

AGENDA
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 WEST NEEDLES
BIXBY, OK 74008
July 06, 2015 6:00 PM

CALL TO ORDER

MINUTES

- ② 1. Approval of Minutes for April 06, 2015
- ⑨ 2. Approval of Minutes for June 01, 2015

OLD BUSINESS

NEW BUSINESS

- ⑮ 3. **BBOA-601 – Roger H. Grant.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7A-3.A Table 2 to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for part of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, located within the AG Agricultural District.
Property located: 15506 S. Harvard Ave.
- ③ 4. **BBOA-602 – Roger H. Grant.** Discussion and possible action to approve a Variance from Zoning Code Sections 11-2-1 and 11-7B-5.B to allow to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for part of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, located within the AG Agricultural District.
Property located: 15506 S. Harvard Ave.

ADJOURNMENT

Posted By: Enyart
Date: 06/23/2015
Time: 2:10 PM

AGENDA – Board of Adjustment

July 06, 2015

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

Persons who require a special accommodation to participate in this meeting should contact City Planner Erik Enyart, 116 West Needles Avenue, Bixby, Oklahoma, 918-366-4430, or via Email: eenyart@bixbyok.gov as far in advance as possible and preferably at least 48-hours before the date of the meeting. Persons using a TDD may contact OKLAHOMA RELAY at 1-800-722-0353 and voice calls should be made to 1-800-522-8506 to communicate via telephone with hearing telephone users and vice versa.

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
April 06, 2015 6:00 PM**

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

STAFF PRESENT:

Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

ATTENDING:

See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 6:03 PM.

ROLL CALL

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

MINUTES

1. Approval of Minutes for March 02, 2015

Chair Jeff Wilson introduced the item and made a MOTION to APPROVE the Minutes of March 02, 2015 as presented by Staff. JR Donelson SECONDED the Motion. Roll was called:

ROLL CALL:

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

OLD BUSINESS

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-599 – A-Max Sign Co., Inc. / Lori Worthington for Mabrey Bank**. Discussion and possible action to approve a Variance from the maximum ground sign height restriction of Zoning Code Section 11-7C-3.B.4.a to allow for the replacement of an existing ground sign measuring approximately 29.8’ above ground level for Lot 1, Block 1, *Citizens Security Bank Addition*, located within the OL Office Low Intensity District. Property located: 11402 S. Memorial Dr.

Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Thursday, April 02, 2015
RE: Report and Recommendations for:
 BBOA-599 – A-Max Sign Co., Inc. / Lori Worthington for Mabrey Bank

LOCATION: – 11402 S. Memorial Dr.
 – Lot 1, Block 1, Citizens Security Bank Addition

LOT SIZE: 2.87 acres, more or less

ZONING: OL Office Low Intensity District

SUPPLEMENTAL ZONING: Corridor Appearance District

EXISTING USE: Use Unit 11 Mabrey Bank

REQUEST: Variance from the maximum ground sign height restriction of Zoning Code Section 11-7C-3.B.4.a to allow for the replacement of an existing ground sign measuring approximately 29.8’ above ground level for Lot 1, Block 1, Citizens Security Bank Addition, located within the OL Office Low Intensity District

SURROUNDING ZONING AND LAND USE:

North: CS; Commercial in the “Bixby Commons” shopping center, anchored by the Reasor’s grocery store and the Lowe’s in Bixby Commons and Resubdivision of Lots 3 and 4 of Bixby Commons.

South: CS, CG, & AG: Vacant commercial lots straddling 115th St. S. in The Links at Bixby zoned CS, the Enterprise Sod Store zoned CG, and the Hardscape Materials business zoned CS and AG.

East: (Across Memorial Dr.) RE; Single-family residential estate homes in Southwood and Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition.

West: RM-1/PUD 16; The The Links at Bixby a.k.a. The Links on Memorial Golf and Athletic/Country Club and The Links on Memorial Apartment Community apartment complex and 9-hole golf course in Lot 1, Block 1, The Links at Bixby.

COMPREHENSIVE PLAN: Corridor + Medium Intensity + Commercial Area

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

BZ-60 – Citizens Security Bank and Trust for John B. Tate, Trustee – Request for rezoning from AG to OL for one (1) acre of subject property for “electronic banking” – Planning Commission

Recommended Approval 12/19/1977 and Town Board of Trustees Approved 08/07/1978 (Ord. # 360).

BL-36 – Citizens Security Bank and Trust for John B. Tate, Trustee – Request for Lot-Split approval to split one (1) acre from a larger tract, which one (1) acre became part of subject property – Planning Commission Approved 12/19/1977 subject to final approval of OL zoning per BZ-60.

BZ-168 – Citizens Security Bank and Trust Company for 116th and Memorial LTD – Request for rezoning from AG to CS for approximately 2.06 acres of subject property, to the west of 1-acre “electronic banking facility” rezoned OL per BZ-60, for a new branch bank – Planning Commission Recommended Approval of OL zoning 10/28/1985 and City Council Approved OL zoning 11/26/1985 (Ord. # 535).

[Final] Plat of Citizens Security Bank Addition – Request for [Final] Plat approval for the Citizens Security Bank Addition plat of subject property – Plat # 4629 recorded 02/28/1986 and was presumably approved by the City of Bixby at some time prior (Preliminary Plat approvals not researched).

BBOA-173 – Craig Neon, Inc. for Citizens Security Bank – Request for Variance to allow 60 square feet of display surface area for a ground sign in an OL district for subject property – BOA Approved 06/09/1986.

BBOA-226 – Acura Neon, Inc. for Citizens Security Bank – Request for Variance to allow up to 180 square feet of display surface area for a ground sign in an OL district for subject property – BOA Approved 06/04/1990.

RELEVANT AREA CASE HISTORY: (Not researched)

BACKGROUND INFORMATION:

Citizens Security Bank was recently renamed Mabrey Bank and has applied for Sign Permits for both bank branches located in Bixby. The subject property contains the bank branch at 11402 S. Memorial Dr., and the preexisting ground sign, at approximately 29’ 8”, exceeded the 20’ maximum height in the OL district, and the new replacement sign will need a Variance.

Based on the arguments Staff was able to conceive in February, 2015, and recognizing Mabrey Bank’s need to have signage installed in time for the name change, Staff requested, and the City Manager granted authorization to sign a Conditional/Provisional Sign Permit, enabling the bank to proceed at their own risk prior to Variance approval. The Conditional/Provisional Sign Permit was issued on or around February 23, 2015.

ANALYSIS:

Subject Property Conditions. The subject property is zoned OL and consists of Lot 1, Block 1, Citizens Security Bank Addition. The rectangular property of approximately 2.87 acres is 500’ deep and has 250’ of frontage on Memorial Dr. It is developed with a Use Unit 11 branch of a Mabrey Bank.

The subject property is moderately sloped and appears to drain the west, south, and east toward Memorial Dr.

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 is requesting a Variance from the maximum ground sign height restriction of Zoning Code Section 11-7C-3.B.4.a to allow for the replacement of a preexisting ground sign measuring approximately 29’ 8” above ground level for Lot 1, Block 1, Citizens Security Bank Addition, located within the OL Office Low Intensity District. Zoning Code Section 11-7C-3.B.4.a provides for ground signs in the OL district as follows:

“a. One business sign may be erected on each street frontage of a lot. The sign shall not exceed two-tenths ($\frac{2}{10}$) of a square foot of display surface area per lineal foot of street frontage; provided, however, that in no event shall the sign be restricted to less than thirty two (32) square feet nor be permitted to exceed one hundred fifty (150) square feet of display surface area. Ground signs in the OL and OM districts shall not exceed the height of the building in which the principal use is located, or twenty feet (20’), whichever is lower. No

business sign shall be located within fifty feet (50') of any R district if visible from such district. Illumination, if any, shall be by constant light."

The subject property was rezoned and the bank constructed in the 1970s and 1980s. Per BBOA-173 – Craig Neon, Inc. for Citizens Security Bank, on June 09, 1986, the Board of Adjustment approved a Variance to allow 60 square feet of display surface area for a ground sign in an OL district for subject property.

Per BBOA-226 – Acura Neon, Inc. for Citizens Security Bank, on June 04, 1990, the Board of Adjustment approved a Variance to allow up to 180 square feet of display surface area for a new ground sign in an OL district for subject property. Per the exhibit included as part of that application, it was a "Citizens Security

Bank

& Trust Company

CSB Bixby, Oklahoma"

sign with a digital timeclock and static changeable message board. Per the scaling of the exhibit, it appears it was about 20' in height.

At some point thereafter, it appears a newer sign was erected, which was in place as of January 23, 2015. Per the sign permit information received January 23, 2015, the display surface area of that preexisting sign, in place as of that date, did not exceed the 180 square feet approved per BBOA-226, but exceeded the 20' maximum height restriction in the OL district. The precise height was not known, but per the Sign Permit exhibits, the new sign was to be mounted at the same height, 29' 8" +/- . This will require a Variance, requested by this application.

Unnecessary Hardship. The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because "The sign was approved by [B]BOA-226 in 1990. After the approval a sign was installed making the height taller than allowed with no permit. Mabrey has taken over bank and was uninformed that the sign was non conforming."

Contrary to the statement that the preexisting sign (in place as of January 23, 2015) was installed "with no permit," Staff has speculated that the City of Bixby likely did issue a Sign Permit, since large signs like this, especially years ago, rarely went up without a Permit.

The argument presented is similar to the one Staff conceived in February of 2015, and more logically applies to the "Peculiar, Extraordinary, or Exceptional Conditions or Circumstances" Test and Standard.

Staff believes that the fact that (1) the bank would be required to reduce the height of the sign that appears to have been in place for years, if not decades, (2) that the reduced sign height would cause the same to be less visible from the perspective of Memorial Dr.-southbound motorists coming from higher elevations, (3) the reduced sign height may be less visible still when factoring the locations, sizes, and configurations of the Robertson Tire, Chili's, BTC Broadband, and other signs along Memorial Dr. south of 111th St. S., and (4) a height-reduced sign would be disadvantaged compared to other competing banks' signs located in commercial districts, which are not restricted to 20' in height, individually and together 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, "The property was purchased without knowledge of the sign being non conforming to the code."

