

AGENDA
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 WEST NEEDLES
BIXBY, OK 74008
August 04, 2014 6:00 PM

CALL TO ORDER

MINUTES

- ③ 1. Approval of Minutes for July 07, 2014

OLD BUSINESS

NEW BUSINESS

2. (Continued from July 07, 2014)

①⑦

BBOA-589 – Randy Even for Paul Reynolds. Discussion and possible action to approve a Special Exception per Zoning Code Section 11-8-5 to allow an Accessory Dwelling Unit in an RE Residential Estate District.

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

3. (Continued from July 07, 2014)

①⑥

BBOA-590 – Randy Even for Paul Reynolds. Discussion and possible action to approve a Variance from the matching exterior materials requirement of Zoning Code Section 11-8-5.G for a proposed Accessory Dwelling Unit in an RE Residential Estate District.

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

4. **BBOA-595 – Randy Even for Paul Reynolds.** 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, approximately 50' X 72', 3,600 square foot accessory building in the rear yard for property in the RE Residential Estate District.

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

5. **BBOA-593 – Lillie Stafford.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 6 single family dwelling in an RMH Residential Manufactured Home Park District.

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Property located: Lot 5, Block 2, *LaCasa Movil Estates 2nd*, 12836 S. 72nd E. Ave.

6. **BBOA-594 – PlanScape Partners for Tycon Properties, LLC.** Discussion and possible action to approve (1) a Variance from certain minimum building setbacks per Zoning Code Section 11-7D-4 Table 2, (2) a Variance from the minimum parking lot setback requirements from Memorial Dr., 129th St. S., and an abutting RS-1 residential district per

①⑨⑦

Zoning Code Section 11-10-3.B Table 1, (3) a Variance from the minimum width landscaped strips along Memorial Dr., 129th St. S., and an abutting RS-1 residential district per Zoning Code Sections 11-12-3.A.2, 11-12-3.A.3, and 11-12-3.A.7, (4) a Variance from certain other landscaping requirements of Title 11 Chapter 12, and (5) a Variance from any other bulk and area and/or developments standards of the Zoning Code with which the subject property does not comply, all to allow for the expansion of an existing building on an existing lot of record in the CG General Commercial District.

Property located: Part of Lot 1, Block 1, *Clyde Miller Acreage*; 12850 S. Memorial Dr.

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7. **BBOA-596 – Jackie W. Miller.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-8-8.B.9 to allow an 18' X 21' carport within the required front yard setback for property within the RS-1 Residential Single-Family District. Property located: Lots 1 and 2, Block 1, *Springtree Addition*; 14208 S. Harvard Pl.

ADJOURNMENT

Posted By: Fryer

Date: 07/22/2014

Time: 9:25 AM

AGENDA – Board of Adjustment

August 04, 2014

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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
July 07, 2014 6:00 PM**

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

STAFF PRESENT:
Erik Enyart, AICP, City Planner

ATTENDING:
See attached Sign-in Sheet

CALL TO ORDER

Prior to the meeting, Erik Enyart explained that he was in a meeting with the City Attorney, who incidentally would not be attending as he would be in another meeting. Mr. Enyart apologized for arriving late and explained that the City had “a lot going on right now.”

Meeting called to order by Chair Jeff Wilson at 6:04 PM.

ROLL CALL

Members Present: Jeff Wilson, JR Donelson, Darrell Mullins, and Larry Whiteley.
Members Absent: Murray King.

MINUTES

- 1 Approval of Minutes for June 02, 2014

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of June 02, 2014 as presented by Staff. JR Donelson SECONDED the Motion. Roll was called:

ROLL CALL:

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

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

OLD BUSINESS

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

NEW BUSINESS

2. **BBOA-589 – Randy Even for Paul Reynolds.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-8-5 to allow an Accessory Dwelling Unit in an RE Residential Estate District.
Property located: Lot 12, Block 1, *Bixby Ranch Estates*, City of Bixby, Tulsa County, Oklahoma; 13466 E. 205th St. S.

Chair Jeff Wilson introduced the item and asked Erik Enyart if it was not to be Continued to the next meeting. Mr. Enyart confirmed that it was, along with BBOA-590, Agenda Item # 3,

3. **BBOA-590 – Randy Even for Paul Reynolds.** Discussion and possible action to approve a Variance from the matching exterior materials requirement of Zoning Code Section 11-8-5.G for a proposed Accessory Dwelling Unit in an RE Residential Estate District.
Property located: Lot 12, Block 1, *Bixby Ranch Estates*, City of Bixby, Tulsa County, Oklahoma; 13466 E. 205th St. S.

Erik Enyart explained that the Applicant had requested a Continuance to the August 04, 2014 Regular Meeting, since there was now a third application submitted, a Variance, and they all were to be heard concurrently. Mr. Enyart recommended that both cases be Continued to the August 04, 2014 Regular Meeting as requested by the Applicant.

Chair Jeff Wilson made a MOTION to CONTINUE BBOA-589 and BBOA-590 to the August 04, 2014 Regular Meeting. Larry Whiteley SECONDED the Motion.

Gregg Batary of 13364 E. 205th St. S. stated that he had submitted a response to the application, and understood that it would be forwarded to the Board members. Erik Enyart confirmed that he had received the document and would include a copy in the agenda packet for the August 04, 2014 Regular Meeting.

Roll was called:

ROLL CALL:

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

4. **BBOA-591 – Kyle & Paulette Baker.** Discussion and possible action to approve (1) a Variance from the minimum lot area, (2) a Variance from the minimum land area, and (3) a Variance from any other bulk and area standards of the AG General Agricultural District with which the subject property does not comply, Zoning Code Section 11-7A-4 Table 3, all to allow for the construction of a pool on an existing lot of record in the AG Agricultural District.
Property located: Part of the W/2 NE/4 of Section 06, T17N, R14E; 12221 S. 109th 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, June 26, 2014
RE: Report and Recommendations for:
 BBOA-591 – Kyle & Paulette Baker

LOCATION: – Part of the W/2 NE/4 of Section 06, T17N, R14E
 – 12221 S. 109th E. Ave.

LOT SIZE: 1.4 acres, more or less

ZONING: AG Agricultural District

REQUEST: (1) a Variance from the minimum lot area, (2) a Variance from the minimum land area, and (3) a Variance from any other bulk and area standards of the AG General Agricultural District with which the subject property does not comply, Zoning Code Section 11-7A-4 Table 3, all to allow for the construction of a pool on an existing lot of record in the AG Agricultural District

SURROUNDING ZONING AND LAND USE: RS-1 & AG; Rural residential to the north and south along 109th E. Ave. and along 121st St. S. zoned AG and RS-1; agricultural to the west in Lon-Jan-Addition and surrounding properties zoned RS-1 and AG; vacant, wooded, and agricultural land to the south and east.

COMPREHENSIVE PLAN: Low Intensity/Development Sensitive + Vacant, Agricultural, Rural Residences, and Open Land

PREVIOUS/RELATED CASES: (not a complete list)
BL-269 – Scott Sherrill – Request for Lot-Split approval to create two (2) lots along the east side of 109th E. Ave. (created subject property) – PC Approved 08/19/2002.

RELEVANT AREA CASE HISTORY: (not a complete list)
BBOA-74 – Elsie McLearan – Request for Special Exception to allow mobile home(s) in the AG district for the E. 346.5' of the W. 742.5' of the S/2 SE/4 of Section 31, T18N, R14E, 10.5 acres located north of subject property at or about 10617 E. 121st St. S. – BOA Conditionally Approved 06/10/1980.
BZ-136 – Ted R. Burke – request for rezoning from AG to CS for approximately 40 acres (the NE/4 NE/4) abutting subject property to the east for commercial purposes – Withdrawn by Applicant 03/22/1983 per case notes.
BZ-145 – Eddie McLearan – Request for rezoning from AG to CG for the E. 346.5' of the W. 742.5' of the S/2 SE/4 of Section 31, T18N, R14E, 10.5 acres located north of subject property at or about 10617 E. 121st St. S. – Withdrawn by Applicant by phone 09/06/1983 per notes in case file.
BBOA-121 – Eddie McLearan – Request for Special Exception for a [Use Unit 4] “nursery (horticultural)” in the AG district for the N. 630' of the E. 346.5' of the W. 742.5' of the S/2 SE/4 of Section 31, T18N, R14E (5 acres) located north of subject property at or about 10617 E. 121st St. S. – BOA Approved 10/11/1983.

BBOA-274 – Dr. Cecil Wells Jr. – Request for Variance from the minimum area standard in the AG district to allow for a Lot-Split (BL-176) of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres to the west of subject property at 10240, 10250, 10280, and 10288 E. 121st St. S. – Approved by BOA 02/07/1994.

BBOA-275 – Dr. Cecil Wells Jr. – Request for Variance from the minimum frontage standard in the AG district to allow for a Lot-Split (BL-176) of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres to the west of subject property at 10240, 10250, 10280, and 10288 E. 121st St. S. – Approved by BOA 02/07/1994.

BL-176 – Dr. Cecil Wells Jr. – Request for Lot-Split of an approximately 2.6-acre tract into two (2) tracts of approximately 0.9 acre and 1.7 acres to the west of subject property at 10240, 10250, 10280, and 10288 E. 121st St. S. – Approved by PC 03/02/1994.

BBOA-270 – Gary McDaniel – Request for Special Exception to allow to allow retail sales as a “seasonal retail horticultural stand” accessory use in the AG district (See Zoning Code Section 11-7A-3.A Table 2) for all of the land the Applicant then owned in the E. 346.5’ of the W. 742.5’ of the S/2 SE/4 of this Section, property located to the north of subject property at 10617 E. 121st St. S. – BOA Approved 01/04/1994.

BBOA-272 – Sue Trumbo – Request for Variance from the minimum lot size requirement in the AG district to allow a Lot-Split (BL-175) to create north and south halves of a 2-acre tract (E. 132’ of the S. 660’ of the of the W. 528’ of the SW/4 of the SE/4 of this Section) to the north of subject property at 10101/10101-B E. 121st St. S. (not to be confused with the ½-acre tract to the east which also has an associated address of 10101 E. 121st St. S.) – BOA Approved 02/07/1994.

BBOA-273 – Sue Trumbo – Request for Variance from the frontage requirement in the AG district to allow a Lot-Split (BL-175: see below and see BBOA-272 above) – BOA Conditionally Approved 02/07/1994.

BL-175 – Sue Trumbo for Elsie McLearn – Request for Lot-Split to create north and south halves of a 2-acre tract (E. 132’ of the S. 660’ of the of the W. 528’ of the SW/4 of the SE/4 of this Section) to the north of subject property at 10101/10101-B E. 121st St. S. (not to be confused with the ½-acre tract to the east which also has an associated address of 10101 E. 121st St. S.) – PC Approved 03/02/1994.

BZ-272 – Scott Sherrill – Request for rezoning from AG to RS-1 for the N. approximately 2.5 acres of an original tract containing approximately 19 acres abutting subject property to the west and south – PC Recommended Approval 05/21/2001 and City Council Approved 06/11/2001 (Ord. # 826).

BL-267 – Scott Sherrill – Request for Lot-Split approval to separate into two (2) tracts the N. approximately 2.5 acres of an original tract containing approximately 19 acres abutting subject property to the west and south – Appears to have been approved by Staff 07/12/2002 – No record of PC consideration between June and December, 2002.

BL-307 – Scott Sherrill – Request for Lot-Split approval to create two (2) lots along the east side of 109th E. Ave. just north of subject property – PC Approved 09/23/2004.

BL-360 – Chisholm Ranch, LLC for Patricia Wells Trust – Request for Lot-Split approval for a small land trade for property to the west of subject property at 10240, 10250, 10280, and 10288 E. 121st St. S. – PC Conditionally Approved 09/15/2008.

BL-361 – Chisholm Ranch, LLC for the Juniper Hill Farm, Inc. – Request for Lot-Split approval for a small land trade for property to the west of subject property at 10240, 10250, 10280, and 10288 E. 121st St. S. – PC Conditionally Approved 09/15/2008.

BBOA-520 – Denny Redmon for Bobby Gillean – Request for Special Exception per Zoning Code Section 11-9-4.C.1.c to allow a Use Unit 4 cellular communications tower facility to be located closer than ½ of a mile from an existing tower, on a 34-acre tract in an AG Agricultural District located to the east of the subject property in part of Government Lot 1, (NE/4 NE/4) of Section 06, T17N, R14E, addressed 11198 E. 121st St. S. – BOA Denied 05/03/2010 – Appealed (Case No. 10-CV-349-CVE-PJC) and found in favor of Plaintiff U.S. Cellular in late 2010 per City Attorney.

BBOA-560 – Dr. C. G. Wells Jr. for Marcia D. Wells – Request for Variance from (1) Zoning Code Section 11-8-5 to be permitted to maintain two (2) dwellings on a singular tract of land, (2) the 40’ rear yard setback and 2.2 acre minimum land area per dwelling unit standards of Zoning Code Section 11-7A-4 Table 3, and, (3) any other Zoning Code requirement preventing the placement and maintenance of a Use Unit 9 single-wide manufactured home on a lot containing a Use Unit 6 single

family dwelling and the Juniper Hill Farm a Use Unit 15 nursery business in the AG Agricultural District, all for property to the west of subject property at 10250, 10280, and 10288 E. 121st St. S. – Conditionally Approved by BOA 06/04/2012.

BBOA-561 – Dr. C. G. Wells Jr. for Marcia D. Wells – Request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow an existing Use Unit 9 single-wide manufactured home in the AG Agricultural District, all for property to the west of subject property at 10250, 10280, and 10288 E. 121st St. S. – Conditionally Approved by BOA 07/02/2012.

BBOA-578 – Daniel & Leanne Martin – Request for (1) A Variance from the minimum public street frontage standard of Zoning Code Section 11-8-4, and (2) a Variance from certain other bulk and area standards of the AG Zoning District as per Zoning Code Section 11-7A-4 Table 3, all to allow for the construction of a building addition to an existing house on an existing lot of record in the AG Agricultural District for property of 3.3 acres abutting subject property to the south at 12305 S. 109th E. Ave. – BOA Approved 04/23/2013.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property is an unplatted tract of approximately 1.4 acres, contains a single-family house addressed 12221 S. 109th E. Ave., and is Zoned AG. It is a rectangular tract having 210' of frontage on 109th E. Ave. and has 285' of depth. Part of the easternmost portion of the property (rear yard) is in the 100-year (1% Annual Chance) Regulatory Floodplain. The subject property is moderately sloped and appears to drain to the east to Haikey Creek.

In or around 2001/2002, a previous owner of the former 19-acre abutting to the west and south rezoned the northerly approximately 2.5 acres thereof and separated it into two (2) smaller tracts, on which new homes have been since constructed. Those two (2) homes, and the four (4) tracts on the east side of 109th E. Ave., may be informally known as "Haikey Creek Farm/s," an unplatted subdivision. Though not a part of the original 19-acre tract, there are four (4) tracts on the east side of 109th E. Ave. that were also created by Lot-Splits in 2002 and 2004. One (1) of those lots appears to have had an older house on it, and the other three (3) lots had new homes constructed on them around the mid-2000s. One of these four (4), the house on the subject property was constructed in 2007 per the Tulsa County Assessor's records.

Staff is not certain when the 109th E. Ave. was assigned this street name. It appears to be associated with a 20'-wide "Roadway Easement" dedicated "to the Public for roadway purposes" and recorded January 10, 1966 on Book 3666 Page 416 of the records of the Tulsa County Clerk. This 1966 dedication presumably predated the City of Bixby's annexation of this area, and may suggest that, if recognized as a Public road, may have been a County road prior to annexation. Per the Applicant in BBOA-578 in 2013, the City of Bixby paved the street "in the past 10 years." Per a site inspection March 28, 2013, S. 109th E. Ave. has a street name sign bearing this name, green in color indicating a standard Public street. Since Staff's inquiry to the Public Works Director by email on March 25, 2013, the Public Works Director has not disclaimed it as a City street.

Because the street is contained within an easement, rather than a right-of-way, the subject property's 1.4 acres of lot area equals its land area.

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

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

Nature of Variance. The Applicant has submitted a Building Permit application seeking to build a pool in the east/rear yard of the existing house.

The subject property does not meet the 2.0-acre minimum lot area or the 2.2-acre minimum land area standards for the AG district. The lot and the house appear to meet the required Zoning setbacks and other bulk and area standards for the AG district.

Zoning Code Section 11-8-1 restricts the issuance of building permits for nonconforming lots.

Therefore, the Applicant is requesting (1) a Variance from the minimum lot area, (2) a Variance from the minimum land area, and (3) a Variance from any other bulk and area standards of the AG General Agricultural District with which the subject property does not comply, Zoning Code Section 11-

7A-4 Table 3, all to allow for the construction of a pool on an existing lot of record in the AG Agricultural District.

Detailed Analysis. The Applicant has provided several arguments explaining how the proposed Variance would meet the tests and standards for Variance. Staff believes that these arguments are sound and reasonable, and has provided further refinements and additional arguments in the following paragraphs.

Per case maps from the 1970s, it appears that the subject property was previously part of a 2.5-acre tract, the balance of the 2.5 acres being the 1.15-acre tract abutting to the north at 12201 S. 109th E. Ave. That property has a house constructed in 1965 per the Tulsa County Assessor's records, which is consistent with the 20'-wide "Roadway Easement" dedicated "to the Public for roadway purposes" and recorded January 10, 1966. If accurate, the former 2.5-acre tract exceeded the 2.0-acre minimum lot area and 2.2-acre minimum land area requirements of the AG district prior to the separation of its northerly approximately 1.15-acre counterpart as associated with Lot-Split application BL-269 in 2002. Thus, these two (2) tracts, including the subject property, appear to have fallen out of compliance with these requirements in 2002.

One of the fundamental purposes for having and administering Subdivision Regulations is to ensure that all lots created comply with the bulk and area requirements of the Zoning Code. The Zoning Code requires that all lots approved as required by the Subdivision Regulations comply with the Zoning Code standards.

Per BL-267, however, the Planning Commission approved a Lot-Split allowing the creation of the subject property, despite the fact that the two (2) proposed lots would not comply with the minimum lot and land areas required. The Applicant acquired the subject property after it had been created with the Planning Commission's approval. By no fault of the Applicant, a substandard lot of record was created, with sanction by the City of Bixby.

The subject property has extraordinary or exceptional conditions or circumstances which are peculiar to the subject property by virtue of the Lot-Split approval conferred upon it by BL-269, approved in 2002, the preexisting 2.5-acre tract with a house constructed in 1965, and the other lot division particulars described hereinabove.

Such extraordinary or exceptional conditions or circumstances are peculiar to the subject property and do not apply generally to other property in the same district because substandard lots of record are generally not permitted to be created by the City of Bixby within the AG or other districts, and a survey of existing AG districts in Bixby would likely prove this statement true.

The subject property is presently "unbuildable" due to its illegally nonconforming status and Zoning Code Section 11-8-1. Strict application of the bulk and area standards to the subject property would cause an unnecessary hardship, by disallowing the proposed pool any further building permits for the subject property.

Recognizing:

- The subject property has existed in its present state since approximately 2002 without complaints or adverse impacts on adjoining properties,
- The Planning Commission approved the creation of the subject property for Lot-Split, thus allowing for the construction of a dwelling, as is hereby proposed, and
- A similar case with nearly identical circumstances, for the 3.3-acre tract abutting to the south, was found to meet the Tests and Standards for Variance per BBOA-578 – Daniel & Leanne Martin on 04/23/2013,

Staff would advise 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. Staff believes that the Variance of approximately 0.6 acres of lot area and 0.8 acres of land area, the difference between the 1.4 acres of each existing and those of each respectively required, would be the minimum necessary to alleviate the unnecessary hardship.

Staff Recommendation. 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. Staff recommends Approval.

Erik Enyart stated that he had supplemented the arguments the Applicant had provided with some of his own, which he believed together met the prerequisites of State Statutes and the Zoning Code for the granting of Variance.

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Larry Whiteley discussed with Erik Enyart and Applicant Kyle Baker the ownership and use of other properties to the west of the subject property.

Chair Jeff Wilson asked if the City had not had a hand in the circumstances [with the previous Lot-Splits], and Erik Enyart confirmed and stated, "We had a chance to see that it was done right," and noted that, since it had approved the Lot-Splits creating the nonconformity, the City was "somewhat culpable." Mr. Wilson indicated this was a unique situation, and Mr. Enyart indicated agreement.

After further discussion, JR Donelson made a MOTION to APPROVE BBOA-591 as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

Erik Enyart explained the Decision of Record process to Mr. and Mrs. Baker. Mr. and Mrs. Baker asked about the Building Permit, and Mr. Enyart stated that he would notify Donna [Crawford] the following morning that this had been approved, and she would provide him the Building Permit, which he would sign if the floodplain issues were resolved. Mr. Baker stated that he believed he had done all that was required as concerned the floodplain. Mr. Enyart explained the Building Permit issuance process, including that Donna would set up the permit in the system, would take care of any other required matters, the permit would be transmitted to City Hall, and the people in City Hall would contact Mr. Baker when his permit was ready to be picked up and paid for.

Kyle Baker asked if his neighbors would have to do the same thing when they go to build, and Erik Enyart stated that most of them likely would as well. Paulette Baker asked whether this was required when they built their house, and Mr. Enyart responded that it "was supposed to have been done" at that time. Mr. and Mrs. Baker clarified with Mr. Enyart that they would not need to do this again in the future. Mr. Enyart stated that the property is now "perfect," and would again be eligible for Building Permits.

5. **BBOA-592 – Whitney & Coats Construction, LLC for Don Schmidt.** 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 a building addition to an existing, nonconforming residence in the RE Residential Estate District.
Property located: Lot 1, Block 8, *Southwood*; 8266 E. 114th St. S.

Chair Jeff Wilson introduced the item. It was observed that the Applicant was not present. Darrell Mullins noted that the Board usually does not hear cases for which the Applicant does not attend to represent, but indicated his willingness to consider this one, since he was familiar with the neighborhood and similar cases in the area. Erik Enyart stated that the Applicant had called

and left a voicemail earlier that day, which he returned with a voicemail confirming that the Applicant needed to attend and be available to answer any questions, but indicated the Board could hear the case.

Discussion ensued.

JR Donelson noted that he was also familiar with the neighborhood. Darrell Mullins noted that the setbacks used to be 25', but were changed to 35'. Mr. Mullins noted that he had built his house in the early 1970s, and the setbacks were 25' at the time. Mr. Donelson confirmed that the setbacks used to be less than they are today. Erik Enyart stated that he was not entirely sure the sequence of events, but indicated he believed that the Southwood subdivisions were platted, the City of Bixby annexed them, and then the City of Bixby applied RE zoning to them when it adopted its first Zoning Ordinance in the early 1970s, believed to be about 1972 or 1974. Mr. Donelson and Mr. Mullins indicated agreement, and their favor for these homes that had been "grandfathered" but were now subject to the new rules.

During the discussion, Erik Enyart summarized several points from the Staff Report as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Friday, June 27, 2014
RE: Report and Recommendations for:
BBOA-592 – Whitney & Coats Construction, LLC for Don Schmidt

LOCATION: – 8266 E. 114th St. S.
– Lot 1, Block 8, Southwood
LOT SIZE: 1.4 acres, more or less
ZONING: RE Residential Estate District
REQUEST: Variance from the 35' front yard setback per Zoning Code Section 11-7B-4.A.1 Table 3, to allow a building addition to an existing, nonconforming residence in the RE Residential Estate District

SURROUNDING ZONING AND LAND USE: RE; Residential single family homes on large lots in Southwood and Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5 Southwood Addition.

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 southeast 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 southeast of subject property, Lot 5, Block 12, Amended Southwood Extended, 9110 E. 116th St. S. – Approved by BOA 02/13/1979.

BBOA-69 – Melvin & Goldie Crow – Request for Variance of the side yard requirements to permit a carport and storage for Lot 15, Block 3, Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5 Southwood Addition, 8171 E. 114th St. S., located across 114th St. S. to the north of subject property – Approved by BOA 01/08/1980.

BBOA-153 – Lucile S. Humbrecht – Request for Variance from the 15' side yard setback for an existing house located to the northeast of the subject property, Lot 14, Block 2, Amended Southwood Extended, 11225 S. 90th E. Ave. – Approved by BOA 12/09/1985.

BZ-274 – Lawrence Simmons – Request for rezoning from RE to CG for Lot 4, Block 9, Southwood, 11450 S. 82nd E. Ave., located 2 blocks to the southwest of subject property – PC recommended Denial 08/20/2001 and City Council Denied upon appeal September 24, 2001.

BZ-275 – James Hargrove – Request for rezoning from RE to CS or CG for Lot 5, Block 9, Southwood, 8119 E. 116th St. S., located 2 ½ blocks to the southwest of subject property – PC recommended Denial 08/20/2001 and City Council Denied upon appeal September 24, 2001.

BZ-276 – John Mumev – Request for rezoning from RE to CS for Lots 9 and 10, Block 10, Southwood, 11601 S. Memorial Dr., located 3 blocks to the southwest of subject property – PC recommended Denial 08/20/2001 and City Council Denied upon appeal September 24, 2001.

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

BBOA-399 – Stephan & Pattie Schalo – Request for Variance to exceed the 750 square foot maximum accessory building floor area in an RE District, to allow a 828-square-foot replacement accessory storage building for property located 1 block to the east of subject property, Lot 1, Block 7, Southwood, 11402 S. 85th E. Ave. – BOA Approved 03/03/2003.

BBOA-416 – Leo Eash – Request for Variance to exceed the 750 square foot maximum accessory building floor area in an RE District, to allow a 864-square-foot accessory storage building for property located 1 ½ blocks to the southeast of subject property, Lot 3, Block 7, Southwood, 11444 S. 85th E. Ave. – BOA Approved 02/02/2004.

BBOA-418 – Billy Ray Cooper – Request for “Special Exception” to exceed the 750 square foot maximum accessory building floor area in an RE District, to allow a 21' X 41' (861 square feet) accessory storage building for property to the northwest of subject property, Lot 10, Block 2, Southwood, 8115 E. 112th St. S. – BOA Approved 03/01/2004.

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

BBOA-430 – Charles Bunch – Request for Variance to exceed the 750 square foot maximum accessory building floor area in an RE District, to allow a 1,200-square-foot accessory storage building for property located 2 blocks to the southeast of subject property, Lot 1, Block 6, Southwood, 11416 S. 87th E. Ave. – BOA Denied 12/06/2004.

BBOA-436 – L. Richard Howard – Request for Variance from the 25' front yard setback for an existing house located to the east of the subject property, Lot 5, Block 9, Amended Southwood Extended, 11435 S. 94th E. Ave. – Approved by BOA 01/03/2005.

BZ-314 – John Mumev – Request for rezoning from RE to CS for Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood, 11601 S. Memorial Dr., located 3 blocks to the southwest of subject property – Recommended for Denial by PC 11/21/2005 and Withdrawn [by Applicant] 11/21/2005 per notes on the application form.

BZ-316 – John Mumev – Request for rezoning from RE to CS and OL (front/west half to CS and back/east half to OL) for Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood, 11601 S. Memorial Dr., located 3 blocks to the southwest of subject property – Continued from 04/17/2006 to 05/15/2006 and then Continued to 07/17/2006. Notes on the application form indicate that the PC recommended Denial 07/17/2005. However, Minutes of that meeting were not found in hard copy or electronic format. Notes on the August meeting agenda indicated the PC approved the Minutes of the June meeting, and not the July meeting, suggesting there may have been no July meeting. June Minutes do not reflect consideration of this application. No item was found in the City Council Minutes of 07/24/2006 or 08/14/2006, and so the matter is assumed withdrawn or not appealed to the City Council.

