AGENDA
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 WEST NEEDLES
BIXBY, OK 74008
June 02, 2014 6:00 PM

CALL TO ORDER

1. Annual nominations and elections for Chairperson, Vice-Chairperson, and Secretary (Board of Adjustment By-Laws, Ord. # 772).

MINUTES

2. Approval of Minutes for April 07, 2014
3. Approval of Minutes for May 05, 2014

OLD BUSINESS

NEW BUSINESS

4. **BBOA-588 – Kevin Blake.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 7 duplex for property within the RS-3 Residential Single-Family District.
   Property located: E/2 of Lot 1, Block 30, [Original Town of] *Bixby*; 300-block of E. Stadium Rd.

ADJOURNMENT

Posted By: Enyart
Date: 05/23/2014
Time: 2:30 PM

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

MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
April 07, 2014 6:00 PM

STAFF PRESENT:
Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

ATTENDING:
See attached Sign-in Sheet

CALL TO ORDER

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

ROLL CALL

Members Present: Jeff Wilson, Dave Hill, Darrell Mullins, and Larry Whiteley.
Members Absent: Murray King.

MINUTES

1. Approval of Minutes for January 06, 2014

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of January 06, 2014 as presented by Staff. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	Mullins, Wilson, Whiteley, & Hill
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-586 – Thomas Black.** 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 1,200 square foot accessory building in the rear yard for property in the RS-1 Residential Single-Family District.
   Property located: Lot 1, Block 1, *Henry Fergeson Addition*; 8301 E. 131st Pl. S.

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

To: *Bixby Board of Adjustment*
From: *Erik Enyart, AICP, City Planner*
Date: *Thursday, April 03, 2014*
RE: *Report and Recommendations for: BBOA-586 – Thomas Black*

LOCATION: *– Lot 1, Block 1, Henry Fergeson Addition*
– 8301 E. 131st Pl. S.
LOT SIZE: *1/3 acre, more or less*
ZONING: *RS-1 Residential Single-Family District*
REQUEST: *Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 1,200 square foot accessory building in the rear yard for property in the RS-1 Residential Single-Family District*

SURROUNDING ZONING AND LAND USE:

- *North:* *CG, RS-1, & CS; Vacant/agricultural land zoned CG and (to the northeast) RS-1 and CS.*
- *South:* *RS-1; Single-family residential in Henry Fergeson Addition and Gardenview Addition, and (to the southwest), the Riverview Missionary Baptist Church in part of Gardenview Addition zoned RS-1 and on unplatted property zoned CG.*
- *East:* *RS-1; Single-family residential in Henry Fergeson Addition.*
- *West:* *CG; Commercial businesses along Memorial Dr., including the Kum & Go gas station, the KC Auto Repair automobile repair business, the South Plaza Center shopping center, and the building complex containing the Green Acres Sod Farm, Inc. Corporate Office and the Sam's Hamburgers & Chili restaurant.*

COMPREHENSIVE PLAN: Low Intensity + Residential Area
PREVIOUS/RELATED CASES: (none found)
RELEVANT AREA CASE HISTORY: (not necessarily a complete list, and does not include Lot-Split cases)

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

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

BBOA-94 – Rowdy Vance Dorris – Request for Variance from bulk and area requirements pertaining to Lot-Split(s) (cf. BL-63) for a ½-acre tract to the east of subject property at 8315 E. 131st Pl. S. – BOA Conditionally Approved 12/14/1981 per case notes.

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

BZ-144 – Verline McClatchey – Request for rezoning from RS-1 to RM-2 for Lot 3, Block 1, Henry Fergeson Addition, located two (2) houses to the east of subject property at 8327 E. 131st Pl. S. – PC Recommended Denial 09/26/1983. Evidence of City Council consideration not found in case file, but no Ordinance found corresponding to this application.

BZ-150 – William E. Buffington – Request for rezoning from RS-1 to RM-3 for apartments for 2.5 acres (the W/2 E/2 NE/4 NW/4 NW/4 of this Section) to the east of subject property at 8410 E. 131st St. S. – PC Recommended Denial 01/30/1984 and City Council Denied 04/10/1984.

BZ-157 – Albert Dorris – Request for rezoning from RS-1 to CG for apartments for 0.4 acres to the northeast of subject property at the 8300-block of E. 131st St. S. – PC Recommended Approval of CS 12/17/1984 and City Council Approved 01/08/1985 (Ord. # 520).

