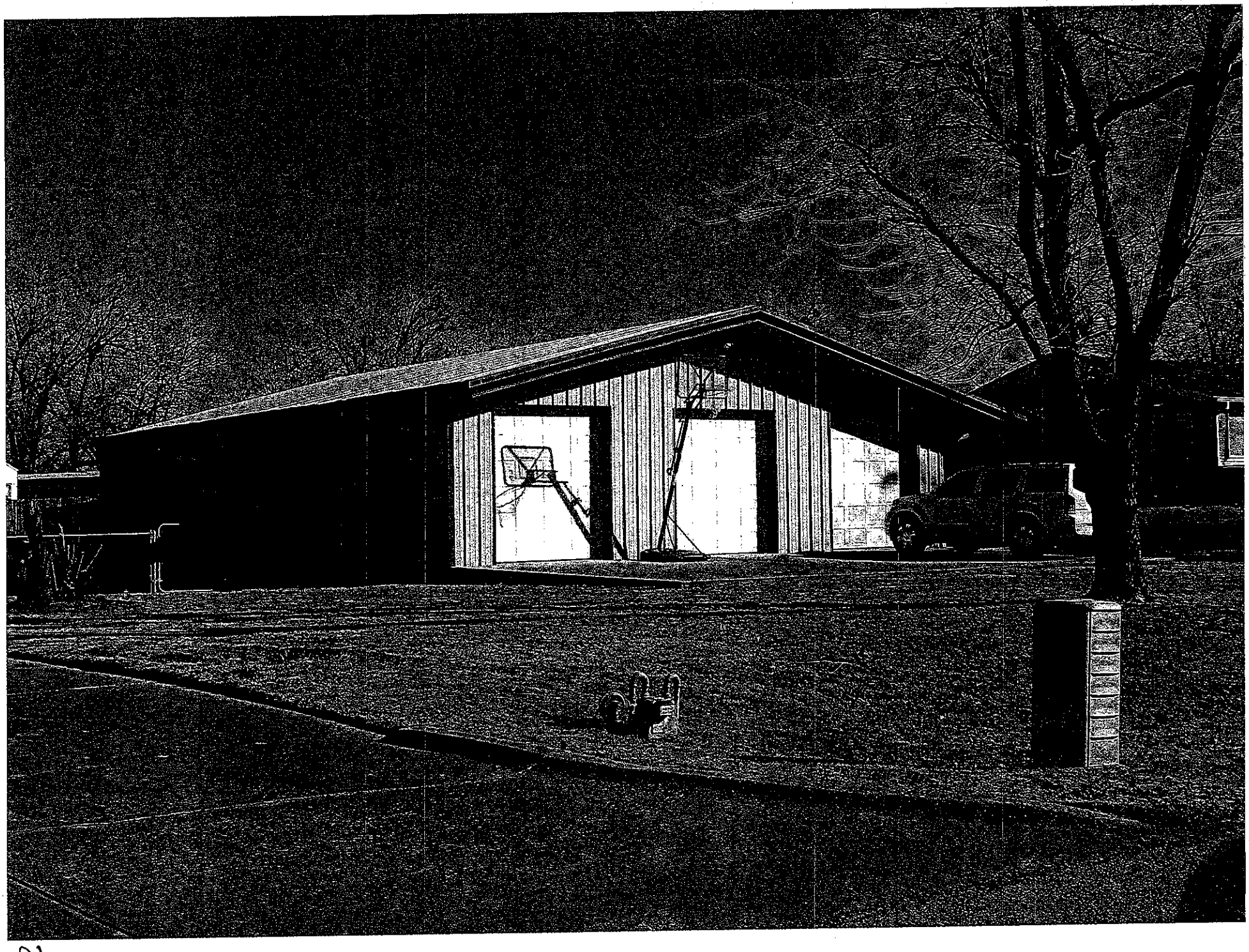
21

22

2 Blocks North



1 Block West 1 Block North



CITY OF BIXBY

MAR 27 2013

RECEIVED

By Bryant

BIXBY BOARD OF ADJUSTMENT
PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the **Board of Adjustment in the City Council Chambers of Bixby City Hall, 116 West Needles Ave., at 6:00 PM on April 01, 2013.**

At that time and place, consideration will be given to the application **BBOA-572 – Spencer Thompson:**

Applicant seeks a Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 30' X 50' (1,500) square foot accessory building in the rear yard for property in the RS-1 Residential Single-Family District with legal description as follows, to-wit:

> The West Half (W/2) of the East Half (E/2) of the Northeast Quarter (NE/4) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of the Northeast Quarter (NE/4) of Section Eleven (11), Township Seventeen (17) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the US Government Survey thereof.
> Property located: 7702 E. 131st St. S.

All persons interested in the above mentioned matter may appear at the foregoing time and place and present their arguments for or against the same.

If you have questions concerning this request, call or write Bixby City Hall, Attn.: City Planner, 116 W. Needles Ave., Bixby, Oklahoma 74008, (918) 366-4430. When calling, please refer to **Case Number BBOA-572.**

Dated at Bixby, Oklahoma, this 6th day of March, 2013.

Will not be able to attend meeting but feel this would be an asset to both Spencer Thompson and Norma B Little's properties Thank you

Norma B Little
7704 East 131st So
Bixby, OK 74008

24

CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

STAFF REPORT

To: Bixby Board of Adjustment

From: Erik Enyart, AICP, City Planner EE

Date: Wednesday, March 27, 2013

RE: Report and Recommendations for:
BBOA-573 – Bixby Public Schools

LOCATION: – Part of the W/2 W/2 NE/4 of Section 24, T17N, R13E
– 23 N. Riverview Rd.

LOT SIZE: 4 acres, more or less

ZONING: AG Agricultural District

REQUEST: Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 Community Center and/or a Use Unit 5 public school facility in an AG Agricultural District

SURROUNDING ZONING AND LAND USE:

North: AG; Agricultural.

South: AG; The Bixby Public Schools' landholding and school facilities located between Riverview Rd. and Mingo Rd.

East: AG; The Bixby Public Schools' landholding and school facilities located between Riverview Rd. and Mingo Rd.

West: RS-3; Residential and vacant lots in the *Midland Addition* and the [Original Town of] *Bixby*.

COMPREHENSIVE PLAN: (1) Low Intensity/Development Sensitive, (2) Vacant, Agricultural, Rural Residences, and Open Land, and (3) Community Trails.

PREVIOUS/RELATED CASES: None found.

RELEVANT AREA CASE HISTORY: (not a complete list)

BZ-172 – James H. Powell – request for rezoning approximately 20 acres of the school property abutting to the south at approximately 15600 S. Mingo Rd.; appears to be the bus barn area and the north side of the running track) from AG to RMH for a mobile home park (evidently never built) – City Council Approved 06/10/1986 (Ord. # 539)

BBOA-198 – Bixby Public Schools – request for Variance from the 26' height restriction to allow up to 30' in height, to permit an addition to an existing school for the formerly 8-acre school property tract to the south at 501/515 S. Riverview Rd. – BOA Approved 01/11/1988 per case notes.

BBOA-234 – Bixby Public Schools – request for Special Exception to allow a bus barn in an RMH district on approximately 20 acres of the school property abutting to the south at approximately 15600 S. Mingo Rd. – Approved December 1990 per case notes.

BBOA-282 – Bixby Public Schools – request for Special Exception to allow a Use Unit 5 school on part of the SW/4 SE/4 of the section (appears to include all of the school-owned tracts in the SW/4 SE/4 lying south of Bixby Creek) to the south of subject property – BOA Approved 08/01/1994.

BBOA-299 – Carolyn Wagnon – request for (1) a Special Exception to permit Use Unit 15 in a CS district, and (2) a Variance of certain bulk and area requirements in the AG district to permit a Lot-Split for property located to the south of subject property at 711 S. Riverview Rd. – BOA Approved 06/05/1995.

BL-192 – Wagnon Construction – request for Lot-Split for an approximately 0.8-acre tract to the south of subject property located just south of 711 S. Riverview Rd. – PC Approved in 06/19/1995.

BZ-213 – Carolyn Wagnon – request for rezoning from AG to CS for an approximately 0.8-acre tract to the south of subject property located just south of 711 S. Riverview Rd. – City Council Approved 07/24/1995 (Ord. # 720).

BZ-224 – Carolyn Wagnon – request to rezone about 1 acre from AG to CG at about 707 S. Riverview Rd. – Withdrawn in 1996.

BBOA-321 – Carolyn Wagnon – request for Special Exception to allow Use Unit 23 in the CS district at about 707 S. Riverview Rd. – Withdrawn in 1996.

BBOA-338 – James H. Powell – request for Variance to allow a Use Unit 9 mobile home on a former approximately 1.15-acre tract of the school property abutting to the south at the approximately 15700-block of S. Mingo Rd. – Denied 08/03/1998.

BBOA-339 – Bixby Public Schools – request for Special Exception to allow the expansion of the existing Use Unit 5 Bixby Central Elementary school building in the RS-3 district for all of Blocks 9 and 16, [Original Town of] *Bixby*, located two (2) blocks to the southwest of subject property at 201 S. Main St. – BOA Approved 08/03/1998.

BBOA-340 – Bixby Public Schools – request for Special Exception for a Use Unit 5 school on approximately the west half of the Bixby Middle School property to the south of subject property at 9401 E. 161st St. S. – BOA Approved 08/03/1998.

BZ-245 – James H. Powell – Request for rezoning of an approximately 1.15-acre tract of the school property abutting to the south at the approximately 15700-block of S. Mingo Rd. from AG to RMH for a mobile home site – Approved in November, 1998 (Ord. # 783).

Plat Waiver for Bixby Public Schools – Request for Waiver of the platting requirement per Zoning Code Section 11-8-13 for 32 acres of the school property abutting to the south –

Approved by City Council 03/08/2010 after accepting right-of-way and U/E dedications at the same meeting.

BBOA-519 – JR Donelson for Bixby Public Schools – request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 school facility in an AG Agricultural District on 32 acres of the school property abutting to the south – BOA Approved 04/05/2010.

BLPAC-6 – JR Donelson, Inc. for Bixby Public Schools – request for approval of a Landscaping Plan Alternative Compliance plan for 32 acres of the school property abutting to the south per Zoning Code Section 11-12-4.D for a Vocational-Agriculture building for Bixby Public Schools – PC Conditionally Approved 04/19/2010.

BZ-348 – JR Donelson, Inc. for Bixby Public Schools – request for rezoning part of a former 32-acre school property tract to the south from RMH to AG for school land use and development purposes – PC recommended Approval 04/19/2010 and City Council Approved 05/10/2010 (Ord. # 2037).

BBOA-521 – JR Donelson for Bixby Public Schools – request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 school facility in an AG Agricultural District on the former 72-acre school property tract abutting to the south – BOA Approved 06/07/2010.

BLPAC-8 – Alaback Design Associates, Inc. for Bixby Public Schools – request for approval of a Landscaping Plan Alternative Compliance plan for a former 40-acre tract of the school property abutting to the south per Zoning Code Section 11-12-4.D for a new middle school building for Bixby Public Schools – PC Approved 09/19/2011.

BACKGROUND INFORMATION:

In October of 2012, Staff communicated with Bixby Public Schools' (BPS) Facilities Director Marty Foutch on the BPS acquisition of the subject property from the Bixby First United Methodist Church. BPS acquired the property by deed recorded November 26, 2012. Per communication with Mr. Foutch, BPS desires to lease or otherwise grant use of the property to the Bixby Community Outreach Center (BCOC; www.bixbyoc.org), which accepts donations of money, food, clothing, and other necessities and, in turn, provides them to those members of the Public in need of such assistance. This would be considered a Use Unit 5 "Community Center," which is allowed by Special Exception in the AG district.

The BCOC occupancy may be relatively temporary, and the School District may desire to use the subject property as an actual school facility at some point in the future. Therefore, as advised by Staff, BPS made application for Special Exception to allow the following Use Unit 5 uses: (1) Use Unit 5 Community Center offering financial and other methods of assistance to the Public, and (2) Use Unit 5 school facility use.

ANALYSIS:

Property Conditions. The subject property contains approximately 4 acres with a split-level house toward its centroid. It was sold from the Bixby First United Methodist Church to the School District in November of 2012.

The subject property is relatively flat and appears to drain to the southeast along a 100-year Floodplain drainageway cutting diagonally through the property from northwest to southeast.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity/Development Sensitive, (2) Vacant, Agricultural, Rural Residences, and Open Land, and (3) Community Trails.

The proposed Use Unit 5 community center and/or school uses should be considered not inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily AG and RS-3.

On the west side of Riverview Rd. are residential homes and vacant lots zoned RS-3 in *Midland Addition* and the [Original Town of] *Bixby*. To the south there is the balance of the school's landholding located between Riverview Rd. and Mingo Rd., all zoned AG.

The land to the north is agricultural and zoned AG.

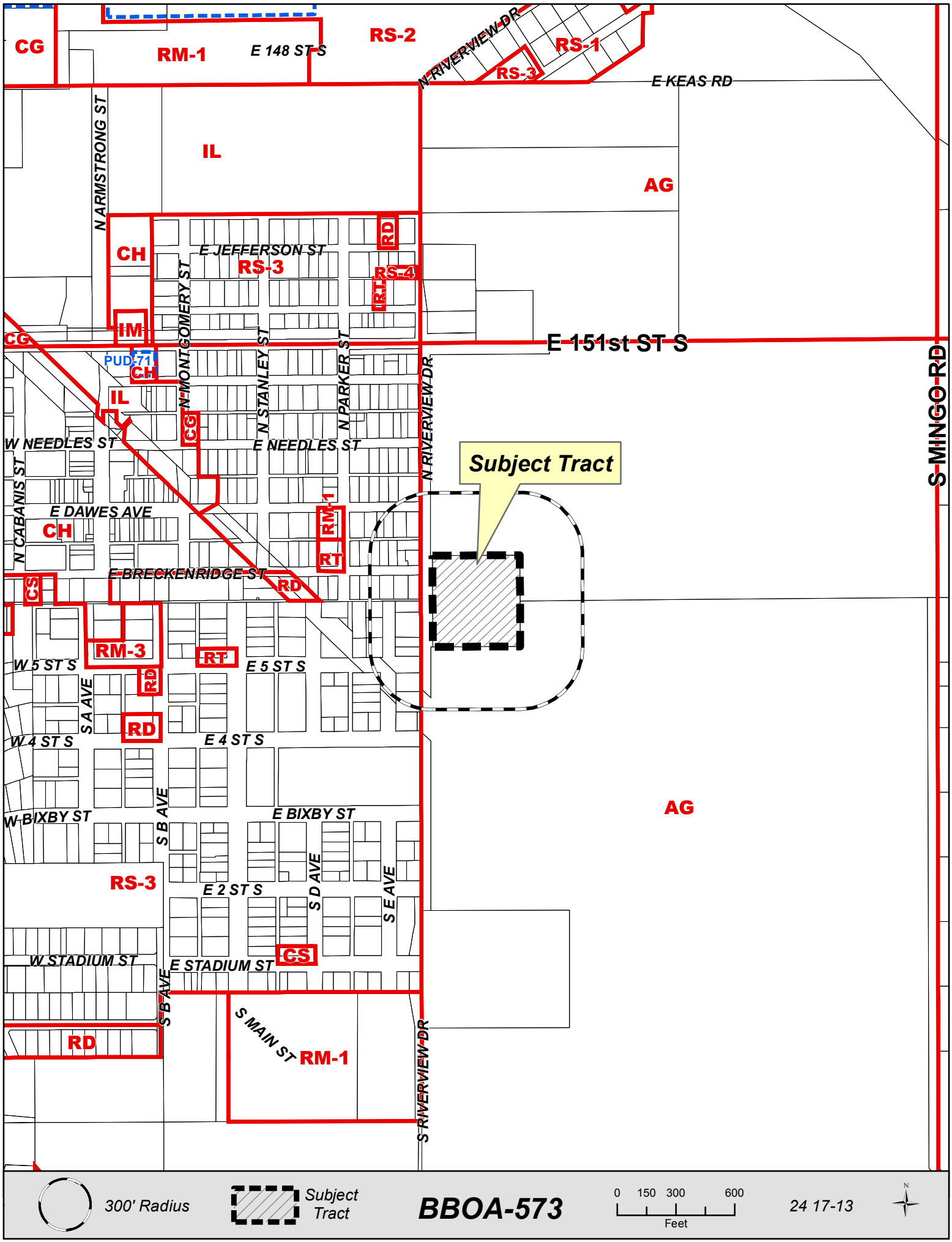
Several applications have previously been approved for Use Unit 5 school use for parts of the BPS's landholding and campuses abutting to the south. This application would be consistent with those approvals and the actual Use Unit 5 use.

For the most part, therefore, the proposed Use Unit 5 community center and/or school uses would be compatible with and complimentary to existing and future surrounding land uses and zoning patterns.

Scale and Intensity of Use. Community centers and schools 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 community center and/or school facilities 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, in keeping with other school facilities in this area, a requirement for plat or Plat Waiver does not appear necessary, as the planned 60'-wide right-of-way (consistent with a Residential Collector Street) for the widened Riverview Rd. has already been secured, and utilities are already in place or may be extended through existing right-of-way and/or utility easements.

Staff Recommendation. Based on the Comprehensive Plan and surrounding zoning and land use patterns, Staff believes that the proposed Use Unit 5 community center and/or school 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.



300' Radius

Subject Tract

BBOA-573

0 150 300 600
Feet

24 17-13

N

City of Bixby
Board of Adjustment Application

Applicant: Bixby Public Schools
Address: 109 N ARMSTRONG Bixby OK 74008
Telephone: 918 366 2323 Cell Phone: 918 740 7218 Email: MFOUTCHC Bixbyps.org
7218

Property Owner: Bixby Public Schools If different from Applicant, does owner consent? ____
Property Address: 23 N RIVERVIEW RD BIXBY OK 74008
Existing Zoning: AG Existing Use: RESIDENTIAL Use Unit #: ____
Proposed Use: FOR BCOC AND SCHOOL DISTRICT

LEGAL DESCRIPTION (If unplatted, attach a survey with legal description or copy of deed):

PRT NE BEG 1084.135 N OF C NE TH E 466.2 S 466.2 W 466.2 N 466.2 POB LESS W60 FOR RD SEC 24 17 13 4.358 AC

Does Record Owner consent to the filing of this application? ☑ YES ☐ NO

If Applicant is other than Owner, indicate interest: ____

Is subject tract located in the 100 year floodplain? ☐ YES ☑ NO

Application for: ☐ Variance ☑ Special Exception ☐ Appeal ☐ Interpretation

SET OUT BELOW THE SPECIFICS OF YOUR APPLICATION. WHERE APPLICABLE, INDICATE PERTINENT ORDINANCES, PROVISIONS, USES, DISTANCES, DIMENSIONS, ETC. YOU SHOULD ATTACH ANY PLOT PLANS, PHOTOGRAPHS, AND OTHER FACTUAL INFORMATION WHICH WILL ASSIST THE BOARD IN DETERMINING THE MERIT OF YOUR APPLICATION:

APPLICANTS FOR VARIANCE COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

a. Why would the literal enforcement of the Zoning Code create an unnecessary hardship?

b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?

c. Explain why the granting of a variance will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Zoning Code or Comprehensive Plan.

d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.