BBOA-471 – David Caffey – Request for (1) Variance from the Zoning Code to allow a garage accessory structure as a principal use prior to the construction and occupancy of the principal dwelling, and (2) Variance from the 750 square foot accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 1,176 square foot garage accessory structure in the

RS-1 Residential Single Family District for property located approximately to the southeast of subject property, Lot 4, Block 11, Southern Memorial Acres Extended, at 11717 S. 87th E. Ave. – BOA Conditionally Approved 03/03/2008.

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 located to the southeast of the subject property, Lot 6, Block 7, Amended Southwood Extended, 9110 E. 115th St. S. – Approved by BOA 12/06/2010.

BBOA-580 – Dr. Richard Stephens – Request for Variance from the 35' front yard setback per Zoning Code Section 11-7B-4.A.1 Table 3, to allow a building addition to an existing, nonconforming residence in the RE Residential Estate District located to the east of the subject property, Lot 6, Block 5, Amended Southwood Extended, 8933 E. 115th St. S. – Approved by BOA 07/01/2013.

BCPA-10 – JR Donelson for James Hargrove et al., PUD 77 – “Southwood on Memorial” – JR Donelson, Inc., and BZ-366 – James Hargrove et al. – BCPA-10 requested (1) to change the intensity to Medium Intensity and (2) to remove the Residential Area specific land use designation, PUD 77 was a request for PUD approval, and BZ-366 was a request for rezoning from RE to CS, all for Lot 10, Block 2, Lot 9, Block 3, all of Block 9, and Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood, and Lot 10, Block 3, Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition, located from the 11100-block to the 11600-block of S. Memorial Dr. (located 1 ½ blocks to the west of subject property) – PC Recommended Denial 08/19/2013 (not appealed to City Council).

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property consists of Lot 1, Block 8 in Southwood, zoned RE. It contains a single-family dwelling fronting north onto 114th 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 RE Residential Estate District. Zoning Code Section 11-7B-4.A.1 Table 3 requires minimum setbacks as follows: 35' front yard, 25' rear yard, and 15' for both side yards. The existing house appears to be nonconforming, having a 30' (or just less than) front yard setback, according to the Applicant's site plan. Zoning Code Section 11-11-6 prohibits the expansion of structurally nonconforming buildings. The side and rear yard setbacks appear to be in order.

The Applicant has submitted a Building Permit application (# 31310) proposing to add a building addition to the rear of the house. Due to the structural nonconformity, the house is presently ineligible for expansion, as such would increase the nonconformity by extending the life of a nonconforming structure. Therefore, the Applicant requested a Variance from the 35' front yard setback in the RE district. The exact distance between the front of the house and the front lot line is not known; per the “New Site Plan” drawing A-200, the house appears to encroach slightly on the 30' Building Line established by the plat of Southwood. The site plan does not give a specific dimension. A linetype appears to encroach on the 30' Building Line, but it may be indicative of the wall or an overhanging eave. The Applicant's narrative indicates a 5' Variance is needed, suggesting a 30' setback. Based on a rough estimate of relative proportions and the Applicant's statement, it is estimated for purposes of this Staff Report as having a 30' setback.

The Applicant has provided several arguments explaining how the proposed Variance would meet the tests and standards for Variance. Staff believes that these arguments are sound and reasonable, and has provided further refinements and additional arguments in the following paragraphs. The following claims made by Staff are similar to the same Staff made for BBOA-530 and BBOA-580.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. According to the Tulsa County Assessor's records, the house was built in 1972. The City of Bixby did not adopt a Zoning ordinance

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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 was built in conformance to the (private) Building Lines established on the plat of Southwood, and became legally nonconforming at the point at which it became subject to the RE 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 does not apply to the present case because the house on the lot abutting to the west, per GIS rough measurements, has a greater setback from 114th St. S. This condition or circumstance, stemming from its location at the street intersection, is unique relative to the typical lot in the RE 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 could have been 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 Southwood subdivision was platted on or around March 11, 1965, presumably in unincorporated Tulsa County and subsequently annexed by Bixby.*
- The plat of Southwood only requires a 30' front-yard setback. Approval of the Variance may not conflict with the setbacks as established by the plat, if the house has at least a 30' setback.*
- Per County Assessor's records, the house on the subject property was constructed in 1972.*
- The City of Bixby did not adopt a Zoning ordinance until circa the original 1974 Zoning Ordinance # 272.*
- As noted in the reports for BBOA-530 and BBOA-580, a number of the dwellings in the "Southwood" neighborhoods appear to also encroach the 35' Zoning setback.*
- All 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 if encroaching the 35' setback.*

Unnecessary Hardship. The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because "...The current code would prevent this addition, which would otherwise be appropriate."

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 "Almost all of the other houses in this immediate area encroach on the new setback." Per GIS and aerial data, it appears that most of houses in the immediate area, defined here as adjacent to or across the street from the subject property, meet or exceed the 35' setback. However, as documented in the cases of BBOA-530 and BBOA-580, numerous houses in other parts of the "Southwood" neighborhoods do not meet this requirement.

The Applicant also claims, "The proposed addition would increase the property value and should enhance the overall curb appeal and visual balance of the house."

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

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the structure, and (2) for the sake of consistency of design, mode of placement, and orientation of structures (aesthetics).

East 114th 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. Neither the adopted Comprehensive Plan nor the TMAPC Major Street and Highway Plan 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 approximately 30' from the front lot line does not appear to be unique to the subject property. Several other dwellings in the "Southwood" neighborhoods appear to encroach on, not only the Zoning Code's 35' front yard setback, but also the 25' and 30' (private) setbacks established by the plats.

Also, the proposed building addition would be in the rear of the dwelling, and not in the same direction as the encroachment (front yard). This could effectively "balance out" the appearance of the structure in respect to the lot, improving the proportionality of this dynamic from an aesthetic standpoint.

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. BBOA-530 and BBOA-580 appear the most relevant, due to proximity, recentness, and virtually identical nature and circumstances.

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 approximately 5' of setback, a Variance of approximately 5' 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.

Based on the arguments presented, Darrell Mullins made a MOTION to APPROVE BBOA-592 Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT

Larry Whiteley made a MOTION to ADJOURN. Murray King SECONDED the Motion. Roll was called:

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ROLL CALL:

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

Meeting was Adjourned at 6:20 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary

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BIXBY BOARD OF ADJUSTMENT

SIGN IN SHEET

DATE: July 07, 2014

NAME	ADDRESS	ITEM
1. GREGG BATTERY	13364 E. 205 th ST	REGARDING BBOA 589+590 if not postponed.
2. Kyle Baker	12221 S. 109 th	Permit Variance
3. Paulette Baker	12221 S. 109 th E. Ave.	Variance
4. Keith Churchhill	20738 S 142 nd E Ave	"
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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: Tuesday, July 29, 2014
RE: Report and Recommendations for:
BBOA-589 – Randy Even for Paul Reynolds

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

LOT SIZE: 5 acres, more or less

ZONING: RE Residential Estate District

REQUEST: Special Exception per Zoning Code Section 11-8-5 to allow an Accessory Dwelling Unit in an RE Residential Estate District

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

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

PREVIOUS/RELATED CASES:

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

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

RELEVANT AREA CASE HISTORY: (not a complete list; includes only accessory building

BOA cases in *Bixby Ranch Estates*; does not include cases in unincorporated Tulsa County)

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

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

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

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

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

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

BACKGROUND INFORMATION:

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

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

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

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

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

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

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

This is the third Special Exception for an ADU requested under the new ADU amendment to the Zoning Code. The first, BBOA-524 – Richard Ekhoﬀ, was Conditionally Approved 08/02/2010 for an acreage located at 9024 E. 101st St. S. The second, BBOA-579 – Paul & Jimme Beth Hefner for Mary Elizabeth Brown, was Conditionally Approved 07/01/2013 to construct an ADU as a building addition to the existing barn building on a 16-acre agricultural tract at 9013/9017 E. 161st St. S. (not since constructed, however).

Intent of Occupancy. Per BBOA-595, the Applicant has stated that the proposed ADU would be for an “aging parent.” From the applications received thus far, semi-independent living quarters for family members is invariably the reason such ADU applications are pursued.

Private Restrictions. Zoning Code Section 11-8-5.A provides:

“A lot of record which is subject to a restrictive covenant prohibiting more than one dwelling unit per lot shall not be eligible for an ADU special exception;”

The Deed of Dedication and Restrictive Covenants on file with the City of Bixby with the plat of Bixby Ranch Estates, titled "Bixby Ranch Estates Protective Covenants and Easements," provides the following as may pertain to the above requirement:

"1. All lots within the annexed plat shall be known and designated as residential building plots, no structures shall be erected, altered, placed or permitted to remain on any plot other than one detached single-family dwelling not to exceed three stories in height and other out-buildings incidental to residential use of the plot, no residential building shall be less than 1,100 square feet of living area.

....

5. No structure of temporary character, tent, shack, barn, mobile homes, or other outbuildings shall be used on any lot at any time as a residence." (emphasis added)

The language, read together, (1) allows "out-buildings incidental to the residential use of the plot," and (2) does not expressly prohibit an Accessory Dwelling Unit (ADU), but rather, suggests the same were not anticipated. It does expressly prohibit temporary structures, including "outbuildings," from being used as a residence, which does not appear to anticipate a permanent accessory dwelling unit being constructed within a part of an outbuilding otherwise dedicated to storage. The language appears to prohibit storage buildings, not built to a Building Code standard for dwellings or manifestly arranged with elements required to support semi-independent living quarters, from being remodeled, retrofitted, or otherwise simply inhabited as a dwelling. However, Staff does not have the standing to officially interpret the private covenants either way. If the Board, however, chooses to read and interpret the private covenants as prohibiting the Accessory Dwelling Unit, this application must be tabled or denied, and BBOA-590 and BBOA-595 would then be moot.

History of the Applications. During the review of BBOA-589, Staff found that the building proposed (50' X 70' on the site plan but indicated as 50' X 72' in construction drawings, and possibly different if cited elsewhere) would exceed the maximum detached accessory building restriction in the RE and RS districts, which is 2,400 square feet. There is a "sliding scale" in Zoning Code Section 11-8-8.B.5, which the subject property, at approximately 4.8 acres, does not even qualify for 2,400 square feet, which requires 5.25 acres.

Zoning Code Section 11-8-5.C specifically restricts detached accessory buildings containing ADUs to the restrictions pertaining to accessory buildings:

"C. ADUs, if detached from the principal dwelling, shall meet the requirements prescribed for a detached accessory building;"

Per BBOA-595, the Applicant has since additionally requested a Variance from the maximum detached accessory building size of Zoning Code Section 11-8-8.B.5. As requested by the Applicant, BBOA-589 and BBOA-590 were Continued from the July 07, 2014 Board of Adjustment meeting to this August 04, 2014 meeting, so that all three (3) applications may be considered at one (1) time.

ANALYSIS:

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

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Vacant, Agricultural, Rural Residences, and Open Land and (2) Residential Area.

The permitted house / residential use and proposed ADU residential use element should be considered not inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily RE and AG, and the surrounding land is primarily rural residential homes and vacant/wooded lots in *Bixby Ranch Estates*. Abutting to the south is vacant/wooded land zoned AG in unincorporated Tulsa County.

The permitted residential and agricultural uses and proposed ADU residential use element would appear to be not inconsistent with surrounding land uses and zoning patterns.

General. This application proposes to construct the ADU living quarters within part of a proposed metal accessory building measuring approximately 50' X 72' (3,600 square feet). Per BBOA-595 and the submitted information, the living quarters would occupy the "front" 20' of the 50'-wide building, and so would contain 1,000 square feet. The accessory storage + ADU building is proposed to be located behind the permitted house.

Because Accessory Dwelling Units by Special Exception are a relatively-newly-allowed land use element, and experience with them in Bixby is limited, care should be taken to ensure that the approval is not detrimental to the neighborhood. To this end, in addition to the standard regulations for ADUs provided in the Zoning Code, Staff has provided specific recommended Conditions of Approval listed in the Staff Recommendation section of this report, in the event the Board approves the application.

The Applicant provided a site plan, building plans and specifications, photos of other properties in the neighborhood, and a narrative in support of BBOA-589 and BBOA-590.

The neighbor abutting the subject property to the west submitted a formal response to BBOA-589 and BBOA-590 "(and all related BOAs)," which response is attached to this report. The response appears to provide certain objections and expresses certain concerns for the applications.

It should be noted that the term "ADU," as used in the Applicant's narrative and as also used in the neighbor's narrative, is interpreted as usually meaning "accessory building," not an "ADU" as defined in the Zoning Code. Staff is not aware of any existing ADUs in the neighborhood, and the neighbor's narrative disclaims the existence of any here, but it is possible such exist.

Zoning Code Section 11-8-5.G provides, "ADUs, whether detached from or attached to the principal dwelling, shall match the exterior materials of the primary residential unit and comply with the restrictive covenants affecting the lot, if any." The Applicant, per BBOA-590, is seeking a Variance from this requirement.

Per BBOA-595, the Applicant is also seeking a Variance from the accessory building maximum floor area standard per Zoning Code Section 11-8-8.B.5 to allow a new, approximately 50' X 72', 3,600 square foot accessory building. That standard would limit the building to 2,400 square feet. There is a "sliding scale" in Zoning Code Section 11-8-8.B.5, under which the subject property, at almost 5 acres, may not even qualify for 2,400 square feet.

In the application materials, the Applicant states: "Other lots that had [accessory buildings] I could not see or get access for pictures. Area older neighborhood with heavy cover. Could not find one building that had any matching elements except color of metal siding on one. Lot next to site has [an accessory] metal building with no matching elements.

On this site the home and ADU will [sit] back 200' in heavy wooded lot. Will be very hard to see from road or neighbors with the exception of lot to the East.

This property with the ADU not only hard to see from the road but also is very consistent with surrounding lots, homes, and [accessory buildings]. Very private and secluded area of South Bixby."

The Applicant's arguments are intended to support both BBOA-589 and BBOA-590. Based on the provided materials, the proposal includes: House will be set back 210' from 205th St. S., accessory building will be set back 275' from 205th St. S. (or 5' behind the back of the house, even though not accurately represented on the site plan from a relative standpoint), lot is heavily wooded, accessory building will not be as visible from street or adjoining properties (except to the east) due to location behind the house and the heavy tree cover, and several other properties in the neighborhood have accessory buildings, commonly metal buildings and commonly large.

The case history in the neighborhood also reflects a large number of large storage buildings in the neighborhood. The proposed one, however, would be the largest such accessory building reflected in the available records.

Staff Recommendation. Based on the Comprehensive Plan, surrounding zoning and land use patterns, and the arguments provided by the Applicant and those presented in the analysis above, Staff has no objections to the application as outlined below.

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

"The board of adjustment shall consider the specific plans for the ADU and its relation to the principal dwelling and surrounding neighborhood and shall place reasonable conditions on the special exception approval as may be necessary to prevent undue adverse impacts;"

Therefore, if the Board finds the Special Exception for an ADU to be in harmony with the spirit and intent of the Zoning Code and not injurious to the neighborhood or otherwise detrimental to

the public welfare, Staff recommends that Approval be subject to the following Conditions of Approval:

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

AG

AG

RE

CHAMPJOHNSON RD

E 201st ST S

S 129th E AVE

S 137 E AVE

S 137 E AVE

E 203 ST S

RE

Subject Tract

E 205 ST S

AG

AG

S CHAMPJOHNSON RD

E 210 ST S



300' Radius



Subject Tract

BBOA-589



16 16-14





City of Bixby Board of Adjustment Application

Applicant: Randy Even
Address: 14326 S. Harvard Ave Bixby
Telephone: _____ Cell Phone: 918-625-1064 Email: elven43@aol.com

Property Owner: Paul Reynolds If different from Applicant, does owner consent? YES
Property Address: 13466 E 205th St. S. Bixby
Existing Zoning: RE Existing Use: vacant lot House Use Unit #: _____
Proposed Use: Home under construction

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

Lot 12 BLK 1 BIXBY Ranch Estates

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

If Applicant is other than Owner, indicate interest: Builder

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?
aging Parent

b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?
see attachment #1

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.
taking care of parent. Keeping family together surrounding lots and area very consistent w/ this property

d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.
allow care for aging parent. able to watch and care for family.

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.

*Metal work shop w/ front living space (includes drawings) 50' x 70'
living space 1 bedroom 1000 living space with storage on top
ADA building matches area home and building*

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:

Randy Ewen
14326 S. Hawaiian Ave. Bixby (NAME) *978-625-1064*
(ADDRESS) (CITY) (PHONE)
OK 74008

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

Signature:

[Handwritten Signature]

Date:

6/1/14

APPLICANT - DO NOT WRITE BELOW THIS LINE

BBOA-589 Date Received *06/02/2014* Received By *Ewen* Receipt # *01162302*
Board of Adjustment Date *07/07/2014*

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 ADD. = 100.00 + 50 = \$150.00 TOTAL

BOA Action: _____ Conditions: _____

Date: _____ Roll Call: _____

Staff Rec. _____

26

ATTACHMENT # 1

Picture # 1 view of property from road. Home and ADU 200' from road and hard to see through heavy woods

Picture # 2 Aerial view of area surrounding property (tract A and B site of request)

Picture # 3 lot next to site home and ADU

Picture # 4 ADU on lot next to site

Picture # 5 close up on ADU next to site

Picture # 6 lot across street to North and one lot West house and ADU

Picture # 7 ADU

Picture # 8 20438 S. 137 E. Ave house and ADU

Picture # 9 20438 S. 137 E. Ave.

Picture # 10 20538 S. 137 E. Ave house

Picture # 11 20538 S. 137 E. Ave.

Picture # 12 West of site 4 lots

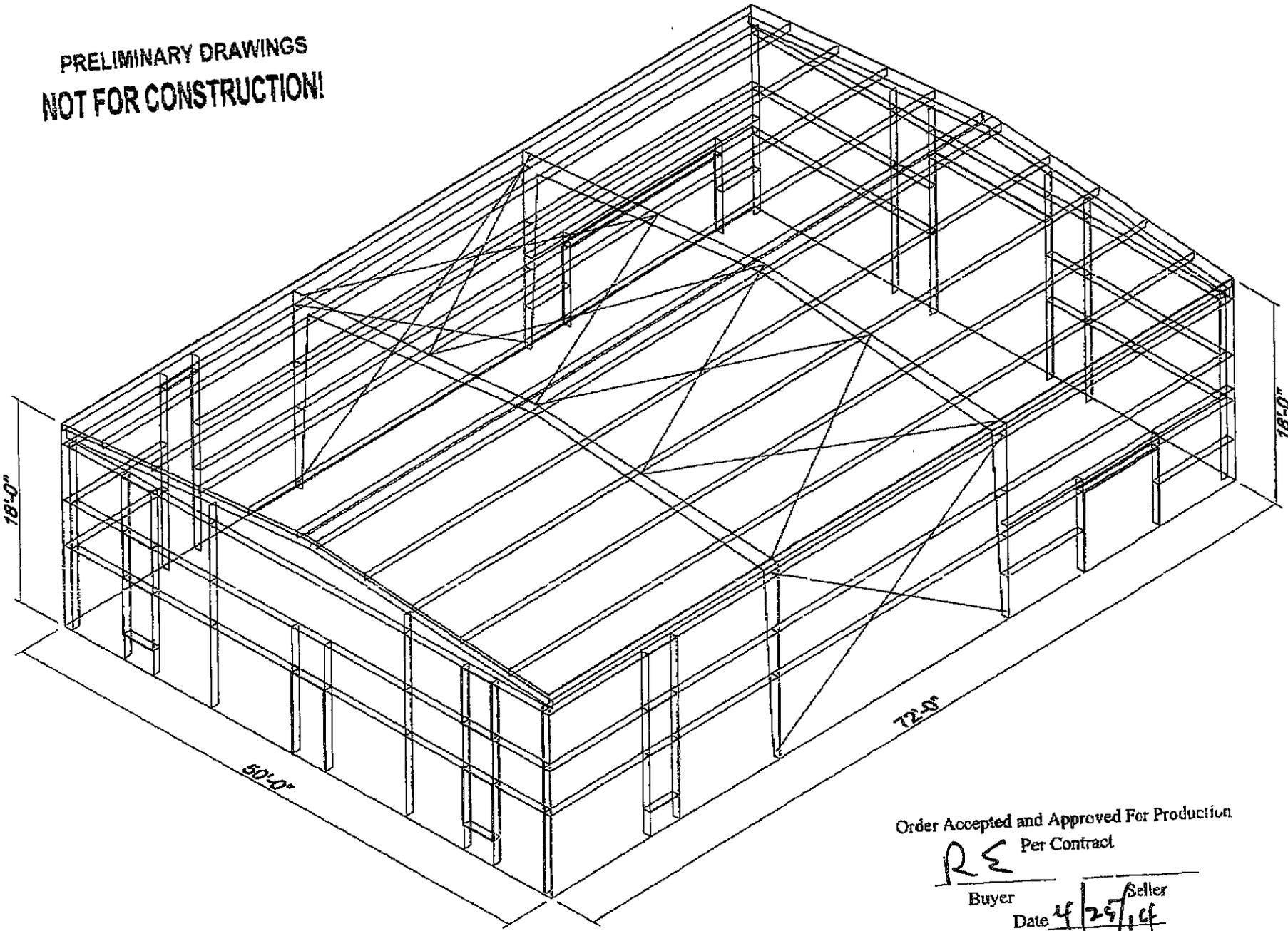
Picture # 13 East of site one block

Other lots that had ADU I could not see or get access for pictures. Area older neighborhood with heavy cover. Could not find one building that had any matching elements except color of metal siding on one. Lot next to site has ADU metal building with no matching elements.

On this site the home and ADU will site back 200' in heavy wooded lot. Will be very hard to see from road or neighbors with the exception of lot to the East.

This property with the ADU not only hard to see from the road but also is very consistent with surrounding lots, homes, and ADUs. Very private and secluded area of South Bixby.

PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!



Order Accepted and Approved For Production
Per Contract

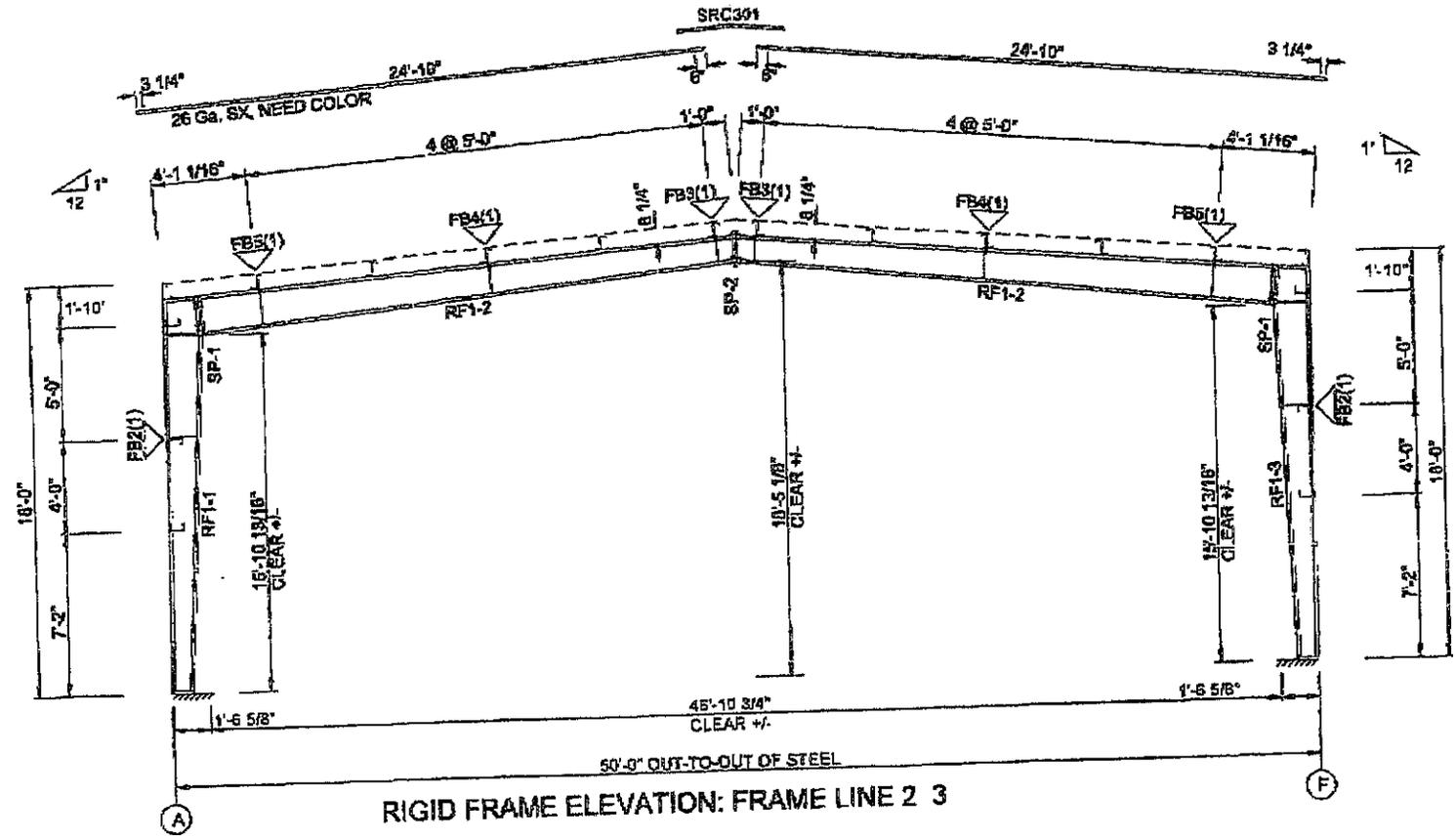
RE
Buyer _____ Seller _____
Date 4/29/14

PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!