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

BZ-173 – Mark Sherman for William E. Buffington & M. Martindale – Request for rezoning from RS-1 to CS for 2.5 acres (the W/2 E/2 NE/4 NW/4 NW/4 of this Section) to the east of subject property at 8410 E. 131st St. S. – Advertised for 05/27/1986 Public Hearing before PC. However, no ordinance and no record found in case file as to PC or City Council disposition. See BZ-264.

BZ-194 –Brewer Construction for Mildred Mattlock – Request for rezoning from RS-1 to CG for approximately 1 acre (the N/2 W/2 E/2 NW/4 NW/4 NW/4 of this Section) abutting subject property to the north at the 8200-block of E. 131st St. S. – PC Recommended Approval 01/15/1990 and City Council Approved 02/12/1990 (Ord. # 642).

BZ-264 / PUD 27 – "South Memorial Center" – Sherten, LLC – Request for rezoning from RS-1 to CG and approval of PUD 27 for 2.5 acres (the W/2 E/2 NE/4 NW/4 NW/4 of this Section) for a mini-storage development to the east of subject property at 8410 E. 131st St. S. – PC Recommended Approval 02/22/2000 March 2000 and City Council Approved 03/27/2000 (Ord. #s 810 and 811). Legal description error discovered in PUD 27/Ord. # 811 and case re-advertised for re-approval with correct legal description in 2008. PC Recommended Approval 07/21/2008 and City Council Approved 08/11/2008 (Ord. # 1005 corrected by Ord. # [1005-A] 11/24/2008).

BZ-268 – Rob Brewer – Request for rezoning from CS to CH for 0.4 acres to the northeast of subject property at the 8300-block of E. 131st St. S. – PC Tabled 11/20/2000 and no ordinance and no record found suggesting application further pursued.

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

BBOA-265 – Diane Sheridan – Request for Special Exception to allow the replacement of a mobile home with a new mobile home in the RS-1 district on approximately 1/3 acre to the northeast of subject property in the 8300-block of E. 131st St. S. (but addressed 8150 E. 131st St. S.) – Withdrawn by Applicant 07/20/1993.

BBOA-408 – Abbas Momeni – Request for Variance from a ground sign setback requirement for the Car Country used automobile sales lot at 13288 S. Memorial Dr. to the southwest of subject property – BOA Approved 09/02/2003.

BBOA-424 – Gary Fleener for Yale 31 Corporation – Request for Special Exception for a Use Unit 5 preschool/daycare center in an RS-1 district for property located to the west of subject property at 13164 S. Memorial Dr. – BOA Approved 07/13/2004.

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

BBOA-574 – John Filbeck for Riverview Missionary Baptist Church, Inc. – Request for Variance from certain signage restrictions for a Use Unit 5 church in the RS-1 Residential Single-Family District, allowing a replacement ground sign with LED / Electronic Message Center (EMC) for property located to the southwest of subject property at 13201 S. Memorial Dr. – BOA Approved 04/01/2013.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property is composed of Lot 1, Block 1, Henry Fergeson Addition, contains approximately 1/3 acre, and is zoned RS-1 Residential Single-Family District. The Henry Fergeson Addition was reviewed by the Tulsa Metropolitan Area Planning Commission (TMAPC) on August 04, 1957 and was platted August 28, 1957, presumably in unincorporated Tulsa County. The parcel contains an existing house addressed 8301 E. 131st Pl. S. According to the Tulsa County Assessor's parcel records, the house was constructed in or around 1960.

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 accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 30' X 40' (1,200 square foot) accessory storage building for property in the RS-1 Single-Family Dwelling District.

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

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

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

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

As the subject property is in the RS-1 residential zoning district and contains approximately 1/3 acre, the maximum allowable detached accessory building size is 800 square feet.

The "sliding scale" was introduced as a measure of flexibility, along with an increase in the basic maximum square footage from 750 square feet to 800 square feet, by Ordinance # 2031, approved December 21, 2009. It was designed to allow people to have larger accessory buildings, if they had enough land so that the accessory building did not dominate the parcel aesthetically and so detract from the neighborhood. The "sliding scale" was calculated in order to start at 800 square feet and increase regularly for each ¼ acre increment to the maximum of 2,400 square feet, which requires a lot containing slightly more than 3.25 acres.