30

City of Bixby
Board of Adjustment Application

APPLICANTS FOR A SPECIAL EXCEPTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the Special Exception and the Use Unit for the Special Exception as indicated in the Bixby Zoning Code. Explain why the Special Exception will be in harmony with the spirit and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
Bixby Public Schools has acquired this property from the Methodist Church and desires BOC to use it for three years and then use it for the school district

APPLICANTS MAKING AN APPEAL OF A BUILDING OFFICIAL ACTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the appeal in detail:

APPLICANTS REQUESTING AN INTERPRETATION OF THE ZONING CODE OR MAP COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the request in detail:

BILL ADVERTISING CHARGES TO: Bixby Public Schools (NAME)
109 N Armstrong (ADDRESS) Bixby (CITY) 918 366 2323 (PHONE)

I do hereby certify that the information submitted herein is complete, true and accurate:

Signature: [signature] Date: 2-15-13

APPLICANT – DO NOT WRITE BELOW THIS LINE

BBOA-573 Date Received 02/25/2013 Received By Enyart Receipt # N/A
Board of Adjustment Date 04/01/2013

~~Sign(s) at $ 50.00 each = $ _____; Postage $ _____; Total Sign + postage $ _____~~

FEES: ~~Variance $75.00 or Special Exception $100.00 or Appeal/Interpretation $25.00 = _____ + ___ = _____~~
City Council Waived fee 02/25/2013

BOA Action: _____ Conditions: _____

Date: _____ Roll Call: _____
Staff Rec. _____

Bixby Public Schools

109 N. Armstrong • Bixby, Oklahoma 74008
(918) 366-2200

May 29, 2009

City of Bixby
116 W. Needles
Bixby, OK 74008

To Whom It May Concern:

I am writing to request a waiver for the Special Exemption Fee associated with the attached Board of Adjustment application. The attached application is in reference to the school district's property located at 23 North Riverview Road, Bixby, OK 74008.

We appreciate your consideration of this request.

Thank You,

Dr. Kyle Wood
Superintendent

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Assessor
KEN YAZEL

Property Search

The Tulsa County Assessor's Office has made every effort to insure the accuracy of the data contained on this web site; however, this material may be slightly dated which could have an impact on its accuracy.

The information must be accepted and used by the recipient with the understanding that the data was developed and collected only for the purpose of establishing fair market value for ad valorem taxation. Although changes may be made periodically to the tax laws, administrative rules and similar directives, these changes may not always be incorporated in the material on this web site.

The Tulsa County Assessor's Office assumes no liability for any damages incurred, whether directly or indirectly, incidental, punitive or consequential, as a result of any errors, omissions or discrepancies in any information published on this web site or by any use of this web site.

Quick Facts

Account # R97324732422030
Parcel # 97324-73-24-22030
Situs address 23 N RIVERVIEW RD BIXBY 74008

Owner name BIXBY PUBLIC SCHOOLS INDEPENDENT SCHOOL DISTRICT NO. 4

Fair market value 100
Last year's taxes $0
Subdivision: UNPLATTED

Legal description Legal: PRT NE BEG 1084.13S NWC NE TH E466.2 S466.2 W466.2 N466.2 POB LESS W60 FOR RD SEC 24 17 13 4.358ACS

Section: Township: Range:

General Information

Situs address 23 N RIVERVIEW RD BIXBY 74008
Owner name BIXBY PUBLIC SCHOOLS INDEPENDENT SCHOOL DISTRICT NO. 4
Owner mailing address PO BOX 160 BIXBY, OK 74008
Land area† 4.36 acres / 189,829 sq ft
Tax rate BI-4A [BIXBY]
Subdivision: UNPLATTED

Legal description Legal: PRT NE BEG 1084.13S NWC NE TH E466.2 S466.2 W466.2 N466.2 POB LESS W60 FOR RD SEC 24 17 13 4.358ACS

Section: Township: Range:
Zoning AGRICULTURE DISTRICT [AG]

Tax Information

	2012	2013
Fair market value	$100	—
Total taxable value	$100	—
Modified taxable value	$0	—
Assessment ratio	11%	—
Gross assessed value	$0	—
Exemptions	$0	—
Net assessed value	$0	—
Tax rate	BI-4A [BIXBY]	
Tax rate mills	124.36	—*
Estimated taxes	$0	—*
Most recent NOV	January 13, 2009	

* Estimated from 2012 millage rates

Values

	2012	2013
Land value	$100	—
Improvements value	$0	—
Fair market value	$100	—

Exemptions claimed

	2012	2013
Homestead	—	—
Additional homestead	—	—
Senior Valuation Limitation	—	—
Veteran	—	—

Tax detail (2012 millages)

	%	Mills	Dollars
City-County Health	2.1	2.58	$0.00
City-County Library	4.3	5.32	$0.00
Tulsa Technology Center	10.7	13.33	$0.00
Emergency Medical Service	0.0	0.00	$0.00
Tulsa Community College	5.8	7.21	$0.00
School Locally Voted	21.6	26.88	$0.00
City Sinking	10.9	13.50	$0.00
School County Wide Bldg	4.1	5.15	$0.00
School County Wide ADA	3.2	4.00	$0.00
School County Wide General	29.0	36.05	$0.00
County Government	8.3	10.34	$0.00

Improvements

Bldg ID#	Property type	Condition	Quality	Year built	Livable†	Stories	Foundation	Exterior	Roof	HVAC
1	Agricultural	Good	Average Plus	1952	3,028 SF	2	Other	Frame Siding	Composition Shingle	None

Sales/Documents

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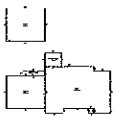
Date	Grantor	Grantee	Price	Doc type	Book-Page/Doc#
Aug 1, 1998			$190,000	History	06095-02236
Nov 26, 2012	FIRST UNITED METHODIST CHURCH, BIXBY	BIXBY PUBLIC SCHOOLS INDEPENDENT SCHOOL DISTRICT NO. 4		Trustee's Deed	2012114955

Photo/sketch
(Click to enlarge)



† Square footage and acreage values included in this record are approximations. They may not reflect what a licensed surveyor would determine by performing a formal survey. They are for tax purposes only and are not intended for use in making conveyances or for preparing legal descriptions of properties.

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The application form is attached. The owner would complete the sections pertaining to Special Exception. The fee is $150.00, payable to City of Bixby at the Water Billing desk in City Hall, 116 W. Needles Ave. The application itself may be left there and will be placed in my mailbox, and I will retrieve it there, or the owner may bring it over to my office in the Dawes Building, 113 W. Dawes Ave. The application submission deadline for the 04/01/2013 Board of Adjustment meeting is Friday, March 01, 2013. In addition to the form, a short narrative explaining the background should prove useful (e.g. BPS is purchasing / has purchased from Methodist Church, to be used by BCOC for _____, and ultimately for a future school use as the need arises, and any other pertinent details).

The Board of Adjustment would consider the approval of the application at the meeting 03/01/2013 (or later if you desire a later meeting date). Based on the location, surrounding land uses, the fact that the acreage all around has been approved in the past couple years for school campus uses, that Riverview Rd. was widened, etc., I anticipate recommending Approval and do not anticipate any difficulty in securing same.

Hopefully this information is helpful. Please call or email if you have any questions or need additional information.

Tulsa County Clerk - EARLENE WILSON
Doc # 2012114955 Page(s): 3 Recorded 11/26/2012 at 09:55 AM
Receipt # 372007 Fee $17.00

TRUSTEE'S DEED

THIS INDENTURE, is made effective the 16th day of November 2012, between **FIRST UNITED METHODIST CHURCH, BIXBY, OKLAHOMA, in trust,** hereinafter referred to as **Grantor**, and **BIXBY PUBLIC SCHOOLS, INDEPENDENT SCHOOL DISTRICT NO. 4, TULSA COUNTY, OKLAHOMA,** hereinafter referred to as **Grantee.**

WITNESSETH:

UNOFFICIAL COPY

THAT in consideration of the sum of TEN AND NO/100 DOLLARS and other good and valuable consideration, the receipt of which is hereby acknowledged, **Grantor** does by these presents **GRANT, BARGAIN, SELL, TRANSFER, AND CONVEY** to **Grantee** and to its successors, and assigns, all of Grantor's interest in and to the following Real Estate situated in **Tulsa County**, State of Oklahoma, to-wit:

> **A piece and parcel of land located in the West Half of the West Half of the Northeast Quarter (W/2 W/2 NE/4) of Section Twenty-four (24), Township Seventeen (17) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, more fully described as follows, to-wit:**
>
> **BEGINNING at a point which is South 1084.13 feet and East 2679.73 feet of the Northwest Corner of the said Section Twenty-four (24), said point being marked by 3/8" iron pin; Thence N 89° 53' E a distance of 466.2 feet to a point which is marked by a 3/8" iron pin; Thence S 0° 07' E a distance of 466.2 feet to a point which is marked by a 3/8" iron pin; Thence S 89° 53' W a distance of 466.2 feet to a point which is marked by a 3/8" iron pin; Thence N 0° 07' W a distance of 466.2 feet to the POINT OF BEGINNING.**

TO HAVE AND TO HOLD the described Real Estate, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining forever.

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IN WITNESS WHEREOF, **Grantor** has executed this Trustee's Deed as of the day and year first above written.

FIRST UNITED METHODIST CHURCH,
BIXBY, OKLAHOMA, in trust

Victor Heister

Victor Heister, Chairman, Board of Trustees

UNOFFICIAL COPY

No Documentary Stamps Needed
State Instrumentality
68453202(10)

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STATE OF OKLAHOMA)
) **(Trustee Acknowledgment)**
COUNTY OF TULSA)

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this 7 day of November, 2012, personally appeared **VICTOR HEISTER, CHAIRMAN OF THE BOARD OF TRUSTEES OF THE FIRST UNITED METHODIST CHURCH, BIXBY, OKLAHOMA, in trust,** 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 as trustee for the uses and purposes therein set forth.

UNOFFICIAL COPY

IN WITNESS THEREOF, I hereunto set my official signature and affixed my notarial seal the day and year last above written.

Notary Public Oklahoma
OFFICIAL SEAL
JANET WADDELL
Commission #: 06004928
My Commission Expires 05/17/2014

Janet Waddell
Notary Public

(SEAL)

My commission expires: 5-17-14

My commission no: 06004928

LAW OFFICE COMMERCIAL BUSINESS

P O BOX 1014
GLENPOOL, OK 74033

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Erik Enyart

From: Erik Enyart
Sent: Friday, February 22, 2013 9:37 AM
To: 'Marty Foutch'
Cc: Dr. Kyle Wood; Phyllis Davis; Patrick Boulden
Subject: RE: Bixby Community Outreach Center

Hi Marty:

Yes, I received the application and the letter requesting the City waive the application review fees. I forwarded that internally and the City Attorney has placed an ordinance on Monday's City Council agenda, which ordinance would give the City Council the authority to waive application fees to governmental entities, including the School District. Presuming approval of the ordinance, following that, the Council will consider your fee waiver request. City Attorney Patrick Boulden is copied here for clarification or additional input as may be needed.

If approved for waiver, your application will be complete and will have met the Friday, March 01, 2013 application submission deadline for the 04/01/2013 Board of Adjustment meeting.

Thanks~

Erik Enyart

Council Approved Ord. + Waiver 02/25/2013

From: Marty Foutch [mailto:mfoutch@bixbyps.org]
Sent: Friday, February 22, 2013 9:23 AM
To: Erik Enyart
Cc: Dr. Kyle Wood; Phyllis Davis
Subject: Re: Bixby Community Outreach Center

Good morning Erik,
I am just following up with you to make sure you received the application for Special Exception and to see if we need to do anything else. Just let me know.
Thanks,
Marty

On Wed, Feb 13, 2013 at 11:33 AM, Erik Enyart <eenyart@bixby.com> wrote:

Hi Marty:

The application form is attached. The owner would complete the sections pertaining to Special Exception. The fee is $150.00, payable to City of Bixby at the Water Billing desk in City Hall, 116 W. Needles Ave. The application itself may be left there and will be placed in my mailbox, and I will retrieve it there, or the owner may bring it over to my office in the Dawes Building, 113 W. Dawes Ave. The application submission deadline for the 04/01/2013 Board of Adjustment meeting is Friday, March 01, 2013. In addition to the form, a short narrative explaining the background should prove useful (e.g. BPS is purchasing / has purchased from Methodist Church, to be used by BCOC for _____, and ultimately for a future school use as the need arises, and any other pertinent details).

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The Board of Adjustment would consider the approval of the application at the meeting 03/01/2013 (or later if you desire a later meeting date). Based on the location, surrounding land uses, the fact that the acreage all around has been approved in the past couple years for school campus uses, that Riverview Rd. was widened, etc., I anticipate recommending Approval and do not anticipate any difficulty in securing same.

Hopefully this information is helpful. Please call or email if you have any questions or need additional information.

Erik Enyart

From: Marty Foutch [mailto:mfoutch@bixbyps.org]
Sent: Wednesday, February 13, 2013 10:49 AM
To: Erik Enyart
Cc: Dr. Kyle Wood
Subject: Re: Bixby Community Outreach Center

Erick,

The School District would like to ask for the request for a Special Exception to allow the following Use Unit 5 uses: (1) Use Unit 5 Community Center offering financial and other methods of assistance to the Public, and (2) Use Unit 5 school facility use. Please guide me through this process. Where do we start and how long does this process normally take?

Thanks,

Marty

On Tue, Oct 16, 2012 at 11:03 AM, Erik Enyart <eenyart@bixby.com> wrote:

Marty Foutch:

After our discussion, I inspected the Zoning Code and determined that the Bixby Community Outreach Center (www.bixbyoc.org), which accepts donations of money, food, clothing, and other necessities and, in turn, provides them to those members of the Public in need of such assistance, would be considered a Use Unit 5 "Community Center," which is allowed by Special Exception in the AG district.

I understand that the Methodist Church property at 23 N. Riverview Rd. is being considered for acquisition by the School District, and also as a new location for the BCOC. I suspect that, as it would be acquired by the

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School District, the BCOC occupancy may be relatively temporary and the School District may desire to use it as an actual school facility at some point in the future.

If I am correct in these statements, I would recommend that the property owner request a Special Exception to allow the following Use Unit 5 uses: (1) Use Unit 5 Community Center offering financial and other methods of assistance to the Public, and (2) Use Unit 5 school facility use.

I have copied City Attorney Patrick Boulden, to correct or clarify any of the above as may be needed.

Please feel free to call or email if you have any questions or need additional information.

Erik Enyart, AICP, City Planner

City of Bixby, PO Box 70
Bixby, OK 74008

Ph. (918) 366-0427

Fax (918) 366-4416

eenyart@bixby.com

www.bixby.com

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Marty Foutch

Director of Facilities

Bixby Public School

918-366-2323 office

918-740-7218 cell

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Version: 2013.0.2897 / Virus Database: 2639/6098 - Release Date: 02/11/13

--

Marty Foutch
Director of Facilities
Bixby Public School
918-366-2323 office
918-740-7218 cell

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Version: 2013.0.2899 / Virus Database: 2639/6122 - Release Date: 02/21/13

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CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

STAFF REPORT

To: Bixby Board of Adjustment

From: Erik Enyart, AICP, City Planner EE

Date: Friday, March 22, 2013

RE: Report and Recommendations for:
BBOA-574 – John Filbeck for Riverview Missionary Baptist Church, Inc.

LOCATION:
- All of the Reserve in *Gardenview Addition* a/k/a The W. 305' of the S/2 NW/4 NW/4 Less and Except right-of-way, and also part of the N. 65' of the NW/4 SW/4 NW/4, all in Section 12, T17N, R13E
- 13201 S. Memorial Dr.

LOT SIZE: 4 acres, more or less

ZONING: RS-1 Residential Single-Family District & CG General Commercial District

REQUEST: Variance from certain signage restrictions for a Use Unit 5 church in the RS-1 Residential Single-Family District

SURROUNDING ZONING AND LAND USE:

North: CG; The building complex containing the *Green Acres Sod Farm, Inc. Corporate Office* and the *Ron's Hamburgers & Chili* restaurant, the *South Plaza Center* shopping center, and the *Kum & Go* gas station and the *KC Auto Repair* automobile repair business.

South: CG & RM-3; The *Bixby Funeral Service*, the *RiverCrest Event Center*, and a vacant 1-acre tract all zoned CG and RM-3, and a 4-acre unplatted tract zoned RM-3.

East: RS-1 & RM-3; Single-family residential in *Gardenview Addition* zoned RS-1, and the *Autumn Park* assisted living facility to the southeast zoned RM-3.

West: (Across Memorial Dr.) CG & RS-1; Commercial businesses along Memorial Dr.

COMPREHENSIVE PLAN: Medium Intensity + Commercial Area

PREVIOUS/RELATED CASES: (not a complete list)

BZ-35 – L.C. Neel – Request for rezoning from AG to CG for 10 acres (NW/4 SW/4 NW/4), including part of subject property – PC Recommended Approval 03/17/1975 and Town Board of Trustees Approved 05/06/1975 (Ord. # 292).

BBOA-452 – Jim Capps for Riverview Missionary Baptist Church, Inc. – Request for Variance to allow a manufactured or modular building to be used as a classroom for *Riverview Missionary Baptist Church* for subject property – Withdrawn in April, 2007.

RELEVANT AREA CASE HISTORY: (not a complete list)

BZ-29 – Charles E. Norman for Frates Property, Inc. – Request for CS, OM, RD, RS-3, & RM-2 zoning for approximately 231 acres to the east/southeast of subject property – PC Recommended Approval as requested 10/17/1974 and Town Board of Trustees Approved as requested 11/05/1974 (Ord. # 286).