SPICE BOLT TABLE						
Mark	Qty	Top	Bot	Int	Type	Length
SP-1	4	4	0		A325	0.750 2.50
SP-2	4	4	0		A385	0.825 2.25

Mark	Web Depth		Web Flange		Outside Flange W x Thk x Length	Inside Flange W x Thk x Length
	Slab Depth	Top	Length	Length		
RF1-1	7.748.0	0.185	93.7		5 x 14" x 207.0	5 x 3/8" x 189.5
RF1-2	18.046.4	0.156	48.7		6 x 14" x 15.7	5 x 14" x 234.0
RF1-3	17.041.0	0.156	42.2		5 x 14" x 234.0	5 x 14" x 47.3
	17.041.0	0.156	240.0		5 x 14" x 15.7	5 x 3/8" x 189.5
	16.446.0	0.250	46.7		5 x 14" x 207.0	
	16.446.0	0.155	189.7			

FLANGE BRACES, Both Sides (U.N.)
FB2(1)
A - L2102K18



RIGID FRAME ELEVATION: FRAME LINE 2 3

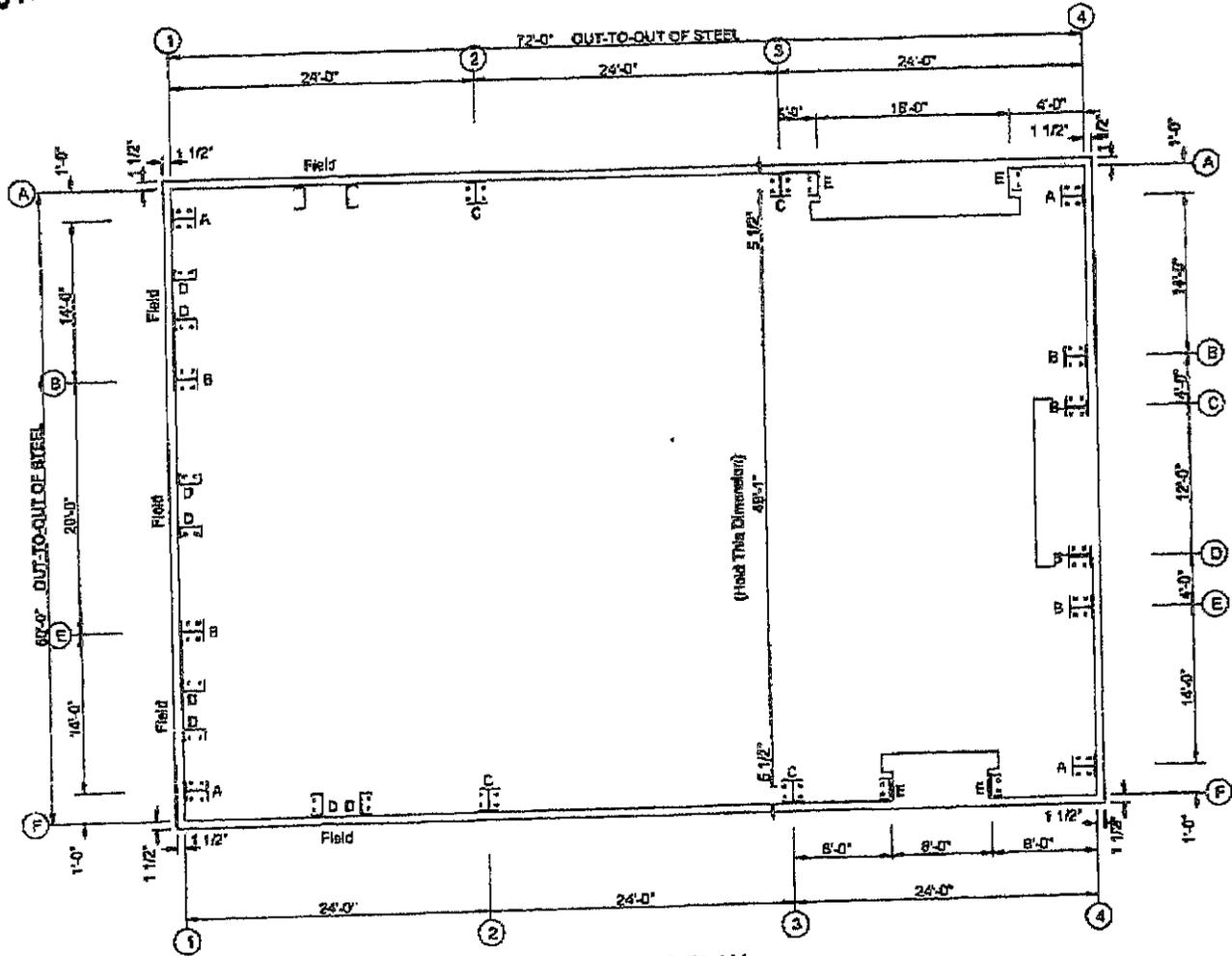
Order Accepted and Approved For Production
Per Contract

Buyer: *RE*
Date: *4/25/14*
Seller:



DESCRIPTION: RIGID FRAME ELEVATION					
NO.	50'-0" x 72'-0" x 18'-0"	PROJECT	SIX FLK18		
DESIGNER	BANDY BISH	DATE			
LOCATION	INDIAN	DATE			
DATE	02/14	SCALE	MEMO	DATE	BY

PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!



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

Order Accepted and Approved For Production
Per Contract

RE

Buyer

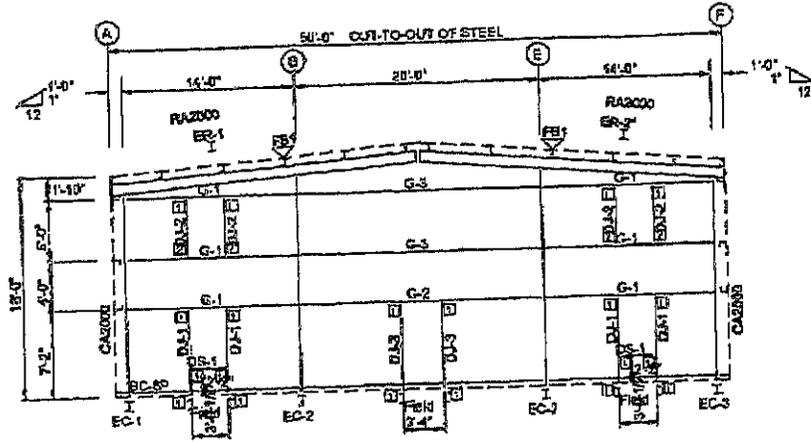
Seller

Date 4/25/14

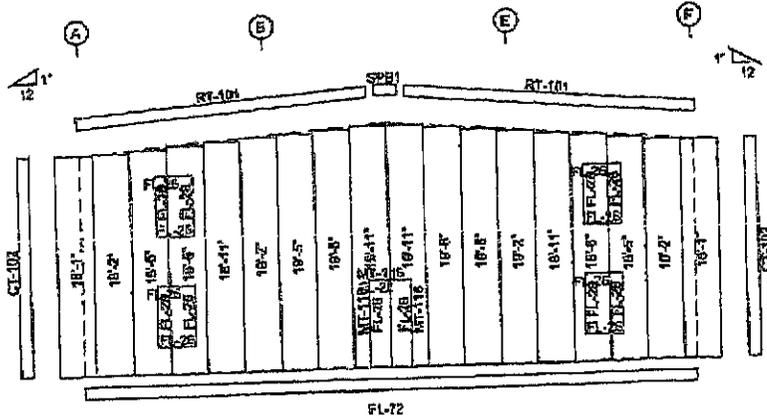


DESCRIPTION	ANCHOR BOLT PLAN	PROJECT	10/17/14
SIZE	87'-0" x 72'-0" x 18'-0"	DATE	04/23/14
CUSTOMER	RAMPY ELEV	DATE	
DRAWN	RECYCLED	DATE	
CHECKED		DATE	
APPROVED		DATE	

PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!



ENDWALL FRAMING: FRAME LINE 1



ENDWALL SHEETING & TRIM: FRAME LINE 1
PANELS: 26 GA. SX - NEED COLOR

BOLT TABLE			
FRAME LINE 1			
LOCATION	QUAN	TYPE	DIA. LENGTH
ER-1/ER-2*	8	A325	5/8" 2"
Columns/Raft	2	A325	5/8" 1 1/2"

FLANGE BRACE TABLE		
FRAME LINE 1		
VIDI MARK	LENGTH	
1 FB1	1'-2 3/2"	

CONNECTION PLATES	
FRAME LINE 1	
ID	MARK/PART
1	AK100
2	42

MEMBER TABLE	
FRAME LINE 1	
MARK	PART
EC-1	1W8X10
EC-2	1W8X10
EC-3	1W8X10
ER-1	1W8X10
ER-2*	1W8X10
DJ-1	8X25C16
DJ-2	8X25C16
DJ-3	8X25C14
DS-1	8X25C16
G-1	8X25C16
G-2	8X35C14
G-3	8X25C14

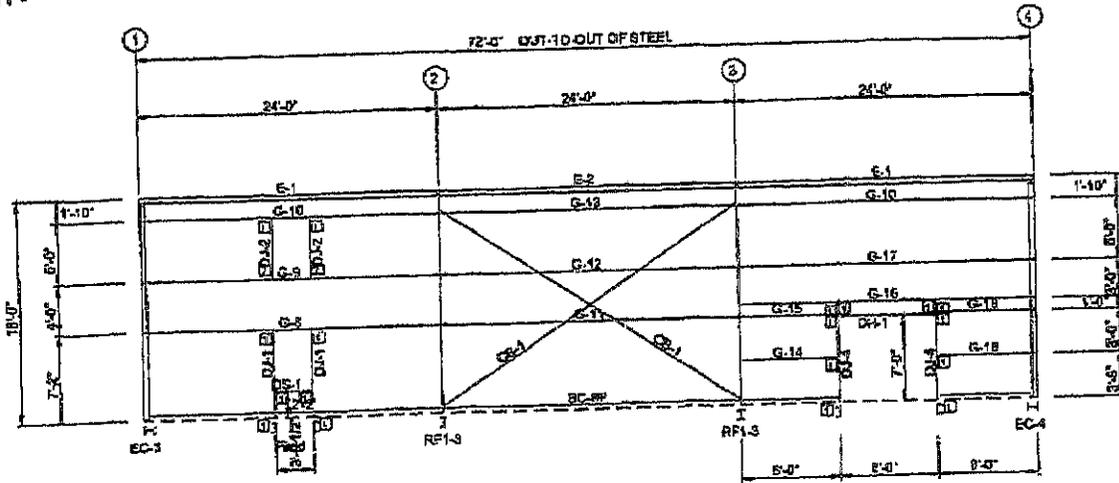
Order Accepted and Approved For Production

RE Per Contract
 Buyer _____ Seller _____
 Date 4/25/14

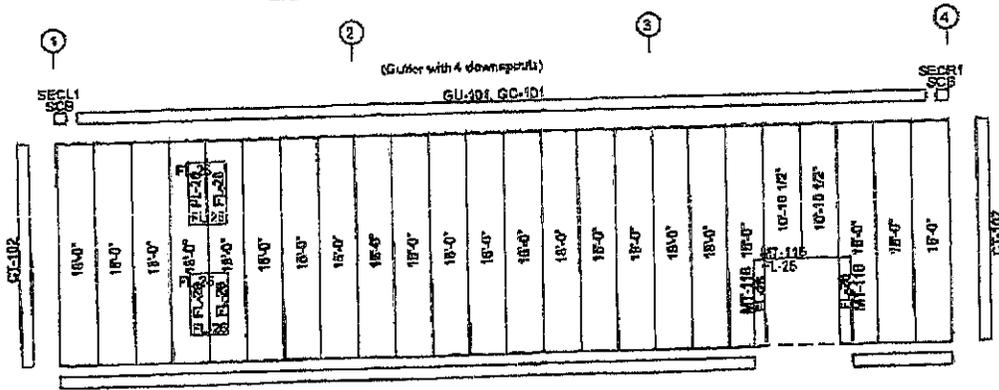
LUCAS BUILDINGS

DESCRIPTION	ENDWALL FRAMING	QUANTITY	60'-0" x 72'-0" x 18'-0"
LOCATION	POWDERMILL	ORDER #	01212111
DATE	07/14	SCALE	1/8" = 1'-0"
BY	07/14	DATE	04/23/14

PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!



SIDEWALL FRAMING: FRAME LINE F



SIDEWALL SHEETING & TRIM: FRAME LINE F
PANELS: 26 @ 6X - NEED COLOR

CONNECTION PLATES FRAME LINE F	
ID	MARK/PART
1	AK100
2	12

MEMBER TABLE FRAME LINE F	
MARK	PART
DJ-1	6X25C16
DJ-2	6X25C16
DJ-4	6X25C14
DH-1	6X25C14
DS-1	6X25C16
E-1	6E14L
E-2	6E14L
G-6	6X25C12
G-9	6X25C12
G-10	6X25C14
G-11	6X25C12
G-12	6X25C12
G-13	6X25C14
G-14	6X25Z16
G-15	6X25C16
G-16	6X25C12
G-17	6X25C12
G-18	6X25Z16
G-19	6X25C16
CB-1	6.31 CBL

Order Accepted and Approved For Production

RE
Buyer
Date 4/25/14
Siler

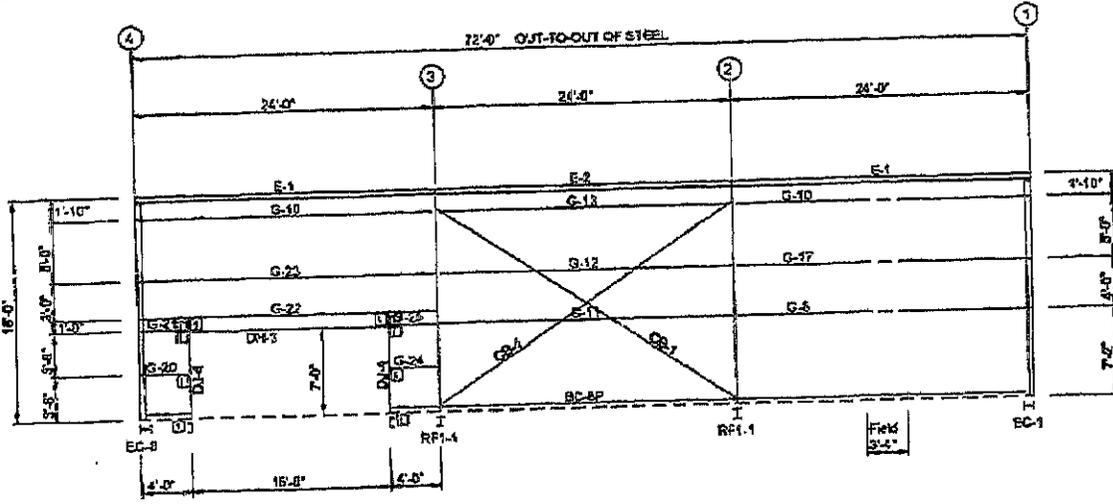


COMPANY	SIDEWALL FRAMING	PROJECT	2012 72 X 18
REV.	07/01/12 07 X 07 07		
DESIGNED BY	BRADY EVEN		
LUCAS BUILDINGS	BUYER	DATE	04/23/14
DR	NO	DATE	04/23/14
REV.	04/23/14	BY	04/23/14
DATE	04/23/14	BY	04/23/14
DATE	04/23/14	BY	04/23/14

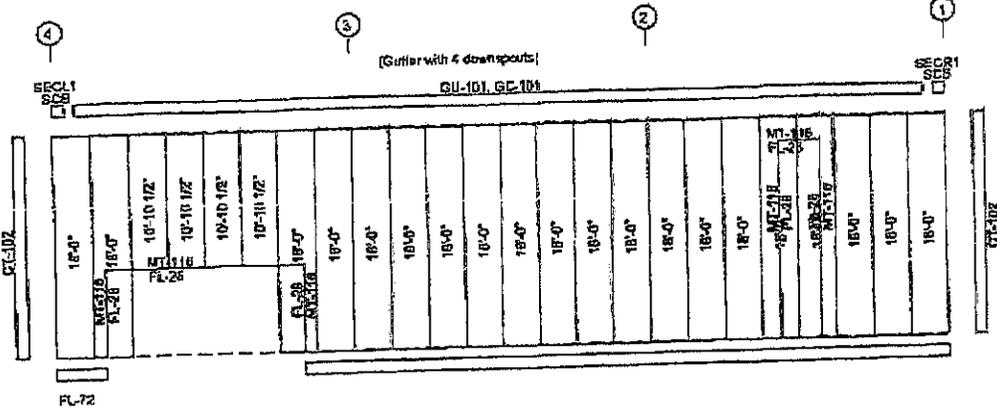
PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!

CONNECTION PLATES	
FRAME LINE A	
MARK/PART	
1	AK180

MEMBER TABLE	
FRAME LINE A	
MARK	PART
DJ-4	8X25C14
DH-3	8X25C14
E-1	BE14L
E-2	BE14L
G-8	8X25C12
G-10	8X25C14
G-11	8X25C12
G-12	8X25Z12
G-13	8X25C14
G-17	8X25Z12
G-20	8X25Z16
G-21	8X25C16
G-22	8X35C14
G-23	8X25Z12
G-24	8X25Z16
G-25	8X25C16
CB-1	0.31 CBL



SIDEWALL FRAMING: FRAME LINE A



SIDEWALL SHEETING & TRIM: FRAME LINE A
PANELS: 20 Ga. SK - NEED COLOR

Drawings Accepted and Approved For Production

Per Contract
Buyer *RE*
Date *4/25/14*
Seller



DESCRIPTION	SIDEWALL FRAMING	PROJECT	50X72X8
SIZE	80'-0" EXT-0" X 12'-0"		
DESIGNER	RANDY EVEN		
LOCATION	INDIAN	DATE	04-08-14
DRAWN BY	EN	CHECKED BY	EN
SCALE	AS SHOWN	DATE	04-08-14

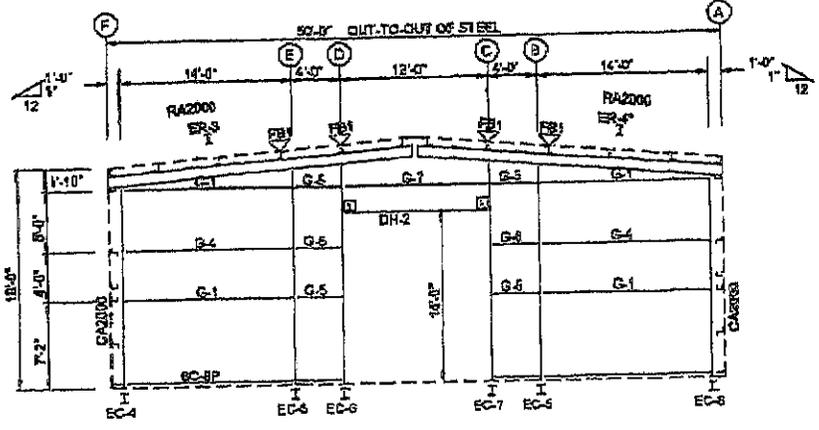
PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!

BOLT TABLE				
FRAME LINE 4				
LOCATION	QUAN	TYPE	DIA	LENGTH
ER-3/ER-4*	8	A325	5/8"	2"
Columns/Ref	2	A325	5/8"	1 1/2"

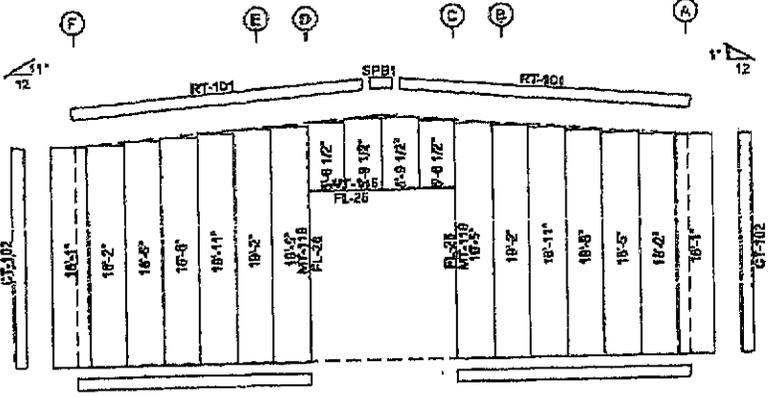
FLANGE BRACE TABLE		
FRAME LINE 4		
VID	MARK	LENGTH
1	FB1	1'2 1/2"

CONNECTION PLATES		
FRAME LINE 4		
ID	MARK	PART
1	AK100	

MEMBER TABLE	
FRAME LINE 4	
MARK	PART
EC-4	WBX10
EC-5	WBX10
EC-6	WBX10
EC-7	WBX10
EC-8	WBX10
ER-3	WBX10
ER-4*	WBX10
DH-2	8X25C14
G-1	8X25C16
G-4	8X25Z16
G-5	8X25C16
G-6	8X25Z16
G-7	8X25C16



ENDWALL FRAMING: FRAME LINE 4



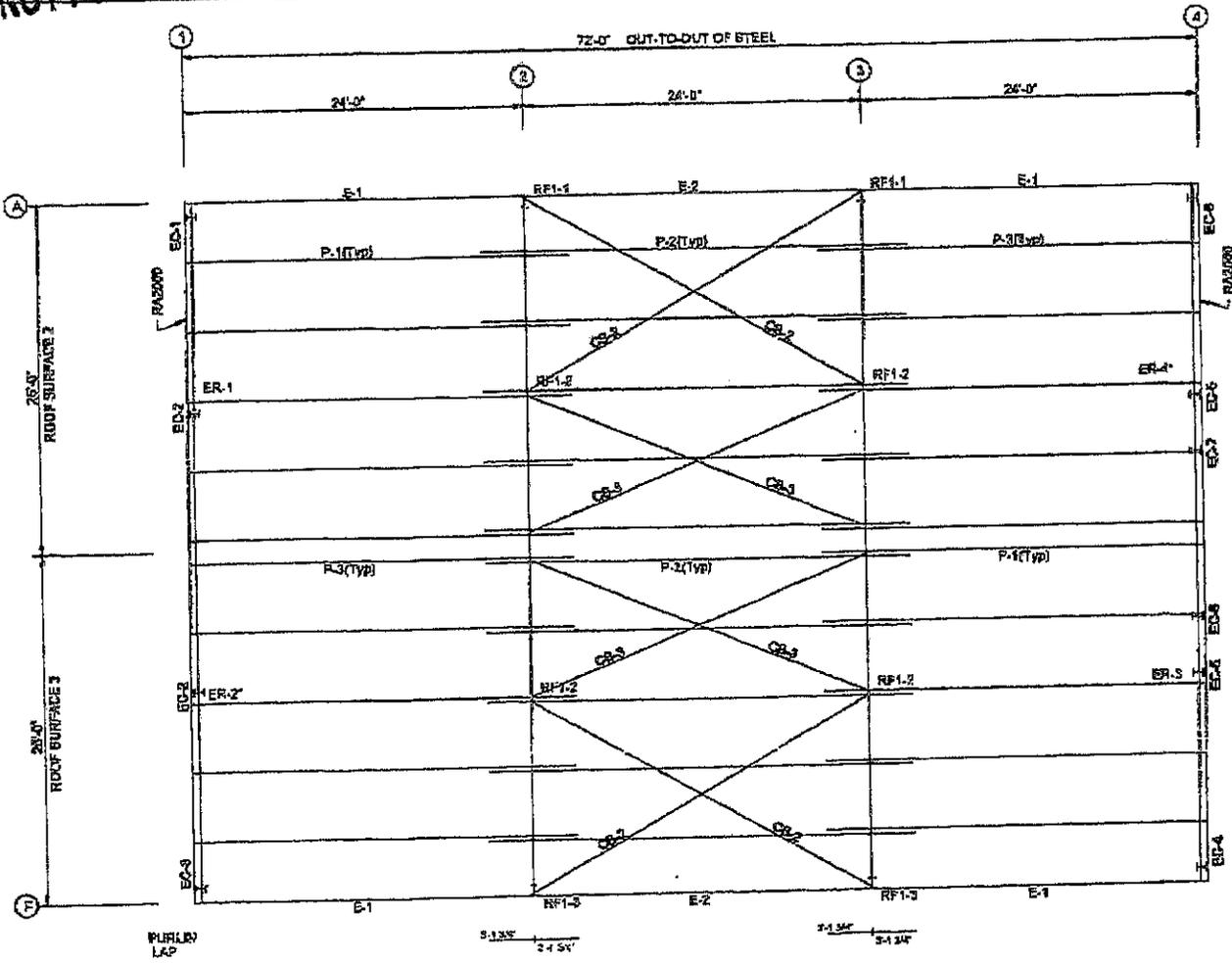
ENDWALL SHEETING & TRIM: FRAME LINE 4
PANELS: Z6 G6, S6 - NEED COLOR

Accepted and Approved For Production
Per Contract

Buyer *RE*
Date *4/25/14*
Seller

DESCRIPTION		ENDWALL FRAMING	
REV		01' & 12' & 18'	
REVISION		REVISION	
LOCATION	BOOTH	NO.	DATE
DRY	BY	DATE	DATE

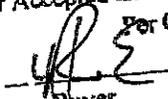
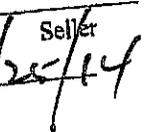
PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION!



ROOF FRAMING PLAN

MEMBER TABLE	
ROOF PLAN	
MARK	PART
P-1	8X26212
P-2	8X25214
P-3	8X25212
E-1	8E14L
E-2	8E14L
CB-2	0.25_CBL
CB-3	0.25_CBL

Order Accepted and Approved For Production
Per Contract

 Buyer
 Seller
 Date 4/23/14



LUCAS BUILDINGS

DESCRIPTION		ROOF FRAMING	
SEC	80' x 72' x 12'	PROJECT	SIX 22 KM
DESIGNER	BANDY EVANS	DATE	
APPROVER	COBY OK	SCALE	
DRAWN	COBY	DATE	
CHKD	COBY	DATE	
DATE	4/23/14	SCALE	NONE
DATE		SCALE	QUANTITY

Erik Enyart

From: Erik Enyart
Sent: Monday, May 19, 2014 11:23 AM
To: 'elven43@aol.com'
Subject: Reynolds property, Lot 12, Block 1, Bixby Ranch Estates in the 13400-block of E. 205th St. S.
Attachments: Application - BOA.pdf; Staff Report – BBOA-524 – Richard Ekhoﬀ.pdf

Hi Randy Even:

As discussed, the situation you are describing appears best processed as an application for Special Exception for an Accessory Dwelling Unit (ADU). This allows for the construction of a living space within the detached accessory building (metal building, in this case). Here are the rules governing ADUs from Zoning Code Section 11-8-5:

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

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

- A. A lot of record which is subject to a restrictive covenant prohibiting more than one dwelling unit per lot shall not be eligible for an ADU special exception;
- B. The board of adjustment shall consider the specific plans for the ADU and its relation to the principal dwelling and surrounding neighborhood and shall place reasonable conditions on the special exception approval as may be necessary to prevent undue adverse impacts;
- C. ADUs, if detached from the principal dwelling, shall meet the requirements prescribed for a detached accessory building;
- D. An ADU shall not be subdivided or otherwise segregated in ownership from the primary residential unit;
- E. An ADU shall not contain more than one bedroom;
- F. Manufactured and modular homes shall not be used as ADUs;
- G. ADUs, whether detached from or attached to the principal dwelling, shall match the exterior materials of the primary residential unit and comply with the restrictive covenants affecting the lot, if any;
- H. An ADU shall not be considered in calculating livability space or land area per dwelling. (Ord. 2031, 12-21-2009)”

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

Further, the first ADU Special Exception case served as a test for the interpretation of that “match” requirement. In that case, BBOA-524 (see attached for reference), the Applicant proposed to use an existing white metal storage building, which did not match the red brick house. The Applicant proposed, and was approved to add brick and/or accent columns and wainscoting. Plans showing the appearance were submitted for presentation to the Board of Adjustment and were approved by the Board as a part of the application. Whatever “matching” elements you and your client may propose, those should be added to the application along with plans showing the appearance. However, if you will not propose to match the principal dwelling at all, you may seek a Variance from that requirement (and any others which the proposed plans will not meet).

The application for Special Exception is attached. Another copy of the form can be printed out and used for a Variance application, if that is what you and your client decide to do. Special Exceptions are \$150.00, and Variances are \$125.00.