This is the seventh application for Variance which has been received since the added flexibility was created, and it is requesting a Variance to exceed even the new flexibility. The first was BBOA-550 – Mitch & Gail Pilgrim, which the Board approved 12/05/2011 for that property located in Bixhoma Lake Estates. The second was BBOA-558 – John Ryel, which the Board approved 05/07/2012 for that property located in the Houser Addition. On August 06, 2012, the Board of Adjustment denied an application to build a 5,000 square foot addition to an existing 900 square foot accessory building for an unplatted 1-acre tract at 14426 S. Harvard Ave. (BBOA-565 – Robert Campbell III & Karen M. Campbell). On October 01, 2012, the Board approved BBOA-568 – Roger O. Nunley, Jr., allowing allow a new 960 square foot addition to an existing 2,000 square foot accessory structure for property in the RS-1 District at 8703 E. 124th St. S. in Southern Memorial Acres No. 2. 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.

Unnecessary Hardship. The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because "131st runs parallel beside the commercial property that is directly to the north behind my home. This property was covered in large trees and thick brush;

recently cleared to the dirt to allow unauthorized access and noise to impact my home. I am unable to conceal my home and property; and desire [it to] be safe and secure from thieves. There has been two robberies in this [addition] with witnessed Trespasser[s] jumping fenced yards to gain access to the neighborhood. The current zoning code prohibits and restricts allowances for a detached storage building with the capacity and size appropriate to properly secure my personal property."

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, and as a result, lack of the desired concealment and security for personal property. Staff does not dispute that this claim is true, and may amount to an Unnecessary Hardship.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The Applicant responded to the question asking how the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional by stating, "My property is surrounded by high traffic commercial property on two sides which poses significant threat of vandalism and theft of my personal property. My property has public open access from the north to 131st with constant loud traffic noise; adjacent to the property line on the west side is a shopping strip mall with 24 hour convenience store, liquor store, 2 restaurants."

The provided argument is self-explanatory.

Elsewhere in the application, the Applicant notes that there is commercial[ly-zoned] property abutting to the north that was recently cleared of vegetation, which previously helped provide a natural concealment of the real and personal property from the perspective of the highly-trafficked 131st St. S. If the property continued to be naturally concealed as it was before, it stands to reason there would be less of a need/desire for added security. This argument would also appear to apply here.

Also, the Henry Fergeson Addition's neighborhood is relatively small and has above-average-sized lots, and is served by a dead-end street system (83rd E. Ave. and 131st Pl. S.). There are nine (9) lots platted in the addition, with two (2) "Lot-Split" tracts extending the neighborhood one (1) house to the east on both sides of the extended 131st St. S. Commercial property (developed and undeveloped) abuts the subject property to the north, northwest, west, and southwest. When the commercial property to the north is developed, the future building(s) will likely obscure the view of the storage building from the perspective of 131st St. S. For all these reasons, the impact of an oversized storage building would appear to be relatively limited.

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 detached building will be used to conceal and secure personal property and replace an existing small shed now located in the backyard. This structure will allow me to remove debris, store equipment, and enhance the landscaping view of my property from the north which faces the road-131st."

Elsewhere on the application form, the Applicant has further addressed this question thus, "Approval of this request will enhance the overall value of my property and the property to which it surrounds and enhance the overall appearance. This building will block the view of neighboring properties and limit the unauthorized access to improve citizen safety in a high traffic area. This building will serve as a barrier and reduce the constant loud traffic noise from Memorial Dr."

The provided arguments are self-explanatory.

Of the several fundamental purposes for imposing maximum accessory building size and rear yard placement restrictions, Staff believes the primary reason is for the sake of consistency of design, proportionality, and mode of placement of structures (aesthetics).

Per the provided site plan, the building is proposed to be constructed in the rear yard at the northeast corner of the lot.

Per the provided photographs, there are several objects currently stored in the rear yard which would be removed (10' X 12' wood shed) or otherwise will or could be stored in the replacement storage building, such as a couple RVs and a hauling-trailer. Staff agrees with the Applicant's suggestion that, from an aesthetic standpoint, one (1) large storage building may be preferable to all of these existing objects likely currently stored on dirt.

Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the Minimum Necessary to Alleviate the Unnecessary Hardship because "This 1200 Sqft building will be a permanent fixture withstanding of severe weather, for personal use to conceal and secure property. Neighbors to the East have erected large structures for similar reasons. This building will also provide some noise barrier to improve the quality of life within my home and decrease unauthorized access to the

neighborhood and improved citizen safety within. See plat & planning plat diagram attached. The existing 10x12x8 wood shed is located on N[W] corner of the property and will be replaced by a metal building 30x40x10 to be located on the NE side of property."

The provided argument is self-explanatory, but may not address the question. The final sentences notes that the larger storage building would replace a smaller one, with dimensions provided.