BZ-34 – L.C. Neel – Request for rezoning from RS-1 to CG for 3.5 acres to the north of subject property (now the *South Plaza Center* shopping center and the building complex containing the *Green Acres Sod Farm, Inc. Corporate Office* and the *Ron's Hamburgers & Chili* restaurant) – PC Recommended Approval 03/17/1975 and Town Board of Trustees Approved 05/06/1975 (Ord. # 292).

BZ-53 – L.C. Neel – Request for rezoning from RD to CS for approximately 5 acres abutting subject property to the east (now the *Autumn Park* assisted living facility and a related independent living housing section) – PC Recommended Approval 02/14/1977 and Town Board of Trustees Approved 02/15/1977 (Ord. # 327).

BZ-56 – Adrian Watkins for Watkins Brothers – Request for rezoning from AG to CG for approximately 6.25 acres to the west of subject property (now part of *Riverview Plaza* and part of *Riverbend Commercial Center*) – PC Recommended Approval 08/29/1977 and Town Board of Trustees Approved 09/19/1977 (Ord. # 336).

BZ-62 – Vernon L. Morgan – Request for rezoning from RS-1 to CG for approximately 1 acre to the north of subject property (now the *Kum & Go* gas station and the *KC Auto Repair* automobile repair business) – PC Recommended Approval 01/30/1978 and Town Board of Trustees Approved 08/07/1978 (Ord. # 361).

BZ-83 – Delcia G. Wilson – Request for CG, RMH, & RM-2 zoning for approximately 70 acres to the west of subject property – PC Recommended Approval and City Council Approved 04/07/1980 (Ord. # 390 Amended by Ord. # 536 01/14/1986).

BBOA-96 – Frank Clifton – Request for Special Exception to allow a horticultural nursery in a CS, RD, & OM district on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – BOA Approved 01/11/1982.

BZ-113 – R. C. Volentine – Request for rezoning from CS, RM-2, RD, & OM to IL for approximately 30 acres (includes, more or less, all of *Bixby Crossing* and all of *Knight Industrial Park*) to the south of subject property – PC Recommended Approval of the S. 15 acres (more or less, *Knight Industrial Park*) 01/25/1982 and City Council Approved the S. 15 acres 02/22/1982 (Ord. # 454).

BZ-123 – L.C. Neel – Request for rezoning from CS and CG to RM-3 for the east approximately 9.5 acres of a reportedly 11.5883-acre original tract abutting subject property

to the south and east for apartments – PC Recommended Approval 09/27/1982 and City Council Approved 11/01/1982 (Ord. # 467).

BZ-129 – Watkins Sand Co., Inc. – Request for rezoning from RS-1 to CG for approximately 1.25 acres to the northwest of subject property (now part of *Riverview Plaza*) – PC Recommended Approval 01/31/1982 and City Council Approved 02/07/1983 (Ord. # 472).

BBOA-142 – Ray A. Bliss for Watkins Sand Co., Inc. – Request for Special Exception to allow a horticultural nursery in a CG district on approximately 1.25 acres to the northwest of subject property (now part of *Riverview Plaza*) – BOA Conditionally Approved 02/18/1985 per case notes.

BZ-176 – L.C. Neel – Request for rezoning from RM-3 to CG for a strip of land containing approximately 0.4 acres to the south of subject property – PC Recommended Approval 08/25/1986 and City Council Approved 09/23/1986 (Ord. # 543).

BBOA-209 – Wilson Memorial Properties – Request for Variance from the 26' maximum building height to 30' to permit construction of the *Daily Family YMCA of Bixby* on property to the west of subject property (platted/replatted as *Bixby YMCA*) – BOA Approved 01/03/1989 per case notes.

BBOA-222 – Dale Isgrigg for Bixby YMCA – Request for Variance of the 170 parking spaces to 87 for the *Daily Family YMCA of Bixby* on property to the west of subject property in the *Bixby YMCA* subdivision – BOA Approved 12/04/1989 per case notes.

BBOA-247 – Helen L. Bartlett – Request for Special Exception to allow a "community service cultural & recreational facilities (softball fields)" in a RD & RM-2 district on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – BOA Approved 02/04/1992 per case notes.

BBOA-253 – Jack Selby – Request for Variance of the 600 square foot maximum floor area for detached accessory building in the RS-1 district to permit the existing 720 square foot accessory building for property located to the east/north of subject property at 8300 E. 133rd St. S., Lot 1, Block 3, *Gardenview Addition* – BOA Approved 07/06/1992 per case notes.

BBOA-254/BBOA-254a – Tim Terral of Pittman, Poe and Associates, Inc. for Lorice T. Wallace – Request for Special Exception to allow a Use Unit 5 golf course in an AG district on 145.1 acres to the southwest of subject property (see PUD 13/13A) – BOA Approved Revised Application 01/04/1993 per case notes.

PUD 13/13A / BZ-201/201A – "River Oaks" – Pittman, Poe and Associates, Inc. – City of Bixby applications (part of the overall 278-acre, dual-jurisdiction PUD for "River Oaks," a golf and residential development, with the Bixby portion containing approximately 215 acres) requesting RS-1 and AG zoning and then RS-1 and CS zoning and PUD approval for approximately 215 acres to the southwest of subject property – Approved for RS-1 and AG zoning in January, 1993 (Ord. # 681 and # 682) and then re-approved for RS-1 and CS zoning, removing the part that became the Fry Creek Channel and zoning the same AG, in June, 1994 (Ord. # 703 and # 704).

BBOA-298 – Carl C. Jensen – Request for Special Exception to allow a Use Unit 17 used auto sales in a CS district on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – BOA Approved 05/01/1995, but owner found another site and BOA removed the S.E. 07/03/1995.

BBOA-327 – Ted Hill / Jay Ward – Request for Variance from the 100' lot width requirement in the CG district for Lot 1, Block 2, *Riverbend Commercial Center* (13402 and

13404 S. Memorial Dr.) to the west of subject property to allow for Lot-Split – BOA Approved 04/07/1997 per case notes.
BBOA-401 – Riverview Missionary Baptist Church – Request for Special Exception to allow a Use Unit 5 church use in the RM-3 district for approximately 5 acres abutting subject property to the south – BOA Approved 04/07/2003.
BBOA-408 – Abbas Momeni – Request for Variance from a ground sign setback requirement for the *Car Country* used automobile sales lot at 13288 S. Memorial Dr. to the west of subject property – BOA Approved 09/02/2003.
BBOA-424 – Gary Fleener for Yale 31 Corporation – Request for Special Exception for a Use Unit 5 preschool/daycare center in an RS-1 district for property located to the northwest of subject property at 13164 S. Memorial Dr. – BOA Approved 07/13/2004.
PUD 49 – "Bixby Crossing" – Sack & Associates, Inc. – Request for PUD supplemental zoning approval on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*, then the *Clifton Industrial Park*) – PC Recommended Approval 03/20/2006 and City Council Approved 04/10/2006 (Ord. # 938).
BBOA-446 – Sack & Associates, Inc. – Request for Variance to Section 11-9-17D, parking requirements for ministorage area on approximately 15 acres to the south of subject property (includes, more or less; all of *Bixby Crossing*) – Approved by BOA 09/05/2006.

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property contains approximately 4 acres and is zoned RS-1 Residential Single-Family District, with the south approximately 65' or 66' zoned CG General Commercial District. It is used as the *Riverview Missionary Baptist Church.* Until some time in the past few months, the Tulsa County Assessor's parcel records reflected that it was composed of three (3) parcels, but now the records reflect a singular parcel. It is composed of all of the Reserve in *Gardenview Addition* a/k/a The W. 305' of the S/2 NW/4 NW/4 Less and Except right-of-way, and also part of the N. 65' of the NW/4 SW/4 NW/4, all in Section 12, T17N, R13E. The church also owns the approximately 4-acre tract abutting to the south zoned RM-3, and the first four (4) houses on the south side of 133rd St. S. to the east of the church itself.

Staff found no zoning approval records. However, the plat of *Gardenview Addition*, recorded 09/19/1955, reflects the existence at that time of a small "CONC. BLOCK CHURCH," two (2) other small, 1-story frame buildings, and a 1-story frame residence. Further, the Tulsa County Assessor's parcel data reflects that the church was constructed in 1972. Since there was a church on the property in 1955 and the County records reflect the church was built in 1972, this suggests that the 1972 date reflects (a) certain expansion(s) to the existing church campus. Bixby's basic Zoning Ordinance was adopted in 1974, and so it would appear that the church and its expansion(s) may predate the requirement of the Zoning Code for a Special Exception when permitted in an RS residential district.

The church has three (3) driveway connections to Memorial Dr. On the north side of the middle one is the church's one (1) ground sign, at approximately 20' in height. This pole-mounted ground sign has identification (ID) signage at the top and a static/conventional

changeable letter/message board underneath. This application pertains to the replacement of the signage on this ground sign structure.

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:

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

Nature of Variance. The church would like to replace the signage on the existing pole with a new ID sign, 2' X 12', to read "Riverview Baptist Church," and the static/conventional changeable letter/message board with a 5' 11" X 12' LED / Electronic Message Center (EMC).

Zoning Code Section 11-7B-3.B.4.a and .b provide:

"4. Signs:

a. One bulletin board may be erected on each street frontage of any educational, religious, institutional or similar use requiring announcement of its activities. The bulletin board shall not exceed thirty two (32) square feet in surface area, nor twenty feet (20') in height, and illumination, if any, shall be by constant light.

b. One identification sign may be erected on each perimeter street frontage of a multi-family development, mobile home park, single-family subdivision or permitted nonresidential use. The sign shall not exceed two-tenths ($^2/_{10}$) of a square foot of display surface area per linear foot of street frontage; provided, however, that in no event shall the sign be restricted to less than thirty two (32) square feet nor permitted to exceed ten (10) square feet of display surface area. The sign shall not exceed twenty feet (20') in height, and illumination, if any, shall be by constant light."

The church, being (a) a religious use and (b) a permitted nonresidential use by virtue of being legally nonconforming ("grandfathered") in an RS residential zoning district, is permitted both the ID sign and the LED/electronic EMC changeable message board sign. The 20' height would comply with the maximum restriction for the same. The ID sign would comply with the maximum display surface area restriction (note the 10 square feet and 32 square feet minimum/maximum are interpreted as inverted, so 32 square feet is the maximum). At 71 square feet, the LED changeable message sign would exceed the maximum display surface area allowable.

By this application, the Applicant is requesting a Variance from this maximum display surface area restriction.

Zoning Code Sections 11-7B-3.B.4.a and .b provide, in part: "and illumination, if any, shall be by constant light." Similar language is found in Zoning Code Sections 11-7A-3.B.2, pertaining to permitted non-residential uses in the AG district.

This requires an interpretation be rendered as concerns the use of Electronic / LED lighting within the changeable message board element.

Recognizing that, in era in which that text was written (1960s and early 1970s usually), LED technology was not used for signage applications, Staff understands the original intent was for the internally-illuminated signs (plastic-faced signs with a light bulb inside) not to have a 'blinking' function, or external lights cast up (or down) on the sign to be constant.

The principal signage regulations of the Bixby Zoning Code (11-9-21) used to have language that, although it may not have anticipated LED/Electronic signage technology, appeared to have been written broadly enough to proscribe it. It used to read (11-9-21.C.2):

"2. All signs shall be of a constant light. No flashing or intermittent type of lighted signs are allowed."

Prior to 2008, Staff considered that LED / Electronic signs were in fact not of constant light, by necessary function of the technology which relies on turning individual or clusters of Light Emitting Diodes on and off in order to change the imagery and message. Staff observed also that such LED signs may be programmed to flash or be turned on/off, in whole or in part, intermittently. Staff did not consider LED signs to comply with the Zoning Code restriction cited immediately above.

However, the City Council removed that restriction by ordinance around June 2008. The Council specifically expressed that, if a business owner can afford an LED sign, they should be allowed to have one. This clear legislative intent should carry through to permitted non-residential uses in the AG and RS districts.

The "illumination" and "constant light / no flashing or intermittent" provisions are different, apparently intentionally so, and appear to be pointing to two (2) different things. The "illumination" standard remaining in the AG district appears to point to the illumination of the whole sign face, internally or externally by casting light up or down on the sign face.

For all the reasons listed above, Staff does not interpret the "and illumination, if any, shall be by constant light." as restricting LED / Electronic message boards in the RS or AG districts, or in other districts in which that "illumination" language remains.

However, this interpretation is fairly debatable, and so the "Variance from certain signage restrictions" language of this Variance, if required, may be applied to this Electronic / LED format element of the proposed sign.

Both Variance request elements are inextricably related with a common nexus: The proposal to replace the existing changeable message board sign with a new Electronic / LED EMC sign in excess of the maximum display surface area restriction. Further, the different Zoning Code

regulations from which the Variance has been requested all operate to a singular effect: the prohibition of same as currently proposed. Therefore, this report will not divide the separate Variance components into different report sections, except where possible and appropriate.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The Applicant claims that the subject property and its *Condition or Situation is Peculiar, Extraordinary, and/or Exceptional* by stating "Building predates current Zoning Code."

The provided argument does not appear to correspond to the question asked. Information is not available to document when the existing sign was constructed. However, Staff cannot conceive a rational argument for the new expansion of the existing sign based on the age of the sign itself. The Zoning Code is designed to allow for the abatement of nonconformities by attrition, and does not condone the creation of new nonconformities.

Further, as the area case history documents, this section of Memorial Dr. between 131st St. S. and Washington Irving Memorial Park & Arboretum has consistently seen commercial development and redevelopment for the past several decades. The subject property is the only RS-1 district fronting on the east side of Memorial Dr. in this area, and its scale (height and mass on the subject property) are more consistent with high intensity and commercial use. The other RS-1 district fronting on the west side of Memorial Dr., located to the northwest of the subject property at 13164 S. Memorial Dr., was approved for a Special Exception to allow a preschool/daycare business in 2004 per BBOA-424. The church on the subject property had, or still has, a children's daycare facility, a commercial use, presumably extending property use throughout six (6) or seven (7) days of the week. Thus, the allowance of a somewhat larger sign that is more consistent with commercial use would seem relatively appropriate for the property.

At four (4) acres in size, the subject property is fairly large, and is the second-largest developed parcel fronting on Memorial Dr. south of 131st St. S. to Washington Irving Memorial Park & Arboretum (the largest being *Self Storage Depot*). The subject property also has almost 700' of frontage on Memorial Dr., which is the most of any developed parcel within said area.

Recognizing the church has been on the subject property since at least 1955, is only permitted one (1) ground sign that is fairly restricted as to display surface area in relation to the surrounding area, which has overwhelmingly been zoned/rezoned and developed/redeveloped in a commercial nature since, that the property could qualify for commercial zoning, and then be allowed more signage than is presently proposed, and for the other reasons set forth herein, Staff believes that the Application substantially meets the *Peculiar, Extraordinary, or Exceptional Conditions or Circumstances* test and standard.

Unnecessary Hardship. The Applicant claims that an unnecessary hardship would be caused by the literal enforcement of the Zoning Code because "Zoning restrictions cause proposed signage [to be] unallowed."

As it would appear to relate to this test and standard, the supplemental narrative provides, "As many know, the church relies on [its] population to succeed, and allowing this exception can assist the church by using signage to gain more members, use an affordable form of advertising

for upcoming events, promote community awareness, and contribute to the beautification of Memorial Drive."

As claimed by the Applicant, the restriction from exceeding the maximum display surface area could be considered an *Unnecessary Hardship*.

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 "The signage will not be visible in the Residential area and will contribute to the attractiveness to Memorial Drive."

Based on aerial GIS data, it appears that the sign, perpendicular to Memorial Dr., would have sight lines extending to some of the houses in *Gardenview Addition* and *Henry Fergeson Addition* to the northeast.

Signage spacing, height, and display surface area restrictions are generally imposed to help maintain the aesthetic quality of the City's commercial corridors, and also operates to ensure all businesses enjoy appropriate visibility, uncluttered by excessive signage from neighboring properties. It is counterintuitive to argue that a larger sign here will "contribute to the attractiveness to Memorial Drive."

As it would appear to relate to this test and standard, the supplemental narrative provides, "The proposed signage is the exact size of three signs currently located on Memorial Drive within two miles of the church building. As many know, the church relies on [its] population to succeed, and allowing this exception can assist the church by using signage to gain more members, use an affordable form of advertising for upcoming events, promote community awareness, and contribute to the beautification of Memorial Drive."

The narrative does not specify what signs are referenced, but the provided attachments include narrated photos the *The Boardwalk on Memorial* shopping center's new sign at 12345 S. Memorial Dr. and the *BTC Broadband* sign at 11134 S. Memorial Dr., both of which are zoned CS commercial.

The Comprehensive Plan designates the subject property as Medium Intensity + Commercial Area. Surrounding zoning patterns are primarily CG and CS to the north, northwest, west, southwest, and south, along both sides of Memorial Dr. It is reasonable to surmise that an application to rezone the property to Commercial would be successful, provided a PUD was also imposed to help mitigate future redevelopment's effects on the residential properties to the east. If zoned Commercial, the display surface area restrictions in place here would not be an issue, and multiple ground signs would be permitted, larger, and with more display surface area.

See also the argument under the *Peculiar, Extraordinary, or Exceptional Conditions or Circumstances* section describing the church's situation in an RS-1 district surrounded by commercial zoning and land use, and the size and frontage of the subject property lot.