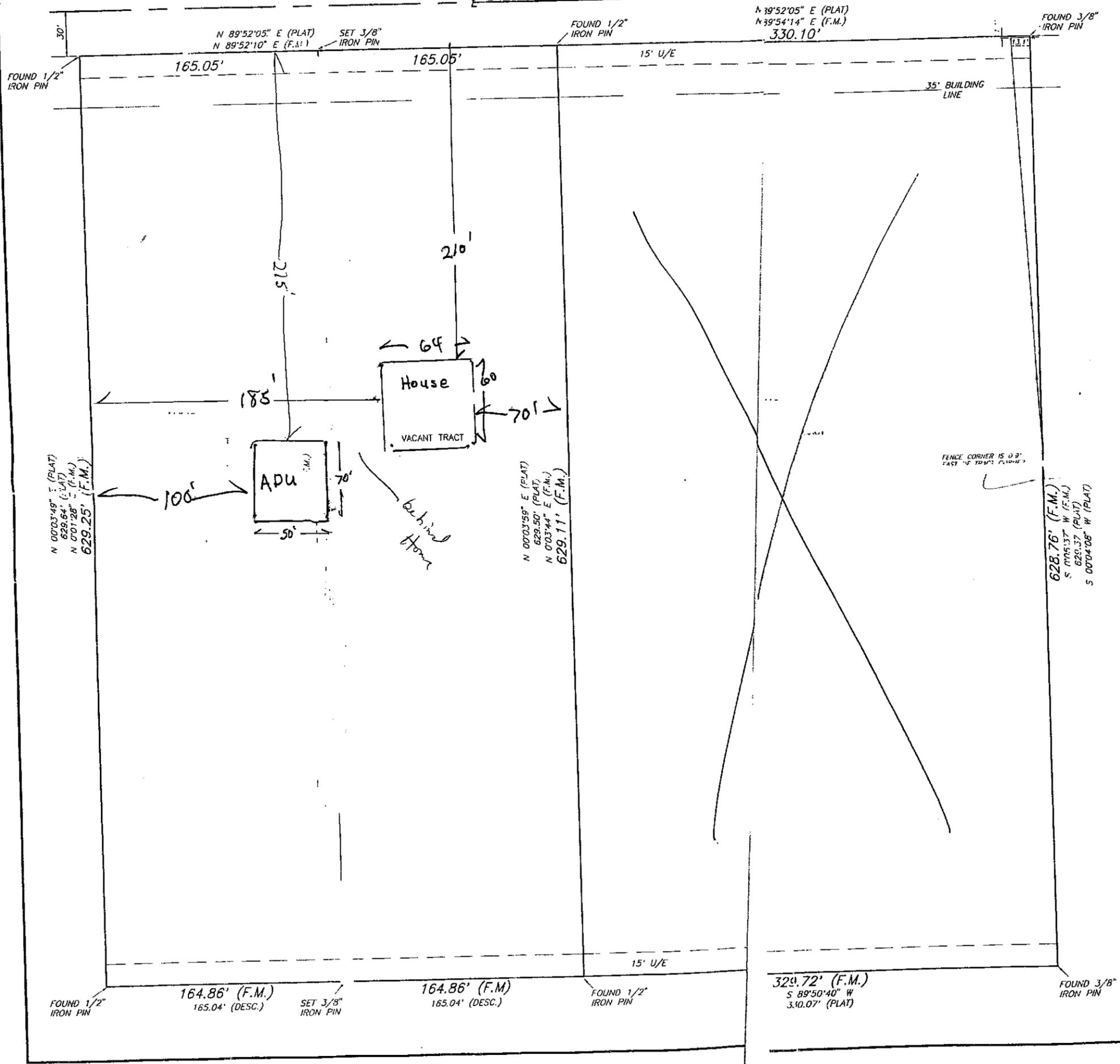
Hopefully this information is helpful. Please call or email if you have any questions or need additional information.

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

EAST 205TH STREET SOUTH

1"=50'

LEGEND	
---	FENCE
N	METERING POINT
B	BURIED ELECTRIC & TELEPHONE CABLE EASEMENT (APPROXIMATE LOCATION)
U/E	UTILITY EASEMENT
D/E	DRAINAGE EASEMENT
	BEFORE YOU DIG, CALL ONE FOR LOCATION OF UNDERGROUND UTILITIES 1-800-522-6543



THE BEARINGS SHOWN HEREON ARE BASED ON THE PLAT OF BIXBY RANCH ESTATES, PLAT NO. 3674.

THE PROPERTY DESCRIBED HEREON IS IN FLOOD ZONE 'C', AS PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 40C462 0255B, AS LAST REVISED SEPTEMBER 16, 1982.

NO CURRENT TITLE OPINION OR COMMITMENT FOR TITLE INSURANCE WAS FURNISHED AT THE TIME OF SURVEY, THEREFORE, NO CERTIFICATION IS MADE THAT ALL EASEMENTS AND DEDICATIONS OR OTHER ENCUMBRANCES ARE SHOWN HEREON.

FIELD WORK COMPLETED MARCH 3, 1999.

FM = FIELD MEASURED COURSE.
 PLAT = RECORDED PLAT COURSE.
 DESC = DESCRIBED COURSE.

WHITE SURVEYING COMPANY
 9938 EAST 55TH PLACE TULSA, OKLAHOMA 74140 • (918) 663-6924

PLAT OF SURVEY

INVOICE NO.: STK 99-2783
 CLIENT: BRIAN BASINGER

LEGAL DESCRIPTION AS PROVIDED:

LOT TWELVE (12), BLOCK ONE (1), BIXBY RANCH ESTATES, AN ADDITION IN TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF

SURVEYOR'S STATEMENT

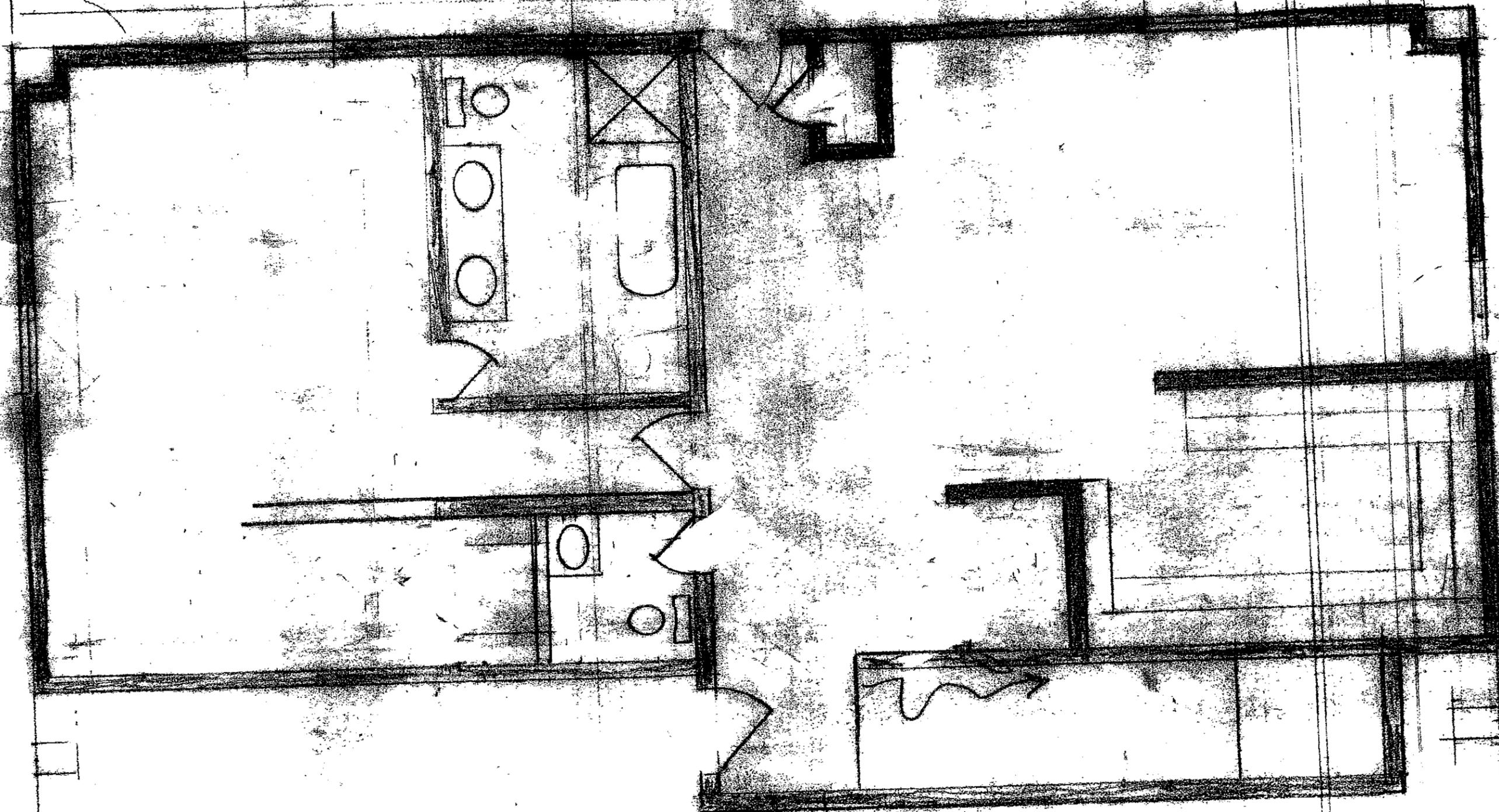
WHITE SURVEYING COMPANY, AN OKLAHOMA CORPORATION, AND THE UNDERSIGNED, TOM A. THOMAS, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 1052, UNDER CERTIFICATE OF AUTHORIZATION NO. CA1098, DO HEREBY STATE THAT IN OUR PROFESSIONAL OPINION THE ABOVE PLAT OF SURVEY IS AN ACCURATE REPRESENTATION OF A CAREFUL BOUNDARY SURVEY OF THE PROPERTY DESCRIBED HEREON, AND MEETS OR EXCEEDS THE TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED BY THE OKLAHOMA STATE BOARD OF REGISTRATION. WE FURTHER STATE THAT THE ABOVE AND FOREGOING PLAT OF SURVEY ACCURATELY SHOWS THE LOCATION OF THE BOUNDARY CORNERS AND THEIR MONUMENTATION, THE DIMENSIONS OF THE PROPERTY, THE LOCATIONS OF ALL BUILDINGS ON PERMANENT FOUNDATIONS, ALL RECORDED PLAT EASEMENTS AND BUILDING SETBACK LINES (IF APPLICABLE), AND ALL OTHER SUCH EASEMENTS WHICH HAVE BEEN DISCLOSED BY A CURRENT TITLE OPINION OR COMMITMENT FOR TITLE INSURANCE AND COPIES THEREOF PROVIDED TO US PRIOR TO THE TIME OF THIS SURVEY. THAT UNDERGROUND OR ABOVE GROUND UTILITIES WERE NOT FIELD LOCATED AND THEREFORE ARE NOT SHOWN ON THIS PLAT OF SURVEY UNLESS SPECIFICALLY REQUESTED PRIOR TO THE TIME OF THIS SURVEY. THAT EXCEPT AS SHOWN, THERE ARE NO ENCROACHMENTS FROM THE PROPERTY DESCRIBED HEREON BY VISIBLE PERMANENT IMPROVEMENTS, AND THAT THIS PLAT OF SURVEY IS PREPARED SOLELY FOR THE PARTIES LISTED HEREON AS OF THIS DATE AND MAY NOT BE USED FOR ANY SUBSEQUENT TRANSACTION, REFERENCE, OR OTHER TRANSACTION.

WITNESS MY HAND AND SEAL THIS DATE: MARCH 4, 1999

[Signature]
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 1052

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50'





S 131 E AVE

20322

13261

Picture #6,7

13439

No ADU

13521

No ADU

20438

Picture #8,9

S 137 E AVE

E 205 ST S

Picture #12

13136

HEAVY WOODS

13262

HEAVY WOODS

13364

Picture #1

Tract A
13412

Tract B
13466

13558

Picture #3,4,5

HEAVY WOODS LOT

20512

Picture #10,11

20538

Picture #13

#2



#1



#3

NEXT Lot East

13558 E 205 ST S



#4

NEXT Lot East
13558 E 205 St S.



#5

NEH Lot East
13558 E. 205 st S.



#6
13261 E 205th St S.



#7
13261 E 205 St S.



#8

EAST 2 LOTS
204385, 131 E ave.



20438 S. 13th E ave.



#10

Hamp

20538 S. 137 E ave



ADY

East 2 lots
20538 S. 137th Ave



West 4 Lofts



#13

EAST NEXT Rd

GENERAL NOTES:

1.) This structure has been designed in accordance to the 1989 AISI Cold Formed Steel Design Manual and the AISC (9th Edition, ASD Steel Construction Manual

2.) Fabrication shall be in accordance with the Manufacturer's Standards in compliance with the applicable sections, relating to design requirements and allowable stresses of the latest edition of the 'AWS Structural Welding Code D1.1 and D1.3'.

3.) <u>Materials:</u>	<u>Minimum Yield - Strength - ASTM</u>
Hot Rolled Mill Shapes	Fy = 50 ksi
Structural Steel Plate	Fy = 50 ksi
Cold Formed Shapes	Fy = 55 ksi
Cable Bracing	Extra High Strength
Roof & Wall Sheeting	80 ksi, Grade 'E'
High Strength bolts	A325-N
Pipe	Fy = 50 ksi
Shaped Structural tubing	Fy = 46 ksi

4.) Bolts for the erection and construction of the material shall be as follows:
 All secondary connections - 1/2" A307 as shown on drawings
 Bearing frame endwall - A325 as shown on drawings
 Main frame connections - A325 as shown on plans

5.) Structural bolts shall be tightened by turn of the nut method in accordance with the 9th Edition AISC 'Specifications for Structural Joints Using ASTM A325 or A490 Bolts per Section 8(d). A325 Bolts as supplied without washers. All bolted connections, unless noted, are designed as bearing type connections with bolt threads not excluded from the shear plane.

6.) All bracing, including sheeting, shown and provided for this building is necessary and shall be installed by the erector as a permanent part of this structure.

7.) Soil profile type is determined by the foundation Engineer per local code.

APPROVAL OF LUCAS METAL WORKS DRAWINGS INDICATE THAT LUCAS METAL WORKS CORRECTLY INTERPRETED AND APPLIED THE REQUIREMENTS OF THE CONTRACT DRAWINGS AND SPECIFICATIONS.

WHERE DISCREPANCIES EXIST BETWEEN THE LUCAS METAL WORKS PLANS AND THE PLANS FOR OTHER TRADES, THE STRUCTURAL STEEL PLANS SHALL GOVERN.
 (SECT. 4.2.1 AISC CODE OF STANDARD PRACTICE 9TH ED.)

DESIGN CONSIDERATIONS OF ANY MATERIALS IN THE STRUCTURE WHICH ARE NOT FURNISHED BY LUCAS METAL WORKS RESPONSIBILITY OF THE CONTRACTORS AND ENGINEERS OTHER THAN LUCAS LUCAS METAL WORKS UNLESS SPECIFICALLY INDICATED.

ROOF PANELS:

COLOR: Old Town Gray (SMP)

WALL PANELS:

COLOR: Ash Gray (SMP)

TRIM COLORS:

CABLE: Old Town Gray (SMP)

CORNER: Ash Gray (SMP)

EAVE: Ash Gray (SMP)

FRAMED OPENINGS: Ash Gray (SMP)

LINER PANELS:

COLOR: N/A

LINER TRIM:

COLOR: N/A

SPECIAL NOTES:

ERECTION NOTES:

1.) Before the erection process begins, the erector will verify that the anchor bolts are accurately set to a tolerance of +/- 1/8" in both elevation and location

2.) The erection of this structure is to be in accordance with the erection drawings.

3.) The erection of this structure is to be performed by a qualified erector using proper tools and equipment. It is the responsibility of the erector to comply with all applicable legal and safety requirements. It is the responsibility of the erector to determine and provide any and all temporary bracing, bridging, blocking, shoring, and/or securing of parts and components as required for stability required during the erection process

4.) The Manufacturer prohibits the erector from making any field modifications to any structural member except as directed, authorized or specified.

5.) The correction of minor misfits by the use of drift pins to draw building components into line, moderate amounts of reaming, chipping, cutting, shimming and the replacement of minor shortages are a normal part of the erection procedure.

BUILDING LOADS / DESCRIPTION:

WIDTH: 50 LENGTH: 72 HEIGHT: 18 /18
 (BUILDING DIMENSIONS ARE NOMINAL. REFER TO PLANS).

BUILDING ROOF SLOPE: 1.0:12 / 1.0:12

THIS STRUCTURE IS DESIGNED UTILIZING THE LOADS INDICATED AND APPLIED AS REQUIRED BY: IBC 09

THE CONTRACTOR IS TO CONFIRM THAT THESE LOADS COMPLY WITH THE REQUIREMENTS OF THE LOCAL BUILDING DEPARTMENT.

ROOF DEAD LOAD:	<u>3.000</u>	PSF (ROOF PANELS & PURLINS)
COLLATERAL LOAD:	<u>5</u>	PSF
ROOF LIVE LOAD:	<u>20.00</u>	PSF
REDUCTION ALLOWED:	<u>Yes</u>	
W/ REDUCTION:	<u>12</u>	PSF
ROOF SNOW LOAD:	<u>7.7</u>	PSF
GROUND SNOW :	<u>10</u>	PSF
BASIC WIND SPEED:	<u>90</u>	MPH
WIND EXPOSURE:	<u>C</u>	
SEISMIC ZONE:	<u>B</u>	

IMPORTANCE FACTORS:

WIND LOAD: 1.00

SNOW LOAD: 1.0000

SEISMIC LOAD: 1.00

MEZZANINE LOADS:	<u>DEAD LOAD</u>	PSF
(IS APPLICABLE)	<u>LIVE LOAD</u>	PSF
	<u>PARTITION LOAD</u>	PSF



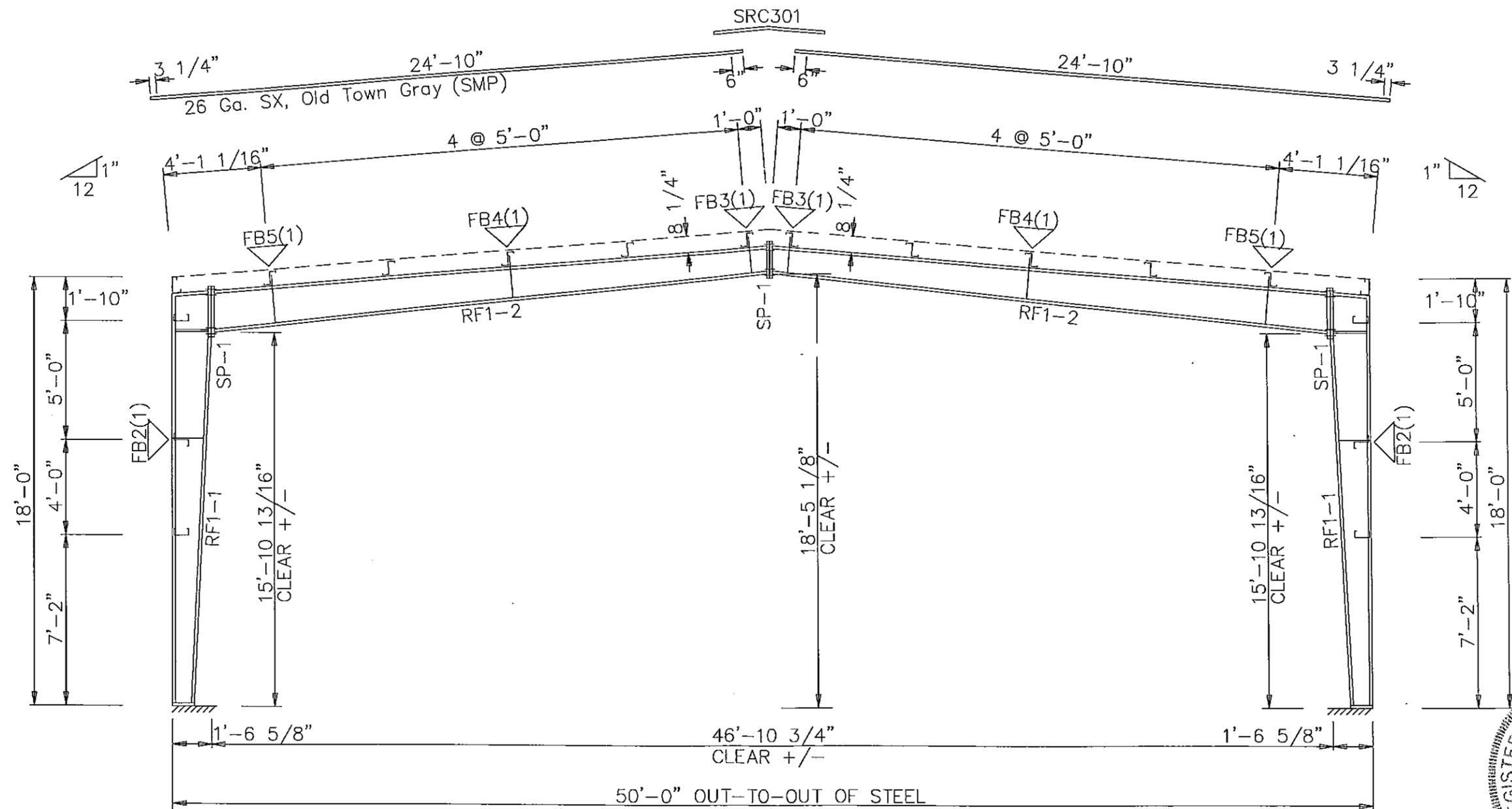
396281 W. 3000 Rd.
 Okchelata, OK. 74051
 (866) 689-8904
 www.lucasbuildings.com

DESCRIPTION	COVER PAGE	
CUSTOMER	RANDY EVEN	
LOCATION	BIXBY, OK.	
BLDG. SIZE	50 X 72 X 18	
DETAILER	DN	DESIGNER
JOB NO.	14-0249	DATE
REV. NO.	5/ 2/14	

SPLICE BOLT TABLE						
Mark	Qty		Int	Type	Dia	Length
	Top	Bot				
SP-1	4	4	0	A325	0.625	2.25

MEMBER TABLE								
Mark	Web Depth		Web Plate		Outside Flange		Inside Flange	
	Start	End	Thick	Length	W x Thk	x Length	W x Thk	x Length
RF1-1	7.7	18.0	0.135	186.8	5 x 1/4"	x 207.0	5 x 3/8"	x 187.1
RF1-2	18.0	18.0	0.188	21.7	6 x 1/4"	x 18.3	5 x 1/4"	x 232.5
RF1-2	18.0	16.9	0.188	42.3	5 x 1/4"	x 232.5	5 x 1/4"	x 234.0
RF1-2	16.9	11.0	0.188	240.0	5 x 1/4"	x 48.3	5 x 1/4"	x 47.5

FLANGE BRACES: Both Sides(U.N.)
 FBxxA(1)
 A - L2X2X1/8



RIGID FRAME ELEVATION: FRAME LINE 2

REGISTERED PROFESSIONAL ENGINEER
 STEPHEN L. CARR
 17482
 5/7/14

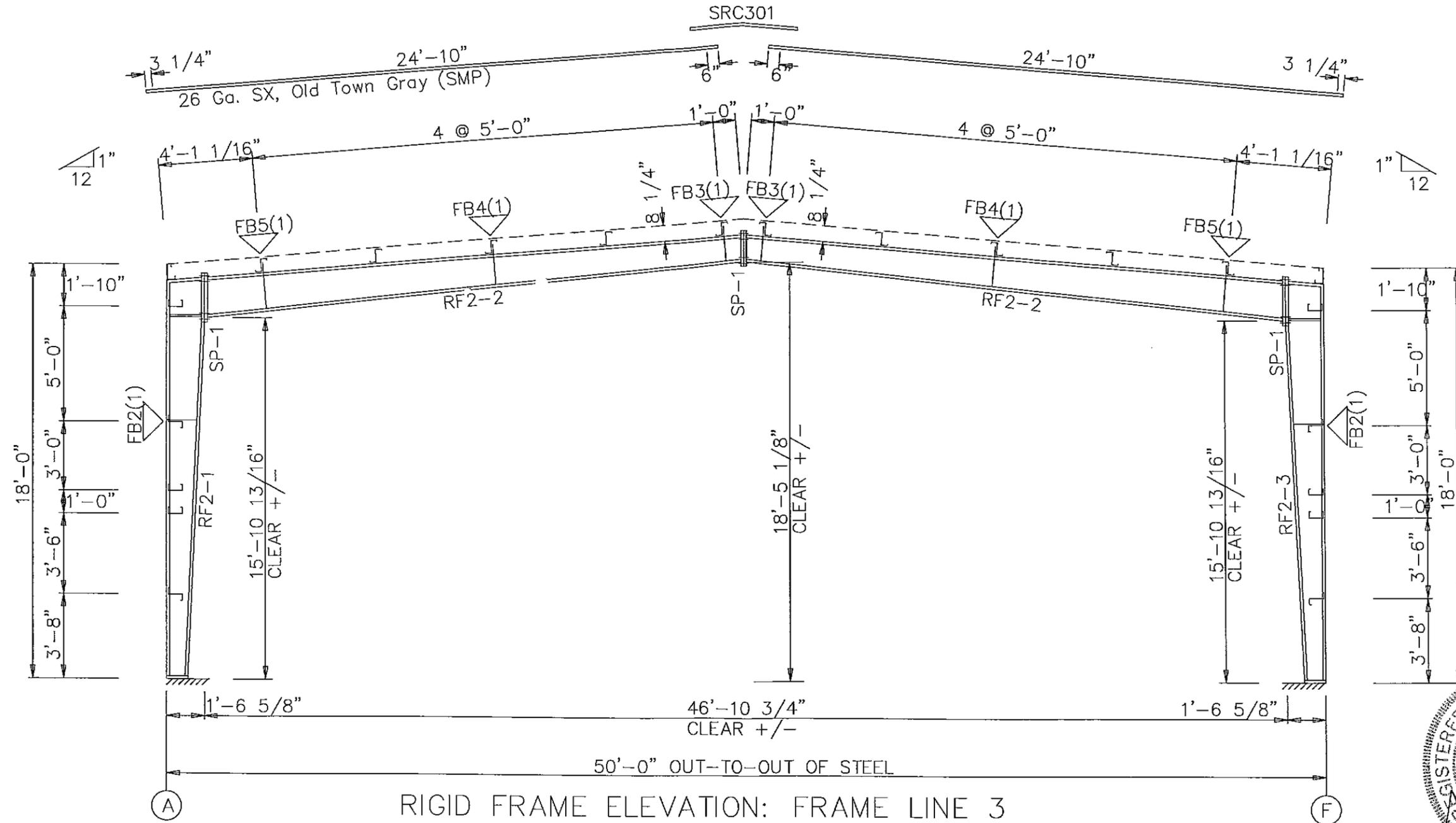


DESCRIPTION: RIGID FRAME ELEVATION		PROJECT: 50 X 72 X 18	
SIZE: 50'-0" x 72'-0" x 18'-0"		CUSTOMER: RANDY EVEN	
LOCATION: BIXBY, OK.		JOB NO. 14-0249	
DRN BY: DN	CK'D BY:	DATE: 5/ 2/14	SHEET NO. of
		SCALE: NONE	

SPLICE BOLT TABLE						
Mark	Qty		Int	Type	Dia	Length
	Top	Bot				
SP-1	4	4	0	A325	0.625	2.25