Staff believes that the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional because:

- Property has been approved for Variances two (2) times previously for related matters,
- The additional height is negligible and less than the adjacent commercial zoning would allow by right,
- The property would likely be a good candidate for commercial zoning, per the Comprehensive Plan and surrounding CS and CG zoning and commercial land use patterns,
- The City likely permitted the sign at its present height, since large signs like this, especially years ago, rarely went up without a Permit, and
- The number of years the current sign has been in place at the new height, without any record of complaint or evidence of adverse effect.

Finding of No Substantial Detriment or Impairment. The Applicant claims that the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of

the Zoning Code or the Comprehensive Plan because "The sign being installed is a name change and removal of message unit. The sign has been at its current height and location for years and been well maintained."

Elsewhere on the application form, the Applicant provides, "The sign is setback and high enough to be seen but does not interfere with any traffic and or parking." This statement would appear to be most applicable to this Test and Standard.

These provided arguments may be augmented by the arguments which Staff supplied for the "Peculiar, Extraordinary, or Exceptional Conditions or Circumstances" Test and Standard, which also appear applicable to this Test and Standard.

For all the reasons set forth above, Staff believes that that approval of the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan.

Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the Minimum Necessary to Alleviate the Unnecessary Hardship because "The sign was installed without a permit after 1990 variance approval. We are getting the sign back in to conformity with the least expense and ground interruption. We are only changing cabinets."

Since the proposed 29.8' height would be equal to the preexisting sign (in place as of January 23, 2015), which was evidently in place for years, if not decades, Staff believes that this 9.8' height Variance 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 the tests and standards of the Zoning Code and State Statutes. The Board may also wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting. Approval should be subject to a maximum of 29' 8" as represented on the sign exhibit to the application.

Chair Jeff Wilson recognized Andrew Shank, Esq. of Eller & Detrich, representing *Mabrey Bank*. Mr. Shank indicated agreement with the Staff recommendations. Mr. Shank stated that the hardship was the fact that the property was zoned office but surrounded by commercial zoning, which would allow 30' to 50' all around. Mr. Shank noted that the fact that there had been no concerns raised speaks to the fact that it would not be injurious to the neighborhood. Mr. Shank stated that this would be compatible with the Public good and in harmony with the Comprehensive Plan.

JR Donelson asked, if the property were to be rezoned to commercial, if a PUD would be required. Erik Enyart stated that that would be a bit speculative, and that he had put that in as an argument because he considered it relevant to the subject. Mr. Enyart confirmed Mr. Donelson was referring to the new policy put in place the previous summer. Mr. Enyart stated that the new policy did require a PUD when rezoning to commercial in a commercial corridor, but there were other factors such as the land use designation that he would have to check.

There being no further discussion, Darrell Mullins made a MOTION to APPROVE BBOA-599. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT

Darrell Mullins made a MOTION to ADJOURN. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

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

Meeting was Adjourned at 6:09 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary

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BIXBY BOARD OF ADJUSTMENT
SIGN IN SHEET
DATE: April 06, 2015

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**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
June 01, 2015 6:00 PM**

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

STAFF PRESENT:
Erik Enyart, AICP, City Planner

ATTENDING:
See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Vice-Acting Chair Murray King at 6:00 PM.

ROLL CALL

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

MINUTES

1. Approval of Minutes for April 06, 2015

Vice-Acting Chair Murray King introduced the item and observed that there was not a quorum present of those in attendance at the April meeting. Upon conferring with the other Board members, Mr. King declared that the Minutes would be Passed to the next meeting.

OLD BUSINESS

Vice-Acting Chair Murray King asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

NEW BUSINESS

2. **BBOA-600 – JR Donelson for Jack & Karla Jenkins.** Discussion and possible action to approve a Special Exception to allow a Use Unit 6 single-family dwelling for Lots 56,

57, 28, & 59, Block 34, *Midland Addition*, located within the CS Commercial Shopping Center District.

Property located: 116 W. Breckenridge 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: *Tuesday, May 26, 2015*
RE: *Report and Recommendations for:
BBOA-600 – JR Donelson for Jack & Karla Jenkins*

LOCATION: – *116 W. Breckenridge Ave.*
– *Lots 56, 57, 58, & 59, Block 34, Midland Addition*
LOT SIZE: *0.27 acres, more or less*
ZONING: *CS Commercial Shopping Center District*
SUPPLEMENTAL ZONING: *Central Business District and Corridor Appearance District*
REQUEST: *Special Exception to allow a Use Unit 6 single-family dwelling for Lots 56, 57, 58, & 59, Block 34, Midland Addition, located within the CS Commercial Shopping Center District*

SURROUNDING ZONING AND LAND USE:

North: *CH; Six (6) single-family residential houses, the Bixby Youth Football Association office at 7 N. Kidd St., the Crossroads Fellowship church at 100 W. Dawes Ave., and the Pepper Express restaurant at 103 W. Breckenridge Ave., all in Block 25, Midland Addition.*
South: *CG & RS-3; The Green Country Mitsubishi zoned CG at 15309 S. Memorial Dr. in Block 1, Devine-Ellard Addition. Farther south is single-family residential zoned RS-3 along W. 5th St. in Blocks 2 and 3, Devine-Ellard Addition. To the southeast is a new cellular tower on City of Bixby property at 11 W. 5th St. on the E. 30' of Block 1, Devine-Ellard Addition zoned CG and an additional vacant, unplatted tract owned by the City of Bixby and the Bixby Post Office at 16 S. A Ave. in [the Original Town of] Bixby, both zoned RS-3.*
East: *RS-3; Single-family residential along Breckenridge Ave. zoned RS-3 and CS, Charley Young Park zoned CH, and vacant lots zoned RS-3, and downtown buildings at the intersections of Breckenridge Ave. with A Ave. and Armstrong St., all zoned CH in Midland Addition.*
West: *CS & CH; A single-family house at 122 W. Breckenridge Ave. and vacant commercial lots along the south side of Breckenridge Ave. in Midland Addition. Farther west is a large building complex at 15325 S. Memorial Dr. occupying Block 24 of Midland Addition.*

COMPREHENSIVE PLAN: *Low Intensity/Development Sensitive + Commercial Area + Special District # 1*

PREVIOUS/RELATED CASES:

BZ-131 – Bill Watts for J.E.M.E. LP – *Request for rezoning from RS-3 to CS for “office” for subject property Lots 56 : 59, inclusive, Block 34, Midland Addition – PC recommended Approval 02/28/1983 and City Council Approved 03/07/1983 (Ord. # 474).*

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

BBOA-110 – George Brown – *Request for Special Exception to allow a Use Unit 2 post office on property to the east at 16 S. A Ave., All of Block 1, [Original Town of] Bixby – Approved 11/08/1982.*

BZ-26 – Irvin W. Ellard – *Request for rezoning from RS-3 to CG for “business” for Lots 62 : 64, inclusive, Block 34, Midland Addition to the west of subject property at 124 and 126 W. Breckenridge Ave. – PC recommended Approval 04/29/1974 and Board of Trustees Approved 05/07/1974 (Ord. # 275 dated 06/18/1974).*

BBOA-515 – Shelley Hensley for Kevin Potter and the City of Bixby – Request for (1) A Variance from the 60' maximum communications tower height restriction of Zoning Code Section 11-9-4.C.2.a, (2) a Variance from the 400' setback from a Residential Zoning District of Zoning Code Section 11-9-4.C.2.d, and (3) a Variance from any other Zoning Code standard which would prevent the construction of a 130'-high communications tower, all in the CG General Commercial District for the E. 30' of Block 1, Devine-Ellard Addition to the southeast of subject property at 11 W. 5th St. – BOA Conditionally Approved 01/04/2010.

BZ-351 – Bixby Properties, LLC – Request for rezoning from RS-3 to CH for the western part of the BTC Broadband headquarters building to the east of subject property at 6 E. Breckenridge Ave. to allow for commercial signage – PC Recommended Approval 12/20/2010 and City Council Approved 01/24/2011 (Ord. # 2052).

BZ-360 – Rodney Stacey for True Life Tabernacle, Inc. – Request for rezoning from RS-3 to CH for the True Life Tabernacle church to the east of subject property at 2 W. Breckenridge Ave. to allow for church redevelopment or expansion – PC Recommended Approval 10/15/2012 and City Council Approved 10/22/2012 (Ord. # 2093).

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property consists of four (4) platted lots, Lots 56, 57, 58, & 59, Block 34, Midland Addition, zoned CS Commercial Shopping Center District. Altogether, the four (4) platted lots have 100' of frontage on Breckenridge Ave. and contain approximately 0.27 acres.

Per the survey submitted with the application, it contains a two-story house with basement that is presently used for the Jack H. Jenkins, CPA, P.C. (possibly f/k/a "Jenkins Tax & Bookkeeping Services" per a former sign at the business' former location at 7 W. Dawes Ave.) professional business and three (3) accessory buildings behind the main structure. Per a site inspection May 26, 2015, the "frame building not on slab" in the extreme southwest corner of the property has been removed. This leaves the 365 square-foot "one story brick building," which has a door facing Breckenridge Ave., and the 532 square-foot "metal industrial type building on slab" building, which has a large garage door opening to the east.

The subject property is relatively flat. Drainage patterns are not immediately evident, but the subject property appears to drain to the east toward the downtown drainage system constructed around 2007/2008, which ultimately drains to Bixby Creek.

Special Exception Request. The Applicant is requesting a Special Exception to allow a Use Unit 6 single-family dwelling for Lots 56, 57, 58, & 59, Block 34, Midland Addition, located within the CS Commercial Shopping Center District. Staff understands that the Applicant desires to renovate and/or expand an existing garage accessory building on the subject property to include living quarters. Use Unit 6 single family residential use would require approval of a Special Exception, requested by this application.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity/Development Sensitive, (2) Commercial Area, and (3) Special District # 1.