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 1,200 square feet of accessory building, 50% larger than the 800 square foot maximum, is the Minimum Necessary to Alleviate the Unnecessary Hardship. Alternatively considered, subject property is six (6) times smaller than the two (2) acre minimum required to be permitted a 1,200 square foot accessory building.

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.

Erik Enyart noted that the Applicant had expressed desire to conceal and secure his personal property. Mr. Enyart noted that the property was somewhat unique in that it previously had natural vegetative screening, to the north, but that it was recently cleared. Mr. Enyart noted that the property was further somewhat unique in that there was an existing storage building and personal property that the Applicant indicated would be removed or relocated into the new building, if approved.

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Applicant Thomas Black of 8301 E. 131st Pl. S. was present, described certain items of personal property which would be stored within the new building, and expressed desire for the approval of his application.

April Borgstedt of 8301 E. 131st Pl. S. expressed concern for traffic and vehicular and pedestrian trespassers, including from the commercial area to the west, and stated that she did not feel that persons or property were as safe [as before the property to the north was cleared]. Ms. Borgstedt stated that there had been criminal activity down the street, and expressed concern that there was a liquor store, pizza shop, and other business(es) that were open for 24 hours [to the west]. Ms. Borgstedt stated that the area by the [83rd E. Ave.] dead-end street "floods," and expressed interest in relocating personal property away from that area.

Thomas Black indicated that there had been more drainage problems since certain properties to the west were [re-]developed, and stated that there was now a pipe from one such property draining a parking lot toward his property.

April Borgstedt stated that the building would be a prefabricated metal shop/storage building, and would clean up the area and bring it out of the area that floods.

Larry Whiteley asked the Applicant if they had a contractor, and April Borgstedt responded that "Lucas Metals" would supply the building and Lamproe Construction would be the contractor. Ms. Borgstedt described storage building(s) already on the subject property. Mr. Whiteley stated, "You need two-thirds more property [than] you've got." Ms. Borgstedt stated that there was also a boat, camper, and trailer on the property.

Chair Jeff Wilson recognized Georgia Jackson of 8333 E. 132nd St. S. from the Sign-In Sheet. Ms. Jackson stated that she had lived in the neighborhood for 60 years, and that it "floods every time they build something." Ms. Jackson stated that 1,200 square feet "is a house." Ms. Jackson stated that she observed more flooding every time the church repaved their parking lot.

Dave Hill asked Georgia Jackson where she lived, and Ms. Jackson responded she lived in the *Gardenview Addition* on 132nd St. S.

Michael Jackson of 8333 E. 132nd St. S. asked if the building would be commercial and stated that his concern was more water [runoff onto his property].

Chair Jeff Wilson asked if the property drained to the north, and Thomas Black responded affirmatively.

Patrick Boulden expressed concern that hardship had not been shown. Mr. Boulden described arguments that were insufficient for showing hardship, including fiscal hardship. April Borgstedt expressed concern for security due to the surrounding neighborhood and desire for the building. Discussion ensued.

Darrell Mullins asked what the benefit would be [if the Variance was granted], and April Borgstedt responded, "containment," and described personal property which would be contained within the building.

Discussion ensued regarding drainage. Erik Enyart recognized that inadequate drainage appeared to be a topic of concern to the Board, and stated that it would be well within the Board's authority, if it was inclined to approve the Variance, to require drainage review and approval by the City Engineer.

Erik Enyart addressed Patrick Boulden and stated that, as to his concern for lack of hardship being shown, the Applicant had expressed in the application that their hardship would be that they wouldn't be permitted the building of the size requested.

Erik Enyart addressed the Board and stated that the Applicants had expressed desire to protect their personal property from the elements and from other people, asserted that it would contain personal property already on the property, and that they would remove the existing storage building, which would mitigate the amount of Variance being requested.

Chair Jeff Wilson asked how big the existing storage building was, and it was described as 10' X 12', and the RV and other personal property objects were also dimensionally described.

Discussion ensued.

Erik Enyart stated that the City Engineer would make sure that the new building would not increase the pre-development rate of flow, and that normally takes the form of a stormwater drainage and detention facility.

Darrell Mullins asked Erik Enyart if this would not require a hydrology study. Mr. Enyart responded that larger commercial sites do require an engineering model of the drainage basin upstream and downstream and a determination of the impact of development, but for a smaller site such as this, there is "probably an abbreviated way to answer that."