MEMBER TABLE								
Mark	Web Depth		Web Plate		Outside Flange		Inside Flange	
	Start	End	Thick	Length	W x Thk	x Length	W x Thk	x Length
RF2-1	7.7	18.0	0.135	186.8	5 x 1/4"	x 207.0	5 x 3/8"	x 187.1
RF2-2	18.0	18.0	0.188	21.7	6 x 1/4"	x 18.3		
	18.0	16.9	0.188	42.3	5 x 1/4"	x 232.5	5 x 1/4"	x 234.0
RF2-3	16.9	11.0	0.188	240.0	5 x 1/4"	x 48.3	5 x 1/4"	x 47.5
	18.0	18.0	0.188	21.7	6 x 1/4"	x 18.3	5 x 3/8"	x 187.1
	18.0	7.7	0.135	186.8	5 x 1/4"	x 207.0		

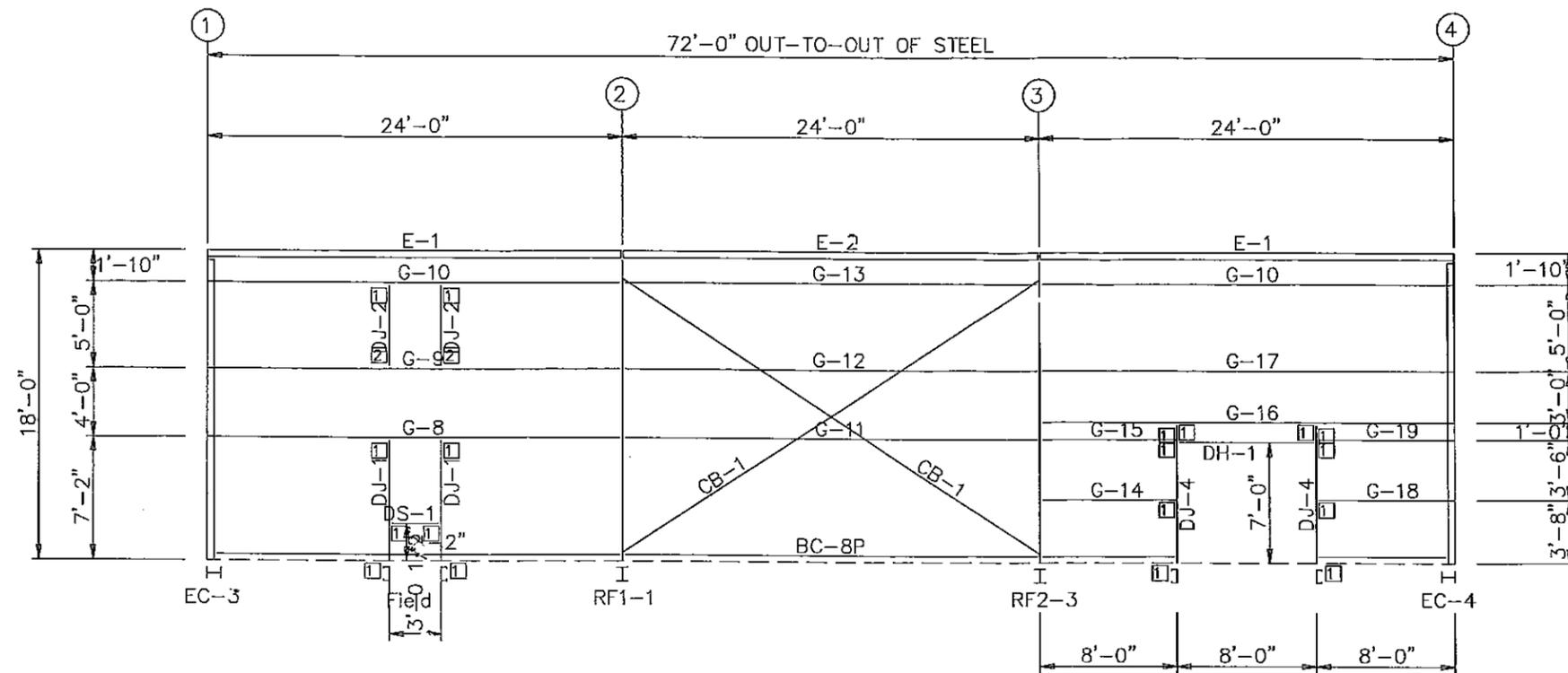
FLANGE BRACES: Both Sides(U.N.)
 FBxxA(1)
 A - L2X2X1/8



RIGID FRAME ELEVATION: FRAME LINE 3



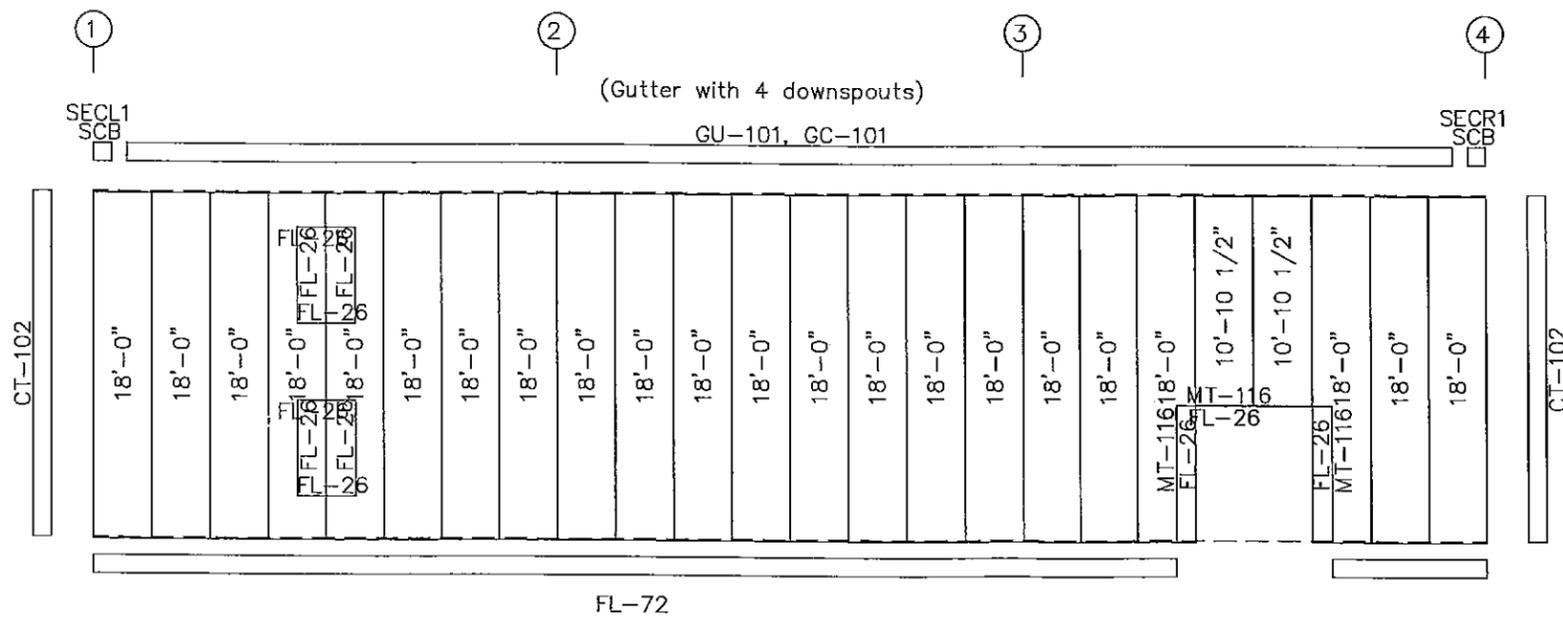
DESCRIPTION: RIGID FRAME ELEVATION		SIZE: 50'-0" x 72'-0" x 18'-0"	
CUSTOMER: RANDY EVEN		PROJECT: 50 X 72 X 18	
LOCATION: BIXBY, OK.			
DRN. BY: DN	CHK'D BY:	DATE: 5/2/14	SCALE: NONE
		JOB NO: 14-0249	SHEET NO: of



CONNECTION PLATES FRAME LINE F	
ID	MARK/PART
1	AK100
2	f2

MEMBER TABLE FRAME LINE F	
MARK	PART
DJ-1	8X25C16
DJ-2	8X25C16
DJ-4	8X25C14
DH-1	8X25C14
DS-1	8X25C16
E-1	8E14L
E-2	8E14L
G-8	8X25C12
G-9	8X25C12
G-10	8X25C14
G-11	8X25C12
G-12	8X25Z12
G-13	8X25C14
G-14	8X25Z16
G-15	8X25C16
G-16	8X25C12
G-17	8X25Z12
G-18	8X25Z16
G-19	8X25C16
CB-1	0.31_CBL

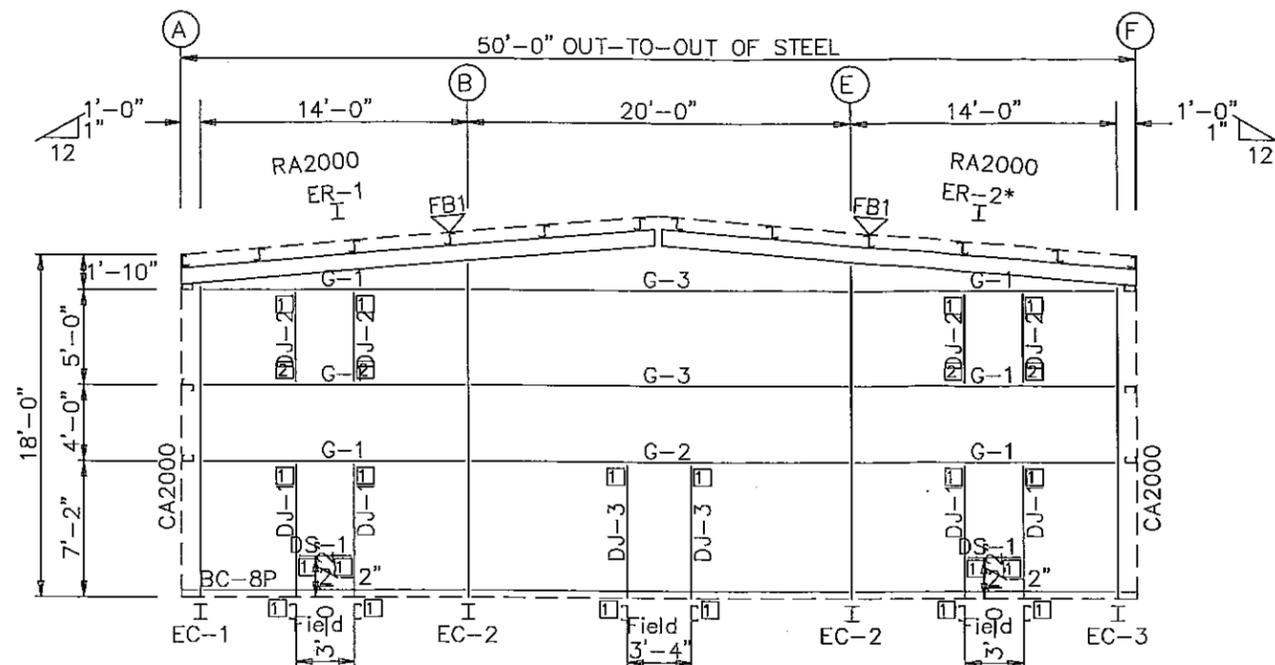
SIDEWALL FRAMING: FRAME LINE F



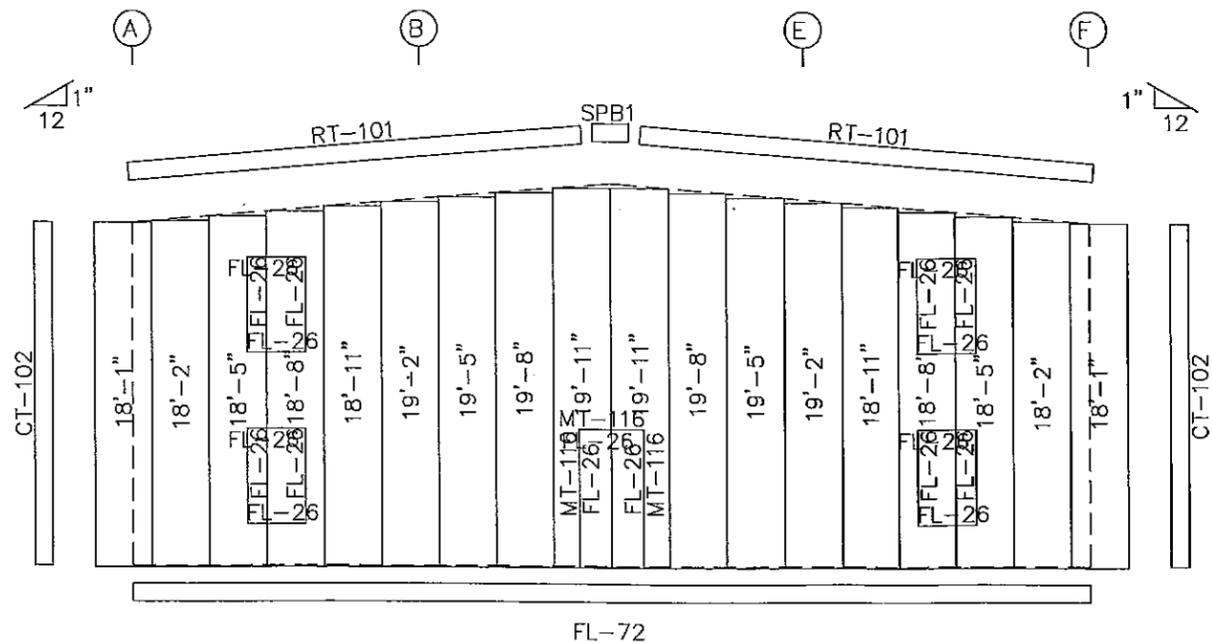
SIDEWALL SHEETING & TRIM: FRAME LINE F
PANELS: 26 Ga. SX - Ash Gray (SMP)



DESCRIPTION: SIDEWALL FRAMING		PROJECT: 50 X 72 X 18	
SIZE: 50'-0" x 72'-0" x 18'-0"		JOB NO. 14-0249	
CUSTOMER: RANDY EVEN		SHEET NO. of	
LOCATION: BIXBY, OK.	SCALE: NONE	DATE: 5/2/14	
DRN. BY: DN	CHK'D BY:	SHEET NO. of	



ENDWALL FRAMING: FRAME LINE 1



ENDWALL SHEETING & TRIM: FRAME LINE 1
PANELS: 26 Ga. SX - Ash Gray (SMP)

BOLT TABLE FRAME LINE 1				
LOCATION	QUAN	TYPE	DIA	LENGTH
ER-1/ER-2*	8	A325	5/8"	2"
Columns/Raf	2	A325	5/8"	1 1/2"

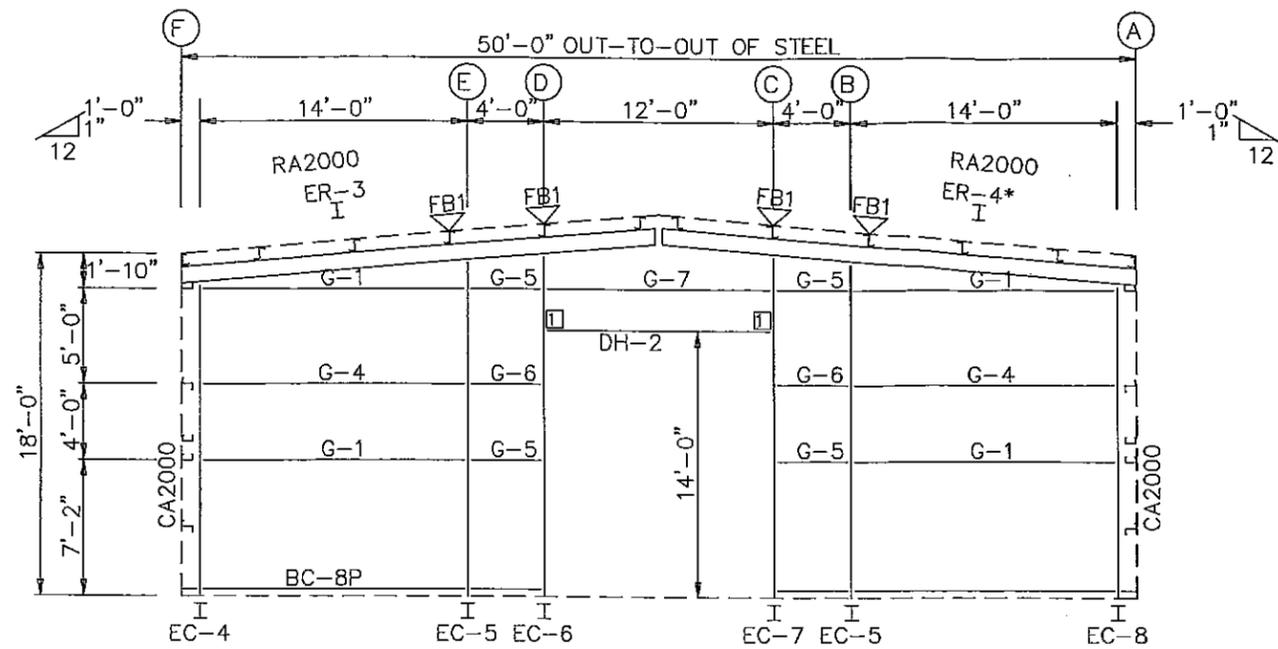
FLANGE BRACE TABLE FRAME LINE 1		
VID	MARK	LENGTH
1	FB1	1'-2 1/2"

CONNECTION PLATES FRAME LINE 1	
ID	MARK/PART
1	AK100
2	f2

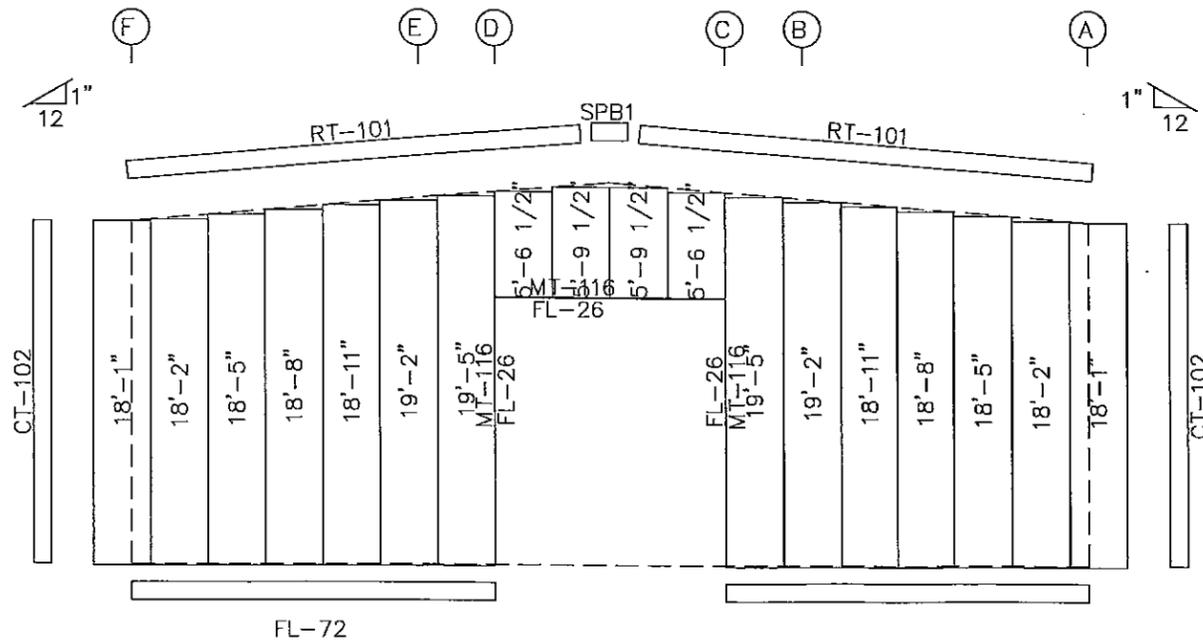
MEMBER TABLE FRAME LINE 1	
MARK	PART
EC-1	W8X10
EC-2	W8X10
EC-3	W8X10
ER-1	W8X10
ER-2*	W8X10
DJ-1	8X25C16
DJ-2	8X25C16
DJ-3	8X25C14
DS-1	8X25C16
G-1	8X25C16
G-2	8X35C14
G-3	8X25C14



DESCRIPTION: ENDWALL FRAMING		PROJECT: 50 X 72 X 18	
SIZE: 50'-0" x 72'-0" x 18'-0"	CUSTOMER: RANDY EVEN	JOB NO: 14-0249	
LOCATION: BIXBY, OK.	SCALE: NONE	SHEET NO: of	
DRN. BY: DN	CHK'D BY:	DATE: 5/ 2/14	



ENDWALL FRAMING: FRAME LINE 4



ENDWALL SHEETING & TRIM: FRAME LINE 4
 PANELS: 26 Ga. SX - Ash Gray (SMP)

BOLT TABLE FRAME LINE 4				
LOCATION	QUAN	TYPE	DIA	LENGTH
ER-3/ER-4*	8	A325	5/8"	2"
Columns/Raf	2	A325	5/8"	1 1/2"

FLANGE BRACE TABLE FRAME LINE 4		
VID	MARK	LENGTH
1	FB1	1'-2 1/2"

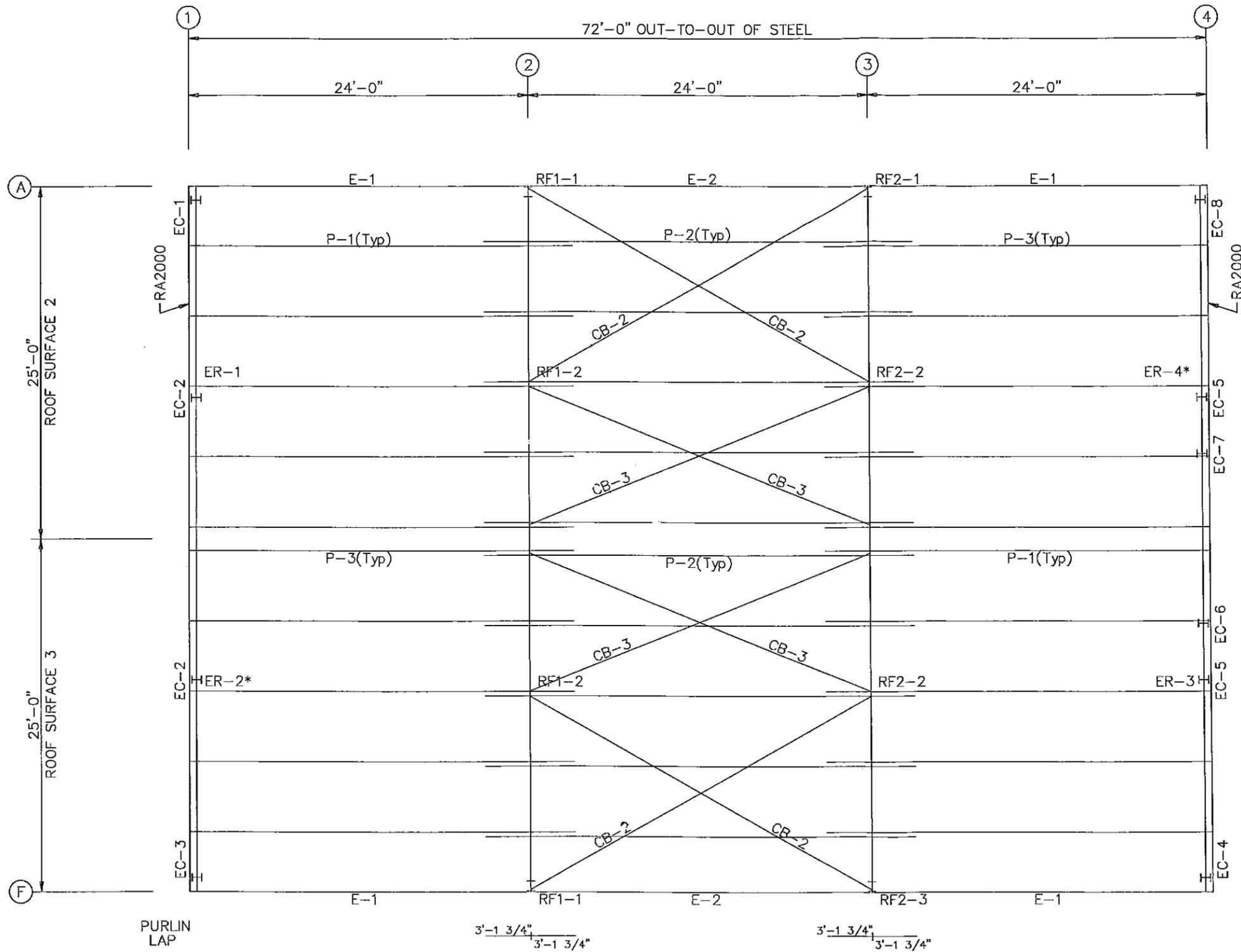
CONNECTION PLATES FRAME LINE 4	
ID	MARK/PART
1	AK100

MEMBER TABLE FRAME LINE 4	
MARK	PART
EC-4	W8X10
EC-5	W8X10
EC-6	W8X10
EC-7	W8X10
EC-8	W8X10
ER-3	W8X10
ER-4*	W8X10
DH-2	8X25C14
G-1	8X25C16
G-4	8X25Z16
G-5	8X25C16
G-6	8X25Z16
G-7	8X25C16

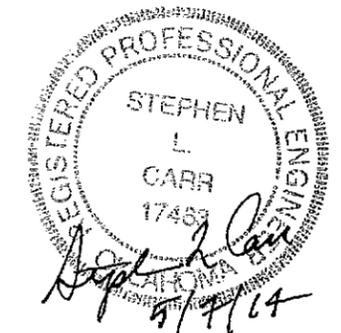


DESCRIPTION: ENDWALL FRAMING				
SIZE: 50'-0" x 72'-0" x 18'-0"				
CUSTOMER: RANDY EVEN			PROJECT: 50 X 72 X 18	
LOCATION: BIXBY, OK.				
DRN. BY	CK'D BY	DATE	SCALE	JOB NO.
DN		5/ 2/14	NONE	14-0249
				SHEET NO.
				of

MEMBER TABLE	
ROOF PLAN	
MARK	PART
P-1	8X25Z12
P-2	8X25Z14
P-3	8X25Z12
E-1	8E14L
E-2	8E14L
CB-2	0.25_CBL
CB-3	0.25_CBL



ROOF FRAMING PLAN



DESCRIPTION: ROOF FRAMING	
SIZE: 50'-0" x 72'-0" x 18'-0"	
CUSTOMER: RANDY EVEN	PROJECT: 50 X 72 X 18
LOCATION: BIXBY, OK.	
DRN. BY: DN	CK'D BY: DATE: 5/ 2/14
SCALE: NONE	JOB NO. 14-0249
	SHEET NO. of

Erik Enyart

From: Erik Enyart
Sent: Monday, July 07, 2014 5:36 PM
To: 'Gregg'
Subject: RE: Regarding BBOA-589 - Attached formal objections + concerns....

Happy to help - Erik

-----Original Message-----

From: Gregg [<mailto:greggg@olp.net>]
Sent: Monday, July 07, 2014 4:52 PM
To: Erik Enyart
Subject: Re: Regarding BBOA-589 - Attached formal objections + concerns....