The subject property is and will continue to be primarily used as a professional office commercial business. The application seeks to allow the conversion of an existing accessory building to add an incidental single-family dwelling use element.

The Comprehensive Plan provisions for Special District # 1 do not appear to address the central question of this application, whether a single-family residential use element would be appropriate for the subject property.

Staff believes that proposed single-family residential use element would not be inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use. Across Breckenridge Ave. to the north of the subject property are six (6) single-family residential houses, the Bixby Youth Football Association office at 7 N. Kidd St., the Crossroads Fellowship church at 100 W. Dawes Ave., and the Pepper Express restaurant at 103 W. Breckenridge Ave., all in Block 25, Midland Addition and all zoned CH.

South of the subject property is the Green Country Mitsubishi zoned CG at 15309 S. Memorial Dr. in Block 1, Devine-Ellard Addition. Farther south is single-family residential zoned RS-3 along W. 5th St. in Blocks 2 and 3, Devine-Ellard Addition. To the southeast is a new cellular tower on City of Bixby property at 11 W. 5th St. on the E. 30' of Block 1, Devine-Ellard Addition zoned CG and an additional

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vacant, unplatted tract owned by the City of Bixby and the Bixby Post Office at 16 S. A Ave. in [the Original Town of] Bixby, both zoned RS-3.

East of the subject property are single-family residential houses along Breckenridge Ave. zoned RS-3 and CS, Charley Young Park zoned CH, and vacant lots zoned RS-3, and downtown buildings at the intersections of Breckenridge Ave. with A Ave. and Armstrong St., all zoned CH in Midland Addition.

West of the subject property is a single-family house at 122 W. Breckenridge Ave. and vacant commercial lots along the south side of Breckenridge Ave. in Midland Addition, all zoned CG. Farther west is a large building complex at 15325 S. Memorial Dr. occupying Block 24 of Midland Addition zoned CG.

The subject property is along the westerly edge of, and may be considered by some to be part of the downtown area. Downtown areas, including Bixby's downtown area, often feature a mix of uses in an urban setting, and this is generally encouraged in order to maintain and create a vibrant area for all land uses to mutually complement each other. Staff believes that the proposed single family residential use element on the subject property would not be incompatible; rather, it could contribute to the vibrancy of Bixby's downtown.

Staff believes that the proposed single-family dwelling use element would not be incompatible or inconsistent with surrounding zoning and land use patterns.

Staff Recommendation. *For all the other reasons outlined above, Staff recommends Approval subject to:*

- (1) Approval shall be limited to one (1) dwelling unit on the subject property, and*
- (2) Any exterior remodeling of the renovated metal building and/or expansion of the metal building shall comply with the masonry / approved masonry alternatives standard of the Central Business District and Corridor Appearance District.*

Erik Enyart stated that the subject property was in or on the periphery of downtown [Bixby], and that a good mix of land uses, such as commercial, office, residential, and community services, can revitalize a downtown or keep a downtown area vital. Mr. Enyart recommended Approval subject to the two (2) recommended Conditions of Approval. Mr. Enyart stated that the second recommendation should have the "metal" word taken out [in both instances], as he was previously under the impression that the metal garage building was the one being renovated and expanded because, in his previous discussions with the Applicant, he was told it would be the garage building.

Vice-Acting Chair Murray King recognized Jack Jenkins of 116 W. Breckenridge Ave. Mr. Jenkins stated that he was planning to do the [renovation and expansion] for his father, and later, for his son, who recently graduated from Bixby High School.

Darrell Mullins clarified with Erik Enyart that the subject property included the four (4) platted lots, which were each 25' in width.

There being no further discussion, Larry Whiteley made a MOTION to APPROVE BBOA-600 with the Conditions of Approval as recommended by Staff. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	Whiteley, King, & Mullins
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	3:0:0

Erik Enyart explained the Decision of Record process to Jack Jenkins.

ADJOURNMENT

Darrell Mullins made a MOTION to ADJOURN. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Whiteley, King, & Mullins
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 3:0:0

Meeting was Adjourned at 6:06 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary

13

BIXBY BOARD OF ADJUSTMENT
SIGN IN SHEET
DATE: June 01, 2015

NAME	ADDRESS	ITEM
1. <u>Jack Jenkins</u>	<u>116 W. Brackenridge</u>	<u>#2 new business</u>
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
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17. _____	_____	_____
18. _____	_____	_____
19. _____	_____	_____
20. _____	_____	_____



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: Thursday, July 02, 2015
RE: Report and Recommendations for:
BBOA-601 – Roger H. Grant

LOCATION: – 15506 S. Harvard Ave.
– Part of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E

LOT SIZE: 5 acres, more or less

ZONING: AG Agricultural District

SUPPLEMENTAL
ZONING: None

REQUEST: Special Exception per Zoning Code Section 11-7A-3.A Table 2 to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for property located within the AG Agricultural District

SURROUNDING ZONING AND LAND USE:

North: AG & CS; The “Automotive Specialists” automotive repair business and a single-family house on 10 acres abutting subject property to the north; farther north are agricultural, vacant, and rural residential tracts along the west side of Harvard Ave., all zoned AG. There is an agricultural 1-acre tract at the southwest corner of 151st St. S. and Harvard Ave. zoned CS, and agricultural land containing approximately 40 acres of CS zoning at the southeast corner of 151st St. S. and Harvard Ave.

South: AG & RS-2; An automobile junkyard on a 5-acre tract zoned AG; farther south are agricultural, vacant, and rural residential tracts along both sides of Harvard Ave. zoned RS-2 and AG.

East: (Across Harvard Ave.) RS-2; Agricultural land including 26 acres belonging to Bixby Public Schools at the 15500:15600-block of S. Harvard Ave.

West: AG; Vacant/wooded and agricultural land, with rural residential to the northwest along 151st St. S.

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

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

BBOA-182 – Paul Hughart – Request for Variance from the 300' required lot width in the AG district for a then-20-acre tract, the S/2 SE/4 NE/4 of Section 20, T17N, R13E, addressed 15504 S. Harvard Ave., to allow a Lot-Split separating the S. 8.25', which S. 8.25' became part of the subject property – Applicant amended the request to only the south 10 acres – BOA Approved as modified 02/09/1987.

BL-120 – Paul Hughart – Request for Lot-Split for a 20-acre tract, the S/2 SE/4 NE/4 of Section 20, T17N, R13E, addressed 15504 S. Harvard Ave., to separate the S. 8.25', which S. 8.25' became part of the subject property – PC Denied 01/26/1987 and Conditionally Approved 02/23/1987.

BBOA-602 – Roger H. Grant – Request for Variance from Zoning Code Sections 11-2-1 and 11-7B-5.B to allow to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building in the AG Agricultural District for subject property – Pending BOA consideration 07/06/2015.

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

BZ-75 – B. V. Blackburn for McRae Development Co. – Request for rezoning from AG to RS-1 for approximately 198.5 acres to the south and southeast of subject property in Sections 20 and 21, T17N, R13E – PC recommended Approval 01/29/1979 per approved Minutes but case notes state the PC “Denied” 01/29/1979. City Council action documentation not found.

BZ-128 – Lynn Burrow for D.A.L. Corporation / The Timbercrest Companies, Inc. – Request for rezoning from AG to RE and CS for approximately 318 acres to the south and southeast of subject property in Sections 20 and 21, T17N, R13E – Withdrawn December 1982.

BBOA-127 – Aubrey Miller – Request for Special Exception to allow a Use Unit 5 church in an AG district for a 3-acre agricultural tract, the E/2 NE/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the northeast of the subject property at the 3600-block of E. 151st St. S. (abuts New Beginnings Baptist Church to the west) – BOA Conditionally Approved 05/14/1984.

BZ-154 – Charles E. Norman for D.A.L. Management Corporation Defined Pension Trust, et al. – Request for rezoning from AG to RS-3, RM-1, and CS for approximately 315 acres to the south and southeast of subject property in Sections 20 and 21, T17N, R13E – PC recommended Modified Approval for CS, RD, and RS-2 on 08/02/1984 and City Council Approved Modified zoning per the PC recommendation 08/14/1984 (Ord. # 508).

BZ-175 – Gerald Pope – Request for rezoning approximately 30 acres from AG to CS, the NW/4 NW/4 less the NW/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the north of the subject property – PC recommended Approval 06/30/1986 and City Council Approved 07/22/1986 (Ord. # 542).

BL-203 – Pastor Kevin Lewis for Midwest Agape Chapel, Inc. – Request for Lot-Split approval for a 3-acre agricultural tract, the E/2 NE/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the northeast of the subject property at the 3600-block of E. 151st St. S. (abuts New Beginnings Baptist Church to the west), to separate the 3-acre tract from the north 250', taken as right-of-way for State Highway 67 – PC Conditionally Approved 11/20/1995.

BZ-241 – George Suppes for Paul Hughart / Mike's Lawn Service, Inc. – Request for rezoning approximately 5 acres from AG to CG, the S/2 S/2 S/2 SE/4 NE/4 of Section 20, T17N, R13E, for a landscaping business, abutting subject property to the south – PC Tabled the application 07/20/1998 (no documentation found indicating appeal to the City Council).

BBOA-353 – Midwest Agape Chapel Foundation for Sitton Properties – Request for Variance to allow an outdoor advertising / billboard sign in a CS district for a 3-acre agricultural tract, the E/2 NE/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the northeast of the subject property at the 3600-block of E. 151st St. S. (abuts New Beginnings Baptist Church to the west) – BOA Denied 02/07/2000.

BBOA-355 – New Beginnings Baptist Church – Request for Special Exception to allow a Use Unit 5 church in an AG district for 17-acre church property to the northeast of subject property at 4104 E. 151st St. S. – BOA Approved 03/06/2000.