Therefore, 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.*

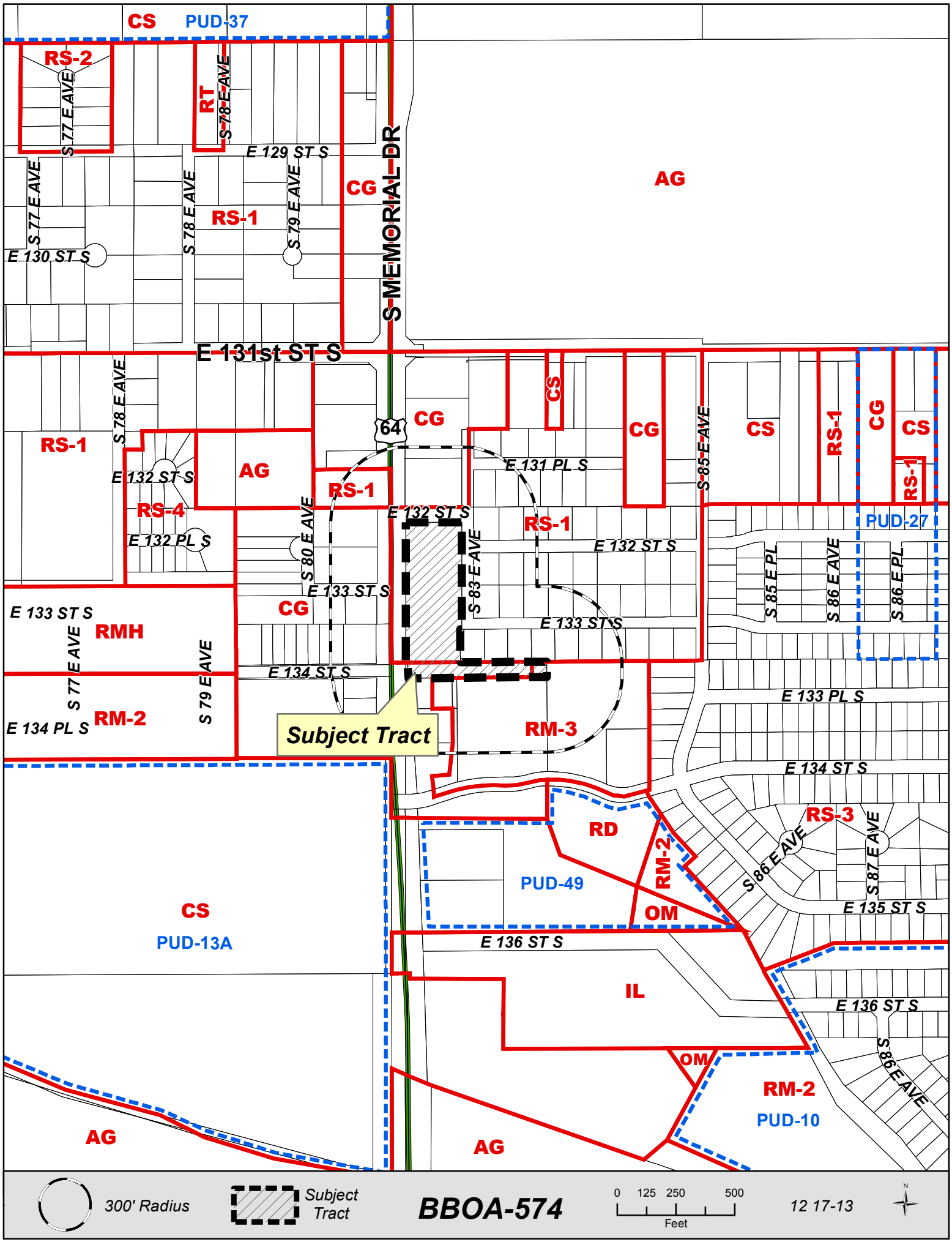
Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the *Minimum Necessary to Alleviate the Unnecessary Hardship* because "Adequate signage will attract more church members and raise community awareness."

The provided argument does not appear to correspond to the question asked.

As it would appear to relate to this test and standard, the supplemental narrative provides, "The proposed signage is the exact size of three signs currently located on Memorial Drive within two miles of the church building."

Recognizing the Applicant proposes a 71 square foot Electronic / LED EMC, precisely 39 square feet more than the 32 square feet allowed, a Variance of 39 square feet would appear to be the *Minimum Necessary to Alleviate the Unnecessary Hardship*, should hardship be determined.

Staff Recommendation. 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, and recommends Approval.



300' Radius

Subject Tract

BBOA-574

0 125 250 500
Feet

12 17-13

City of Bixby
Board of Adjustment Application

Applicant: Riverview Missonary Baptist Church Inc.
Address: 13201 S. Memorial Drive
Telephone: 918-369-2055 *Cell Phone:* N/A *Email:* john.filbeck@riverview-church.org

Property Owner: John Filbeck If different from Applicant, does owner consent? ____
Property Address: 13201 S. Memorial Drive
Existing Zoning: RS1 *Existing Use:* _____ *Use Unit #:* 5
Proposed Use: Signage

LEGAL DESCRIPTION (If unplatted, attach a survey with legal description or copy of deed):

Please See attached

Does Record Owner consent to the filing of this application? ☒ YES ☐ NO

If Applicant is other than Owner, indicate interest: _____

Is subject tract located in the 100 year floodplain? ☐ YES ☐ NO

Application for: ☒ Variance ☐ Special Exception ☐ Appeal ☐ Interpretation

SET OUT BELOW THE SPECIFICS OF YOUR APPLICATION. WHERE APPLICABLE, INDICATE PERTINENT ORDINANCES, PROVISIONS, USES, DISTANCES, DIMENSIONS, ETC. YOU SHOULD ATTACH ANY PLOT PLANS, PHOTOGRAPHS, AND OTHER FACTUAL INFORMATION WHICH WILL ASSIST THE BOARD IN DETERMINING THE MERIT OF YOUR APPLICATION:

APPLICANTS FOR VARIANCE COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

a. Why would the literal enforcement of the Zoning Code create an unnecessary hardship?
zoning restrictions cause proposed signage unallowed.

b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?
Building predates current zoning code.

c. Explain why the granting of a variance will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Zoning Code or Comprehensive Plan.
The signage will not be visable in the Residential area and will contribute to the attractiveness to Memorial Drive.

d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.
Adequate signage will attract more church members and raise community awareness.

City of Bixby
Board of Adjustment Application

APPLICANTS FOR A SPECIAL EXCEPTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the Special Exception and the Use Unit for the Special Exception as indicated in the Bixby Zoning Code. Explain why the Special Exception will be in harmony with the spirit and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Please See attached.

APPLICANTS MAKING AN APPEAL OF A BUILDING OFFICIAL ACTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the appeal in detail:

APPLICANTS REQUESTING AN INTERPRETATION OF THE ZONING CODE OR MAP COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the request in detail:

BILL ADVERTISING CHARGES TO: John Filbeck (NAME)

13201 S. Memorial Drive (ADDRESS) Bixby (CITY) 918-369-2055 (PHONE)

I do hereby certify that the information submitted herein is complete, true and accurate:

Signature: [signature] Date: 2-26-13

APPLICANT – DO NOT WRITE BELOW THIS LINE

BBOA-574 Date Received 02/27/2013 Received By Enyart Receipt # 01051360
Board of Adjustment Date 04/01/2013

1 Sign(s) at $ 50.00 each = $ 50.00; Postage $ —; Total Sign + postage $ 50.00

FEES: Variance $75.00 or Special Exception $100.00 or Appeal/Interpretation $25.00 BASE FEE = $75.00 + ADD. $50 = TOTAL $125.00

BOA Action: Conditions:

Date: Roll Call:
Staff Rec.

Last revised 11/08/2012 Page 2 of 2

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RIVERVIEW
BAPTIST CHURCH

Legal Description of property of Riverview Baptist Church

The west 305 feet of the south half of the NW1/4 of the NW1/4 of Section 12, Township 17 North, Range 13 East of the Indian Base and Meridian, less the North 60 feet and less the West 65 feet thereof and less the East 4 feet of the South 140 feet thereof, in Tulsa County, State of Oklahoma.

The South Half (S1/2) of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section 12 (twelve), Township 17 North, Range 13 East.

RIVERVIEW
BAPTIST CHURCH

Riverview Baptist Church located in Use Unit #5 is proposing a Special Exception in regards to the signage regulations instated for the Single Family Residential requirements. You can find the attached listing from the Tulsa County Assessor's records showing that the parcel data reflects that the church was constructed in 1972, and Bixby's basic Zoning Ordinance was adopted in 1974, and so it would appear that the church may predate the requirement of the Zoning Code for a Special Exception when permitted in an RS residential district. The Special Exception that is being proposed is to exceed the amount of square footage allowable for the existing code in regards to bulletin board codes. The proposed signage is the exact size of three signs currently located on Memorial Drive within two miles of the church building. As many know, the church relies on it's population to succeed, and allowing this exception can assist the church by using signage to gain more members, use an affordable form of advertising for upcoming events, promote community awareness, and contribute to the beautification of Memorial Drive.

20' Overall Height NOW

Total Square Footage Now

40'+32'+25'= 97'

Existing Sign Measurements
Remove all

20' Overall Height AFTER

2' x 12' **Main ID Lighted Cabinet**
High-outup lamps / ballast

Daktronics: 20mm RGB LED
Double Sided: 5'11" x 12'

Pole Cover staying the same

Drawing for Permit

Need Permit: LED & New Main ID

71' + 24' = 95'

CROWN Neon Signs
5676 S 107th E Ave
Tulsa,Ok 74146

Client:
Riverview Baptist Church

Project: New Pole Sign with Daktronics 20mm RGB

Location: 13201 S. Memorial
Bixby, OK 74005

Date: 02/12/2013
Revised:

Designed By: David

Over 30 Years

AUTHORIZED SIGNATURE & DATE

X: Where existing sign is location
X: We are using same foundation and pole for NEW SIGNAGE

CROWN Neon Signs
5676 S 107th E Ave
Tulsa,Ok 74146

Client:

Riverview Baptist Church

Project: New Pole Sign with Daktronics 20mm RGB

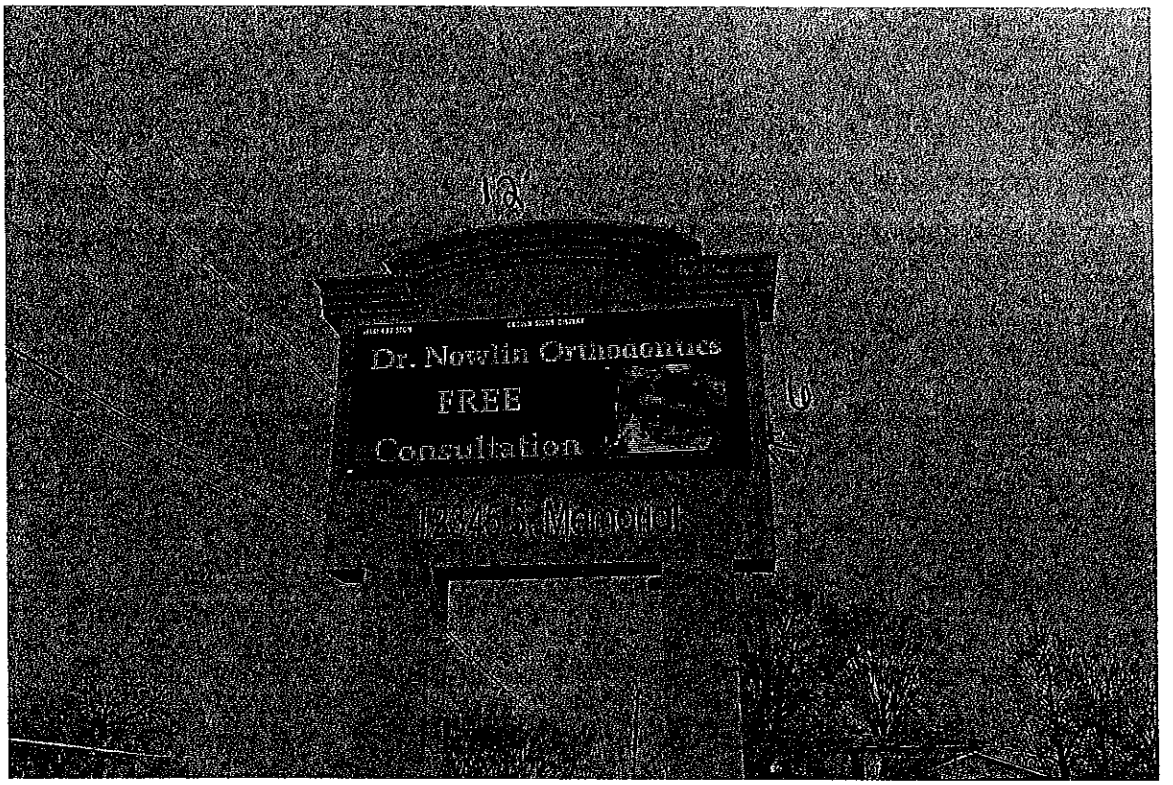
Location: 13201 S. Memorial
Bixby, OK 74005

Date: 02/12/2013
Revised:

Designed By: David

Over 30 Years

AUTHORIZED SIGNATURE & DATE



Existing signs within 1 mile of Riverview Baptist Church with dimensions equal or greater than Riverview's proposed signage.

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Erik Enyart

From: Erik Enyart
Sent: Wednesday, February 13, 2013 2:12 PM
To: 'crownsignspics@gmail.com'; 'Jill'
Cc: 'Donna'
Subject: FW: Riverview Baptist Chuch
Attachments: riverview permit drawing 2-13-13.pdf; Riverview Permit.pdf; Riverview Site Plan.pdf

Hi Jill:

Thank you for this information. I understand the new sign will replace the existing sign in the same location, and will utilize the existing pole support structure. It will have an ID sign at the top with LED/electronic EMC changeable message board sign underneath. The property is zoned RS single family residential. The church is a Use Unit 5 use, which is allowed in the RS districts by Special Exception. I didn't find any zoning approval records, but the Tulsa County Assessor's parcel data reflects that the church was constructed in 1972, and Bixby's basic Zoning Ordinance was adopted in 1974, and so it would appear that the church may predate the requirement of the Zoning Code for a Special Exception when permitted in an RS residential district.

Zoning Code Section 11-7B-3.B.4.a and .b provide:

"4. Signs:

a. One bulletin board may be erected on each street frontage of any educational, religious, institutional or similar use requiring announcement of its activities. The bulletin board shall not exceed thirty two (32) square feet in surface area, nor twenty feet (20') in height, and illumination, if any, shall be by constant light.

b. One identification sign may be erected on each perimeter street frontage of a multi-family development, mobile home park, single-family subdivision or permitted nonresidential use. The sign shall not exceed two-tenths ($^2/_{10}$) of a square foot of display surface area per linear foot of street frontage; provided, however, that in no event shall the sign be restricted to less than thirty two (32) square feet nor permitted to exceed ten (10) square feet of display surface area. The sign shall not exceed twenty feet (20') in height, and illumination, if any, shall be by constant light."

The church, being a (a) religious use and (b) a permitted nonresidential use by virtue of being legally nonconforming ("grandfathered") in an RS residential zoning district, is permitted both the ID sign and the LED/electronic EMC changeable message board sign. The 20' height would comply with the maximum for the same. The ID sign would comply with the maximum display surface area restriction (note the 10 square feet and 32 square feet minimum/maximum are interpreted as inverted, so 32 square feet is the maximum). At 71 square feet, the LED changeable message sign would exceed the maximum display surface area allowable.

If the church reduces the EMC changeable message board to not exceed 32 square feet, it can be permitted, but a site plan will be required. The site plan must represent the lot of record, be to scale and dimensioned, and demonstrate that the existing/proposed pole sign location is fully within the property lines, and not within any easement of record.

Thanks, and please call or email if you have any questions or need additional information.

Copy: Community Development Coordinator Donna Crawford

Erik Enyart, AICP, City Planner
City of Bixby, PO Box 70
Bixby, OK 74008

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Ph. (918) 366-0427
Fax (918) 366-4416
eenyart@bixby.com
www.bixby.com

From: crownsignspics@gmail.com [mailto:crownsignspics@gmail.com] **On Behalf Of** Jill Blankenship
Sent: Wednesday, February 13, 2013 10:28 AM
To: Erik Enyart
Subject: Riverview Baptist Chuch

Hi Erik,

As per our phone conversation, I have attached the requested documents. Please let me know if there is anything else you may need. I am having my customer look for their legal site survey. Thank you!!

--
Thanks,
Jill Blankenship
Crown Neon Signs
O:918-872-8425
F:918-872-8426
jill@crownneonsigns.com

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2013.0.2897 / Virus Database: 2639/6098 - Release Date: 02/11/13

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CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

STAFF REPORT

To: Bixby Board of Adjustment

From: Erik Enyart, AICP, City Planner

Date: Wednesday, March 27, 2013

RE: Report and Recommendations for:
BBOA-575 – Blake Fugett

LOCATION: – Part of the E/2 SW/4 of Section 22, T17N, R13E
– 5257 E. 161st St. S.

LOT SIZE: 1.2 acres, more or less

ZONING: RE Residential Estate District

REQUEST: Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 40.25' X 60.25' (2,425) square foot accessory building in the rear yard for property in the RE Residential Estate District

SURROUNDING ZONING AND LAND USE: RE & AG; Vacant and agricultural with rural residential to the northwest along 161st St. S. and Braden Ave. zoned AG in unincorporated Tulsa County

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES: (not a complete list)
BZ-120 – Calvin Tinney – Request for rezoning from AG to RS-3 for the E/2 of the SW/4 of this Section (80 acres) (including subject property) – PC Recommended Approval 08/30/1982 and City Council Approved 09/07/1982 (Ord. # 460).

BZ-126 – Georgina B. Landman, attorney (not representing property owner) – Request for rezoning from RS-3 to RS-1 for the E/2 of the SW/4 of this Section (80 acres) (including subject property) – PC Recommended Approval 12/27/1982 and City Council Denied 01/03/1983 per case notes.

BZ-181 – W.S. Atherton – Request for rezoning from AG & RS-3 to CG, RM-3, and RE for approximately 240 acres (including subject property) for a future (but never built) "Atherton Farms Equestrian Estates" residential subdivision – City Council Approved 06/23/1987 (Ord. # 562).

BBOA-190 – W.S. Atherton – Request for "Use Variance" to allow the keeping of horses on individual lots as an accessory use for approximately 240 acres (including subject property) for a future (but never built) "Atherton Farms Equestrian Estates" residential subdivision – BOA Approved 07/13/1987.

PUD 20 – Atherton Farms Equestrian Estates – Phillip Faubert – Request for rezoning from AG & RS-3 to CG, RM-3, and RE for approximately 240 acres (including subject property) for a future (but never built) "Atherton Farms Equestrian Estates" residential subdivision – Recommended for Approval by PC 01/20/1998. However, this case was evidently never presented to the City Council, as it did not appear on any agenda from January 26, 1998 to April 27, 1998, no Ordinance was found relating to it, and there are no notes in the case file suggesting it ever went to City Council. Further, PUD 20 does not exist on the official Zoning Map. An undated application signed by Phillip Faubert from circa March, 2001 was found in the case file requesting to "rescind PUD 20," but no records or notes were found to determine the eventual disposition of this request, if any.

BL-228 – Phillip Faubert – Request for Lot-Split to separate a 2.7-acre tract from 240 acres from balance of approximately 240 acres (including subject property) – PC Approved 03/16/1998 and City Council Approved 03/23/1998.

BL-279 – Wayne L. Haynes for the William and Ann Atherton Trust – Request for Lot-Split approval to separate subject property from the E/2 of the SW/4 of this Section (80 acres) – Application dated 07/01/2003 but no record of disposition or consideration by Staff or Planning Commission found – see BL-284.