Thank You Erik. It is much appreciated.

Gregg Batary
Email = greggg@olp.net
Phone = 918-366-2725

----- Original Message -----

From: "Erik Enyart" <eenyart@bixby.com>
To: "Gregg" <greggg@olp.net>
Sent: Monday, July 07, 2014 2:46 PM
Subject: RE: Regarding BBOA-589 - Attached formal objections + concerns....

Gregg Batary:

This will respond to this and your 07/02 email. We covered most of this in our phone discussion a moment ago. I will put this document in the agenda packet, which I intend to mail out to the BOA by 07/28/2014. I may be able to post the entire agenda packet on our website at that time, time permitting.

Hope it helps,

Erik Enyart

-----Original Message-----

From: Gregg [<mailto:greggg@olp.net>]
Sent: Monday, July 07, 2014 2:32 PM
To: Erik Enyart
Subject: Re: Regarding BBOA-589 - Attached formal objections + concerns....

Hello Erik,

Attached is our formal objections + concerns regarding this BOA and any related BOAs. If you can please forward this attachment onto the Board members, as we plan on being present at tonight's board meeting this evening. If the BOA gets postponed to the following month, we plan to be present at that meeting as well and we would like to be sure our objections + concerns are heard as the Board considers this BOA.

60-A

Thank You,
Sincerely,

Gregg Batary
Email = greggg@olp.net
Phone = 918-366-2725

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2013.0.3485 / Virus Database: 3955/7811 - Release Date: 07/07/14

60-B

OBJECTIONS + CONSIDERATIONS to BBOA 589 + BBOA 590

Introduction:

My wife and I have lived for 10 years right next door to the property that is submitting this BOA (and all related BOAs), and we want to welcome our new neighbors to the community. We are actually happy they have chosen to be part of the community and we plan to have a mutual respectful and long term nice relationship with them.

Since this is our "dream home" as well, and since we plan to stay in Bixby Ranch Estates for the rest of our lifetime, we have some objections + concerns that we feel we must bring to the attention of the City Council and the Board of Appeals as they consider these BOAs.

I am sure if the new property owners were in the reverse situation, they may share some of the same concerns as we have.

We will respect and honor the Board's decisions and again want to sincerely welcome our new neighbors to the community.

Sincerely,

Gregg + Suzanne Batary
Bixby Ranch Estates
13364 East 205th Street
Bixby, OK 74008

60-C

Objections + Concerns:

- (1)- The size of the planned ADU appears to not only exceed the limits defined in Title 11 / (11-8-8 #5), but it also appears to be almost as big as the primary residence.

The planned ADU is 50 X 70 (3500 sq feet), and the planned primary residence is 64 X 60 (3840 sq feet).
(see BBOA 589+590 Application Materials 1.pdf attachment)

It seems normal ADUs should not be so large and close to the primary house size. It also appears to exceed both parts of the normal building restrictions set forth in 11-8-8 #5. Below are the current restrictions and calculations based on the proposal submitted with this BOA.

Based on the proposal in the application, it appears that the ADU is being planned larger than what is allowed by Bixby's regulations.

Their proposed square footage of the ADU appears on the drawing as 70 X 50 building which = 3500 Sq feet which appears to exceed the 2400 sq feet stated in rule 11-8-8 #5. which says in no case shall accessory buildings exceed 2400 sq feet. Entire #5 shown below.

Additionally, based on the formula proposed, the maximum sq footage of an ADU for a 5 acres lot is as follows

11.6 percent X 4 acres X 4 fourths = 1484.8 sq. feet.

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

60-D

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,

(2)– Concerns/Objections about the 2nd parties(s) living in the ADU.

- When we moved to Bixby Ranch Estates, we expected it to be a community of single family homes. We believe this BBOA will have a detrimental effect on the value of not only our property, but also the community as a whole.
- We are unaware of any other home on our block OR the close surrounding blocks that have additional people living in a 2nd structure.
- Even if the new residents abide by the person(s) limits living in the ADU, there are other considerations that should be taken into account.

Things like the possible need for additional Septic systems that the property may not be able to handle. This could cause odor or other issues if it cannot handle the additional waste volume that would come from additional people living in the ADU, since there is no sewer system in Bixby Ranch Estates.

There may be other building code restrictions for people living in a 2nd unit which may cause undesirable effects for the community as a whole. Items such as additional overhead power lines, additional phone lines, etc. .

- (3)– The BBOA property may at some point in the future be sold to new owners and there is no guarantee the new owners

60-E

will abide by the person(s) restrictions, as well as not renting out the ADU as a source of second income.

The potential to have future owners use the ADU as a rental property is a concern, because those types of things are very difficult to enforce or regulate.

- (4) - There exists other remedies to be able to accommodate family members that need to live with others. A typical attached mother-in-law plan built onto the primary residence is one such alternative as is done with some homes.

60-F



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, July 29, 2014
RE: Report and Recommendations for:
BBOA-590 – Randy Even for Paul Reynolds

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

LOT SIZE: 4.8 acres, more or less

ZONING: RE Residential Estate District

REQUEST: Variance from the matching exterior materials requirement of Zoning Code Section 11-8-5.G for a proposed Accessory Dwelling Unit in an RE Residential Estate District

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

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

PREVIOUS/RELATED CASES:

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

Staff Report – BBOA-590 – Randy Even for Paul Reynolds
August 04, 2014

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

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

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

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

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

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

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

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

BACKGROUND INFORMATION:

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

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

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

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

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

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

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

This is the third Special Exception for an ADU requested under the new ADU amendment to the Zoning Code. The first, BBOA-524 – Richard Ekhoﬀ, was Conditionally Approved 08/02/2010 for an acreage located at 9024 E. 101st St. S. The second, BBOA-579 – Paul & Jimme Beth Hefner for Mary Elizabeth Brown, was Conditionally Approved 07/01/2013 to construct an ADU as a building addition to the existing barn building on a 16-acre agricultural tract at 9013/9017 E. 161st St. S. (not since constructed, however).

Intent of Occupancy. Per BBOA-595, the Applicant has stated that the proposed ADU would be for an “aging parent.” From the applications received thus far, semi-independent living quarters for family members is invariably the reason such ADU applications are pursued.

Private Restrictions. Zoning Code Section 11-8-5.A provides:

“A lot of record which is subject to a restrictive covenant prohibiting more than one dwelling unit per lot shall not be eligible for an ADU special exception;”

The Deed of Dedication and Restrictive Covenants on file with the City of Bixby with the plat of Bixby Ranch Estates, titled "Bixby Ranch Estates Protective Covenants and Easements," provides the following as may pertain to the above requirement:

"1. All lots within the annexed plat shall be known and designated as residential building plots, no structures shall be erected, altered, placed or permitted to remain on any plot other than one detached single-family dwelling not to exceed three stories in height and other out-buildings incidental to residential use of the plot, no residential building shall be less than 1,100 square feet of living area.

....

5. No structure of temporary character, tent, shack, barn, mobile homes, or other outbuildings shall be used on any lot at any time as a residence." (emphasis added)

The language, read together, (1) allows "out-buildings incidental to the residential use of the plot," and (2) does not expressly prohibit an Accessory Dwelling Unit (ADU), but rather, suggests the same were not anticipated. It does expressly prohibit temporary structures, including "outbuildings," from being used as a residence, which does not appear to anticipate a permanent accessory dwelling unit being constructed within a part of an outbuilding otherwise dedicated to storage. The language appears to prohibit storage buildings, not built to a Building Code standard for dwellings or manifestly arranged with elements required to support semi-independent living quarters, from being remodeled, retrofitted, or otherwise simply inhabited as a dwelling. However, Staff does not have the standing to officially interpret the private covenants either way. If the Board, however, chooses to read and interpret the private covenants as prohibiting the Accessory Dwelling Unit, BBOA-589 must be tabled or denied, and this application and BBOA-595 would then be moot.

History of the Applications. During the review of BBOA-589, Staff found that the building proposed (50' X 70' on the site plan but indicated as 50' X 72' in construction drawings, and possibly different if cited elsewhere) would exceed the maximum detached accessory building restriction in the RE and RS districts, which is 2,400 square feet. There is a "sliding scale" in Zoning Code Section 11-8-8.B.5, which the subject property, at approximately 4.8 acres, does not even qualify for 2,400 square feet, which requires 5.25 acres.

Zoning Code Section 11-8-5.C specifically restricts detached accessory buildings containing ADUs to the restrictions pertaining to accessory buildings:

"C. ADUs, if detached from the principal dwelling, shall meet the requirements prescribed for a detached accessory building;"

Per BBOA-595, the Applicant has since additionally requested a Variance from the maximum detached accessory building size of Zoning Code Section 11-8-8.B.5. As requested by the Applicant, BBOA-589 and BBOA-590 were Continued from the July 07, 2014 Board of Adjustment meeting to this August 04, 2014 meeting, so that all three (3) applications may be considered at one (1) time.

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ANALYSIS:

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

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's clients are seeking to construct an Accessory Dwelling Unit within a proposed 50' X 72', 3,600 square foot accessory building. Per BBOA-595 and the submitted information, the living quarters would occupy the "front" 20' of the 50'-wide building, and so would contain 1,000 square feet. Zoning Code Section 11-8-5.G provides, "ADUs, whether detached from or attached to the principal dwelling, shall match the exterior materials of the primary residential unit and comply with the restrictive covenants affecting the lot, if any." Per this application, the Applicant is seeking a Variance from this requirement.

The Applicant provided a site plan, building plans and specifications, photos of other properties in the neighborhood, and a narrative in support of BBOA-589 and BBOA-590.

The neighbor abutting the subject property to the west submitted a formal response to BBOA-589 and BBOA-590 "(and all related BOAs)," which response is attached to this report. The response appears to provide certain objections and expresses certain concerns for the applications.

It should be noted that the term "ADU," as used in the Applicant's narrative and as also used in the neighbor's narrative, is interpreted as usually meaning "accessory building," not an "ADU" as defined in the Zoning Code. Staff is not aware of any existing ADUs in the neighborhood, and the neighbor's narrative disclaims the existence of any here, but it is possible such exist.

Per BBOA-595, the Applicant is also seeking a Variance from the accessory building maximum floor area standard per Zoning Code Section 11-8-8.B.5 to allow a new, approximately 50' X 72', 3,600 square foot accessory building. That standard would limit the building to 2,400 square feet. There is a "sliding scale" in Zoning Code Section 11-8-8.B.5, under which the subject property, at almost 5 acres, may not even qualify for 2,400 square feet.

Zoning Code Section 11-8-5.C specifically restricts detached accessory buildings containing ADUs to the restrictions pertaining to accessory buildings:

"C. ADUs, if detached from the principal dwelling, shall meet the requirements prescribed for a detached accessory building;"

If BBOA-595 is approved, this restriction would be satisfied.

Unnecessary Hardship. The Applicant claims that an *Unnecessary Hardship* would be caused by the literal enforcement of the Zoning Code because "To apply of code it could cause financial hardship However willing to match home (wainscot ?) w/in 5 years."

Financial hardships, in and of themselves, are generally not recognized as satisfying the Unnecessary Hardship test and standard provided in State Statutes and the Bixby Zoning Code. Staff could not conceive of any other viable arguments in this regard. The provided argument presented in the application does not appear to materially address this test and standard. If the Board is amenable to this Variance, it should identify with the Applicant how the requested Variance would be in accordance with this test and standard provided in State Statutes and the Bixby Zoning Code.

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, "Almost 5 acre lots, Rural area, heavily wooded lots set back over 200 feet accessory building behind new home."

The argument appears to indicate that the lot size, the rural nature of the area, the heavy woods, the 200' plus setback, and location of the accessory building/ADU behind the house combine to mitigate the need for the matching exteriors requirement. These are better arguments for the *No Substantial Detriment* text and standard, but they also appear to somewhat address this text and standard as well. The Board must find that they adequately satisfy this test and standard provided in State Statutes and the Bixby Zoning Code.

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 "See b and attached."

The response to "b." on the application form (*Peculiar, Extraordinary, or Exceptional Conditions or Circumstances*) is "Almost 5 acre lots, Rural area, heavily wooded lots set back over 200 feet accessory building behind new home."

Elsewhere on the application form, the Applicant has further addressed this question thus, "Other lots that had [accessory buildings] I could not see or get access for pictures. Area older neighborhood with heavy cover. Could not find one building that had any matching elements except color of metal siding on one. Lot next to site has [an accessory] metal building with no matching elements.

On this site the home and ADU will [sit] back 200' in heavy wooded lot. Will be very hard to see from road or neighbors with the exception of lot to the East.

This property with the ADU not only hard to see from the road but also is very consistent with surrounding lots, homes, and [accessory buildings]. Very private and secluded area of South Bixby."

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The Applicant's arguments are intended to support both BBOA-589 and BBOA-590. Based on the provided materials, the proposal includes: House will be set back 210' from 205th St. S., accessory building will be set back 275' from 205th St. S. (or 5' behind the back of the house, even though not accurately represented on the site plan from a relative standpoint), lot is heavily wooded, accessory building will not be as visible from street or adjoining properties (except to the east) due to location behind the house and the heavy tree cover, and several other properties in the neighborhood have accessory buildings, commonly metal buildings and commonly large.

The case history in the neighborhood also reflects a large number of large storage buildings in the neighborhood. The proposed one, however, would be the largest such accessory building reflected in the available records.

Staff agrees that the lot size, the rural nature of the area, the heavy woods, the 200' plus setback, and location of the accessory building/ADU behind the house combine to mitigate the need for the matching exteriors requirement in satisfaction of this test and standard of State Statutes and the Bixby Zoning Code.

The effect of this Variance would be further mitigated if the approval was only for five (5) years, as suggested by the Applicant.

Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the *Minimum Necessary to Alleviate the Unnecessary Hardship* because "Not a measurable variance except for 5 years."

The *Minimum Necessary to Alleviate the Unnecessary Hardship* standard should be considered not applicable, or otherwise inherently satisfied, as this Variance seeks a qualitative and not quantitative form of relief (Variance from matching exteriors requirement). However, if the Board is amenable to this application and applies a Condition of Approval that the matching materials be applied within five (5) years, as suggested by the Applicant, or if the Board required some amount of matching exteriors, these would be measurable conditions subject to the Board's findings.

Staff Recommendation. Except as noted otherwise hereinabove, the arguments advanced by the Applicant and Staff appear to adequately answer some of the tests and standards for granting Variance under State Statutes and the Bixby Zoning Code.

The Board may wish to consider the arguments presented in the application, or others that the Applicant and Board may discover during public hearing and consideration of this case at the meeting, to identify with the Applicant how the requested Variance would be in accordance with each of the tests and standards provided in State Statutes and the Bixby Zoning Code.

If the Board is amenable to this application, it may want to consider a Condition of Approval that the matching materials be applied within five (5) years. The adequacy of the matching materials would be determined by the Board upon the approval of the Special Exception for the ADU as recommended per BBOA-589.

AG

AG

RE

CHAMPJOHNSON RD

E 201st ST S

S 129th E AVE

S 137 E AVE

S 137 E AVE

E 203 ST S

RE

Subject Tract

E 205 ST S

AG

AG

S CHAMPJOHNSON RD

E 210 ST S

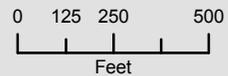


300' Radius



Subject Tract

BBOA-590



16 16-14





BBDA 584
590

City of Bixby Board of Adjustment Application

Applicant: Randy Even
 Address: 143201 S. Harvard Ave Bixby OK 74008
 Telephone: _____ Cell Phone: 918-625-1064 Email: cheven43@aol.com
 Property Owner: Paul Reynolds If different from Applicant, does owner consent? YES
 Property Address: 13466 NE 205 St S. Bixby OK
 Existing Zoning: RE Existing Use: House Use Unit #: 6
 Proposed Use: Same

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

Lot 12 BLK 1 Bixby Ranch estates

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

If Applicant is other than Owner, indicate interest: Builder

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?
To comply w/ code it could cause financial hardship however willing to match @ Home improvement w/ in 5 years.

b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?
Almost 5 acre lots. Rural area, heavily wooded lot, set back over 200 feet accessory building behind new home

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 b and attached

d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.
not a measurable variance except for 5 years 69

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:

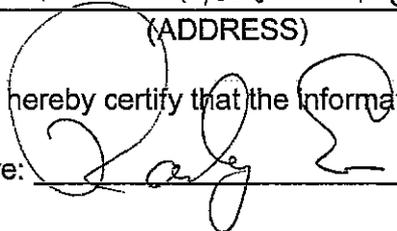
APPLICANTS REQUESTING AN INTERPRETATION OF THE ZONING CODE OR MAP COMPLETE THE FOLLOWING: (attach a longer narrative if desired)

Describe the nature of the request in detail:

BILL ADVERTISING CHARGES TO:

Randy Evers (NAME)
14326 S. Howard Ave Bixby OK (ADDRESS) 74008 (CITY) 918-625-1064 (PHONE)

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

Signature:  Date: 6/1/14

APPLICANT - DO NOT WRITE BELOW THIS LINE

BBOA-590 Date Received 06/02/2014 Received By Enyart Receipt # 01162302
 Board of Adjustment Date 07/07/2014

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

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

BOA Action: _____ Conditions: _____

Date: _____ Roll Call: _____

Staff Rec. _____

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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: Tuesday, July 29, 2014
RE: Report and Recommendations for:
BBOA-595 – Randy Even for Paul Reynolds

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

LOT SIZE: 4.8 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, approximately 50' X 72', 3,600 square foot accessory building in the rear yard for property in the RE Residential Estate District

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

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

PREVIOUS/RELATED CASES:

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

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

RELEVANT AREA CASE HISTORY: (not a complete list; includes only accessory building

BOA cases in *Bixby Ranch Estates*; does not include cases in unincorporated Tulsa County)

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

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

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

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

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

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

BACKGROUND INFORMATION:

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

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

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

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

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

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

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

This is the third Special Exception for an ADU requested under the new ADU amendment to the Zoning Code. The first, BBOA-524 – Richard Ekhoﬀ, was Conditionally Approved 08/02/2010 for an acreage located at 9024 E. 101st St. S. The second, BBOA-579 – Paul & Jimme Beth Hefner for Mary Elizabeth Brown, was Conditionally Approved 07/01/2013 to construct an ADU as a building addition to the existing barn building on a 16-acre agricultural tract at 9013/9017 E. 161st St. S. (not since constructed, however).

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....

5. No structure of temporary character, tent, shack, barn, mobile homes, or other outbuildings shall be used on any lot at any time as a residence." (emphasis added)

The language, read together, (1) allows "out-buildings incidental to the residential use of the plot," and (2) does not expressly prohibit an Accessory Dwelling Unit (ADU), but rather, suggests the same were not anticipated. It does expressly prohibit temporary structures, including "outbuildings," from being used as a residence, which does not appear to anticipate a permanent accessory dwelling unit being constructed within a part of an outbuilding otherwise dedicated to storage. The language appears to prohibit storage buildings, not built to a Building Code standard for dwellings or manifestly arranged with elements required to support semi-independent living quarters, from being remodeled, retrofitted, or otherwise simply inhabited as a dwelling. However, Staff does not have the standing to officially interpret the private covenants either way. If the Board, however, chooses to read and interpret the private covenants as prohibiting the Accessory Dwelling Unit, BBOA-589 must be tabled or denied, and BBOA-590 and this application would then be moot.

History of the Applications. During the review of BBOA-589, Staff found that the building proposed, 50' X 72' (3,600 square feet) would exceed the absolute maximum detached accessory building restriction in the RE and RS districts, which is 2,400 square feet. There is a "sliding scale" in Zoning Code Section 11-8-8.B.5, which the subject property, at approximately 4.8 acres, does not even qualify for 2,400 square feet, which requires 5.25 acres.

Zoning Code Section 11-8-5.C specifically restricts detached accessory buildings containing ADUs to the restrictions pertaining to accessory buildings:

"C. ADUs, if detached from the principal dwelling, shall meet the requirements prescribed for a detached accessory building;"

Per this application, the Applicant has since additionally requested a Variance from the maximum detached accessory building size of Zoning Code Section 11-8-8.B.5. As requested by the Applicant, BBOA-589 and BBOA-590 were Continued from the July 07, 2014 Board of Adjustment meeting to this August 04, 2014 meeting, so that all three (3) applications may be considered at one (1) time.

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ANALYSIS:

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

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's client is seeking to construct an Accessory Dwelling Unit within a proposed 50' X 72', 3,600 square foot accessory building. Per BBOA-595 and the submitted information, the living quarters would occupy the "front" 20' of the 50'-wide building, and so would contain 1,000 square feet.

Zoning Code Section 11-8-8.B.5 limits the accessory building to an absolute maximum of 2,400 square feet. There is a "sliding scale" in Zoning Code Section 11-8-8.B.5, under which the subject property, at approximately 4.8 acres, does not even qualify for 2,400 square feet.

Per this application, the Applicant is seeking a Variance from the accessory building maximum floor area standard per Zoning Code Section 11-8-8.B.5 to permit the 3,600 square foot accessory building.

The building may also exceed the square footage of the first floor of the house, which size restriction would also be covered by the scope of this application as advertised to the Public.

The Applicant provided a site plan, building plans and specifications, photos of other properties in the neighborhood, and a narrative in support of BBOA-589 and BBOA-590. Relevant parts of this information have been applied to the analysis of this application.

The neighbor abutting the subject property to the west submitted a formal response to BBOA-589 and BBOA-590 "(and all related BOAs)," which response is attached to this report. The response appears to provide certain objections and expresses certain concerns for the applications.

It should be noted that the term "ADU," as used in the Applicant's narrative and as also used in the neighbor's narrative, is interpreted as usually meaning "accessory building," not an "ADU" as defined in the Zoning Code. Staff is not aware of any existing ADUs in the neighborhood, and the neighbor's narrative disclaims the existence of any here, but it is possible such exist.

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

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

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

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

As the subject property is in the RE residential zoning district and contains approximately 4.8 acres, the maximum allowable detached accessory building size is 2,284.8 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 $\frac{1}{4}$ acre increment to the maximum of 2,400 square feet, which requires a lot containing slightly more than 5.25 acres.

This is the eighth 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 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*. On April 01, 2013, the Board approved BBOA-572 – Spencer Thompson, allowing a new 30' X 50' (1,500) square foot accessory building in the rear yard of property of 0.625 acres in the RS-1 District at 7702 E. 131st St. S., and also approved BBOA-575 – Blake Fugett, allowing a new 40.25' X 60.25' (2,425) square foot accessory building in the rear yard for property of 1.2 acres in the RE District at 5257 E. 161st St. S. Most recently, on April 07, 2014, the Board approved BBOA-586 – Thomas Black, allowing a new 1,200 square foot accessory building in the rear yard for property of $\frac{1}{3}$ of an acre in the RS-1 District at 8301 E. 131st Pl. S. in *Henry Fergeson Addition*.

Unnecessary Hardship. The Applicant claims that an *Unnecessary Hardship* would be caused by the literal enforcement of the Zoning Code because “Need additional room for storage of equipment, tractor, mower, RV, cars along w/ living space.”

The argument appears to be that the failure to be granted Variance would deprive the owner of the right to construct accessory building exceeding the maximum size restriction, and that additional space is needed for all of the items desired to be stored in addition to the ADU. 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, “Heavy woods will not be able to see from road and neighbors set back two hundred feet from road.”

The argument appears to indicate that the heavy woods and the 200’ plus setback would cause the building to not be seen from the road, which would mitigate the need for the matching exteriors requirement. Whether or not it may be seen from 205th St. S. is debatable, but it should be agreed that it will be less visible due to circumstances as proposed. In BBOA-590, the Applicant used a similar argument, but also cited the lot size, the rural nature of the area, and the location of the accessory building/ADU behind the house. All of these are better arguments for the *No Substantial Detriment* text and standard, but they appear to somewhat address this text and standard as well. The Board must find that they adequately satisfy this test and standard provided in State Statutes and the Bixby Zoning Code.

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 “Other lots with in this subdivision have applied and been granted variances for larger buildings.”

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).

In the narrative submitted to support BBOA-589 and BBOA-590, the Applicant has further addressed this question thus, “Other lots that had [accessory buildings] I could not see or get access for pictures. Area older neighborhood with heavy cover. Could not find one building that had any matching elements except color of metal siding on one. Lot next to site has [an accessory] metal building with no matching elements.

On this site the home and ADU will [sit] back 200’ in heavy wooded lot. Will be very hard to see from road or neighbors with the exception of lot to the East.

This property with the ADU not only hard to see from the road but also is very consistent with surrounding lots, homes, and [accessory buildings]. Very private and secluded area of South Bixby.”

Based on the provided materials, the proposal includes: House will be set back 210’ from 205th St. S., accessory building will be set back 275’ from 205th St. S. (or 5’ behind the back of the house, even though not accurately represented on the site plan from a relative standpoint), lot is

heavily wooded, accessory building will not be as visible from street or adjoining properties (except to the east) due to location behind the house and the heavy tree cover, and several other properties in the neighborhood have accessory buildings, commonly metal buildings and commonly large.

The case history in the neighborhood also reflects a large number of large storage buildings in the neighborhood. The proposed one, however, would be the largest such accessory building reflected in the available records.

On August 06, 2001, the Board of Adjustment approved BBOA-369 -- Lorrie Penrose & Garret Roth, a request for "Special Exception" to allow a 3,081 square foot detached garage for storing vintage vehicles for property at 20227 S. 138th E. Ave. in *Bixby Ranch Estates*. This property of less than 2 acres is located approximately 1,300' to the northeast of the subject property, or approximately 'five (5) houses down' as one would drive, and aerial data indicates the accessory building is indeed approximately the size as approved. At the time, that Variance was larger than what would be approved here, since buildings were then restricted to around 750 square feet, regardless of the size of the lot.

Staff agrees that the lot size, the rural nature of the area, the heavy woods, the 200' plus setback, location of the accessory building/ADU behind the house, and the commonness of oversized metal storage buildings in the neighborhood all combine to mitigate the need for restricting the size of the accessory building in satisfaction of this test and standard of State Statutes and the Bixby Zoning Code.

Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the *Minimum Necessary to Alleviate the Unnecessary Hardship* because "Not only a living space for aging parent but storage and garage space for vehicles, tractors, mowers etc." Elsewhere, the Applicant has stated the amount of space requested would be for storage of "equipment, tractor, mower, RV, cars along w/ living space."

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 3,600 square feet of accessory building, 58% larger than the applicable 2,284.8 square foot maximum, is the *Minimum Necessary to Alleviate the Unnecessary Hardship*.

Although the ADU provisions of the Zoning Code require compliance with accessory building restrictions, and do not provide exceptions when the ADU is constructed within part or all of an accessory building, it should be noted there that the living quarters would occupy the "front" 20' of the 50'-wide building, and so would occupy 1,000 square feet of the 3,600 square feet proposed.

The argument presented above regarding the precedent in the case of BBOA-369 -- Lorrie Penrose & Garret may also be brought to bear here as it relates to the relative size of the Variance.