PUD 41 – CedarCrest Business Park – Randall Pickard for Kevin Walsh – Request for rezoning from AG to CS and PUD 41 for a “CedarCrest Business Park” commercial and “office warehouse” development on an 8.32-acre tract to the northeast of subject property (abuts New Beginnings Baptist Church to the east) – PC Recommended Approval 06/20/2005 and City Council Approved 07/11/2005 (Ord. # 908).

BZ-324 – Jim Ham – Request for rezoning approximately 0.9 acres from AG to CG for commercial resale, located to the north of subject property at the southwest corner of the 151st St. S. and Harvard Ave. intersection – Applicant amended the request to CS zoning at the PC meeting on 01/16/2007 – PC recommended Approval of CS zoning 01/16/2007 and City Council Approved CS 02/12/2007 (Ord. # 959).

BBOA-522 – JR Donelson, Inc. for Bixby Public Schools – Request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 school facility, including a football field, in an RS-2 Residential Single Family District for 26 acres abutting subject property to the east at the 15500:15600-block of S. Harvard Ave. – BOA Approved 06/22/2010.

BBOA-523 – JR Donelson for Bixby Public Schools – Request for a temporary Variance from Zoning Code Section 11-10-4.H to allow a gravel parking lot and drives for the school football field facility in an RS-2 Residential Single Family District for 26 acres abutting subject property to the east at the 15500:15600-block of S. Harvard Ave. – BOA Conditionally Approved 09/07/2010.

BACKGROUND INFORMATION:

BBOA-601 and BBOA-602 have been filed pursuant to a code enforcement complaint filed against the property for operating a business without Zoning approval.

ANALYSIS:

Property Conditions. The subject property consists of two (2) tracts, both zoned AG Agricultural District:

1. The N/2 of the S/2 of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, containing 5 acres, more or less, and
2. The S. 8.25' of the N/2 of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, containing .250 acres, more or less.

The subject property is moderately sloped and appears to primarily drain to an upstream tributary of Posey Creek, which flows northerly through the west end of the subject property. A small part of the front/east end of the subject property appears to drain to Harvard Ave., which drains south via borrow ditches to another upstream tributary of Posey Creek. The property contains a single-family house and large accessory building behind/west of same, and is otherwise vacant/wooded and has some area toward the front which may be used for agriculture. Per the Tulsa County Assessor's parcel and aerial and GIS data, the accessory building measures 60' X 50' and contains 3,000 square feet.

There is a driveway along the south side of the property which provides access to the house and also to the 5-acre tract abutting to the south, which presently contains a storage building and a large number of junk automobiles, which automobiles are to be removed pursuant to an open code enforcement case.

Special Exception Request. The Applicant is requesting a Special Exception per Zoning Code Section 11-7A-3.A Table 2 to allow The RG Tool Company, www.rgfarriertool.com, a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for property located within the AG Agricultural District.

Zoning Code Section 11-2-1 defines "Home Occupation" thus:

"HOME OCCUPATION: That accessory use of a dwelling which constitutes some or all of the livelihood of a person living in the dwelling."

Per the application and other information secured from the Applicant, Staff understands that the farrier tool assembly and online sales business home occupation is a relatively benign accessory use. See the attached narrative and photographs describing the scale and scope of activities.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Corridor, (2) Low Intensity/Development Sensitive, and (3) Vacant, Agricultural, Rural Residences, and Open Land. Staff believes that the proposed home occupation by Special Exception as an accessory use to the existing single-family dwelling should not be found inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use Compatibility. Abutting the subject property to the north is the "Automotive Specialists" automotive repair business and a single-family house on 10 acres zoned AG. The automotive repair business is operating in violation of the Zoning Code, and is

the subject of an open code enforcement case. Additional metal screening fencing has recently been installed between the subject property and the 10-acre tract. Farther north are agricultural, vacant, and rural residential tracts along the west side of Harvard Ave., all zoned AG. There is an agricultural 1-acre tract at the southwest corner of 151st St. S. and Harvard Ave. zoned CS, and agricultural land containing approximately 40 acres of CS zoning at the southeast corner of 151st St. S. and Harvard Ave.

Abutting the subject property to the south is a 5-acre tract zoned AG, which presently contains a storage building and a large number of junk automobiles, which automobiles are to be removed pursuant to another open code enforcement case. Farther south are agricultural, vacant, and rural residential tracts along both sides of Harvard Ave. zoned RS-2 and AG.

Since the nonresidential uses of the tracts abutting to the north and south are both the subject of code enforcement actions and will likely be vacated, these nonresidential uses should not logically be used to support the nonresidential character of the application.

Across Harvard Ave. to the east is agricultural land, including 26 acres belonging to Bixby Public Schools at the 15500:15600-block of S. Harvard Ave, zoned RS-2.

West of the subject property is vacant/wooded and agricultural land, with rural residential to the northwest along 151st St. S.

The City of Bixby does not see many applications for Special Exception for home occupations. The last one Staff was able to locate was BBOA-538 – Bill Bromley, a request for Special Exception per Zoning Code Section 11-7B-3.A Table 2 to allow internet retail sales and limited trade show sales as a home occupation in the RS-3 Residential Single Family District for Lot 7, Block 2, *WoodCreek*, addressed 11225 S. 73rd E. Ave. The Board of Adjustment Conditionally Approved that application on April 04, 2011. In that case, the Board ascertained from the Applicant at the meeting that “no sales would be conducted at the residence, but incidental storage of sale items may be involved. Mr. Bromley stated that there would be deliveries, but that they would be no different than normal [FedEx] or UPS deliveries and that there would not be many at a time.” Staff also recalls testimony that there was occasional equipment assembly and maintenance included as a part of that case’s accessory use. The Applicant had also submitted a narrative explaining how the “internet retail sales and limited trade show sales” would comply with all of the use conditions for a home occupation per Zoning Code Section 11-7B-5.B.

Recognizing the broad language used to define “Home Occupation” in Zoning Code Section 11-2-1 and the relative dearth of home occupation cases, the Board of Adjustment should approach such applications with caution and an eye for avoiding the establishment of unfortunate precedents.

Staff believes that the proposed farrier tool assembly and online sales business is materially similar to BBOA-538. However, Staff believes that the accessory use is relatively more intensive, and more intensive than most home occupations contemplated by the Zoning Code, and further may not be an appropriate home occupation in Residential zoning districts or neighborhoods.

Zoning Code Section Zoning Code Section 11-7B-5.B.9 provides:

“All business activities associated with a home occupation shall be conducted entirely within an enclosed structure, either within the primary dwelling unit or an accessory building on the same parcel in which the home occupation is conducted. A maximum limit of six hundred (600) square feet of floor area shall be allowed to be utilized for home occupation purposes in the RE and RS residential districts. A maximum limit of one thousand (1,000) square feet of floor area shall be allowed to be utilized for home occupation purposes in the AG agricultural district where the gross land area of the AG parcel in which the home occupation is conducted exceeds a minimum of one acre in physical land area size.” (emphasis added).

It is clear, based on the above passage, that the Zoning Code intends greater flexibility be extended to properties zoned AG and of sufficient size (greater than 1 acre). The intent should be projected further onto the subject property and present application. Since the subject property is zoned AG, contains five (5) acres, and is in an exceptionally rural context presently, and since the locus of activity is within an accessory building behind the house and approximately 437' from the centerline of Harvard Ave., Staff believes that the more intensive form of home occupation presented in this application should be found acceptable in this case.

Based on the relatively benign nature of the home occupation activity and the Comprehensive Plan and surrounding zoning and land use patterns, Staff believes that the proposed farrier tool assembly and online sales business home occupation accessory use would be in harmony with the spirit and intent of the Zoning Code and would not be incompatible or inconsistent with surrounding zoning and land use patterns, injurious to the neighborhood, or otherwise detrimental to the public welfare, provided it maintains its residential character and complies with the use conditions of Zoning Code Section 11-7B-5.B.

Zoning Code Section 11-7B-5.B.9 provides that the Board of Adjustment, upon Special Exception approval, may grant an allowance of operating hours beyond 8:00 AM to 6:00 PM. Per a discussion with the Applicant on July 02, 2015, Staff understands that the tool assembly operations sometimes occur at varying hours of the day, and internet sales worldwide may occur at any time of day. Based on the characteristics of the proposed activity and the circumstances of the area, Staff has no objection to removing restrictions on hours of operation.

Staff Recommendation. Unless constructive criticism from neighbors reveals need for additional approval conditions, for all the reasons outlined above, Staff recommends Approval subject to:

- (1) The subject property shall maintain its residential character and the use shall maintain full compliance with the use conditions of Zoning Code Section 11-7B-5.B.
- (2) The approval should be generally restricted to the scale and scope of business activities as outlined in the application. A radical departure or substantial increase in the scale or scope of the business, if and as may be determined by the Board of Adjustment at such future date, should require new Zoning approval as may then be required.
- (3) The restrictions on hours of operation are suspended pursuant to Zoning Code Section 11-7B-5.B.9.

AG

RS-3

AG

CS

PUD-12-D

E-151 ST-S

67

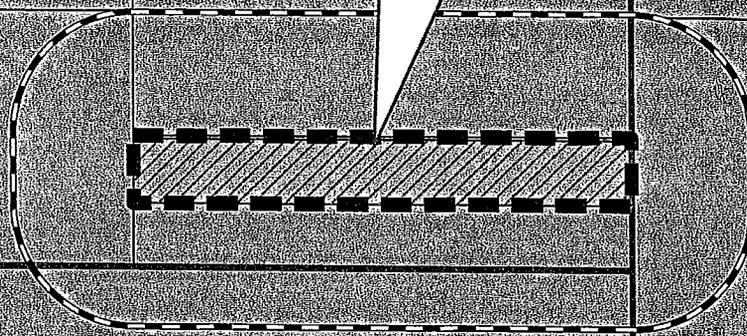
CS

CS

AG

SHARVARD AVE

Subject Tract



AG

RS-2

RS-2

LEGEND

 Bixby Corporate Limits



300' Radius



Subject Tract

BBOA-601



20-17-13



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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

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:

15506 S. HARVARD Bixby (ADDRESS) (CITY) (NAME) 918-366-2122 (PHONE)

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

Signature: *[Signature]* Date: 5/19/2015

APPLICANT - DO NOT WRITE BELOW THIS LINE

601 BBOA-602 Date Received 05/14/2015 Received By Enyok Receipt # 01249834
 Board of Adjustment Date 07/06/2015 01246016

Sign(s) at \$ 50.00 each = \$ _____; Postage \$ _____; Total Sign + postage \$ _____
New fee sched: see receipts

FEES:	Variance \$75.00	or	Special Exception \$100.00	or	Appeal/Interpretation \$25.00	=	BASE FEE	ADD.	=	TOTAL
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BOA Action: _____ Conditions: _____
 Date: _____ Roll Call: _____
 Staff Rec. _____

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To Who it may concern:

I, Roger Grant, am the sole owner and operator of the "RG Tool Company.