BL-284 – Wayne L. Haynes – Request for Lot-Split approval to separate subject property from the E/2 of the SW/4 of this Section (80 acres) (same as BL-279) – Prior Approval date stamps on deeds dated 11/24/2003 but no record of disposition or consideration by Planning Commission found in calendar year 2003 or the first 2 months of calendar year 2004.

RELEVANT AREA CASE HISTORY: (not necessarily a complete list and does not include cases in unincorporated Tulsa County)

BZ-238 – W.S. Atherton – Request for rezoning from AG to RE for approximately 10 acres to the northeast of subject property for part of a future (but never built) "Atherton Farms Equestrian Estates" residential subdivision – City Council Approved 02/23/1998 (Ord. # 768).

BBOA-485 – Phillip Faubert – Request for Special Exception per Zoning Code Section 11-7D-2 Table 1 to allow a Use Unit 6 single-family dwelling and customary accessory structures in the CG district for a 2.7-acre tract to the northeast of subject property – BOA Approved 08/04/2008.

BBOA-486 – Phillip Faubert – Request for Variance from certain bulk and area requirements of Zoning Code Section 11-7D-4 Table 2, including, but not necessarily limited to: The setback from an abutting R district and the 100-foot minimum street

frontage requirement, to allow a Use Unit 6 single-family dwelling and customary accessory structures in the CG district for a 2.7-acre tract to the northeast of subject property – BOA Approved 08/04/2008.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property is an unplatted tract of approximately 1.2 acres, addressed 5257 E. 161st St. S., and Zoned RE. The parcel contains an existing house located just north of the lot centroid.

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:

1. Unnecessary Hardship.
2. Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
3. Finding of No Substantial Detriment or Impairment.
4. 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 40.25' X 60.25' (2,425 square foot) accessory storage building for property in the RE Residential Estate District.

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 ($^1/_4$) 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 RE residential zoning district and contains approximately 1.2 acres, the maximum allowable detached accessory building size is 892.8 square feet.

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 ¼ acre increment to the maximum of 2,400 square feet, which requires a lot containing slightly more than 3.25 acres.

This is the sixth 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*. 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). On October 01, 2012, the Board approved BBOA-568 – Roger O. Nunley, Jr., allowing allow a new 960 square foot addition to an existing 2,000 square foot accessory structure for property in the RS-1 District at 8703 E. 124th St. S. in *Southern Memorial Acres No. 2*. BBOA-572 – Spencer Thompson is pending consideration on this agenda.

Unnecessary Hardship. The Applicant claims that an *Unnecessary Hardship* would be caused by the literal enforcement of the Zoning Code because "It will create this due to weathering on my assets by forcing them outside such as boats, tractor & ATV since current codes to not permit room for such things." Elsewhere on the application form, the Applicant has further explained the need thus, "The use of the barn/shop will be for storage of two boats, one bobcat & a four wheeler. The building would match house & wouldn't be an eyesore."

The argument appears to be that the failure to be granted Variance would deprive the owner of the right to exceed the aggregate maximum floor area for an accessory building, and as a result, lack of proper shelter for (some amount of) relatively expensive personal property. Staff does not dispute that this claim is true, and may amount 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, "My property is in the country it butts up to a large undeveloped trac[t] of land. The nearest home is approximately 160 yds away."

The provided argument is self-explanatory.

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 "If granted the shop/barn will match home, it will also place current items inside away from public sight."

The provided 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 building is proposed to be constructed in the northwest corner of the lot. Compliance with the 40' rear yard setback requirement in the AG district has not been demonstrated on the provided information. The lot is highly visible from 161st St. S., due to the flat grade and lack of vegetation or development on surrounding parcels.

The unplatted subdivision, which may now or once have gone by the name "Tracts of [R]ayford Luker" or "Tracts of Raiford Luker," abuts to the west in the W/2 SW/4 of this Section in unincorporated Tulsa County. The rural residential tracts contained therein commonly contain approximately 2.5 acres apiece. Considering the size of the tracts and the rural setting, the houses do not appear to have a large number of accessory buildings, nor do the ones appearing in 2012 aerial imagery appear to be particularly large in size (1 ~30' X 40', 1 ~40' X 60' observed and estimated).

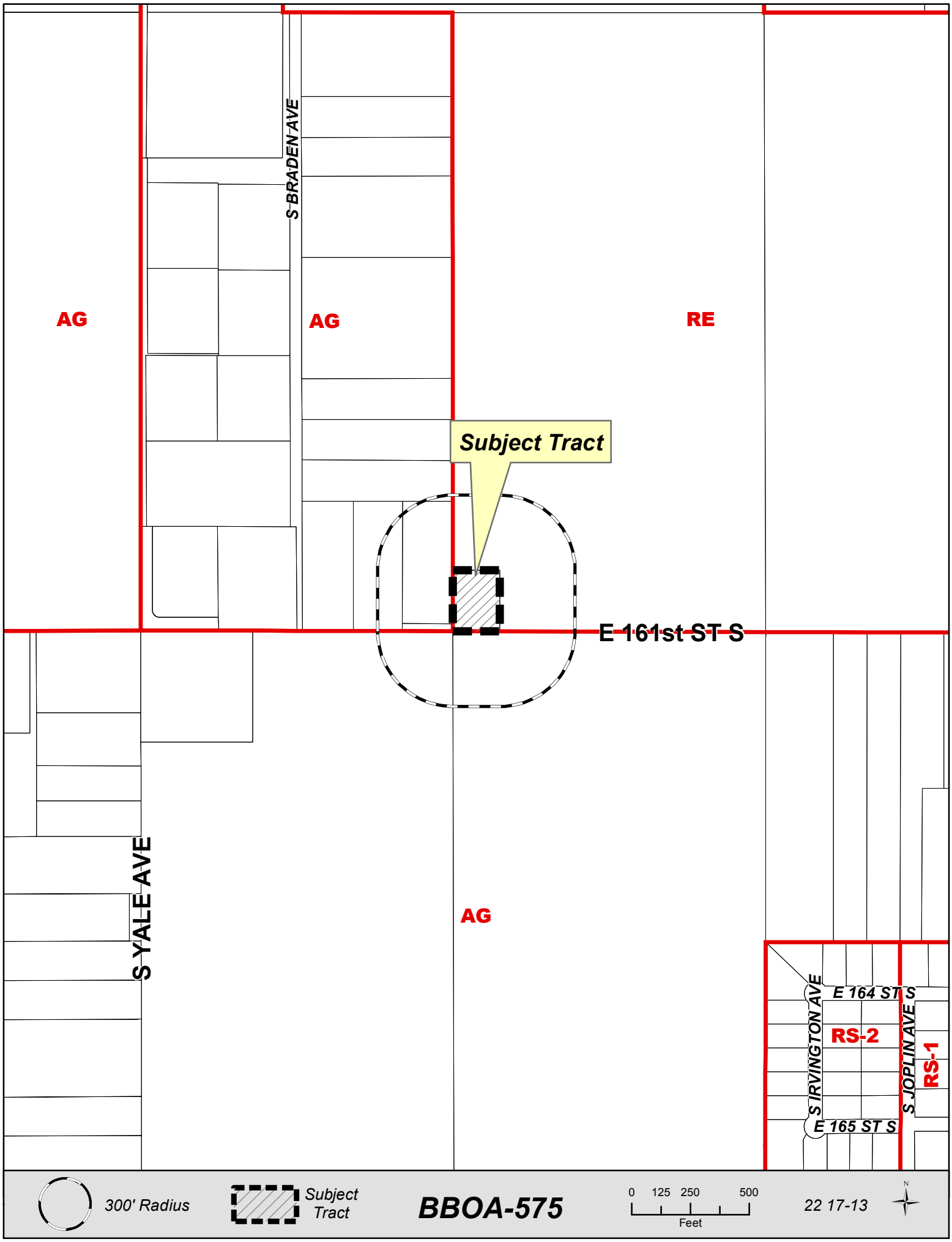
Approximately 239 acres abutting to the north and east are owned by W. S. & Delores Ann Atherton. Once planned for an equestrian-related residential subdivision, owners' representative has claimed that the land is not now, nor will it soon be scheduled for such development. When and if the land is developed, presumably at RE-densities/intensities, it is not known if accessory buildings will be proscribed or permitted, nor is it known how that area will relate to the subject property.

Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the *Minimum Necessary to Alleviate the Unnecessary Hardship* because "It would be the min. amount of storage needed to house all personal assets without causing depreciation due to weather, vand[a]lism & theft."

The provided argument is self-explanatory.

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 aggregate 2,425 square feet of accessory buildings, 2.7 times the 800 square foot maximum, 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 some of 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.


AG
AG
RE
S BRADEN AVE
Subject Tract
E 161st ST S
S YALE AVE
AG
E 164 ST S
RS-2
S IRVINGTON AVE
S JOPLIN AVE
RS-1
E 165 ST S
300' Radius
Subject Tract
BBOA-575
0 125 250 500
Feet
22 17-13
N

City of Bixby
Board of Adjustment Application

Applicant: Blake Fugett
Address: 5257 E 161st S Bixby, OK
Telephone: 364-5296 *Cell Phone:* 637-7484 *Email:* bfugett22@yahoo.co

Property Owner: _____ If different from Applicant, does owner consent? ____
Property Address: 5257 E 161st S Bixby
Existing Zoning: Res. *Existing Use:* Residential *Use Unit #:* _____
Proposed Use: To build a barn to place personal assets to prevent weather damage & burglary/theft

LEGAL DESCRIPTION (If unplatted, attach a survey with legal description or copy of deed):

Does Record Owner consent to the filing of this application? [✓] YES [ ] NO

If Applicant is other than Owner, indicate interest: _____

Is subject tract located in the 100 year floodplain? [ ] YES [✓] NO

Application for: [✓] Variance [ ] Special Exception [ ] Appeal [ ] Interpretation

SET OUT BELOW THE SPECIFICS OF YOUR APPLICATION. WHERE APPLICABLE, INDICATE PERTINENT ORDINANCES, PROVISIONS, USES, DISTANCES, DIMENSIONS, ETC. YOU SHOULD ATTACH ANY PLOT PLANS, PHOTOGRAPHS, AND OTHER FACTUAL INFORMATION WHICH WILL ASSIST THE BOARD IN DETERMINING THE MERIT OF YOUR APPLICATION:

APPLICANTS FOR VARIANCE COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

a. Why would the literal enforcement of the Zoning Code create an unnecessary hardship?
It will create this due to weathering on my assets by forcing them outside, such as boats, tractor & ATV since current codes do not permit room for such things

b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?
My property is in the country it butts up to a large undeveloped track of land. The nearest home is approximately 160 yds away.

c. Explain why the granting of a variance will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Zoning Code or Comprehensive Plan.
If granted the shop/barn will match home, it will also place current items inside away from public sight

d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.
It would be the min. amount of storage needed to house all personal assets without causing depreciation due to weather, vandelism & theft.

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City of Bixby
Board of Adjustment Application

APPLICANTS FOR A SPECIAL EXCEPTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the Special Exception and the Use Unit for the Special Exception as indicated in the Bixby Zoning Code. Explain why the Special Exception will be in harmony with the spirit and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The use of the barn/shop will be for storage of two boats, one bobcat & a four wheeler. The building would match house & wouldn't be an eye sore.

APPLICANTS MAKING AN APPEAL OF A BUILDING OFFICIAL ACTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the appeal in detail:

Nature of the appeal is to recieve permission to build barn/shop which exceeds the current 800 sq ft max.

APPLICANTS REQUESTING AN INTERPRETATION OF THE ZONING CODE OR MAP COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the request in detail:

BILL ADVERTISING CHARGES TO: Blake Fugett (NAME)

5257 E 161st S (ADDRESS) Bixby (CITY) 637-7484 (PHONE)

I do hereby certify that the information submitted herein is complete, true and accurate:

Signature: B Fugett Date: 3-1-13

APPLICANT – DO NOT WRITE BELOW THIS LINE

BBOA-575 Date Received 03/01/2013 Received By Enyart Receipt # 01051519

Board of Adjustment Date 04/01/2013

1 Sign(s) at $ 50.00 each = $ 50.00; Postage $ —; Total Sign + postage $ 50.00

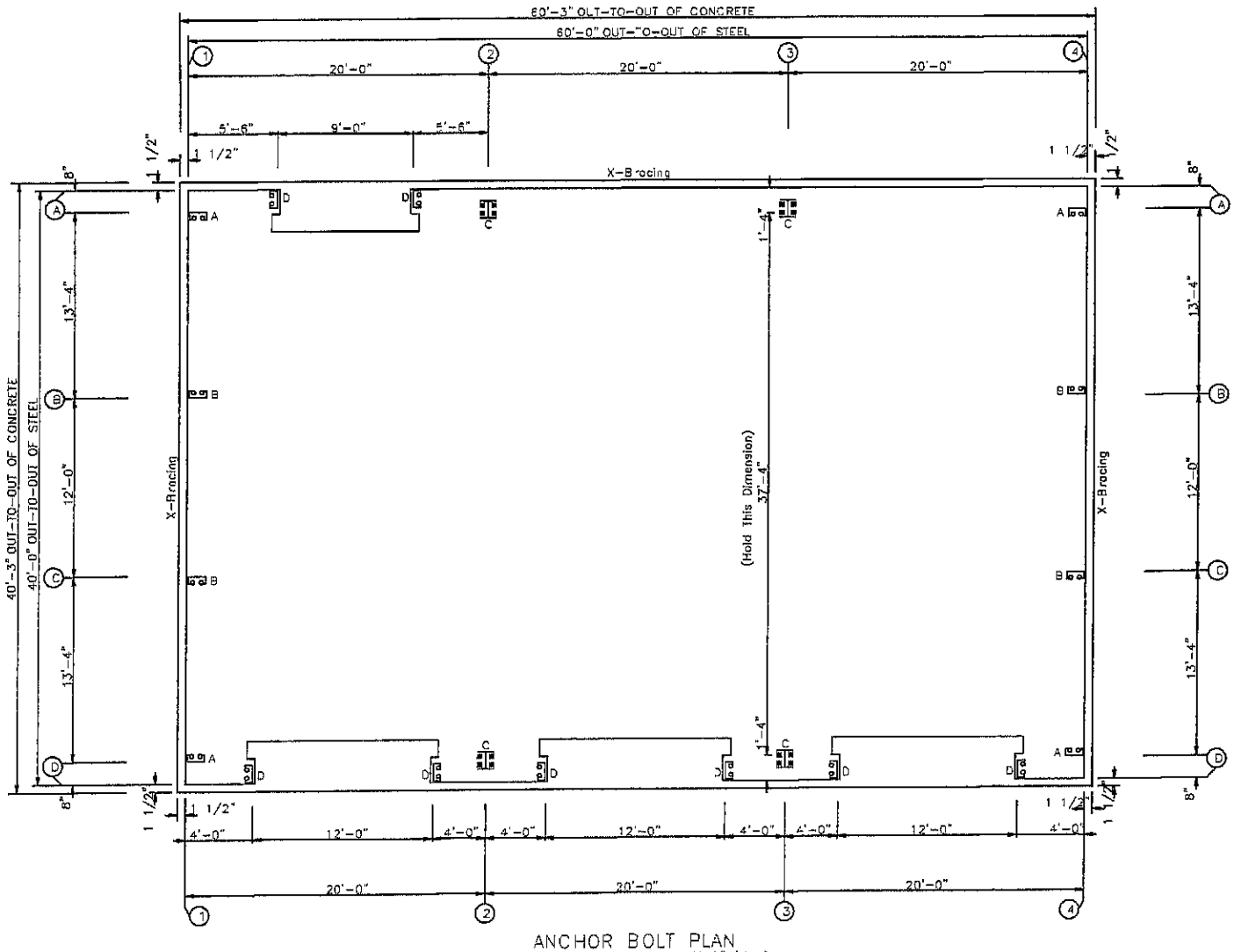
FEES: Variance $75.00 or Special Exception $100.00 or Appeal/Interpretation $25.00 BASE FEE $100.00 + ADD. 50 = TOTAL $150.00

BOA Action: Conditions:

Date: Roll Call:

Staff Rec.

70



ANCHOR BOLT PLAN

NOTE: All Base Plates @ 100'-0" (U.N.)