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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 CHAMPJOHNSON RD

E 201st ST S

S 129th E AVE

S 131 E AVE

S 137 E AVE

E 203 ST S

RE

E 205 ST S

AG

Subject Tract

AG

S CHAMPJOHNSON RD

S 142 E AVE

E 210 ST S

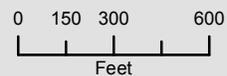


300' Radius



Subject Tract

BBOA-595



16 16-14





City of Bixby Board of Adjustment Application

Applicant: Randy Even
 Address: 14326 S. Harvard Ave Bixby OK
 Telephone: _____ Cell Phone: 918-625-1064 Email: elven43@aol.com
 Property Owner: Paul Reynolds If different from Applicant, does owner consent? YES
 Property Address: 13466 E 205th St S.
 Existing Zoning: _____ Existing Use: _____ Use Unit #: _____
 Proposed Use: _____

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

Lot 12 Block 1 Bixby Ranch Estates

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

If Applicant is other than Owner, indicate interest: Builder

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)

- allow 50x72 building of front 50x20 living space for aging parent
- Why would the literal enforcement of the Zoning Code create an unnecessary hardship?
Need additional room for storage of equipment, tractor, mower, RV, cars along w/ living space
 - What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?
Heavy woods will not be able to see from road and neighbors set back two hundred feet from road
 - 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.
other lots with in this sub divisions have applied and been granted variances for larger buildings
 - Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.
not only a living space for aging parent but storage and garage space for vehicles, tractors, mowers etc

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:

allow the building of 50' x 72' behind the home (3600 sq ft)
ADU
variance from maximum detached accessory building size

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:

allow 50 x 72' building (3600 sq ft) behind home ADU

BILL ADVERTISING CHARGES TO: Randy Even (NAME)
14326 S. Harvard Ave Bixby (ADDRESS) (CITY) 918-625-1064 (PHONE)

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

Signature: Randy Even Date: 6/30/14

APPLICANT - DO NOT WRITE BELOW THIS LINE

BBOA-595 Date Received 07/01/2014 Received By Enyark Receipt # 01169425
 Board of Adjustment Date 08/04/2014

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

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

BOA Action: _____ Conditions: _____
 Date: _____ Roll Call: _____
 Staff Rec. _____

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From: Erik Enyart eenyart@bixby.com
Subject: RE: Reynolds property, Lot 12, Block 1, Bixby Ranch Estates in the 13400-block of E. 205th St. S.
Date: June 26, 2014 at 11:25 AM
To: elven43@aol.com

Hi Randy Even:

Attached is the application form with which you may request, on your client's behalf, a Variance from the maximum size restriction described below. I understand you will / are requesting that the first two applications be Continued to the August 04, 2014 BOA meeting, as I recommended so that all three can be heard at the same time. Please confirm / advise if otherwise.

Thanks,

Erik Enyart

From: Erik Enyart
Sent: Wednesday, June 25, 2014 5:03 PM
To: 'elven43@aol.com'
Subject: RE: Reynolds property, Lot 12, Block 1, Bixby Ranch Estates in the 13400-block of E. 205th St. S.

Hi Randy Even:

I started reviewing your applications. There is a problem. I found that the building proposed (50' X 70' on the site plan but indicated as 50' X 72' in construction drawings, and possibly different if cited elsewhere) would exceed the maximum detached accessory building restriction in the RE and RS districts, which is 2,400 square feet. There is a "sliding scale" in Zoning Code Section 11-8-8.B.5, which the subject property, at almost 5 acres, may not even qualify for 2,400 square feet.

Zoning Code Section 11-8-5.C specifically restricts detached accessory buildings containing ADUs to the restrictions pertaining to accessory buildings:

"C. ADUs, if detached from the principal dwelling, shall meet the requirements prescribed for a detached accessory building;"

If your clients want to attempt this plan, they would additionally need to request a Variance from the maximum detached accessory building size of Zoning Code Section 11-8-8.B.5.

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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, July 30, 2014
RE: Report and Recommendations for:
BBOA-593 – Lillie Stafford

LOCATION: – Lot 5, Block 2, *LaCasa Movil Estates 2nd*
– 12836 S. 72nd E. Ave.

LOT SIZE: 0.6 acres, more or less

ZONING: RMH Residential-Manufactured-Home Park District

REQUEST: Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 6 single family dwelling in an RMH Residential Manufactured Home Park District

SURROUNDING ZONING AND LAND USE: RMH, RD, & AG; Single-family manufactured homes zoned RMH to the north, east, and south in *LaCasa Movil Estates 2nd* and *LaCasa Movil Estates* and the Fry Creek Ditch drainage system to the west and further north zoned AG and RD.

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES:

BZ-44 – Wallace Sheard, Jr. for Charles & Annabelle Galeotti – Request for rezoning from AG to RMH for 10 acres including subject property (later platted as *LaCasa Movil Estates 2nd*) – PC recommended Approval as per Staff recommendations 02/23/1976 and Town Board of Trustees Approved 04/20/1976 (Ord. # 309).

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Final Plat of LaCasa Movil Estates 2nd – Request for Final Plat approval for *LaCasa Movil Estates 2nd* (includes subject property) – Planning Commission Recommended Conditional Approval 03/29/1976. Town Board of Trustees presumably Approved at some point between 03/29/1976 and 02/15/1977 when Plat # 3689 was recorded (Preliminary Plat approvals not researched).

RELEVANT AREA CASE HISTORY: (not necessarily a complete list)

BBOA-8 – Raymond E. Lansford for Wallace Sheard – Request for Variance from the common recreation space requirement of the RT district for approximately 10 acres to the east of subject property, which was later platted as *LaCasa Movil Estates* – BOA Approved in the first quarter of 1972 per case notes.

BZ-28 – Investment Dynamics Corporation – Request for rezoning from AG to CS and RM-2 for approximately 40 acres abutting subject property to the west (the easterly 20 acres later became part of Fry Creek Ditch right-of-way and the westerly 20 acres, for the most part, was later approved for PUD 32 and platted as *Copperleaf*) – PC recommended Denial as per Staff recommendations 08/26/1974, application Appealed to the Town Board of Trustees, and Town Board of Trustees Denied 09/17/1974. An incomplete District Court Answer to Petition dated January, 1975 with case number C 74 2735 found in case file. Official Zoning Map reflects some CS zoning at the west end of what is now *Copperleaf* and the balance of the property is zoned RD with a strip of AG along the east end of the acreage.

BZ-214 – City of Bixby – Request for rezoning to FD Floodway Supplemental District for all of the (then proposed) Fry Creek Ditch drainage system right-of-way, including a section abutting the subject property to the west – PC Tabled Indefinitely 11/20/1995.

BBOA-366 – John W. Neerman – Request for “Special Exception” from the 750 square foot maximum accessory building restriction in the RMH district to allow a 110’ X 140’, 1,600 square foot detached accessory building for property located 1 ½ blocks to the southeast of the subject property at 12921 S. 73rd E. Ave., Lot 3, Block 4, *LaCasa Movil Estates* (storage building was actually constructed on Lot 2, Block 4) – BOA Approved 04/02/2001 with the condition that no commercial use is permitted.

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property is a vacant lot containing approximately 0.6 acres and zoned RMH. Within the past few weeks, pursuant to a Demolition Permit, the former manufactured home on the property was demolished. An accessory building remains on the property.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity and (2) Residential Area.

The proposed conventional, site-built house use should be considered not inconsistent with the Comprehensive Plan.

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Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily RMH, RD, and AG, and the surrounding land is primarily composed of single-family manufactured homes to the north, east, and south in *LaCasa Movil Estates 2nd* and *LaCasa Movil Estates*. The Fry Creek Ditch drainage system is located to the west and further north and is zoned AG and RD.

Notwithstanding the fact that the other houses are manufactured homes, the proposed conventional, site-built house use would appear to be not inconsistent with surrounding land uses and zoning patterns.

General. This application proposes to replace a former Use Unit 9 manufactured home with a new conventional, site-built house, Use Unit 6.

The subject property is zoned RMH Residential Manufactured Home Park district. This district is designed to allow for manufactured home parks, but also permits the development of manufactured home subdivisions (for individual lot ownership), such as in the case of this *La Casa Movil Estates 2nd*. The RMH district requires a Special Exception to allow a Use Unit 6 site-built house.

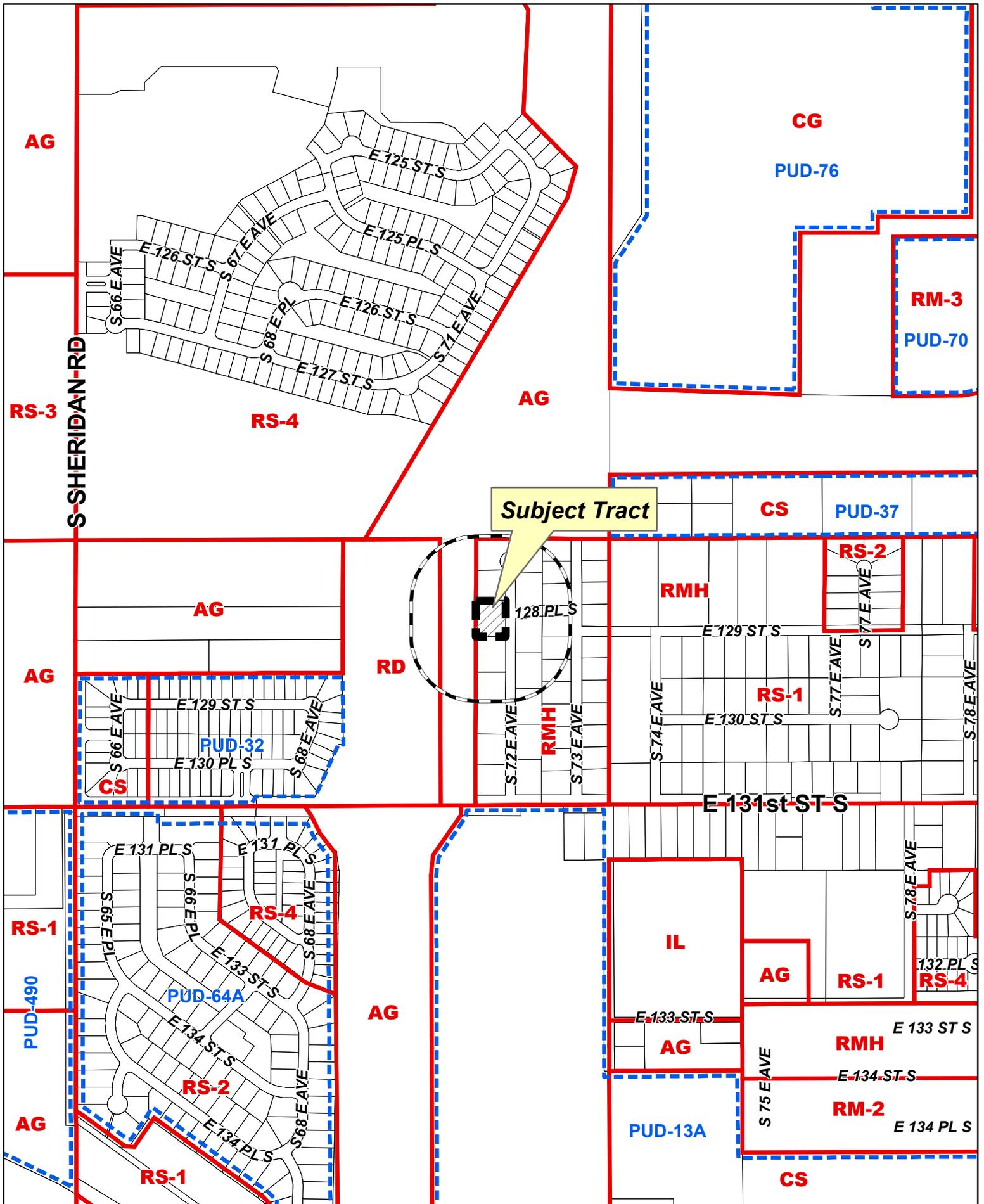
The requirement for a Special Exception for a conventional, site-built home in the RMH district presumably allows for a site-specific review for compatibility and appropriateness.

The Applicant's narrative suggests the existence of private restrictions, one of which specifically allowing the replacement of a manufactured home with a conventional, site-built home after a certain period of time. This document was not found, but if there is such a restrictive covenant, it demonstrates the developer anticipated this change would occur. The restrictive covenants filed with the earlier (1974) *LaCasa Movil Estates*, by the same developer (Wallace Sheard), do not appear to contain such a covenant, but do demonstrate intentional restrictions and covenants designed to help the neighborhood sustain compatibility, quality of construction, and property values.

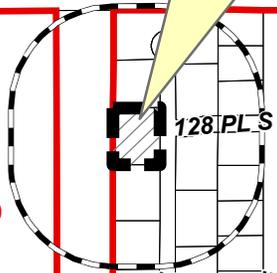
Staff does not believe that this improvement would in any way be injurious to the neighborhood or otherwise detrimental to the public welfare. Rather, Staff believes a conventional, site-built home, in this case, would only improve the neighborhood.

Staff Recommendation. For the reasons outlined above, Staff believes that the requested Special Exception for a Use Unit 6 conventional, site-built home in the RMH district would be in harmony with the spirit and intent of the Zoning Code and would not be injurious to the neighborhood or otherwise detrimental to the public welfare. Staff recommends that Approval.

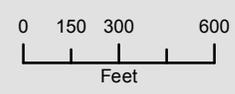
86



Subject Tract



BBOA-593



02 17-13





City of Bixby Board of Adjustment Application

Applicant: Lillie Stafford
 Address: 12836 So. 72nd E. Ave. Bixby
 Telephone: 918-259-7523 Cell Phone: _____ Email: mbilfan47@gmail
 Property Owner: Lillie Stafford If different from Applicant, does owner consent? _____
 Property Address: 12836 So. 72nd E. Ave Bixby
 Existing Zoning: RHM Existing Use: Residential Use Unit #: _____
 Proposed Use: _____

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

LOT ~~5~~ FIVE (5), BLOCK TWO (2), La Casa Movil Estates
2nd, Tulsa County, State of Oklahoma

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.

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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.

See attached narrative

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: Lillie Stafford
12836 So. 72nd E Ave Bixby (NAME) 918-259-7523
 (ADDRESS) (CITY) 74008 (PHONE)

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

Signature: Lillie Stafford Date: 6-19-14

APPLICANT - DO NOT WRITE BELOW THIS LINE

BBOA-593 Date Received 06/19/2014 Received By Enyart Receipt # 01168276
 Board of Adjustment Date 08/04/2014

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

FEES: Variance	Special Exception	Appeal/Interpretation	BASE FEE ADD.	TOTAL
\$75.00 or	<u>\$100.00</u> or	\$25.00	= <u>100</u> + <u>0</u> =	<u>\$150.00</u>

BQA Action: _____ Conditions: _____
 Date: _____ Roll Call: _____
 Staff Rec. _____

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I am requesting a special exceptions to the zoning code RMH (Residential Manufactured Home) district; for Lot 5 (5), block two (2), La Casa Movil Estates 2nd, Tulsa County, State of Oklahoma, address 12836 So. 72nd E. Ave, Bixby, Oklahoma.

I did not take the decision to build a Use Unit 6 site built house on my property lightly. I have lived on this property for the last 27 years in a manufactured home and often wished I had a sturdy home when Oklahoma thunderstorms and threats of tornado came through this part of the state. My sister is moving in with me and we want to build a handicapped accessible home also.

In late February of this year I decided that I would like to build a home on my property. I know I live in an addition that is for manufactured homes. I went to the City of Bixby to check to see if there was a reason that I could not build a new home. I talked with the City Planner and explained to him my desire to build a home and if there would be any reasons why this could not be done. He pulled up information on the computer and "said there was no problem with building a house".

I proceeded with that information and started the process to build. I have spent close to \$ 15,000.00 to get the process started. When I came in to get my permits I got a call from Donna in the permit department the next day that we can not build Use Unit 6 home on the property without a special exception request through the Board of Adjustments. My manufactured house has been removed from my property plus the money I have spent will cause a hardship for me.

I will follow all regulations required for flooding issues and elevation issues, get a survey and any other things that are needed.

If I would have been told that there was any kind of problems with building a house on this property I would not have started and wasted money and time. I had a piece of paper that stated after 25 years we could build a home on the property, of course I can not find the paper at this time.

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I would appreciate your consideration to review this application, and agree to let us go forward. I have talked to all my neighbors and they are happy for me to be able to build a sturdy home on my property. Again I came to the City of Bixby asking if there was any reason that I could not build a home and was told that there was no problem.

Lillie Stafford
6-19-14

Lillie Stafford

Erik Enyart

From: Erik Enyart
Sent: Monday, June 23, 2014 3:37 PM
To: 'Deloise Summers'
Subject: RE: Your e-mail dated 6-18-2014 concerning building permit.

Hi Lillie:

Yes, and the Applicant is expected to attend. The BOA may have questions, and the Applicant may want to be available to answer any issues which neighbors may raise. Hope it helps!

Erik

From: Deloise Summers [mailto:mobilfan47@gmail.com]
Sent: Monday, June 23, 2014 2:58 PM
To: Erik Enyart
Subject: Re: Your e-mail dated 6-18-2014 concerning building permit.

Thank you for your response. I did forget one questions, is the Board Adjustment an open meeting where I can attend?

On Mon, Jun 23, 2014 at 10:37 AM, Erik Enyart <eenyart@bixby.com> wrote:

Hi Lillie:

Here are answers to your questions:

1. I am checking on surveyors today. When does the survey need to be turned in to you. Does the survey pertain to the building permit or the Adjustment Meeting?

Elevation Certificate is the form required per FEMA and City of Bixby Floodplain Regulations (see details in my email to you). It is not a part of the Board of Adjustment/Special Exception application. It is for the Building Permit application. It can be turned in as soon as you get it from surveyor.

2. I need to know if my property will be the only property that the zoning will be considered for changing?

Yes, your application includes only your property. The Special Exception is like a "special zoning permit" to be entitled to do something the Zoning Code does not allow "by right," but anticipates and allowed with the Special Exception approval.

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3. Will there be a zoning sign put up on my property? What is the time requirement for sign to be up before meeting?

Yes, I will prepare the sign and post it on your property at least 10 days prior to the Public Hearing as required. It just needs to stay up for the entire 10 day period.

4. When does legal notice go in the paper How long before meeting does this need to happen?

I will type up the legal notice and send to the South County Leader for publication not less than 10 days prior to the hearing as required. I will also get from INCOG a list of property owners within 300' of your property and mail the notices to those property owners 10 days prior to the hearing as required.

5. Will you have all of these requirements done in time for us to get on the next Board of Adjustment Meeting. If there is anything that I need to do to help accomplish this, please let me know as soon as possible.

Yes, I always do! Thank you for your offer to assist – I will let you know if this is needed.

We will send the Plat to Donna with the change to move house 9 feet to the north. **If you are having the surveyor prepare your site plan, this would be added to #1 above.** I have addressed all three items on your letter, again if there is anything else let me know as soon as possible. Did you get the Board of Adjustment application that I left at the receptionist area on 6-19-2014? **Yes, I received.**

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

Erik Enyart

From: Deloise Summers [mailto:mobilfan47@gmail.com]
Sent: Monday, June 23, 2014 10:14 AM
To: Erik Enyart
Subject: Your e-mail dated 6-18-2014 concerning building permit.

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Here are some questions that I need answered to insure that I have done all that is required to be on the agenda of the August 4, 2014 Board of Adjustment meeting.

1. I am checking on surveyors today. When does the survey need to be turned in to you. Does the survey pertain to the building permit or the Adjustment Meeting?
2. I need to know if my property will be the only property that the zoning will be considered for changing?
3. Will there be a zoning sign put up on my property? What is the time requirement for sign to be up before meeting?
4. When does legal notice go in the paper How long before meeting does this need to happen?
5. Will you have all of these requirements done in time for us to get on the next Board of Adjustment Meeting. If there is anything that I need to do to help accomplish this, please let me know as soon as possible.

We will send the Plat to Donna with the change to move house 9 feet to the north. I have addressed all three items on your letter, again if there is anything else let me know as soon as possible. Did you get the Board of Adjustment application that I left at the receptionist area on 6-19-2014?

Lillie Stafford

12836 So. 72nd E. Ave.

La Casa Movil Estates 2nd

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Erik Enyart

From: Erik Enyart
Sent: Thursday, June 19, 2014 1:23 PM
To: Patrick Boulden
Subject: FW: Building Permit application for new site-built house at 12836 S. 72nd E. Ave.; Lot 5, Block 2, La Casa Movil Estates 2nd
Attachments: Application - BOA.pdf

FYI as we discussed.

Erik

From: Erik Enyart
Sent: Wednesday, June 18, 2014 9:35 AM
To: 'lillies@ok.neighbornews.com'
Cc: 'Donna Crawford'
Subject: Building Permit application for new site-built house at 12836 S. 72nd E. Ave.; Lot 5, Block 2, La Casa Movil Estates 2nd

Lois Stafford
(918) 259-7523

Lois Stafford:

Good to speak with you today. As we discussed, Community Development Coordinator Donna Crawford, copied here, shared with me yesterday your Building Permit application to replace the mobile home with a new site-built home on the above-referenced property. There are three (3) issues to be addressed to achieve and/or demonstrate compliance with the Bixby codes and building review requirements. These are provided in the balance of this correspondence. I understand you will be forwarding this to your builder to have them assist you with all of this.

Zoning Code. The subject property is zoned RMH Residential Manufactured Home Park district. This district is designed to allow for manufactured home parks, but also permits the development of manufactured home subdivisions (for individual lot ownership), such as in the case of this *La Casa Movil Estates 2nd*. The RMH district requires a Special Exception to allow a Use Unit 6 site-built house. To be permitted a Building Permit, on the attached application form, you may request a Special Exception. Complete the section(s) pertaining to Special Exceptions; the sections pertaining to Variances, Appeals, and Interpretations may be left blank.

I encourage you to review the Bixby Zoning Code, available at http://www.sterlingcodifiers.com/codebook/index.php?book_id=590, and in particular, the sections pertaining to Special Exceptions.

The next application submission deadline is July 03, 2014 for the August 04, 2014 Board of Adjustment meeting. The review fee is \$150.00, payable to "City of Bixby" at City Hall, 116 W. Needles Ave. You may leave the completed application there for me, and I will retrieve it from my mailbox there, or you may bring the application and a copy of your receipt to my office in the Dawes Building, 113 W. Dawes Ave. The *South County Leader* will invoice directly for newspaper publication of the Public Notice. All other costs are included in the review fee.

Plat Building Line. As I recall seeing the site plan yesterday, the new house is proposed to be set back a little more than 40' from the south property line. The RMH zoning district requires 5' and 10' side yard setbacks, so the Zoning Code's setback requirement would be met. However, per the plat of *La Casa Movil Estates 2nd*, there is a 25' Utility Easement along the south lot line, and another line that I am not able to read from our copy of the plat. The line appears to be approximately double the width of the 25' U/E, and it may be mirrored on the south side of the common lot line shared with Lot 6, Block 2, *La Casa Movil Estates 2nd*, 12908 S. 72nd E. Ave. If it is mirrored on the south side, it would be a 50' Building Line. Thus, the house would need to be moved further to the north to at least 50' to comply with what appears to be the plat's Building Line.

Floodplain Regulations. Per FEMA FIRM maps, as adopted by ordinance by the City of Bixby, part of the subject property is within the Zone A 100-year (aka 1% Annual Chance) Regulatory Floodplain. The Bixby Floodplain Regulations, City Code Title 13 Chapter 2 (view online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=590) will require the First Finished Floor of the house be elevated to at least one (1) foot above the 100-year (or more accurately, the annual 1% chance) Floodplain Base Flood Elevation (BFE), which must be demonstrated by the submission of an Elevation Certificate prepared by a Registered Professional Land Surveyor. If, according to the Elevation Certificate, the elevation of the ground at the site on which the house will be built is already 1' above the BFE, no further Elevation Certificates would be required. If it is necessary to elevate the first floor by any measure in order to achieve at least 1' above the BFE, we will permit only the foundation and finished floor, and will then need an Elevation Certificate demonstrating it is at least 1' above the BFE, before issuing a permit for the balance of the building addition. If the Lowest Adjacent Grade is below the 100-year Base Flood Elevation, a flow-through foundation may be required to ensure floodwater is not displaced onto other properties and to comply with the Floodplain Regulations.

We will hold on to your permit application until we hear from you on the above matters.

Thank you in advance for your time and consideration. If you have any questions or need additional information, please do not hesitate to contact me at (918) 366-0427 or eenyart@bixby.com.

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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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 *EKE*
Date: Wednesday, July 30, 2014
RE: Report and Recommendations for:
BBOA-594 – PlanScape Partners for Tycon Properties, LLC

LOCATION: – Part of Lot 1, Block 1, *Clyde Miller Acreage*
– 12850 S. Memorial Dr.
– Northwest corner of the intersection of 129th St. S. and Memorial Dr.

LOT SIZE: 2/3 acres, more or less

ZONING: CG General Commercial District

REQUEST: (1) A Variance from certain minimum building setbacks per Zoning Code Section 11-7D-4 Table 2, (2) a Variance from the minimum parking lot setback requirements from Memorial Dr., 129th St. S., and an abutting RS-1 residential district per Zoning Code Section 11-10-3.B Table 1, (3) a Variance from the minimum width landscaped strips along Memorial Dr., 129th St. S., and an abutting RS-1 residential district per Zoning Code Sections 11-12-3.A.2, 11-12-3.A.3, and 11-12-3.A.7, (4) a Variance from certain other landscaping requirements of Title 11 Chapter 12, and (5) a Variance from any other bulk and area and/or developments standards of the Zoning Code with which the subject property does not comply, all to allow for the expansion of an existing building on an existing lot of record in the CG General Commercial District

ANALYSIS:

The *Rib Crib* restaurant on the subject property is planning to expand their restaurant, and make major exterior improvements.

Per Ordinance # 2137 approved July 14, 2014, the following Section 11-9-0.F was added to the Zoning Code:

“For redevelopments or expansions of existing nonresidentially-developed lots of record, the City Council may authorize modifications to the minimum development standards of this title upon its approval of an application for site plan prepared as provided in Section 11-9-0.E.”

The Applicant in this case asked that the previously-submitted site plan application, which was assigned case number BSP 2014-02, be submitted to the City Council for approval under this new process, to allow for the relief from certain existing site elements that do not now conform, and/or are not planned to be made to conform to the Zoning Code.

This application had only been filed in the event the Public Hearing was not held before the Planning Commission, and/or the Planning Commission did not give a recommendation, and/or the City Council did not approve the Zoning Code Text Amendment, all during a concurrent meeting of the Planning Commission and City Council on July 14, 2014, and/or the City Council did not approve the site plan application on July 28, 2014.

All these things did occur as planned, and the City Council approved BSP 2014-02 as submitted on July 28, 2014. Thus, the Variances requested by this application are no longer necessary, and the Applicant withdrew this application by email on July 29, 2014.

No action required.

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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: Wednesday, July 30, 2014
RE: Report and Recommendations for:
BBOA-596 – Jackie Miller

LOCATION: – Lots 1 and 2, Block 1, *Springtree Addition*
– 14208 S. Harvard Pl.

LOT SIZE: 2/3 acres, more or less

ZONING: RS-1 Residential Single-Family District

REQUEST: Special Exception per Zoning Code Section 11-8-8.B.9 to allow an 18' X 21' carport within the required front yard setback for property within the RS-1 Residential Single-Family District

SURROUNDING ZONING AND LAND USE:

North: RS-1, RS-2, AG, CS & CS/RS-2/PUD 40 (Jenks); Single-family homes zoned RS-1 in *Springtree*, vacant land zoned CS, RS-2, and RS-1 to the northwest in Jenks, vacant land zoned CS/PUD 40 further north in Jenks, and single family residential homes and vacant lots further to the northeast in *Dutchers Crossing I* and *Dutchers Crossing II* zoned RS-2/PUD 40 in Jenks.