It is a one man operation.

I order investment castings from Modern Investment Company of Ponca City, Oklahoma. I order approximately one to two hundred at a time.

They come to me like this, see photo #1

My first operation is to manually close the claws together in a bench vise. See photo #2

They are then sanded to smooth the sides and brighten the finish. The hole on the bottom is chamfered so when the wooden handle is installed it will tighten down securely and not split the wood. See photo #3, #4, #5

The hammers are then placed in a vice and the claws are cut with a slitting saw blade to the proper dimensions. See photo #6 & #7

They are sent out to be harden at TSI in Sapulpa, Oklahoma.

When they are returned from heat treating they are then lightly sanded on a belt sander, polished on a Scotch Bright belt, then mounted on a wooden handle.

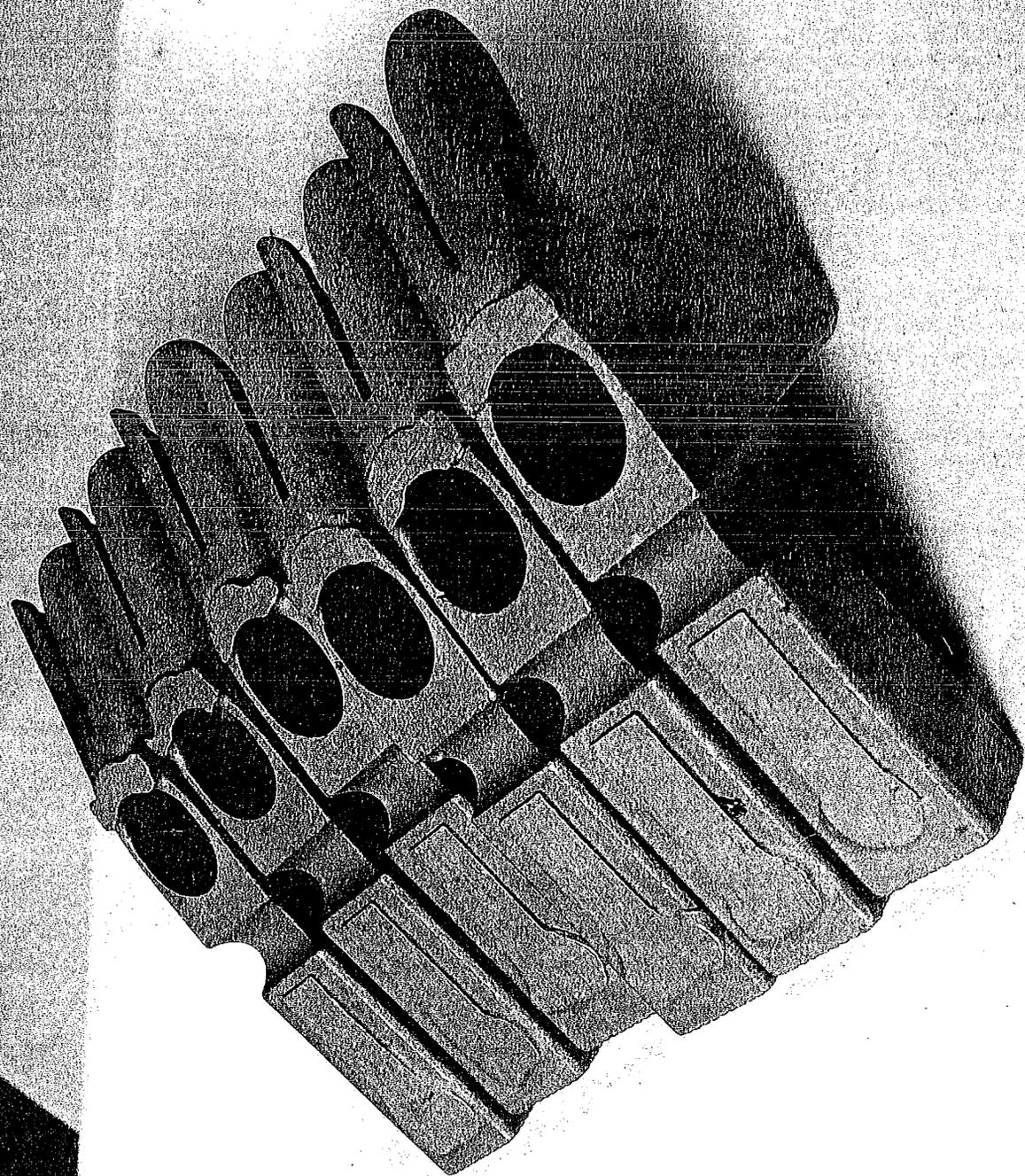
The wooden hammer handles come from Tennessee and are round in shape when I receive them. I saw both sides to make them flat, where they lay comfortably in your hand. They are then sanded to shape, burn with a hand torch, wiped down with Linseed oil and then hand polished with steel wool. SEE photos #8-#10

I install them in new hammer head and also sell them as spares.

Regards:

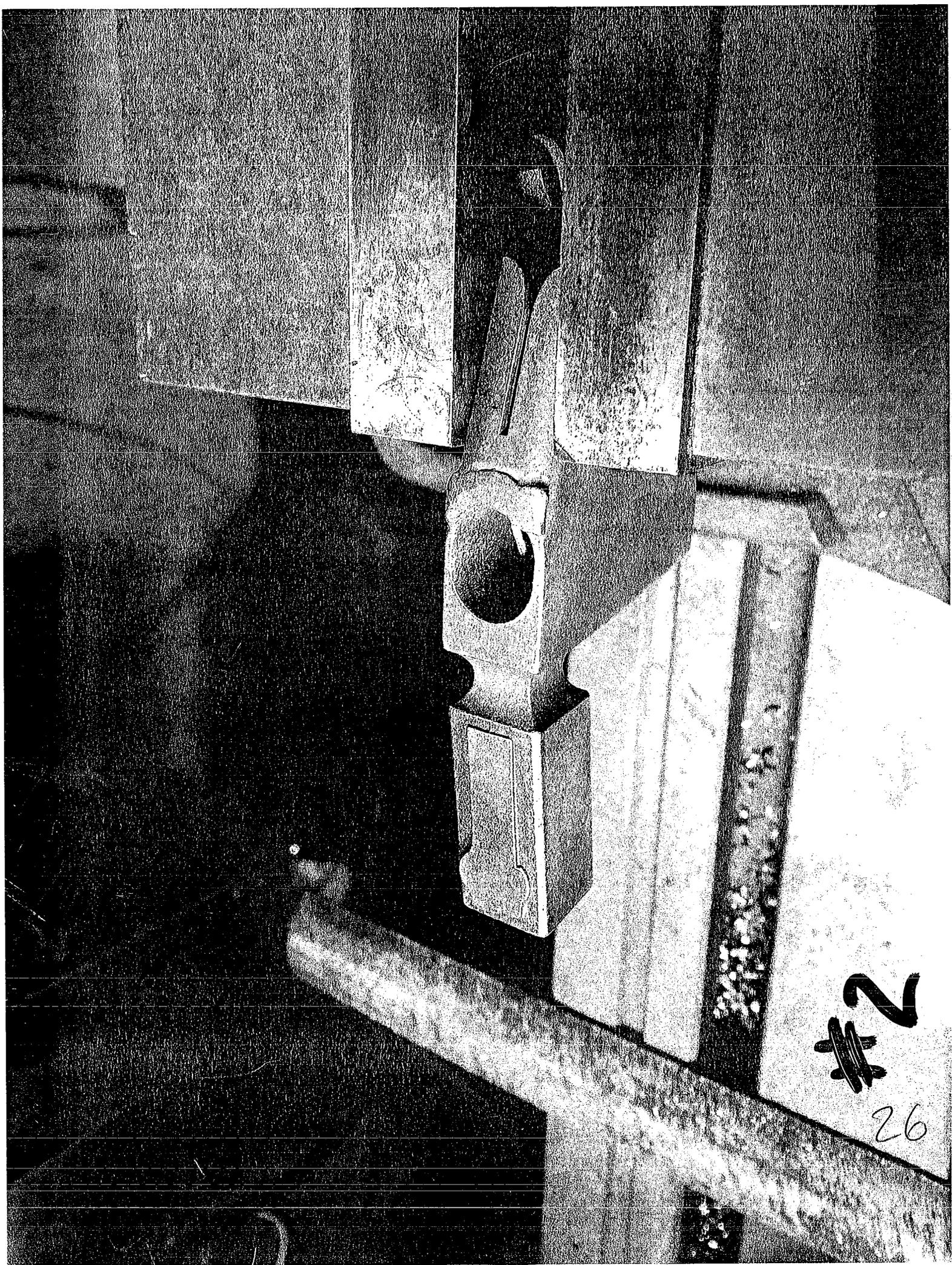


Roger H. Grant



#1

25



#2

26

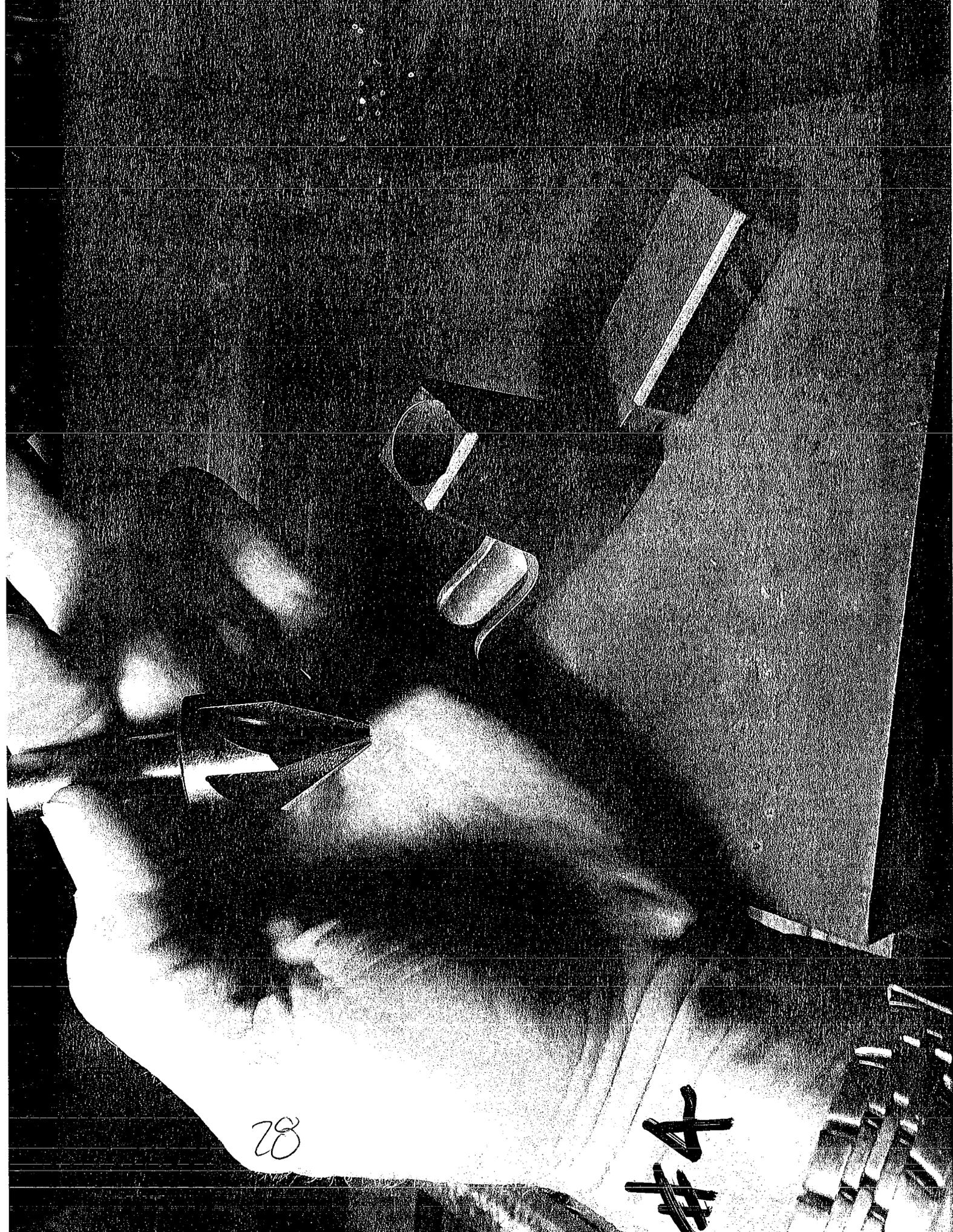


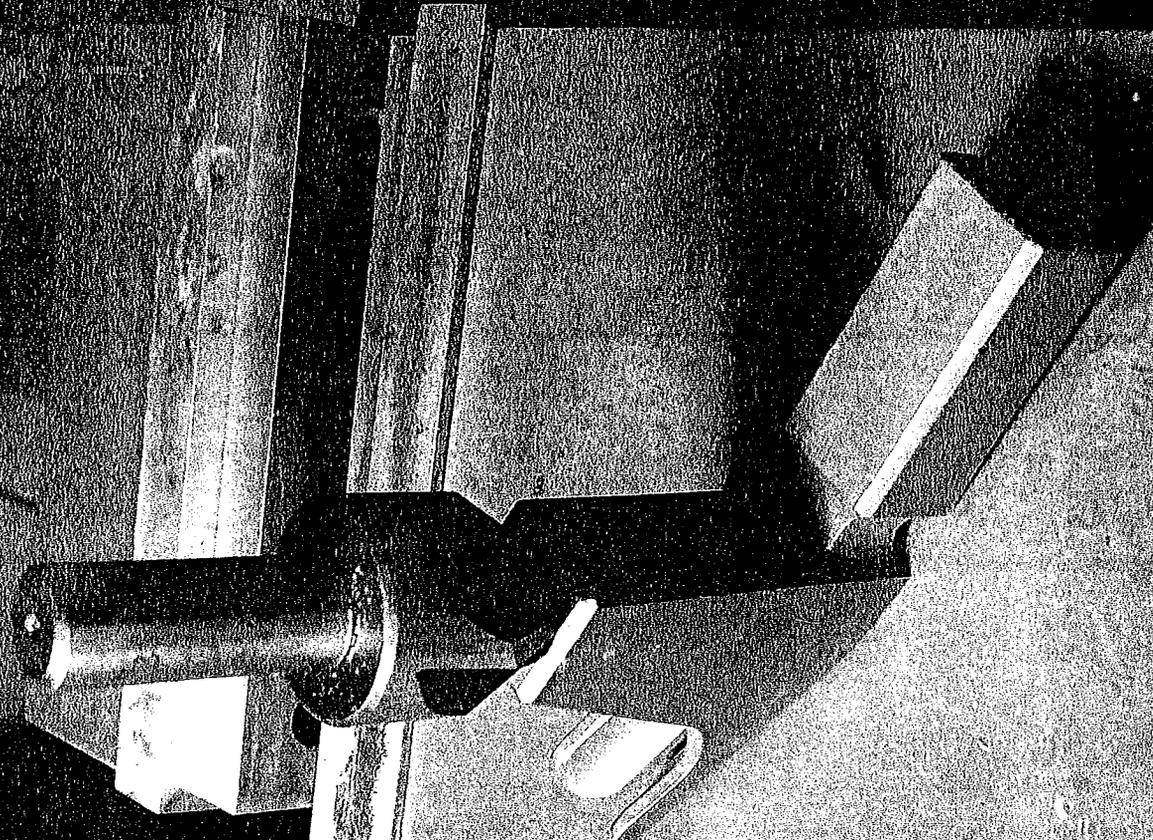
TIGHT - LOOSE

#3
L2

78

#A

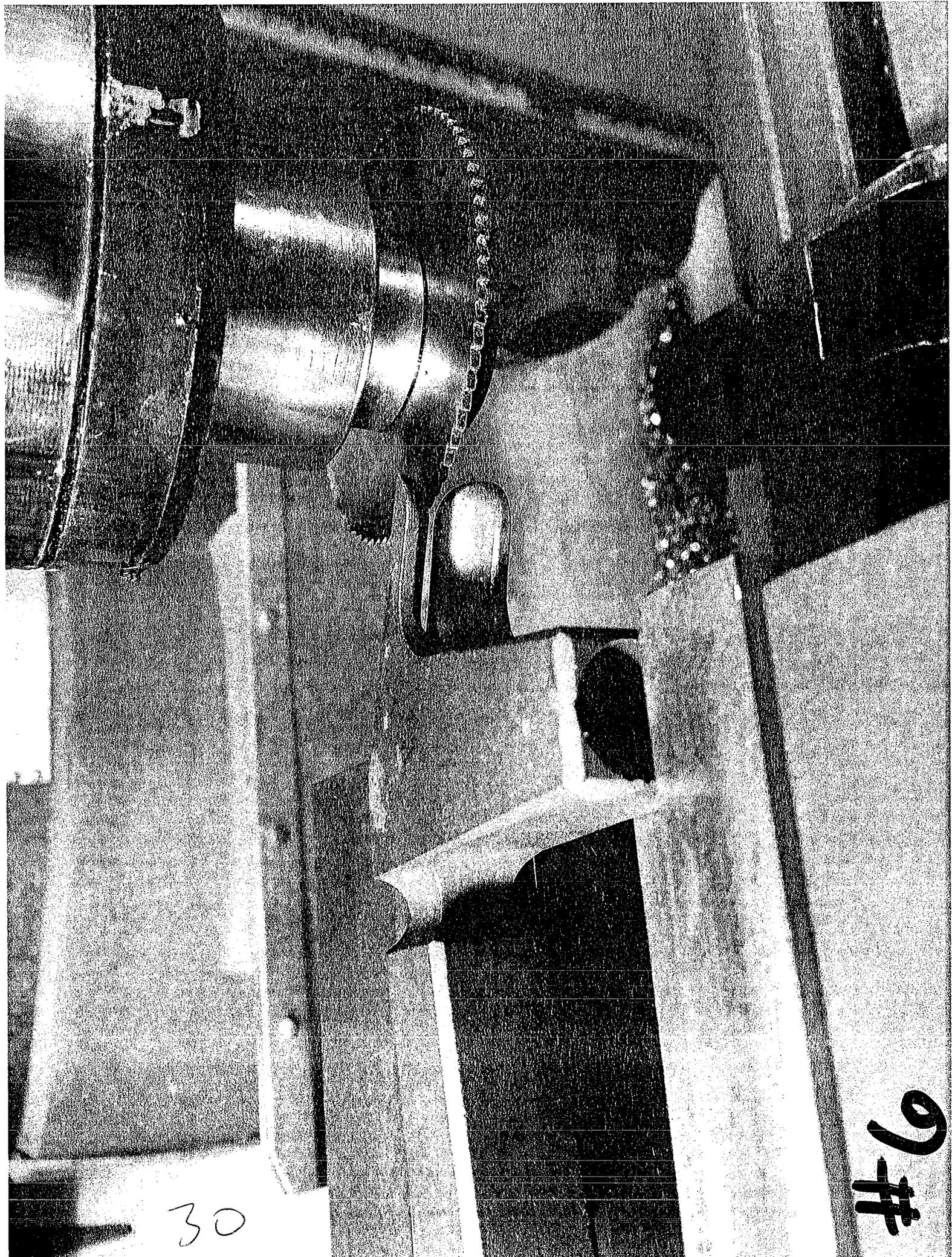


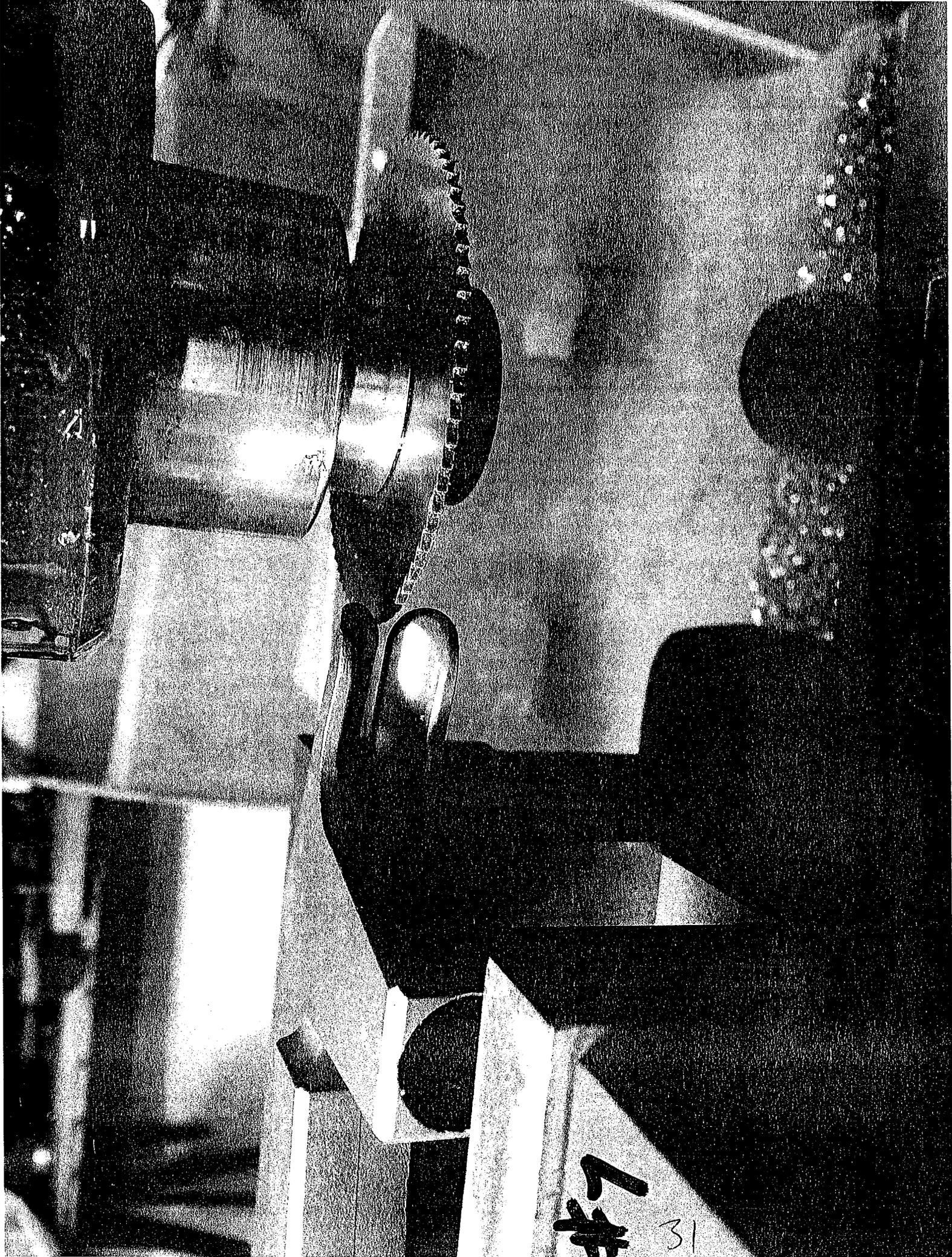


#5
62

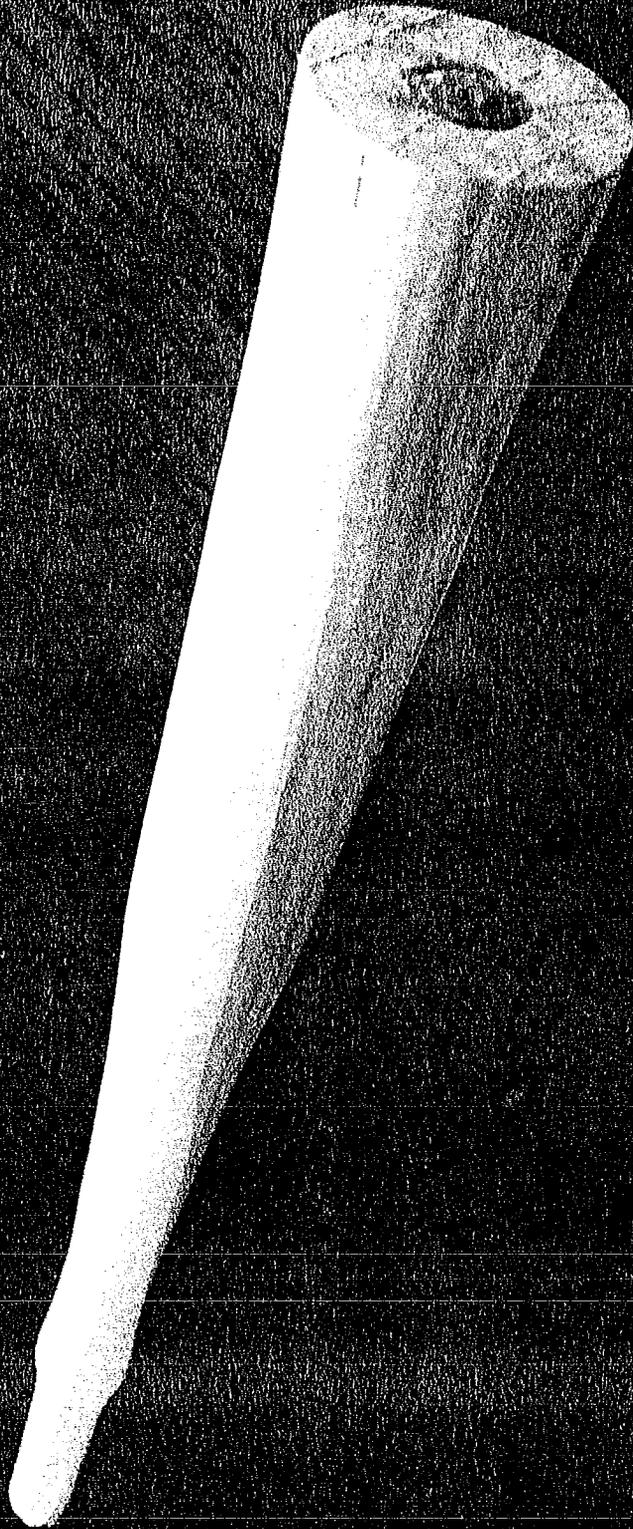
30

#9





31



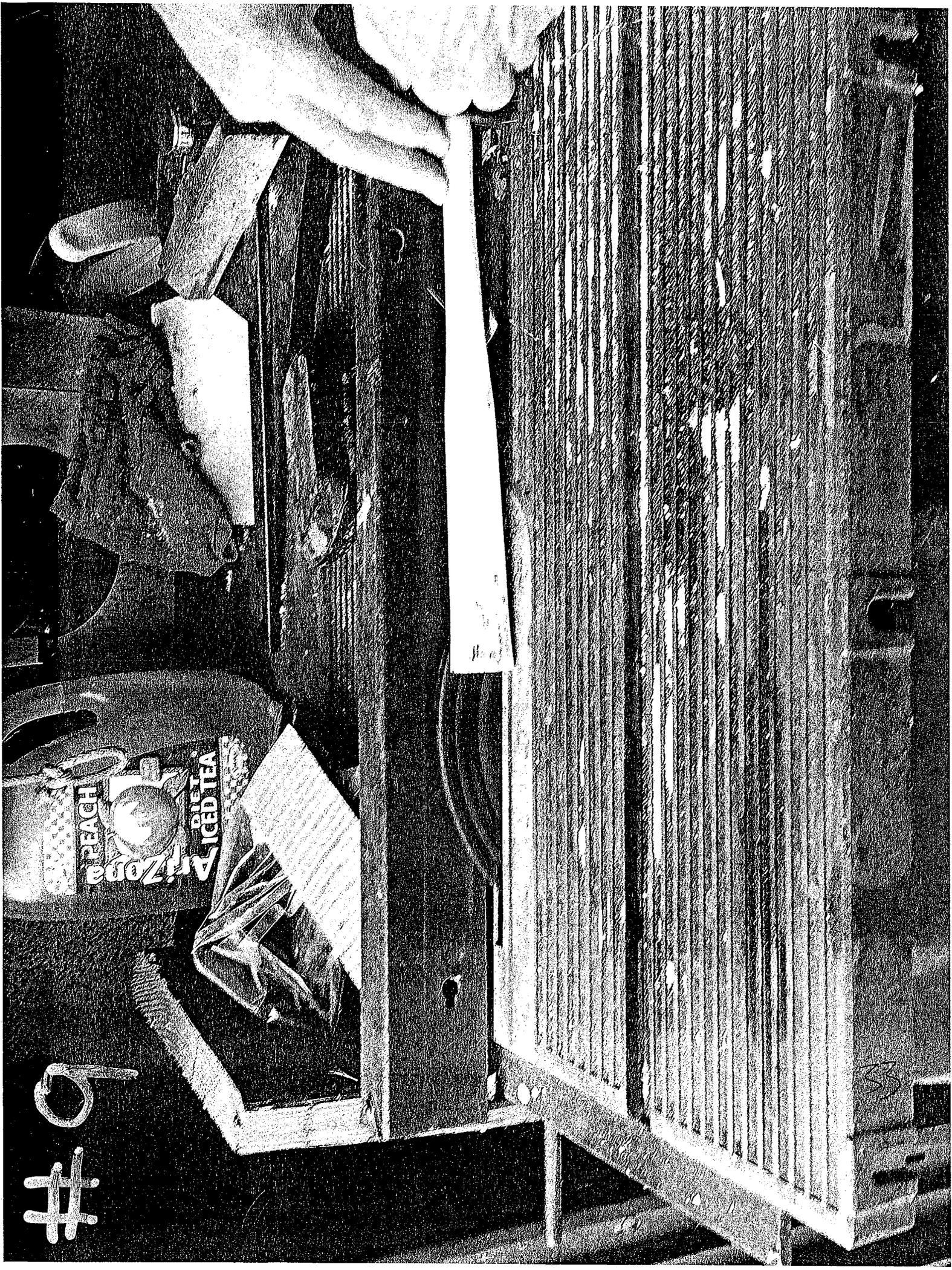
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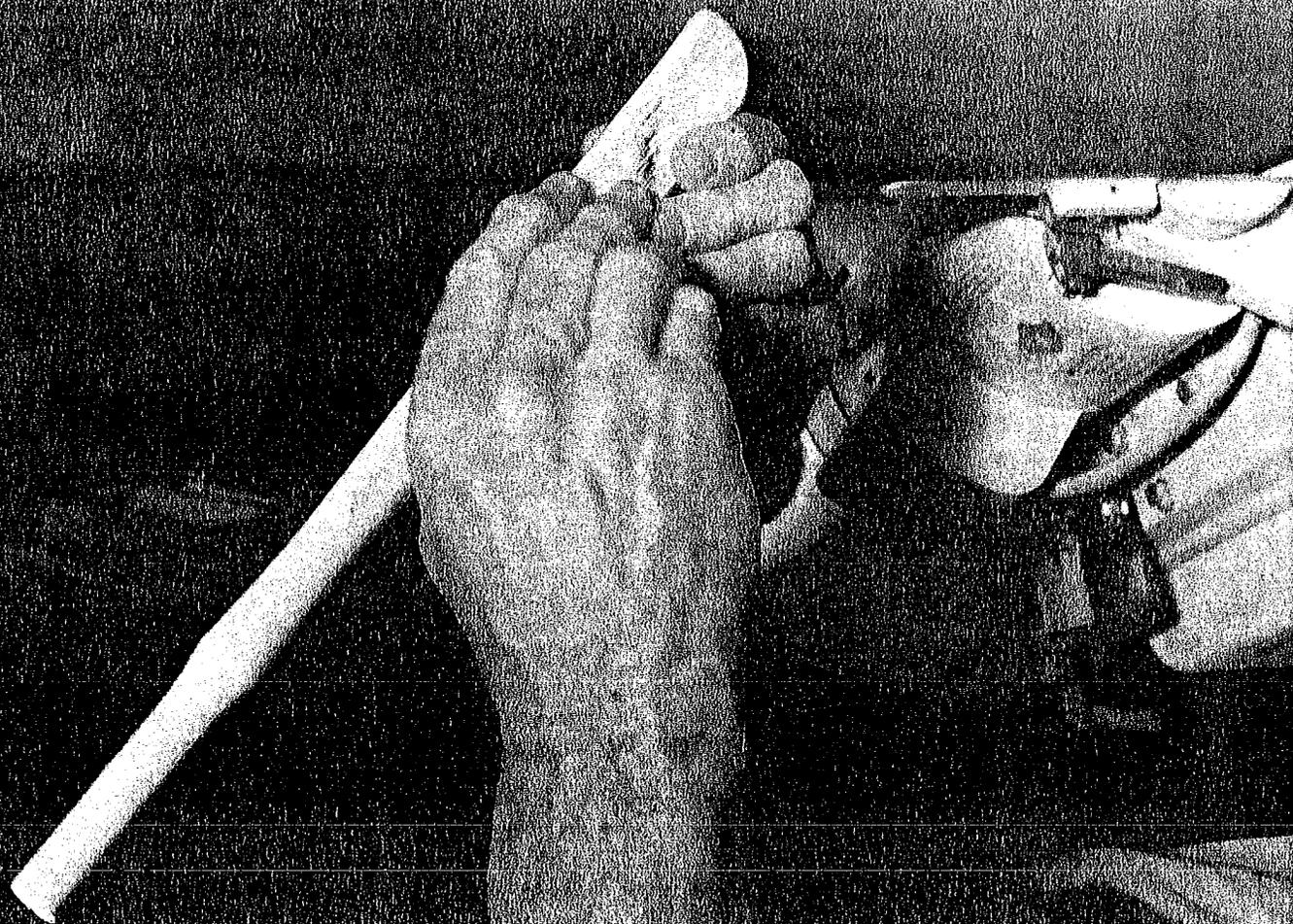
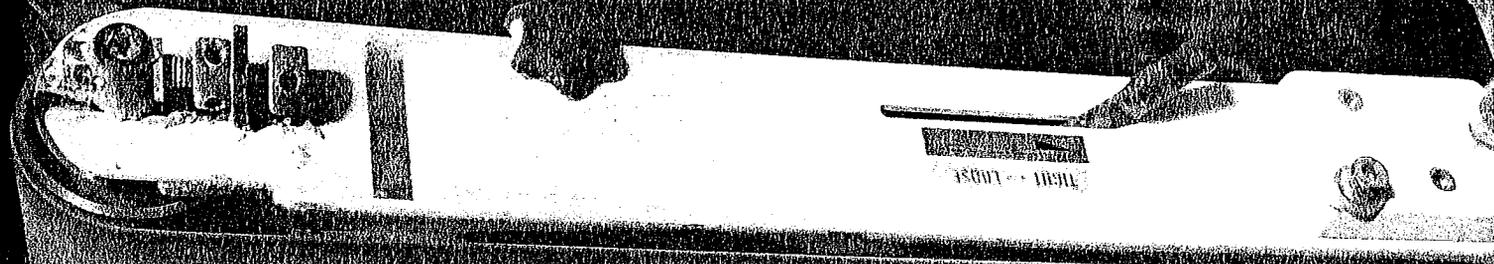
32

#

6



#10





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: Thursday, July 02, 2015
RE: Report and Recommendations for:
BBOA-602 – Roger H. Grant

LOCATION: – 15506 S. Harvard Ave.
– Part of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E

LOT SIZE: 5 acres, more or less

ZONING: AG Agricultural District

**SUPPLEMENTAL
ZONING:** None

EXISTING USE: A single-family dwelling and home occupation business

REQUEST: Variance from Zoning Code Sections 11-2-1 and 11-7B-5.B to allow to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for property located within the AG Agricultural District

BACKGROUND INFORMATION:

BBOA-601 and BBOA-602 have been filed pursuant to a code enforcement complaint filed against the property for operating a business without Zoning approval.

ANALYSIS:

Pursuant to BBOA-601, the Applicant is requesting a Special Exception per Zoning Code Section 11-7A-3.A Table 2 to allow The RG Tool Company, www.rgfarriertool.com, a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for property located within the AG Agricultural District.