Dave Hill asked when [*Sam's Hamburgers & Chili*] and the Green Acre [Sod building] were constructed. Erik Enyart responded that he did not know when they were built or [under what conditions].

Upon clarification with Erik Enyart, Dave Hill made a MOTION to APPROVE BBOA-586 subject to drainage review by the City Engineer. Patrick Boulden stated that the Motion died for lack of a Second. Mr. Hill expressed objection to the timing of Mr. Boulden's statement and suggested more time would have allowed for a Second. Discussion ensued. Chair Jeff Wilson indicated time would be allowed for a Second. After a moment had passed. Chair Jeff Wilson recognized the Motion died for lack of a Second. Discussion ensued.

Dave Hill out at 6:38 PM.

Discussion ensued regarding the size of the building and the size of the lot. Larry Whiteley suggested 1,000 square feet could be approved.

Erik Enyart stated, "If the Board is discussing giving less than what was requested, we're getting into matters of proportionality." Mr. Enyart noted that it had occurred to him during the discussion previously that there is one size standard for all RS and RE districts, 800 square feet with the sliding scale for larger lots. Mr. Enyart noted that the RS-4 district allows lots as small as 50' by about 100', and so a new lot today could be about 5,000 square feet, or about 11/100ths of an acre.[1] Mr. Enyart observed that this 0.11 acre lot would be allowed the same 800 square feet as the subject property, which had about 1/3 of an acre. Mr. Enyart noted that the subject property equaled this 0.11-acre by a factor of three (3), and suggested that this be factored into the Board's calculus.

Discussion ensued.

A question was raised as to the source of the maximum accessory building size. Erik Enyart responded that, as best he could recall seeing, there had been a maximum accessory building size since the original Zoning Ordinance in the early 1970s. Mr. Enyart stated that he believed it started out at 600 or 650 square feet, and was later revised up to 700 or 750 square feet, and that, in 2009, it was revised up again with the baseline starting at 800 square feet and going up from there using a sliding scale based on lot size, with the threshold for the first 'bump up' at one (1) acre. Erik Enyart stated, "Usually, if you keep getting Variances for one part of the Code, you need to look at it" for possible amendment. Mr. Enyart noted that the sliding scale was implemented in 2009 because the City kept granting Variances to exceed the maximum size. Mr. Enyart stated that "hindsight is 20/20," and that, if in 2009 when this section of Code was amended to increase the size and add a sliding scale, had been known that there would be so

[1] Research of the Zoning Code after the meeting discovered the minimum lot size required in RS-4 is 5,500 square feet, and so the minimum lot depth at 50' would be 110'; Zoning Code Section 11-7B-4.A.1 Table 3.

many Variances granted since, perhaps it would have started at a larger maximum and/or the sliding scale could have started at a lower threshold. Mr. Enyart noted that this was the seventh Variance request since the 2009 amendment, and five (5) of the previous six (6) had been granted.

Thomas Black asked if he could also have a carport, and Larry Whiteley indicated favor for the idea and suggested it could make up the difference between the 1,000 square feet he suggested and the 1,200 square feet requested. Erik Enyart responded, "Yes, attached or detached, it can also be permitted." Mr. Black indicated agreement.

Larry Whiteley made a MOTION to APPROVE BBOA-586, limited to 1,000 square feet, and subject to the City Engineer's drainage review and approval. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT

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

ROLL CALL:

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

The meeting was Adjourned at 6:47 PM.

APPROVED BY:

Chair _____ Date 5/5/14

City Planner/Recording Secretary

Bixby ~~City Council~~ Board of Adjustment

Sign-In Sheet

Date: 4/7/14

	Name	Address/Phone	Item # or Topic
	Michael Jackson		
1	Georgia Jackson	8333 E 132nd St So 816 0364	
2	Thomas Black	8301 E 131st Pl 9186396692	
3	April Borgstedt	8301 E 131st Pl. 9187985972	
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MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
May 05, 2014 6:00 PM

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

STAFF PRESENT:
Erik Enyart, AICP, City Planner

ATTENDING:
See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 6:00 PM.

ROLL CALL

Members Present: Jeff Wilson, Dave Hill, Darrell Mullins, and Murray King.
Members Absent: Larry Whiteley.

MINUTES

1. Approval of Minutes for April 07, 2014

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

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

OLD BUSINESS

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

NEW BUSINESS

2. **BBOA-587 – Tommy L. Atkins.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-8-8.B.9 to allow a 12' X 24' carport within the required north side yard setback for property within the RS-1 Residential Single-Family District.
   Property located: Lot 16, Block 3, *Southern Memorial Acres*; 11707 S. 84th E. Ave.