South: RS-1 & RS-1/RS-3/PUD 12-D; Single-family homes zoned RS-1 in *Springtree* and vacant land zoned RS-1/RS-3/PUD 12-D further south.

East: RS-1; Single-family homes zoned RS-1 in *Springtree*.

West: RS-1, RS-2, AG, CS; Rural residential and vacant land across Harvard Ave. to the west zoned AG in unincorporated Tulsa County and vacant land zoned CS, RS-2, and RS-1 to the northwest in Jenks.

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES: (not necessarily a complete list)

BZ-57 – Joe Donelson/J-B Engineering Co. for Frank & Maria Sweetin/Jody Sweetin – Request for rezoning from AG to RS-1 for approximately 142 acres (all of the NW/4 Less & Except the E. 300' thereof) (included subject property) – PC Recommended Approval 07/25/1977 and City Council Approved 09/12/1977 (Ord. # 337).

BZ-58 – Joe Donelson/J-B Engineering Co. for Frank & Maria Sweetin/Jody Sweetin – Request for rezoning from AG to RS-2 for approximately 142 acres (all of the NW/4 Less & Except the E. 300' thereof) (included subject property) – Withdrawn 10/03/1977.

Final Plat of Springtree – Jody L. Sweetin – City Council approved the Final Plat of *Springtree* (included subject property) 04/03/1978 and Plat # 3794 recorded April 28, 1978 (PC and Preliminary Plat approvals not researched).

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

BZ-66 – Jody L. Sweetin – Request for rezoning from RS-1 to RS-2 for approximately 100.53 acres (all of the NW/4 lying south of *Springtree*, Less & Except the E. 300' thereof) to the south of subject property – PC Recommended Approval 07/31/1978 and City Council Approved 10/16/1978 (Ord. 364).

Final Plat of “Springtree South” – Jody Sweetin – Request for Final Plat for “Springtree South,” including 189 lots, for approximately 101 acres (all of the NW/4 lying south of *Springtree*, Less & Except the E. 300' thereof) to the south of subject property – PC Recommended Conditional Approval 07/30/1979 (not ever platted).

BBOA-109 – James & Julie Lovett – Request for Special Exception to allow a “bake shop” as a home occupation in the RS-1 district for Lot 6, Block 4, *Springtree*, addressed 3633 E. 143rd St. S., located to the east of the subject property – BOA Conditionally Approved 11/08/1982.

BBOA-192 – Mark Burns – Request for Variance from the front setback for an existing house in the RS-1 district for Lot 9, Block 3, *Springtree*, addressed 3420 E. 142nd St. S., located to the east of the subject property – BOA Approved 08/13/1987 per case notes.

BZ-197 – Stephen D. Carr / George Suppes – Request for rezoning to RS-3, RM-2, CS, and IL for approximately 399.49 acres (Lots 2, 3, and 5, Block 1, *Sitrin Center Addition*, Less & Except that part lying E. of the Centerline of Kimberly-Clark Pl., and Lot 6, Block 1, *Sitrin Center Addition*, Less & Except the E. 300' thereof, and the NW/4 of this Section lying south of *Springtree*, Less & Except the E. 300' thereof) to the south of subject property – PC Recommended Modified Approval 03/21/1991 and City Council Approved with modifications, including IL, CS, RM-2, RS-3, and RS-1, on 04/13/1991 (Ord. # 652).

BPUD (PUD) 12 – George Suppes / Stephen D. Carr & Associates – Request for PUD approval for approximately 399.49 acres (Lots 2, 3, and 5, Block 1, *Sitrin Center Addition*, Less & Except that part lying E. of the Centerline of Kimberly-Clark Pl., and Lot 6, Block 1, *Sitrin Center Addition*, Less & Except the E. 300' thereof, and the NW/4 of this Section lying south of *Springtree*, Less & Except the E. 300' thereof) – replaced PUD 3 for the concerned part thereof to the south of subject property – PC Recommended Approval 03/21/1991 and City Council Approved 04/13/1991 (Ord. # 653; ordinance appears to have excluded the W/2 of the SW/4 of Section 16, T17N, R13E).

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PUD 12 Major Amendment – “Amendment A” – Stephen D. Carr & Associates – Request for Major Amendment to PUD 12 to the south of subject property – redesignated BPUD 12 as “PUD 12-A” – PC recommended Conditional Approval 11/21/1994 and City Council Approved 01/09/1995 (Ord. # 713; ordinance appears to have used a legal description that did not properly close. The part with the deficient legal description corresponded to the PUD acreage lying outside *Sitrin Center Addition*. Because of the legal description error, INCOG did not change the official Zoning Map to reflect “PUD 12-A.” Since superseded by PUD 12-D).

PUD 12-A Major Amendment – “Amendment B” – Stephen D. Carr & Associates – Request for Major Amendment to PUD 12 to the south of property – PC recommended Conditional Approval 11/21/1994 and City Council Approved 03/23/1998. However, it was not approved by ordinance, as required (reference Zoning Code Sections 11-7I-8.G, 11-7I-8.D, and 11-5-4.E.3). Rather, it was approved by majority vote of the City Council per the approved Minutes of the March 23, 1998 City Council meeting.

BBOA-356 – Randy Lynn – Request for “Special Exception” from certain bulk and area standards pertaining to an accessory building in the RS-1 district for Lot 7, Block 2, *Springtree*, addressed 3607 E. 142nd St. S., located to the northeast of the subject property – BOA Approved 04/03/2000.

BBOA-451 – Chris & Mary Smith – Request for Variance from the front setback in the RS-1 district for Lot 5, Block 1, *Springtree*, addressed 3311 E. 142nd St. S., located just north of the subject property – BOA Approved 04/02/2007.

PUD 12-A Major Amendment – “Amendment C” – “Amendment C” to PUD 12 was received from attorney George Suppes on 10/17/2007. It was not formally submitted for consideration, was not approved, and so has no effect. It is listed here for accounting purposes. The 2012/2013 Major Amendment was designated Amendment # D “Geiler Park” to account for all versions known to have existed.

PUD 12-A – Major Amendment # D “Geiler Park” – Request for approval of Major Amendment # D to PUD 12-A, to be known as “PUD 12-D” for Geiler Park, which amendment proposed the extension of the business/industrial park areas, the inclusion of additional permitted uses within the business/industrial park areas, and the modification of bulk and area limitations – PC Recommended Conditional Approval 07/16/2012 and City Council Conditionally Approved the application only, and not the ordinance effecting the zoning change, 08/13/2012 (Ord. # 2088 executed in error). City Council repealed the spurious Ord. # 2088 and approved Major Amendment # D by new ordinance 02/11/2013 (Ord. # 2114).

BACKGROUND INFORMATION:

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

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

Per Zoning Code Section 11-11-8.B.6 as previously written, carports were allowed in required yards by right. The amendment’s primary effect was to (1) add a Special Exception

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requirement for carports when located in required yards / setbacks, and (2) add location and appearance standards for all carports.

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

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

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

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

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

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

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

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

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

11-4-9: SPECIAL EXCEPTION:

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

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

- “8. Within an R district, any type of carport occupying a portion of a required yard, subject to the requirements of Section 11-8-8.B.9 of this Title. When evaluating the requested Special Exception, the Board shall consider the following factors:
- a. The existence, location, and design of other carports in the immediate vicinity of the request;
 - b. Any possible sight obstruction to motorists at street intersections;
 - c. The visual impact of the proposed carport on the streetscape of the neighborhood;
 - d. The uniqueness of the request and whether granting the Special Exception will set a precedent for justifying other carports throughout the neighborhood;
 - e. The compatibility of the carport with the architectural style of the dwelling and the predominant architectural style of the neighborhood; and
 - f. Constructive criticism and suggestions from property owners within the neighborhood.”

ANALYSIS:

Property Conditions. The subject property contains one (1) single-family house on Lot 2, Block 1, *Springtree Addition*. The subject property is zoned RS-1 Residential Single-Family Low Density District. Together with the vacant Lot 1, Block 1, *Springtree Addition* portion of the subject property, with which Lot 2 was recently legally combined, the subject property contains approximately 2/3 of an acre. The vacant Lot 1 portion was recently issued a Building Permit for a carport for an RV, which carport met the setback requirements and so did not require a Special Exception per Zoning Code Section 11-8-8.B.9.

The subject property slopes downward moderately to the south. It ultimately drains to Posey Creek.

Special Exception Request. The Applicant is requesting a Special Exception per Zoning Code Section 11-8-8.B.9 to allow an 18' X 21' carport within the required front yard setback. See the Compatibility section of this report for further analysis.

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

Surrounding Zoning and Land Use. The nearest surrounding zoning and land use patterns consist of single-family residential homes zoned RS-1 to the north, east, and south in *Springtree* and rural residential and vacant land across Harvard Ave. to the west zoned AG in unincorporated Tulsa County. The proposed carport by Special Exception attending the existing single-family dwelling would not be inconsistent with the surrounding Zoning and land use patterns.

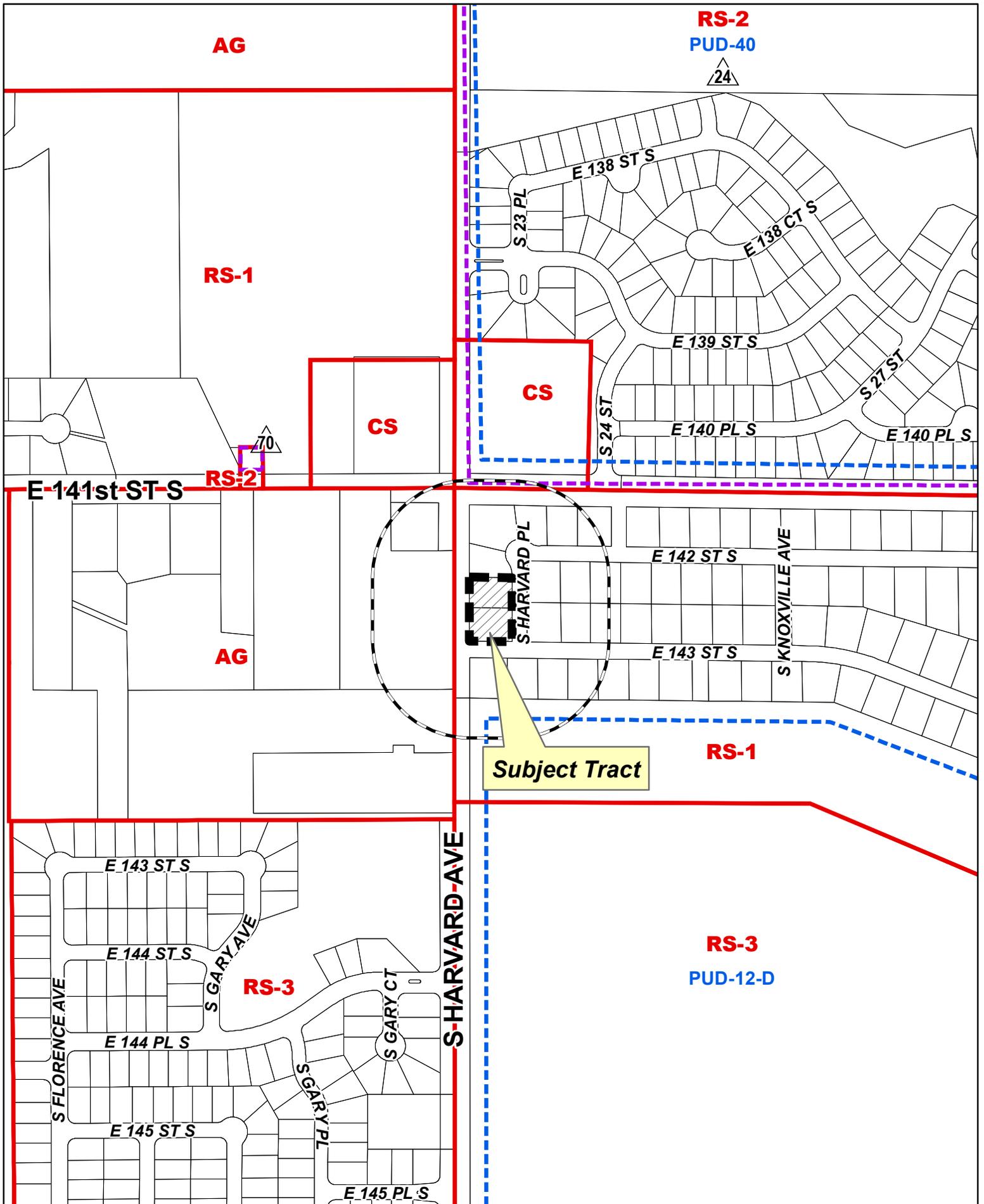
Compatibility. The carport would set back from the right-of-way approximately 23 feet, according to the Applicant's statement and a provided plot plan. Because it would be located approximately 12 feet into the 35' setback required in the RS-1 district, a Special Exception is required.

Staff observed two (2) carports in the neighborhood, both at the intersection of 142nd St. S. and Knoxville Ave.

The provided plans indicate the structure would be relatively substantial, including a pitched roof, and not cheap in construction or appearance. The quality of construction proposed should be made a Condition of Approval, if approval is granted.

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

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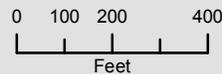


300' Radius



Subject Tract

BBOA-596



16 17-13





City of Bixby Board of Adjustment Application

Applicant: JACKIE W. MILLER
Address: 14208 S. HARVARD PL. BIXBY, OK 74008
Telephone: _____ Cell Phone: 405-923-7470 Email: _____

Property Owner: LELA MILLER If different from Applicant, does owner consent? YES
Property Address: 14208 S. HARVARD PL. BIXBY, OK 74008
Existing Zoning: RS-1 Existing Use: _____ Use Unit #: 6
Proposed Use: CARPORT - VEHICLE PARKING

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

lots 1+2, Block 1, Springtree addn.

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.

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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.

SPECIAL EXCEPTION TO PLACE CARPORT 23" SETBACK FROM PROPERTY LINE.

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: Jackie W. Miller

Date: 7-9-14

APPLICANT - DO NOT WRITE BELOW THIS LINE

BBOA-596 Date Received 07/09/2014 Received By Emyork Receipt # 01172468
Board of Adjustment Date _____

(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 ADD. TOTAL
= \$100 + 50 = \$150.00

BOA Action: _____

Conditions: _____

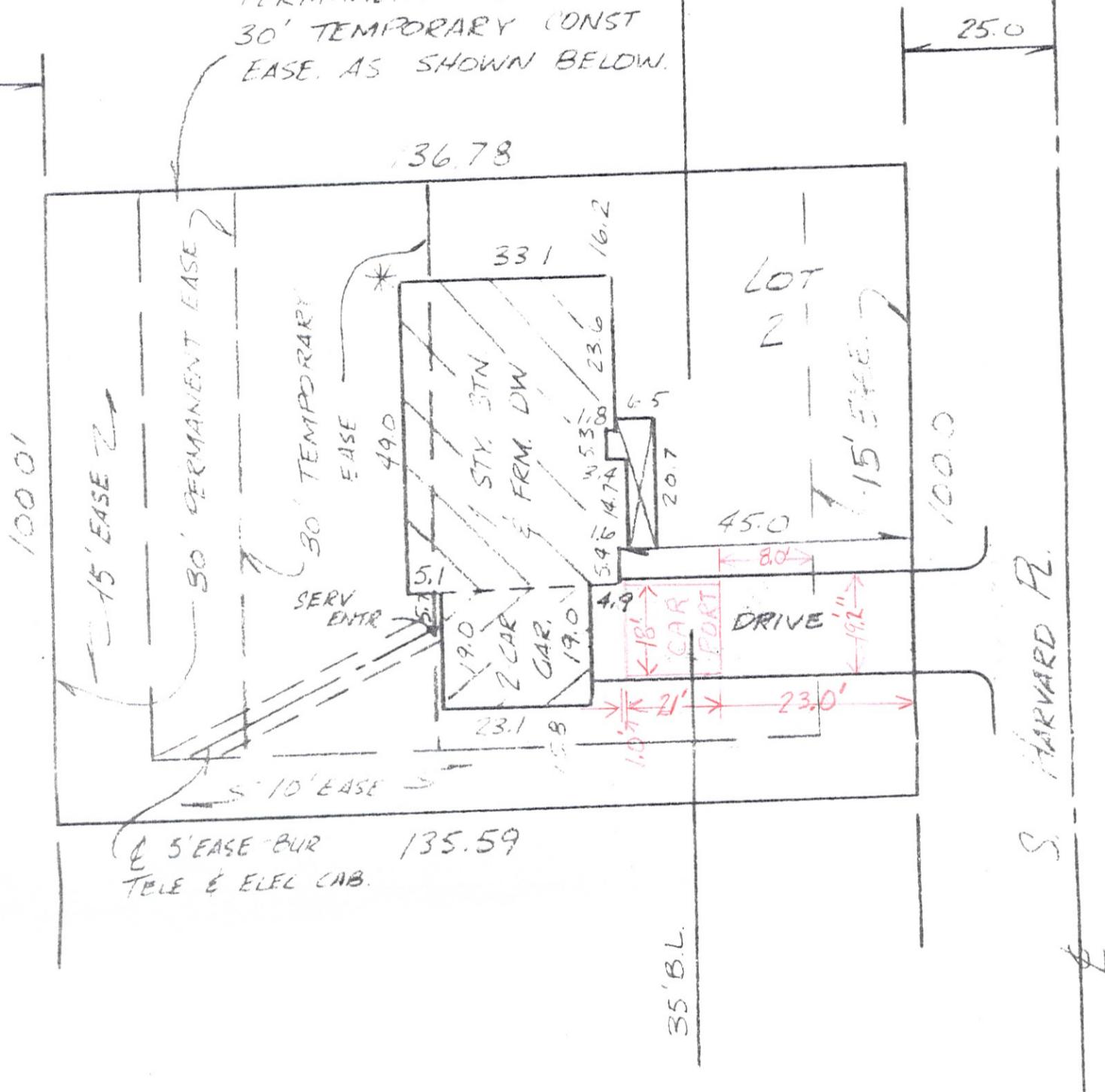
Date: _____

Roll Call: _____

Staff Rec. _____

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UTILITY EASE RECD BK 3854
 PG 633 TO RURAL WATER DIST #6,
 OKMULGEE COUNTY, GRANTS A 30'
 PERMANENT EASE AND A
 30' TEMPORARY CONST
 EASE, AS SHOWN BELOW.



* DWEL IS INTO TEMP CONST.
 EASEMENT 29'

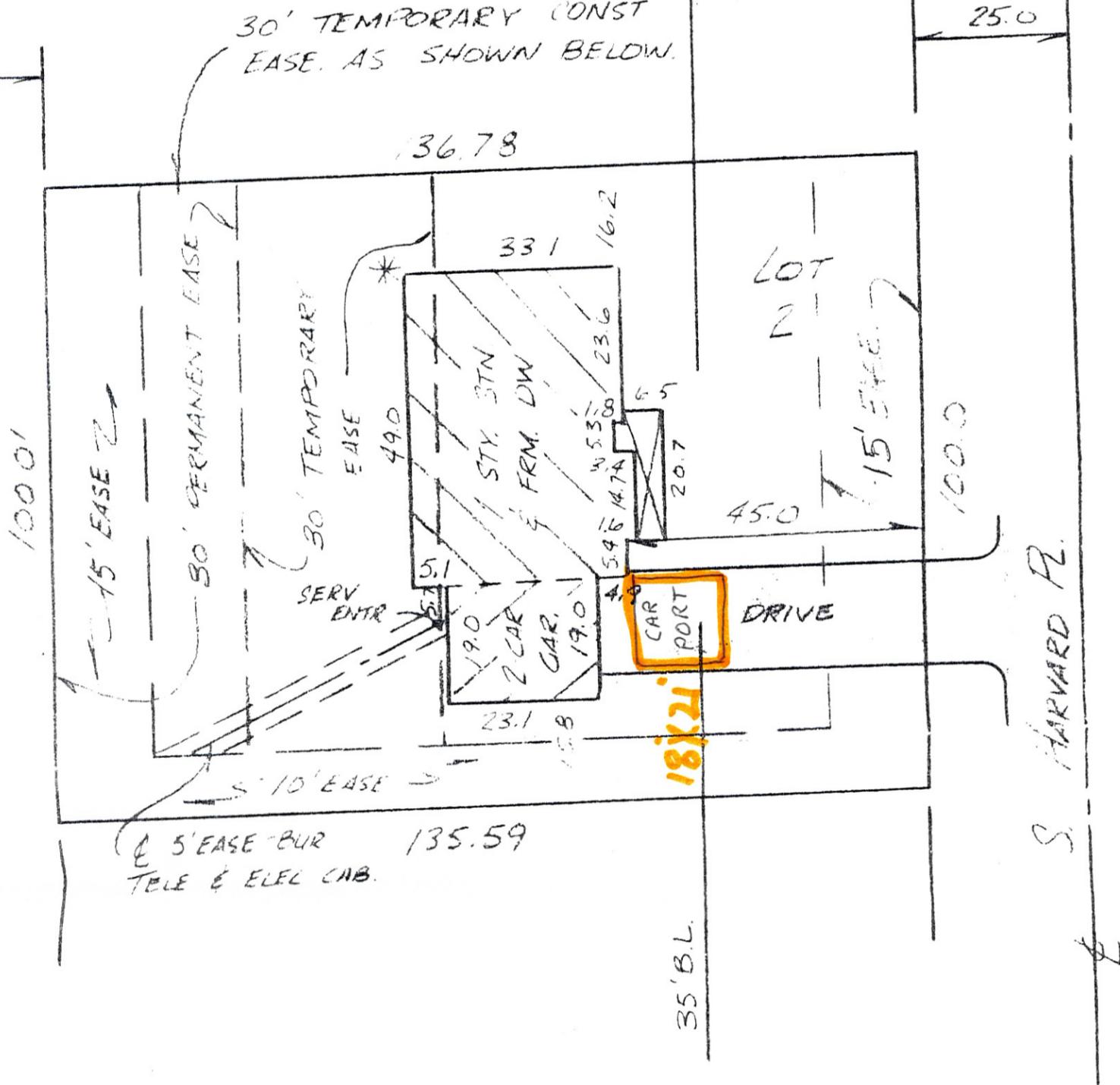
CERTIFICATE

for and at the request of TULSA ABSTRACT COMPANY for mortgage loan purposes only
 libed as:

, SPRINGTREE, a Subdivision to the Town of Bixby, Tulsa County, State of
 rdg to the Recorded Plat thereof, and known as 14208 South Harvard Place.

that the above inspection plat shows the improvements as located on the premises described, that they are
 cribed tract boundaries, and that there are no encroachments thereon except as indicated; that the above plat
 easements and other such easements as have been disclosed and furnished us by lender; that this plat was
 tion purposes only for the Mortgagee and is not a land or property line survey; that no property corners were
 for the establishment of fence, building or other improvement lines. No responsibility is

UTILITY EASE RECD BK 3854
 PG 633 TO RURAL WATER DIST #6,
 OKMULGEE COUNTY, GRANTS A 30'
 PERMANENT EASE AND A
 30' TEMPORARY CONST
 EASE. AS SHOWN BELOW.



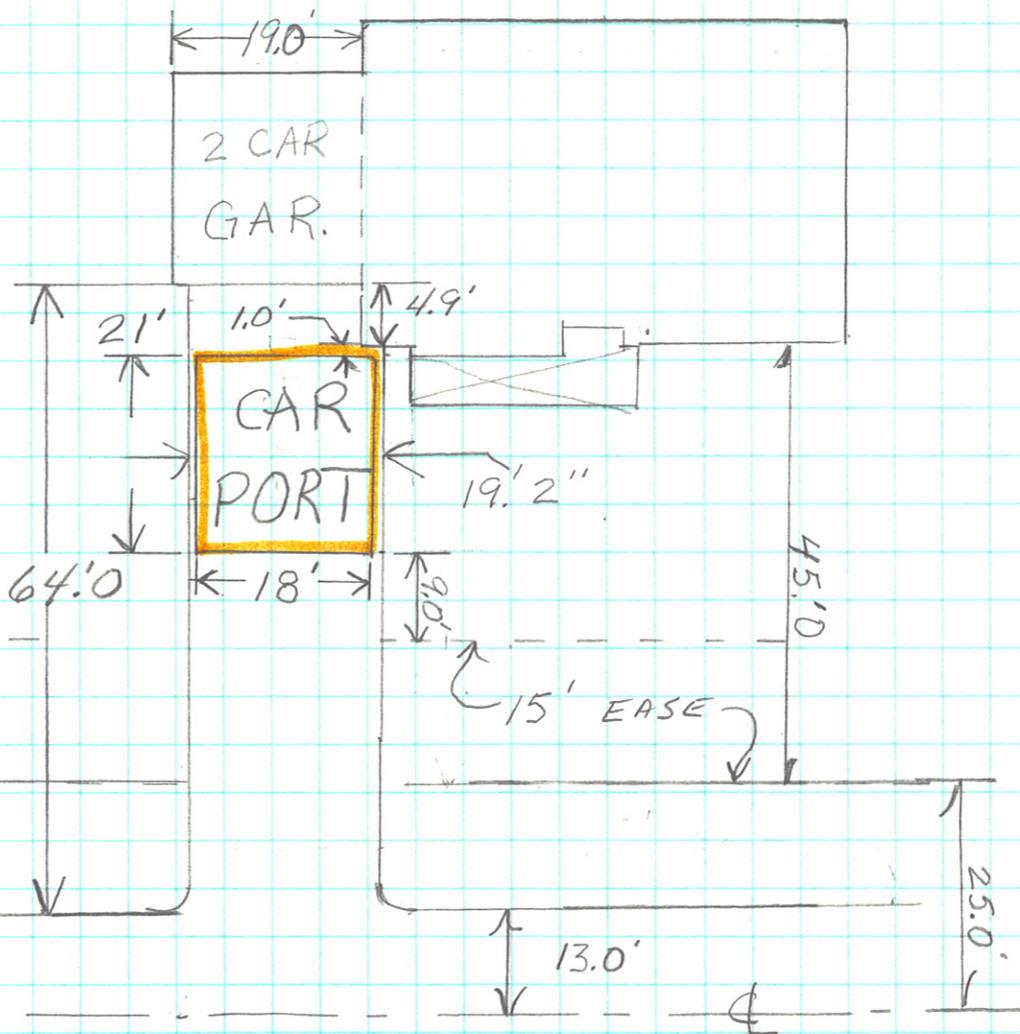
* DWEL IS INTO TEMP CONST.
 EASEMENT 29'

CERTIFICATE

for and at the request of TULSA ABSTRACT COMPANY for mortgage loan purposes only
 bed as:

SPRINGTREE, a Subdivision to the Town of Bixby, Tulsa County, State of
 Oklahoma, according to the Recorded Plat thereof, and known as 14208 South Harvard Place.

that the above inspection plat shows the improvements as located on the premises described, that they are
 described tract boundaries, and that there are no encroachments thereon except as indicated; that the above plat
 easements and other such easements as have been disclosed and furnished us by lender; that this plat was
 for the Mortgagee and is not a land or property line survey; that no property corners were
 for the establishment of fence, building or other improvement lines. No responsibility is



CAR PORT