Per this application BBOA-602, the Applicant is requesting a Variance from Zoning Code Sections 11-2-1 and 11-7B-5.B to allow to allow The RG Tool Company as a home occupation within a detached accessory building for property located within the AG Agricultural District.

Zoning Code Section 11-2-1 defines "Home Occupation" thus:

"HOME OCCUPATION: That accessory use of a dwelling which constitutes some or all of the livelihood of a person living in the dwelling." (emphasis added)

Based on this, Staff advised the Applicant that a Variance would be required to be permitted to operate the home occupation business from an accessory building, rather than the "dwelling" as per the definition. Staff has since discovered a discrepancy in the Zoning Code, as Section Zoning Code Section 11-7B-5.B.9 provides:

"All business activities associated with a home occupation shall be conducted entirely within an enclosed structure, either within the primary dwelling unit or an accessory building on the same parcel in which the home occupation is conducted. A maximum limit of six hundred (600) square feet of floor area shall be allowed to be utilized for home occupation purposes in the RE and RS residential districts. A maximum limit of one thousand (1,000) square feet of floor area shall be allowed to be utilized for home occupation purposes in the AG agricultural district where the gross land area of the AG parcel in which the home occupation is conducted exceeds a minimum of one acre in physical land area size." (emphasis added).

Per a conversation with the Applicant on July 02, 2015, Staff understands that the business activity only occupies approximately 15' X 10 (150 square feet) of the 3,000 square foot accessory building, and so does not even use all of the 1,000 square feet allowed by the above-cited section. Thus, it does not appear that the Variance is required at this time. Staff is supporting the Special Exception per BBOA-601 subject to certain Conditions of Approval, one of which would require that the approval be generally restricted to the scale and scope of business activities as outlined in the application, and that a radical departure or substantial increase in the scale or scope of the business, if and as may be determined by the Board of Adjustment at such future date, should require new Zoning approval as may then be required. Thus, if the use would at some point exceed 1,000 square feet or otherwise exceeds the scope of the approval to be granted per BBOA-601, a Variance or some other form of Zoning approval may then be required.

Unless the Board of Adjustment interprets the discrepancy between Zoning Code Sections 11-2-1 and 11-7B-5.B.9 as requiring this Variance, Staff will issue a refund the application fees paid to the City of Bixby upon the Applicant's Withdrawal of this application.

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