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

To:	*Bixby Board of Adjustment*
From:	*Erik Enyart, AICP, City Planner*
Date:	*Wednesday, April 30, 2014*
RE:	*Report and Recommendations for: BBOA-587 – Tommy L. Atkins*

LOCATION: – *11707 S. 84th E. Ave.*
– *Lot 16, Block 3, Southern Memorial Acres*

LOT SIZE: *Approximately 2/3 acre*

ZONING: *RS-1 Residential Single Family District*

REQUEST: *Special Exception per Zoning Code Section 11-8-8.B.9 to allow a 12' X 24' carport within the required north side yard setback for property within the RS-1 Residential Single-Family District*

SURROUNDING ZONING AND LAND USE: RS-1; Single family residential homes and vacant lots in Southern Memorial Acres and Southern Memorial Acres Extended.

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES: None found

RELEVANT AREA CASE HISTORY: (not a complete list)

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

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

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

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

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

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

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

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

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

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

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

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

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

BACKGROUND INFORMATION:

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

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

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

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

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

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

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

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

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

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

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

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

11-4-9: SPECIAL EXCEPTION:

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

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

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

a. The existence, location, and design of other carports in the immediate vicinity of the request;

b. Any possible sight obstruction to motorists at street intersections;

c. The visual impact of the proposed carport on the streetscape of the neighborhood;

d. The uniqueness of the request and whether granting the Special Exception will set a precedent for justifying other carports throughout the neighborhood;

e. The compatibility of the carport with the architectural style of the dwelling and the predominant architectural style of the neighborhood; and

f. Constructive criticism and suggestions from property owners within the neighborhood."

ANALYSIS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion ensued.

Murray King and Darrell Mullins indicated favor for the application.

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

ROLL CALL:

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

ADJOURNMENT

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

ROLL CALL:

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

The meeting was Adjourned at 6:14 PM.

APPROVED BY:

_____ _____

Chair Date

_____

City Planner/Recording Secretary

Board of Adjustment

Bixby ~~City Council~~

Sign-In Sheet

Date: 5/5/14

	Name	Address/Phone	Item # or Topic
1	Tommy L. Atkins	11707 S. 84th E. Ave, 918-369-5531	BBOA-587
2	Raymond C. McClain	8347 E 117 Pl S 918 369-5277	"
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BIXBY BOARD OF ADJUSTMENT
SIGN IN SHEET
DATE: May 05, 2014

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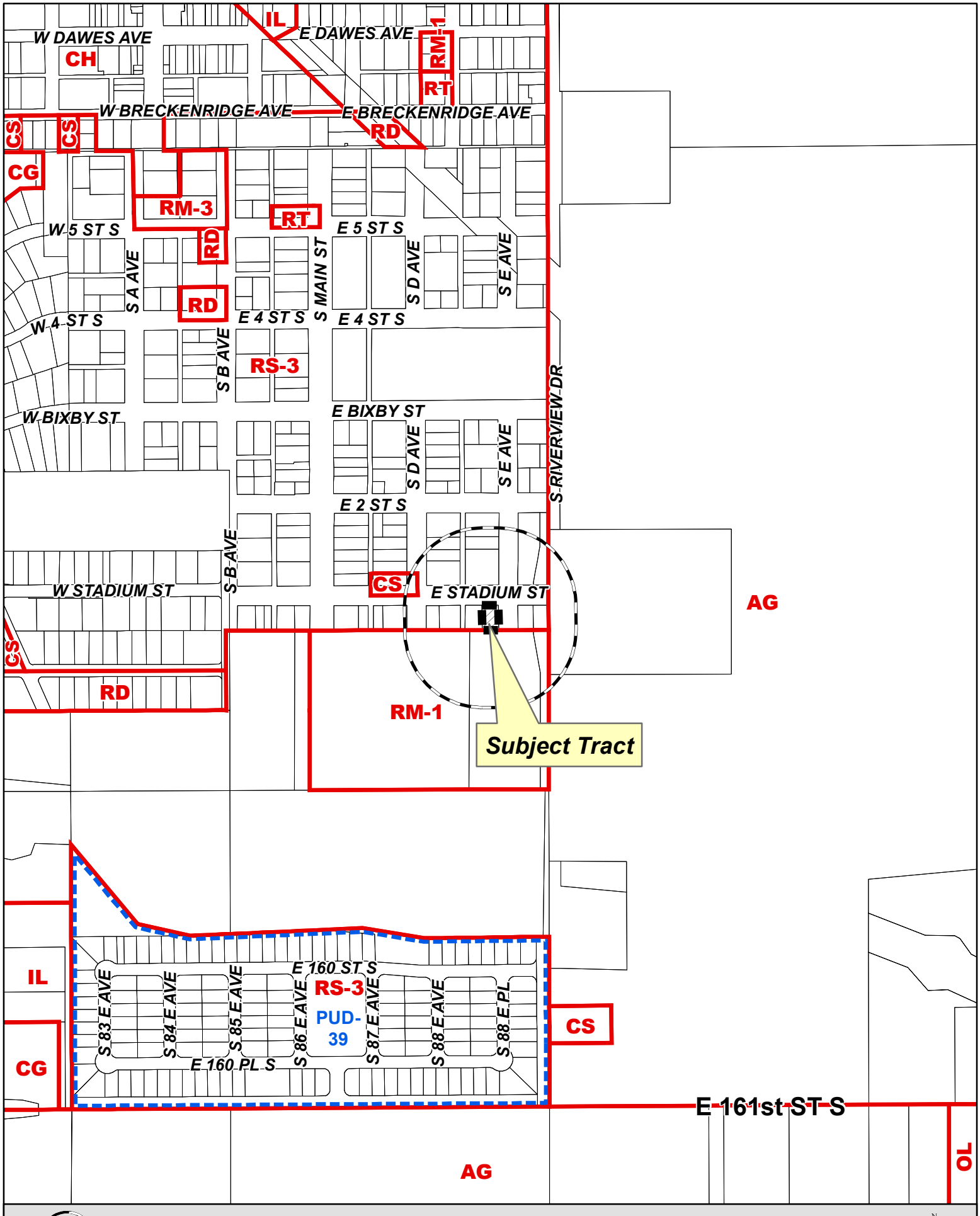
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CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