Wheeler Metals, Inc.				
PROJECT		ANCHOR BOLT PLAN		
ID	BlakeFugett0201	DESIGN:	DRAFT:	CHECK:
PROJECT ADDRESS		DATE: 2/ 1/13	SHEET	OF

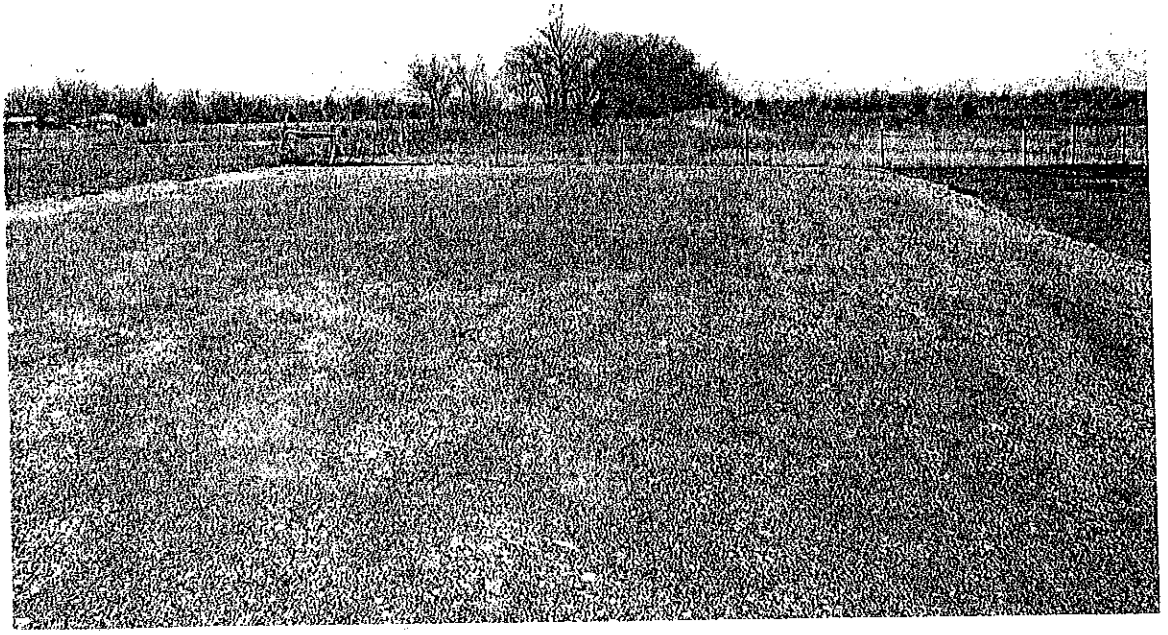
77

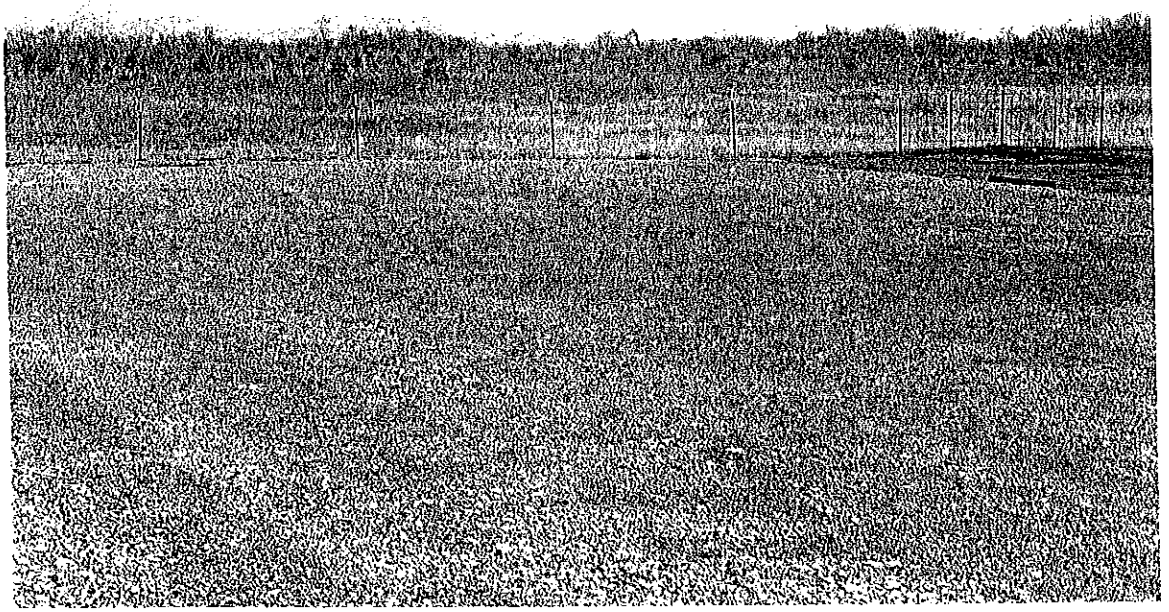
72

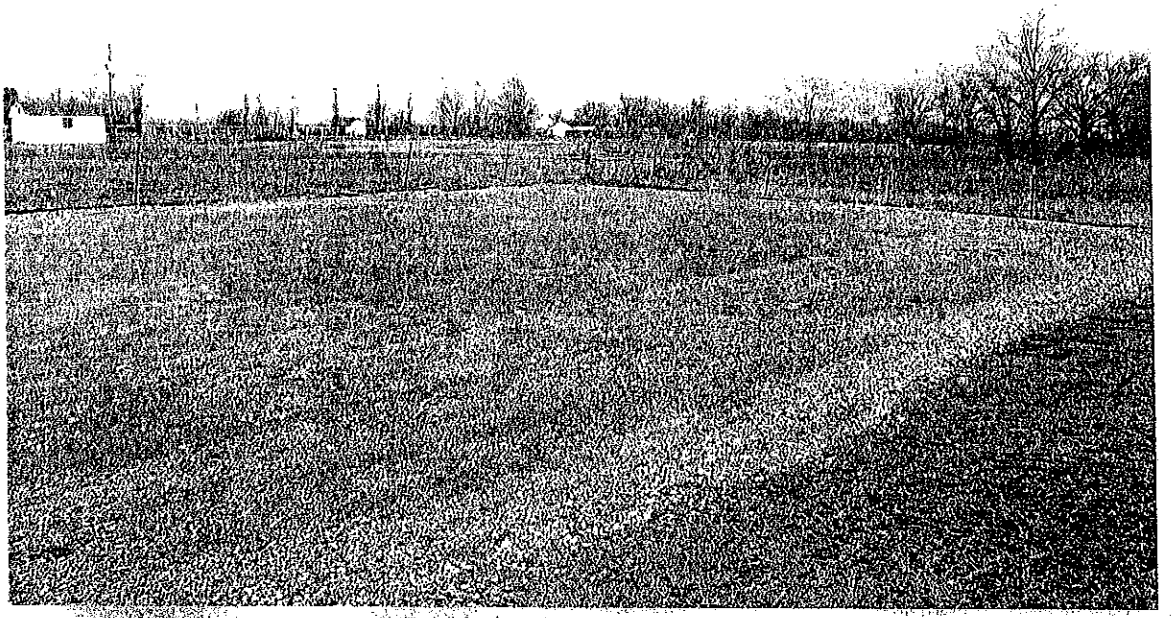
Google earth feet 1000 meters 300

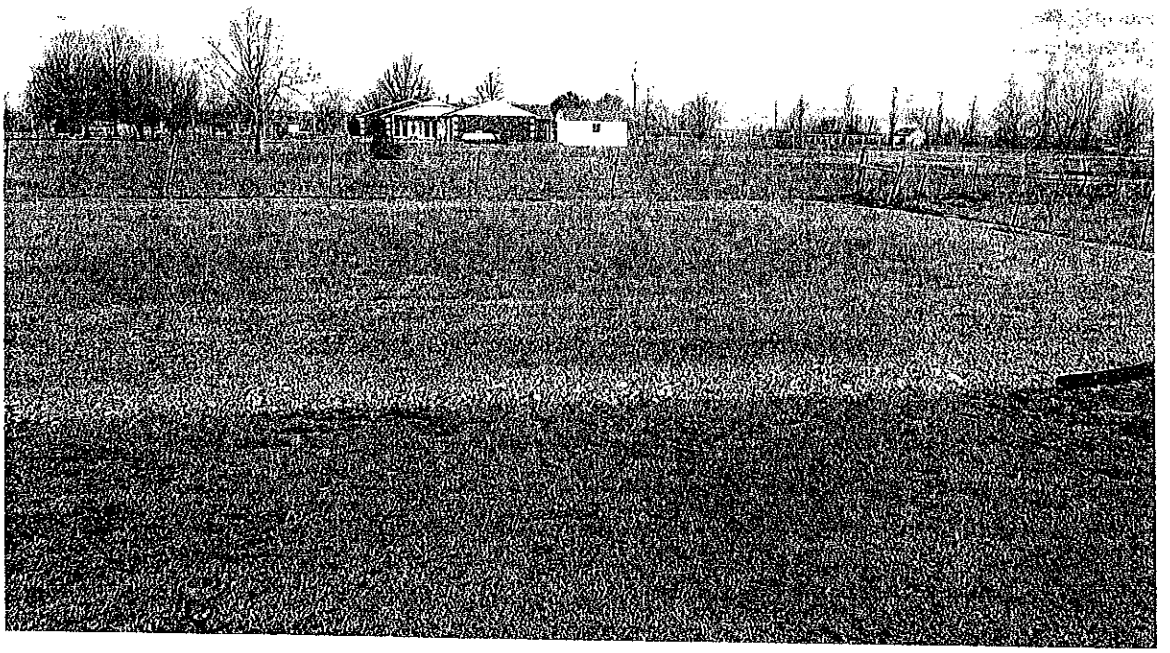
Property Line

Blacked out NW corner of property is where I would like to place the proposed building.









PLAT FOR LOT SPLIT

PREPARED BY

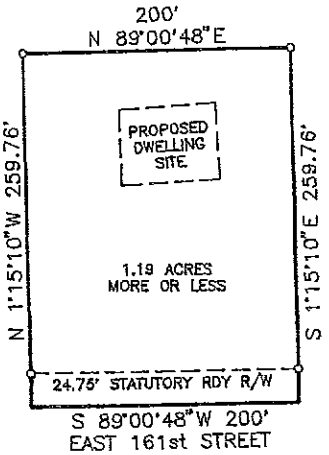
RAMSEY SURVEYING SERVICE
P.O. BOX 366
BIXBY, OKLAHOMA 74008
918 366 4520 FAX 918 366 4529
OKLAHOMA C. OF A. #2112
EXPIRES JUNE 30,2005

PREPARED FOR

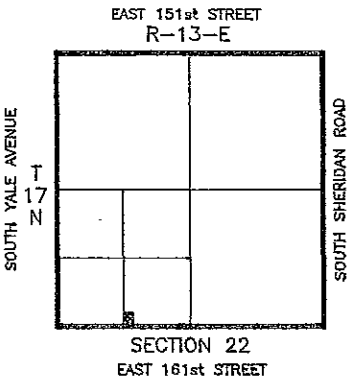
WAYNE HAYNES
918 633 5853
918 366 6961

NORTH

SCALE
1"=100'



LOCATION MAP



BL-279
+
BL-284

o – INDICATES IRON PIN IN PLACE ON THIS SURVEY

THIS PLAT OF SURVEY MEETS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED BY THE OKLAHOMA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

DESCRIPTION

A TRACT OF LAND LYING IN THE EAST HALF OF THE SOUTHWEST QUARTER (E/2 SW/4) OF SECTION 22, TOWNSHIP 17 NORTH, RANGE 13 EAST, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT;

BEGINNING AT THE SOUTHWEST CORNER OF SAID E/2, SW/4 SAID POINT BEING 1330.00 FEET EAST OF THE SOUTHWEST CORNER OF SAID SECTION 22, THENCE N1°15'10"W ALONG THE WEST LINE OF SAID E/2 SW/4 A DISTANCE OF 259.76 FEET, THENCE N 89° 00'48"E PARALLEL WITH THE SOUTH LINE OF SAID SW/4 A DISTANCE OF 200 FEET, THENCE S 1°15'10"E PARALLEL WITH WEST LINE OF SAID E/2 SW/4 A DISTANCE OF 259.76 FEET TO A POINT ON THE SOUTH LINE OF SAID SW/4, THENCE S 89°00'48"W ALONG SAID SOUTH LINE FOR 200 FEET TO THE POINT OF BEGINNING. CONTAINING 1.19 ACRES MORE OR LESS.

BEARINGS SHOWN ON THIS PLAT ARE RELATIVE TO OKLAHOMA STATE PLANE SYSTEM (OKLAHOMA NE)

CERTIFICATE

I, JACK D. RAMSEY A REGISTERED LAND SURVEYOR IN THE STATE OF OKLAHOMA DO HEREBY STATE THAT THE ABOVE PLAT IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY OF THE FOREGOING LEGAL DESCRIPTION PERFORMED UNDER MY DIRECT SUPERVISION.

WITNESS MY HAND AND SEAL THIS 1st DAY OF JULY 2003

23-06-163 (22-17-13)

JACK D. RAMSEY

REGISTERED PROFESSIONAL LAND SURVEYOR
JACK D. RAMSEY
387
OKLAHOMA

76

CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

STAFF REPORT

To: Bixby Board of Adjustment

From: Erik Enyart, AICP, City Planner

Date: Tuesday, March 26, 2013

RE: Report and Recommendations for:
BBOA-576 – Jack Selby for the Bixby Rotary Club and Bixby Funeral Service

LOCATION:
- Part of the SW/4 NW/4 Section 12, T17N, R13E
- Northeast corner of the intersection of 134th St. S. and Memorial Dr.

LOT SIZE: 1 acre, more or less

ZONING: CG General Commercial District (RM-3 zoning located along east side of subject property parcel)

REQUEST: Appeal of a sign building permit denial, and the interpretation on which it was based, pursuant to Zoning Code Sections 11-4-6 and 11-4-7, which permit proposed the construction of signs on property in the CG General Commercial District, and to allow the project development to proceed

SURROUNDING ZONING AND LAND USE:

North: CG, RM-3, & RS-1; The *RiverCrest Event Center*, the *Bixby Funeral Service* zoned CG and RM-3, the *Riverview Missionary Baptist Church* on unplatted property zoned CG and in part of *Gardenview Addition* zoned RS-1, and single-family residential to the northeast in *Gardenview Addition* zoned RS-1.

South: (Across 134th St. S.) CG & CS/PUD 49; Vacant land zoned CG and the *Tulsa Teachers Credit Union*, the *Self Storage Deptot* ministorage business, and a vacant commercial lot, all within *Bixby Crossing* zoned CS with PUD 49.

East: RM-3; A vacant 4-acre tract belonging to the *Riverview Missionary Baptist Church* and the *Autumn Park* assisted living facility.

West: (Across Memorial Dr.) CG & CS/PUD 13a; Office-type businesses including *Family Eye Care*, *Baker Small Animal Clinic*, the *Daily Family YMCA of Bixby*, and a vacant former daycare facility, and vacant/wooded land zoned CS/PUD 13a to the southwest.

COMPREHENSIVE PLAN: Medium Intensity + Commercial Area

PREVIOUS/RELATED CASES: (not a complete list)

BZ-35 – L.C. Neel – Request for rezoning from AG to CG for 10 acres (NW/4 SW/4 NW/4), including subject property – PC Recommended Approval 03/17/1975 and Town Board of Trustees Approved 05/06/1975 (Ord. # 292).

BZ-123 – L.C. Neel – Request for rezoning from CS and CG to RM-3 for the east approximately 9.5 acres of a reportedly 11.5883-acre original tract (includes an easterly portion of subject property) for apartments – PC Recommended Approval 09/27/1982 and City Council Approved 11/01/1982 (Ord. # 467).

BL-80 – Carol Selby – Request for Lot-Split approval to separate a 0.6-acre tract (now the *Bixby Funeral Service* lot at 13307 S. Memorial Dr.) from a reportedly 11.5883-acre original tract (remainder tract contained subject property) – PC Recommended Approval 03/28/1983.

BL-93 – Jack Selby for L.C. Neel – Request for Lot-Split approval to separate a 20' X 130' tract to the west of the *Bixby Funeral Service* lot at 13307 S. Memorial Dr., in order to allow additional parking to offset right-of-way being purchased from the State Highway Department for U.S. Hwy 64 / Memorial Dr. – original tract contained approximately 11 acres (remainder tract contained subject property) – PC Recommended Approval 05/29/1984 and notes on the application form indicate [the City Council] granted Conditional Approval June 01, 1984.

BL-112 – L.C. Neel – Request for Lot-Split approval to separate (1) a ½-acre tract (now the *RiverCrest Event Center* lot at 13329 S. Memorial Dr.) and (2) a ½-acre tract from the southwest corner of an original tract containing approximately 11 acres (second ½-acre tract would have been a part of subject property, and remainder tract contained the balance of subject property) – Approved 05/27/1986 per notes on the application form (the second ½-acre tract was evidently not since created).

BZ-176 – L.C. Neel – Request for rezoning from RM-3 to CG for a strip of land containing approximately 0.4 acres of subject property and tract abutting to the north – PC Recommended Approval 08/25/1986 and City Council Approved 09/23/1986 (Ord. # 543).

BL-249 – Ron Smith for Resco Enterprises, Inc. – Request for Lot-Split approval to separate a 4-acre tract and a 1-acre tract from a 5-acre tract (now the *Autumn Park* assisted living facility and a related independent living housing section) abutting to the east (5-acre tract evidently previously separated from balance of property which contained subject property) – City Planner Approved 05/12/2000.

BBOA-401 – Riverview Missionary Baptist Church – Request for Special Exception to allow a Use Unit 5 church use in the RM-3 district for approximately 5 acres (including subject property) – BOA Approved 04/07/2003.

BL-330 – Ron Wale for Riverview Baptist Church – Request for Lot-Split approval to separate 1-acre subject property from the 4-acre tract balance to the east belonging to the *Riverview Missionary Baptist Church* – PC approved 10/17/2005.

RELEVANT AREA CASE HISTORY: (not a complete list)

BZ-29 – Charles E. Norman for Frates Property, Inc. – Request for CS, OM, RD, RS-3, & RM-2 zoning for approximately 231 acres to the east/southeast of subject property – PC Recommended Approval as requested 10/17/1974 and Town Board of Trustees Approved as requested 11/05/1974 (Ord. # 286).

BZ-34 – L.C. Neel – Request for rezoning from RS-1 to CG for 3.5 acres to the north of subject property (now the *South Plaza Center* shopping center and the building complex containing the *Green Acres Sod Farm, Inc. Corporate Office* and the *Ron's Hamburgers & Chili* restaurant) – PC Recommended Approval 03/17/1975 and Town Board of Trustees Approved 05/06/1975 (Ord. # 292).

BZ-53 – L.C. Neel – Request for rezoning from RD to CS for approximately 5 acres to the east of subject property (now the *Autumn Park* assisted living facility and a related independent living housing section) – PC Recommended Approval 02/14/1977 and Town Board of Trustees Approved 02/15/1977 (Ord. # 327).

BZ-56 – Adrian Watkins for Watkins Brothers – Request for rezoning from AG to CG for approximately 6.25 acres to the northwest of subject property (now part of *Riverview Plaza* and part of *Riverbend Commercial Center*) – PC Recommended Approval 08/29/1977 and Town Board of Trustees Approved 09/19/1977 (Ord. # 336).

BZ-83 – Delcia G. Wilson – Request for CG, RMH, & RM-2 zoning for approximately 70 acres to the west of subject property – PC Recommended Approval and City Council Approved 04/07/1980 (Ord. # 390 Amended by Ord. # 536 01/14/1986).

BBOA-96 – Frank Clifton – Request for Special Exception to allow a horticultural nursery in a CS, RD, & OM district on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – BOA Approved 01/11/1982.

BZ-113 – R. C. Volentine – Request for rezoning from CS, RM-2, RD, & OM to IL for approximately 30 acres (includes, more or less, all of *Bixby Crossing* and all of *Knight Industrial Park*) to the south of subject property – PC Recommended Approval of the S. 15 acres (more or less, *Knight Industrial Park*) 01/25/1982 and City Council Approved the S. 15 acres 02/22/1982 (Ord. # 454).

BZ-129 – Watkins Sand Co., Inc. – Request for rezoning from RS-1 to CG for approximately 1.25 acres to the northwest of subject property (now part of *Riverview Plaza*) – PC Recommended Approval 01/31/1982 and City Council Approved 02/07/1983 (Ord. # 472).