STAFF REPORT

To: Bixby Board of Adjustment

From: Erik Enyart, AICP, City Planner

Date: Thursday, May 29, 2014

RE: Report and Recommendations for:
BBOA-588 – Kevin Blake

LOCATION:
- 300-block of E. Stadium Rd.
- E/2 of Lot 1, Block 30, [Original Town of] *Bixby*

LOT SIZE: 7,068.25 square feet (0.16 acres), more or less

ZONING: RS-3 Residential Single-Family District

REQUEST: Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 7 duplex for property within the RS-3 Residential Single-Family District

SURROUNDING ZONING AND LAND USE:

North: RS-3 & CS; Single-family residential homes and vacant lots and a 4-unit mobile home park to the northwest, all zoned RS-3, and the "A Childs Dream DayCare & Preschool Inc." to the northwest at 213 E. Stadium Rd. zoned CS, all in the [Original Town of] *Bixby*.

South: RM-1; A 15-acre RM-1 district containing unplatted vacant land immediately to the south, belonging to Bixby Public Schools, and the 10-acre Parkwood Apartments apartment complex to the southwest in Lot 1, Block 1, *Parkwood Apartments*.

East: RS-3 & AG; Abutting to the east is the platted but unbuilt southerly dead-end of South E. Ave. and a vacant lot belonging to Bixby Public Schools between it and Riverview Rd., all zoned RS-3 in the [Original Town of] *Bixby*; The Bixby Public

Schools various school campuses, all unplatted and zoned AG, occupy most of the E/2 of this section across Riverview Rd. to the east.

West: RS-3 & CS; RS-3 & CS; Single-family residential homes and vacant lots and a 4-unit mobile home park to the northwest, all zoned RS-3, and the "A Childs Dream DayCare & Preschool Inc." to the northwest at 213 E. Stadium Rd. zoned CS, all in the [Original Town of] *Bixby*.

COMPREHENSIVE PLAN: Development Sensitive + Residential Area

PREVIOUS/RELATED CASES:

[BZ-2] – "Zoning Application No. 1" – [City of Bixby] – Request for rezoning from R-2 to R-3 for all of Blocks 7, 8, 17, 18, 19, 20, 27, [28], 29, and 30, [Original Town of] *Bixby*, including subject property – PC hearing advertised for 05/07/1970. Board of Trustees approved 06/02/1970 (Ord. # 238).

BBOA-245 – Matthew Hodson for Aubrey Lancaster – Request for Appeal and Variance to allow a skateboard ramp on Lot 1, Block 30, [Original Town of] *Bixby* (includes subject property) – BOA Denied 01/06/1992.