BBOA-142 – Ray A. Bliss for Watkins Sand Co., Inc. – Request for Special Exception to allow a horticultural nursery in a CG district on approximately 1.25 acres to the northwest of subject property (now part of *Riverview Plaza*) – BOA Conditionally Approved 02/18/1985 per case notes.

BBOA-209 – Wilson Memorial Properties – Request for Variance from the 26' maximum building height to 30' to permit construction of the *Daily Family YMCA of Bixby* on property to the west of subject property (platted/replatted as *Bixby YMCA*) – BOA Approved 01/03/1989 per case notes.

BBOA-222 – Dale Isgrigg for Bixby YMCA – Request for Variance of the 170 parking spaces to 87 for the *Daily Family YMCA of Bixby* on property to the west of subject property in the *Bixby YMCA* subdivision – BOA Approved 12/04/1989 per case notes.
BBOA-247 – Helen L. Bartlett – Request for Special Exception to allow a "community service cultural & recreational facilities (softball fields)" in a RD & RM-2 district on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – BOA Approved 02/04/1992 per case notes.
BBOA-253 – Jack Selby – Request for Variance of the 600 square foot maximum floor area for detached accessory building in the RS-1 district to permit the existing 720 square foot accessory building for property located to the northeast of subject property at 8300 E. 133rd St. S., Lot 1, Block 3, *Gardenview Addition* – BOA Approved 07/06/1992 per case notes.
BBOA-254/BBOA-254a – Tim Terral of Pittman, Poe and Associates, Inc. for Lorice T. Wallace – Request for Special Exception to allow a Use Unit 5 golf course in an AG district on 145.1 acres to the west of subject property (see PUD 13/13A) – BOA Approved Revised Application 01/04/1993 per case notes.
PUD 13/13A / BZ-201/201A – "River Oaks" – Pittman, Poe and Associates, Inc. – City of Bixby applications (part of the overall 278-acre, dual-jurisdiction PUD for "River Oaks," a golf and residential development, with the Bixby portion containing approximately 215 acres) requesting RS-1 and AG zoning and then RS-1 and CS zoning and PUD approval for approximately 215 acres to the west of subject property – Approved for RS-1 and AG zoning in January, 1993 (Ord. # 681 and # 682) and then re-approved for RS-1 and CS zoning, removing the part that became the Fry Creek Channel and zoning the same AG, in June, 1994 (Ord. # 703 and # 704).
BBOA-298 – Carl C. Jensen – Request for Special Exception to allow a Use Unit 17 used auto sales in a CS district on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – BOA Approved 05/01/1995, but owner found another site and BOA removed the S.E. 07/03/1995.
BBOA-327 – Ted Hill / Jay Ward – Request for Variance from the 100' lot width requirement in the CG district for Lot 1, Block 2, *Riverbend Commercial Center* (13402 and 13404 S. Memorial Dr.) to the west of subject property to allow for Lot-Split – BOA Approved 04/07/1997 per case notes.
BBOA-408 – Abbas Momeni – Request for Variance from a ground sign setback requirement for the *Car Country* used automobile sales lot at 13288 S. Memorial Dr. to the northwest of subject property – BOA Approved 09/02/2003.
PUD 49 – "Bixby Crossing" – Sack & Associates, Inc. – Request for PUD supplemental zoning approval on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – PC Recommended Approval 03/20/2006 and City Council Approved 04/10/2006 (Ord. # 938).
BBOA-446 – Sack & Associates, Inc. – Request for Variance to Section 11-9-17D, parking requirements for ministorage area on approximately 15 acres to the south of subject property (includes, more or less, all of *Bixby Crossing*) – Approved by BOA 09/05/2006.
BBOA-452 – Jim Capps for Riverview Missionary Baptist Church, Inc. – Request for Variance to allow a manufactured or modular building to be used as a classroom for *Riverview Missionary Baptist Church* on property located to the north at 13201 S. Memorial Dr. – Withdrawn in April, 2007.

BACKGROUND INFORMATION:

The Bixby Rotary Club is an outstanding community-based civic organization that provides financial and other forms of assistance for various charitable causes in the Bixby community. The City of Bixby and its Staff support the Club and its mission, and all of the good and worthy works it does within the community. Certain members of City Staff are Rotarians and participate in the Club's functions. The annual Bixby BBQ & Blues Festival is one of the largest and most well received events the Club organizes, and proceeds from this and other events are put into its charitable programs. Although the City of Bixby wholeheartedly supports the Club and its mission, it is responsible for administering the Zoning Code, and has not allowed its relationship with the Club to influence its fair, objective, and impartial administration of the Code in this matter.

ANALYSIS:

Property Conditions. The subject property is a relatively flat, vacant lot at the northeast corner of the intersection of 134th St. S. and Memorial Dr. (US Hwy 64). It is a "flag-lot" with the "panhandle" extending north along the east side of the *RiverCrest Event Center* lot abutting to the north. Per the Zoning Map, the west/front part of the property, including the area in which the sign contemplated by this application would be located, is zoned CS, and an easterly portion of the lot is zoned RM-3.

At one time, the subject property had a billboard-type sign of some sort at the southwest corner of the lot. Per the Applicant, there are still remnants of the base of the sign in the location they wish to construct the new sign contemplated by this application.

Using the "Historical Imagery" function of Google Maps to scroll back in time, it appears that the latest aerial photo in which the sign was evident was dated October 06, 2004. The sign appears to have been on the land since at least February 23, 1995, the oldest aerial imagery available through Google Maps.

The subject property appears to have been created by General Warranty Deed from Riverview Missionary Baptist Church to the Applicant, Bixby Funeral Service, Inc., recorded December 02, 2005 (cf. BL-330 approved 10/17/2005).

General. The Applicant is Jack Selby, owner of the land through the entity Bixby Funeral Service, Inc.

In or around February, 2013, the Applicant and John C. Sawyer, representing the Bixby Rotary Club, submitted a sign permit application which proposed to construct a 35'-high, two-cabinet ground sign at the southwest corner of the subject property. Although the permit application did not indicate this, per Staff's previous conversations with John Sawyer or possibly others involved in this project, the top 10' high by 20' wide sign cabinet would be a static sign with copy reading "Bixby Funeral Home." The information provided did not appear to indicate whether this would be internally or externally illuminated, or illuminated at all. Below this top cabinet, another 10' high by 20' wide sign cabinet would be an "LED Digital Double Faces Sign," which would be mounted on the monopole sign support structure ("pole") at a slightly-

downward-facing angle. Although the provided information was not clear, per Staff's previous conversations with John Sawyer or possibly others involved in this project, Staff understood this would be the "billboard" element, which would have LED/electronic signage programming sometimes advertising community events, including the Rotary's BBQ & Blues Festival, and unused time would be sold to other businesses for advertisements. The revenue generated would be used by their foundation to support their charitable functions.

Upon inspecting the proposed use in relation to the Zoning Code, Staff determined that the proposed Use Unit 21 sign could not be permitted. The Bixby Zoning Code does not provide that this is a permitted principal use of a lot in any Zoning District. Further, Zoning Code Section 11-9-21.F explicitly prohibits "Outdoor Advertising Signs," "billboards," thus:

"F. Outdoor Advertising Signs:

1. There shall be no commercial outdoor advertising signs (billboards) permitted within the city.

2. "Outdoor commercial advertising signs" are defined as those signs which are off premises from the property (business location) which is sought to be promoted or identified by the placement of such sign.

3. Off site commercial advertising signs (billboards), which are in place prior to July 1, 2002, shall be permitted for so long as they comply with other city ordinances governing and pertaining to the placement and use of such signs as permitted prior to the enactment of this subsection. (Ord. 852, 7-8-2002)"

Other definitions which the Board my deem pertinent to its decision, found in Zoning Code Section 11-2-1 of the Zoning Code, include the following:

"SIGN, BUSINESS: A sign which directs attention to a business, commodity, service or entertainment conducted on the premises."

"SIGN, OUTDOOR ADVERTISING: A sign which directs attention to a business, commodity, service or entertainment, sold or offered elsewhere than the premises and only incidentally on the premises, if at all."

Therefore, by letter to Jack Selby of the Bixby Funeral Service, Inc. and John C. Sawyer of the Bixby Rotary Club dated February 21, 2013, Staff denied the sign permit application.

By this application, the Applicant is appealing the denial, and the interpretation on which it is based, to the Bixby Board of Adjustment pursuant to Zoning Code Sections 11-4-6 and 11-4-7.

The application consists of:

- The two (2) page application form
- A one (1) page "Detailed Narrative to Board of Adjustment Application"
- Another one (1) page narrative dated 02/28/2013

- A one (1) page site plan
- A one (1) page sign exhibit
- A copy of Staff's letter denying the sign permit dated 02/21/2013

For the most part, the arguments set forth in the application speak for themselves. Staff responds to the application and the arguments in the following paragraphs.

Although the narrative mentions terms such as "Hardship," "Variance," "Special Exception," etc., and the application form was not marked within the "Interpretation" box, the application is a request for (1) an Appeal of the sign permit denial, and (2) the Zoning Code interpretation on which the denial was based, and it is not an application for Variance or Special Exception. The Appeal and Interpretation sections of the application form have been completed, and the proper application review fees associated with these two items have been paid. Further, the Appeal and Interpretation were requested pursuant to specific advice given by the City on how to proceed upon sign permit denial.

The narrative written within the Appeal section of the application form is as follows:

"We maintain that this is not a new site for a sign – The existing sign was taken down but the base is still on the property – If land owner had known he could [lose] Billboard rights [the owner] would never had sign taken down."

This narrative appears to concede that the proposed sign would be a "billboard," in calling it thus by name.

Zoning Code Section 11-11-4 (not modified by Section 11-9-21.F.3) provides:

"11-11-4: NONCONFORMING SIGNS:

<u>A sign lawfully existing at the</u> effective date hereof or <u>amendment of this title, but which would be prohibited under the terms of this title or amendment to this title, shall be deemed nonconforming, and may continue</u>, including normal maintenance and change of face, <u>if not rebuilt</u>, enlarged, extended or relocated; provided, that if the sign was erected within an AG district after the effective date hereof and becomes nonconforming upon rezoning to an R or O district and is not accessory to an on site principal use, the sign shall be removed within six (6) months from the effective date of the rezoning; other nonconforming signs if located in an R district and not accessory to an on site principal use, shall be removed within six (6) months from the date the sign became nonconforming. (Ord. 272, 4-2-1974)" (emphasis added)

Presuming the old sign was lawful in the first place, this provision applies to the subject property, which had a sign since at least 1995, which sign became nonconforming upon passage of the billboard prohibition amendment in 2002. Under this provision, a sign completely removed cannot lawfully be rebuilt, regardless of the passage of any amount of time. Further, the last two sentences under this provision demonstrate legislative intent not only to abate sign nonconformities through time by attrition, but also to require the removal of certain legally nonconforming signs under certain circumstances. The argument that the base of the former

sign was not fully removed with the sign itself does not appear to be a valid argument for the allowance of the construction of a new nonconforming billboard sign.

The narrative written within the Interpretation section of the application is as follows:

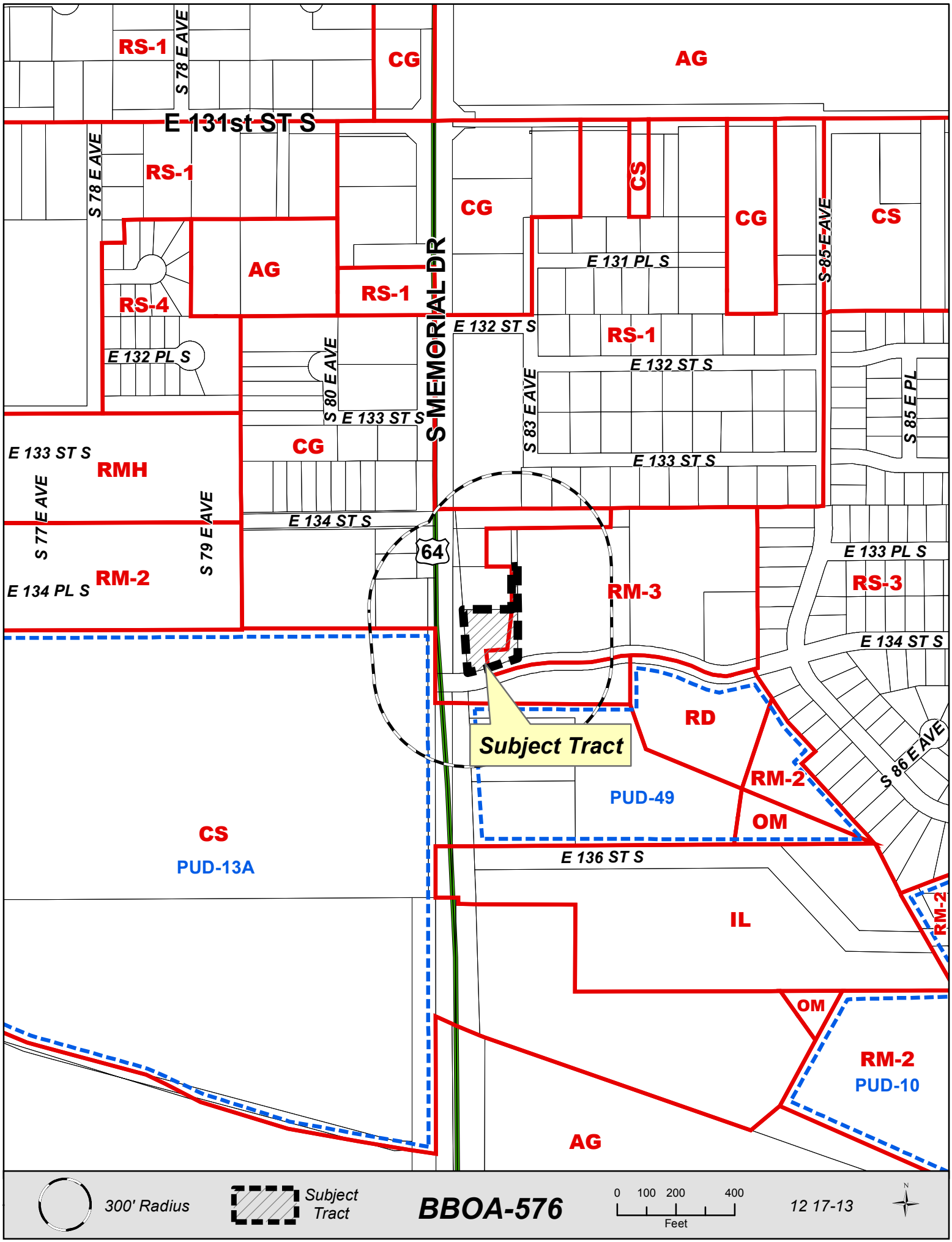
"Our Boards are "On Premise" Marketing boards that market a product that can be purchased "on site" at our kiosk on the property. 80 to 90% of profits go to others (City of Bixby)."

For the record, the City of Bixby receives no money from the Bixby Rotary Club, other than normal fees for services or application processing, nor does it receive revenues from billboards throughout the City. Similar language in the narrative dated 02/28/2013, "...amount of money we give to the City of Bixby," and "...profits from the sign go back to the City of Bixby..." should not be interpreted as meaning the Club gives money to the City of Bixby, and is presumed to mean they money the Club spends on charitable causes within the Bixby community.

The "kiosk" referenced in the narrative, based on previous discussions with the billboard manufacturer, John Sawyer, and others representing the Bixby Rotary Club, sometimes come in the form of a small, portable building installed at the base of the sign, technically open for someone to enter and purchase a service or good advertised on the billboard (or anything else) using an Internet-connected computer located within the building. In the case of this application, the Applicants have discussed, in the alternative, installing a computer kiosk within the *RiverCrest Event Center* building on the ½-acre tract abutting to the north. Although this is a clever gimmick for deeming a billboard an "on-premise ground sign," which may be permitted in other jurisdictions, it would present a problematic precedent for the City, as any house, office, or commercial building containing an Internet-connected computer could request permission to erect a billboard.

The narrative dated 02/28/2013 expands on the arguments inscribed within the Appeal and Interpretation sections of the application form, but present no new arguments requiring Staff comment.

Staff Recommendation. For the reasons outlined in the analysis above, Staff believes that the Bixby Zoning Code Section 11-9-21.F explicitly proscribes the proposed billboard / outdoor advertising sign and disallows a Use Unit 21 sign as a principal use of a lot in all Zoning districts. Staff recommends the appeal be denied.



300' Radius

Subject Tract

BBOA-576

0 100 200 400
Feet

12 17-13

N

City of Bixby
Board of Adjustment Application

Applicant: The Bixby Rotary Club & Bixby Funeral Service
Address: 13307 So Memorial Dr. Bixby, OK 74008
Telephone: (918) 369-1700 Cell Phone: _____ Email: Jackselby@olp.net
(918) 794-4000 John@Sumpprphillips.com
Property Owner: Bixby Funeral Serv & Jack Selby If different from Applicant, does owner consent? ____
Property Address: 13307 So Memorial Dr Bixby, OK 74008
Existing Zoning: _____ Existing Use: _____ Use Unit #: _____
Proposed Use: _____

LEGAL DESCRIPTION (If unplatted, attach a survey with legal description or copy of deed):

See Attached

Does Record Owner consent to the filing of this application? [X] YES [ ] NO

If Applicant is other than Owner, indicate interest: Owner & Sign

Is subject tract located in the 100 year floodplain? [ ] YES [X] NO

Application for: [ ] Variance [ ] Special Exception [X] Appeal [ ] Interpretation

SET OUT BELOW THE SPECIFICS OF YOUR APPLICATION. WHERE APPLICABLE, INDICATE PERTINENT ORDINANCES, PROVISIONS, USES, DISTANCES, DIMENSIONS, ETC. YOU SHOULD ATTACH ANY PLOT PLANS, PHOTOGRAPHS, AND OTHER FACTUAL INFORMATION WHICH WILL ASSIST THE BOARD IN DETERMINING THE MERIT OF YOUR APPLICATION:

APPLICANTS FOR VARIANCE COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

a. Why would the literal enforcement of the Zoning Code create an unnecessary hardship?

See Attached

b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?

See Attached

c. Explain why the granting of a variance will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Zoning Code or Comprehensive Plan.

See Attached

d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.

See Attached

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Detailed Narrative to
Board of Adjustment Application

Section a. **Unnecessary Hardship**

The Bixby Rotary Club has been exploring way to increase our ongoing funding efforts to the local Organizations we support. The Organizations are; BOC, YMCA, High School Scholarships, Shop with a Cop, School Literacy Project, Shoes for Bixby Kids, High School Leadership Training, and the Bixby High School Interact Club. We also support local organizations with grants upon request. The denial would greatly hamper our efforts to increase support to these organizations that need more financial resources to serve the community needs.

Section b. **Property Question**

The Property listed in the application had a sign on the property in the past. It also is located in an area that has very few advertising signs on that side of the street.

Section c. **Variance**

The Spirit of most City Codes are to promote an atmosphere of well planned neighborhoods, safe city, user friendly parks and recreation, attract business, and a responsible citizenry. The Comprehensive Plans sets forth the process to accomplish the actions of the council developed codes. The Rotary Club's Vision is not inconsistent with your Vision as a City. We believe by increasing our community support we can help those who need a helping hand up, a safe place to grow and educate our children, and train our future City Leaders. The variance would support the public good.

Section d. **Public Detriment**

The hardship we are trying alleviate is on the families in Bixby who need help. Rotary is trying to provide more financial support to the organizations and community groups to help them better serve Bixby. By increasing our support, they can expand their outreach.

Page Two. **Special Exception**

The Sign is on Bixby Funeral Home property within a commercial zoned use strip of businesses. The sign is set back from the road and does not not have any pedestrian traffic.

City of Bixby
Board of Adjustment Application

APPLICANTS FOR A SPECIAL EXCEPTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the Special Exception and the Use Unit for the Special Exception as indicated in the Bixby Zoning Code. Explain why the Special Exception will be in harmony with the spirit and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

APPLICANTS MAKING AN APPEAL OF A BUILDING OFFICIAL ACTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the appeal in detail:
We maintain that this is not a new site for a Sign - The Existing Sign was taken down but the base is still on the property - If landowner had known he could loose Billboard rights would never had Sign taken down.

APPLICANTS REQUESTING AN INTERPRETATION OF THE ZONING CODE OR MAP COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the request in detail:
Our Boards are "On Premise" marketing boards that market a product that can be purchased "on site" at our Kiosk on the Property. 80 to 90% of profits go to Others (City of Bixby)

BILL ADVERTISING CHARGES TO: Mark Mussen (NAME)

11937 So Memorial Dr. (ADDRESS) Bixby, OK 74008 (CITY) 918-369-3202 (PHONE)

I do hereby certify that the information submitted herein is complete, true and accurate:

Signature: [signature] Date: 3-1-13

APPLICANT – DO NOT WRITE BELOW THIS LINE

BBOA-576 Date Received 03/01/2013 Received By Enyart Receipt # 01057521
Board of Adjustment Date _____

1 Sign(s) at $ 50.00 each = $ 50.00; Postage $ —; Total Sign + postage $ 50.00

FEES: Variance $75.00 or Special Exception $100.00 or Appeal/Interpretation $25.00 = BASE FEE $50.00 + ADD. 50 = TOTAL $100.00

BOA Action: _____ Conditions: _____

Date: _____ Roll Call: _____

Staff Rec. _____

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02/28/2013

This is for the appeal of the city rationale for denial as stated in the enclosed letter dated Feb. 21, 2013 and signed by Erik Enyart.

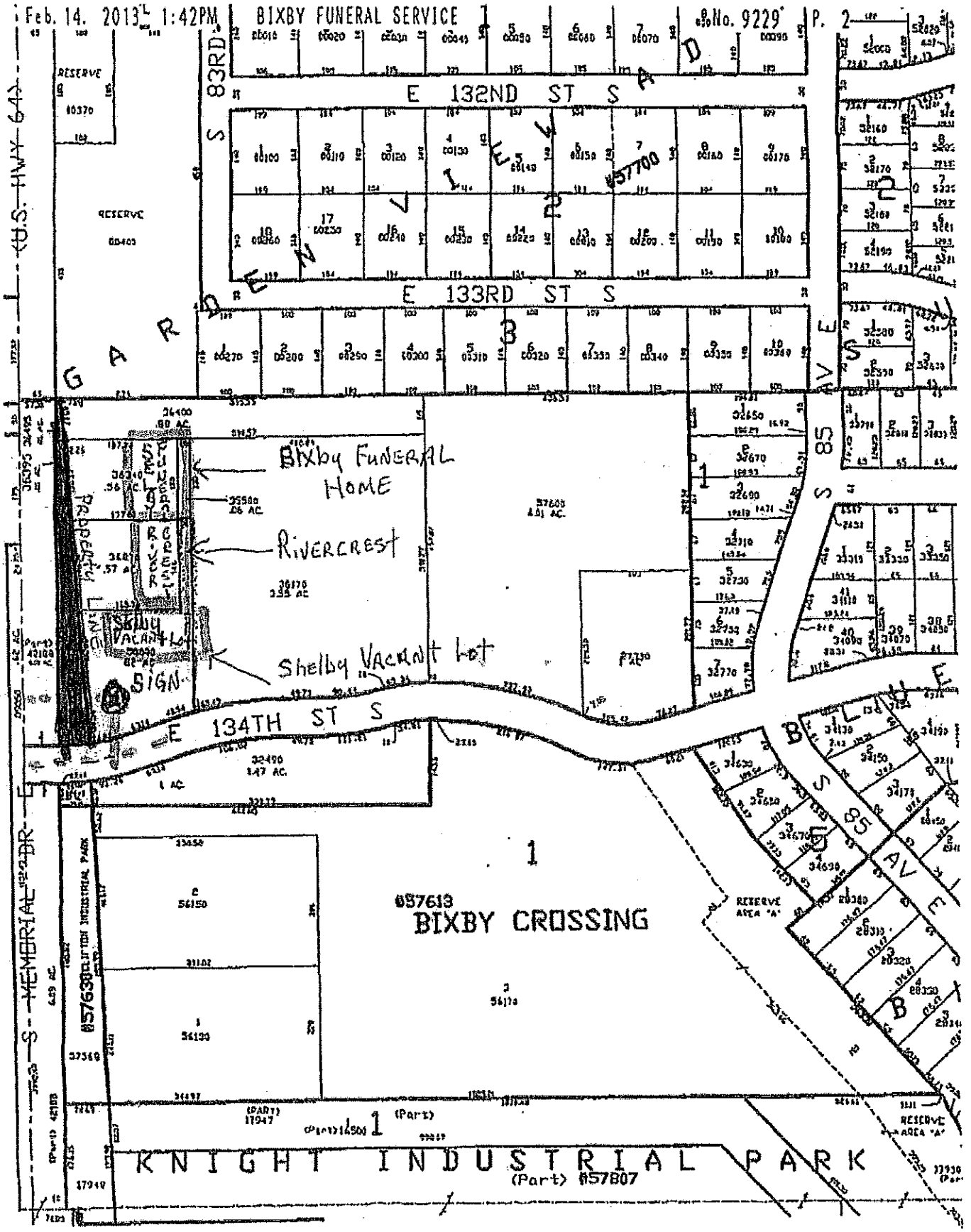
We contend that this sign is not "off premises" as our boards are "On Premises" marketing boards that market a product that can be purchased "On Site" at our Kiosk on the property. All a customer has to do is to walk in, access the kiosk, go to the e-commerce site, and order a product or service. The customer never has to go to any other location; all transactions are completed "On Premise". We are no different than a bank ATM in which you can drive-up or walk-in and do a transaction with that bank, or a strip center that has 10 businesses and advertises on an EMC each of those businesses.

The sole reason for our billboard is to raise revenue in order to increase the amount of money we currently give to the City of Bixby This billboard will generate well over $100,000 each year and enable the Rotary Club of Bixby to fund our current programs, plus add new programs like: Free tutoring for Bixby Public School students, women's shelter, Bentley Park projects, college scholarships, mentoring programs, etc....

The proposed site has the base for the sign already in the ground, where a permitted sign had been for several years. We are not asking for a new location just that we be able to use the existing permitted site for a vastly improved sign. This sign would be able to have public announcements for the Schools or the City at a moments notice. Also, it would be able to do Amber Alerts at any time, which Bixby does not currently have.

We are aware of the concern that an exception in our favor would open a flood gate of sign requests, but, in our case:

1. We are putting a sign back where it had a permit for years.
2. 90% of the profits from the sign go back to the City of Bixby substantially increasing our commitment to the City.
3. We are in essence, giving a message board to the City of Bixby that can be used for: Emergency instructions, announcements for the Chamber of Commerce, Bixby Public Schools, Senior Citizens, and other non-profit/charity organizations, and extremely important: AMBER ALERTS.
4. The biggest difference would be that typically outdoor advertising sign companies keep the money and the revenue from our sign would be given away to the community of Bixby.


E 132ND ST S
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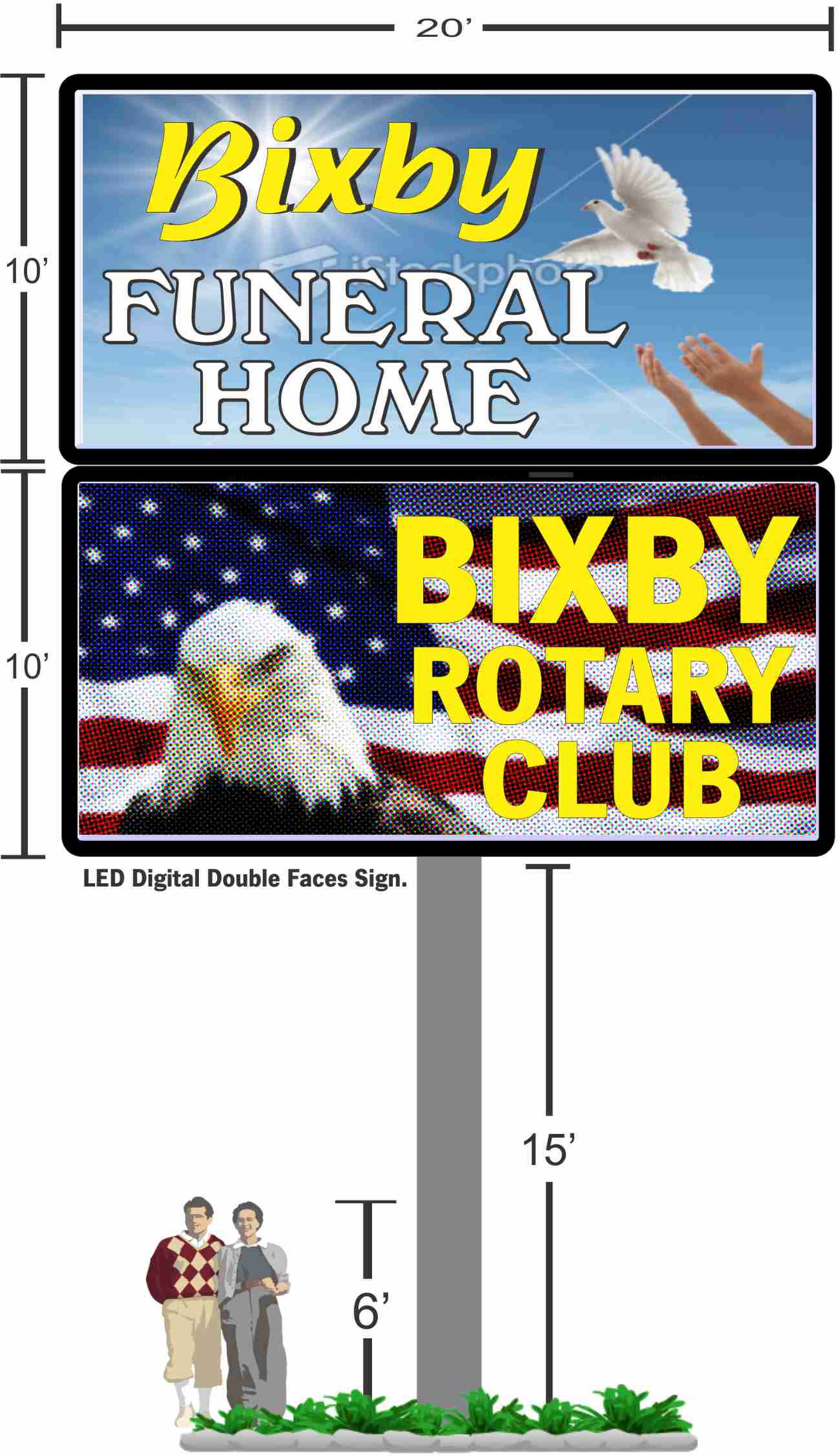
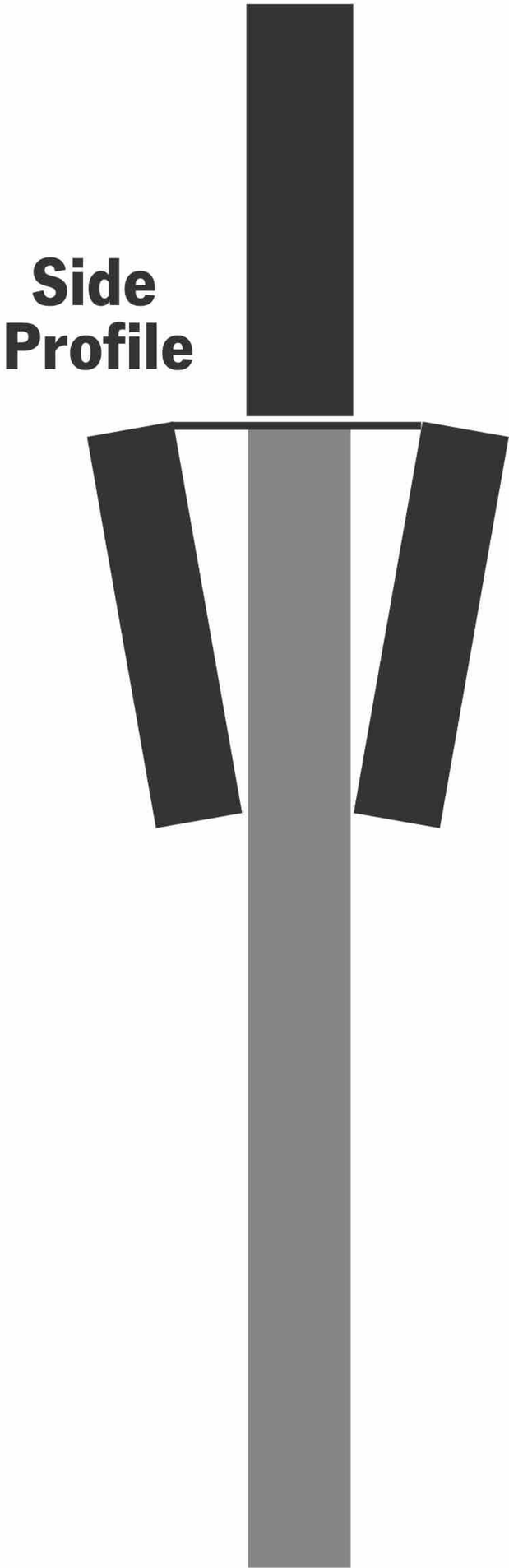
83RD
GARDEN AVE
BELL AVE
S MEMORIAL DR
U.S. HWY 64
RESERVE
Bixby Funeral Home
Rivercrest
Shelby Vacant Lot
SIGN
BIXBY CROSSING
KNIGHT INDUSTRIAL PARK
(Part) 057807
RESERVE AREA "A"

90


20’
10’
Bixby
FUNERAL
HOME
10’
BIXBY
ROTARY
CLUB
LED Digital Double Faces Sign.
15’
6’


Side
Profile

CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

Thursday, February 21, 2013

Bixby Funeral Service, Inc.
Attn: Jack Selby
13307 S. Memorial Dr.
Bixby, OK 74008

And

Bixby Rotary Club
Attn: John C. Sawyer
PO Box 511
Bixby, OK 74008

RE: Building permit application for a ground sign on an approximately 1-acre tract of land located at the northeast corner of the intersection of 134th St. S. and Memorial Dr.; Tulsa County Assessor's Parcel Account # 97312731258800

Dear Messrs. Selby and Sawyer:

I have received your sign permit application, which proposes to construct a 35'-high, two-cabinet ground sign at the southwest corner of the above-referenced tract of land. Although the permit application does not indicate this, per my recollection of previous conversations with John Sawyer or possibly others involved in this project, the top 10' high by 20' wide sign cabinet would be a static sign with copy reading "Bixby Funeral Home." The information provided does not appear to indicate whether this would be internally or externally illuminated, or illuminated at all. Below this top cabinet, another 10' high by 20' wide sign cabinet would be an "LED Digital Double Faces Sign," which would be mounted on the monopole sign support structure ("pole") at a slightly-downward-facing angle. Although the provided information is not clear, per my recollection of previous conversations with John Sawyer or possibly others involved in this project, I understand this will be the "billboard" element, which will have LED/electronic signage programming sometimes advertising community events, including the Rotary's BBQ & Blues Festival, and unused time would be sold to other businesses for advertisements. The revenue generated would be used by their foundation to support their charitable functions.

Upon inspecting the proposed use in relation to the Zoning Code and consulting with City Attorney Patrick Boulden, I have determined that the proposed Use Unit 21 sign cannot be permitted. The Bixby Zoning Code does not provide that this is a permitted principal use of a

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lot in any Zoning District. Further, Zoning Code Section 11-9-21.F explicitly prohibits "Outdoor Advertising Signs," "billboards," thus:

"F. Outdoor Advertising Signs:

1. There shall be no commercial outdoor advertising signs (billboards) permitted within the city.

2. "Outdoor commercial advertising signs" are defined as those signs which are off premises from the property (business location) which is sought to be promoted or identified by the placement of such sign.

3. Off site commercial advertising signs (billboards), which are in place prior to July 1, 2002, shall be permitted for so long as they comply with other city ordinances governing and pertaining to the placement and use of such signs as permitted prior to the enactment of this subsection. (Ord. 852, 7-8-2002)"

Therefore, your building permit application is hereby denied. If you desire, you may appeal this denial, and the interpretation on which it is based within ten (10) calendar days of the date of this letter, to the Bixby Board of Adjustment pursuant to Zoning Code Sections 11-4-6 and 11-4-7. The application form for an appeal is available on our website at www.bixby.com.

If you have any questions or need additional information, please do not hesitate to contact me at (918) 366-0427 or eenyart@bixby.com.

Sincerely,

Erik Enyart, AICP
City Planner

Copy: Community Development Coordinator Donna Crawford, CFM
Building Inspector Bill May
Fire Marshal Jim Sweeden
Mayor Ray Bowen
City Manager Doug Enevoldsen
City Attorney Patrick Boulden, Esq.
City Engineer Jared Cottle, PE
Public Works Director Bea Aamodt, PE

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