BL-261 – Virginia Lancaster – Request for Lot-Split to separate subject property from the W/2 of Lot 1, Block 30, [Original Town of] *Bixby*, with an existing house addressed 308 E. Stadium Rd. – Prior Approval granted 03/08/2002. No record of PC consideration found.

RELEVANT AREA CASE HISTORY: (not a complete list)

BBOA-2 – Raymond Frasl – Request for Special Exception for mobile homes for all or parts of Lots 3, and 4, Block 25, [Original Town of] *Bixby*, located two (2) blocks to the northwest of subject property at 406 & 412 S. Main St. – Record of BOA consideration not found. No dates found in case file, but would have occurred in the late 1960s or the first part of 1970.

[BZ-1] – R.D. Evans – Request for rezoning from R-1 to R-3 for "apartments" for property located two (2) blocks to the northwest of subject property at 305 & 307 S. D Ave. – PC hearing advertised for 03/23/1970 and evidently recommended for Denial on or about that date. Letter dated 04/16/1970 appeals denial recommendation to Board of Trustees. No approval documentation and no ordinance found indicating this was approved by the Board of Trustees.

Final Plat of Parkwood Apartments – Final Plat for *Parkwood Apartments* for 10 acres located approximately 1 block to the southwest of subject property – no City of Bixby approval records found; possibly platted in unincorporated Tulsa County; no City or County approval information found on recorded plat (Plat # 3362 recorded 01/23/1973).

BZ-20 – Chester Cue – Request for rezoning from R-1 to C-1 and R-3 for commercial and multifamily development for 5 acres abutting subject property to the south – PC recommended Denial of C-1 zoning and Approval of R-3 zoning 10/06/1973 and Board of Trustees Denied C-1 zoning and Approved R-3 zoning 01/08/1974 (Ord. # 269 dated 02/05/1974).

BBOA-26 – Nancy Palmer – Request for Variance from the bulk and area requirements in the RS-3 district to permit a Lot-Split (cf. BL-19) for Lots 6 & 7, Block 22, [Original Town of] *Bixby*, located approximately 2 blocks to the northwest of subject property at 105 E. Second St. & 312 S. Main St. – BOA Approved 03/09/1976.

BZ-47 – Paul Showman – Request for rezoning from RS-3 to CG for a drive-in restaurant for property located approximately 2 ½ blocks to the northwest of subject property at 200 E. Bixby St. – PC recommended Denial 03/29/1976 and evidently not appealed to Board of Trustees.

BBOA-32 – Debra McLellen – Request for Variance from bulk and area requirements and a Special Exception for a mobile home in the RS-3 district for The E. 72' of Lot 3, Block 20, [Original Town of] *Bixby*, located approximately 1 ½ blocks to the north of subject property at 310 S. E Ave. – BOA Denied 08/10/1976.

BBOA-40 (Originally filed and advertised as the second BBOA-39) – J.C. Biggers – Request for Variance from the bulk and area requirements in the RS-3 district to permit a Lot-Split (cf. BL-33) for Lot 3, Block 15, [Original Town of] *Bixby*, located approximately 2 ½ blocks to the northwest of subject property at 208 & 210 S. Main St. – Case notes indicate "Withdrawn" next to date 09/08/1977; However, it was still on the BOA Agenda 10/11/1977. No Minutes for that meeting found, and no other documents indicate its ultimate disposition. However, the lot has been split consistent with the BL-33 request per Assessor's parcel records.

BBOA-63 – Loyd Haynes – Request for Special Exception for a mobile home in the RS-3 district for Lot 3, Block 26, [Original Town of] *Bixby*, located approximately 1 ½ blocks to the northwest of subject property at 213 E. Stadium Rd. – BOA Approved 06/12/1979.

BBOA-180 – Robert Amones – Request for Special Exception and Variance from setbacks for a carport and a Variance from the paving requirement for parking areas for Lot 8, Block 22, [Original Town of] *Bixby*, located approximately 2 ½ blocks to the northwest of subject property at 103 E. Second St. – BOA Approved 12/08/1986.

BBOA-197 – Sammy Bynum – Request for Variance from the bulk and area requirements in the RS-3 district to permit a Lot-Split (BL-127) for Lot 3, Block 22, [Original Town of] *Bixby*, located approximately 2 ½ blocks to the northwest of subject property at 306 S. Main St. – BOA Conditionally Approved 01/11/1988.

BBOA-198 – Bixby Public Schools – request for Variance from the 26' height restriction to allow up to 30' in height, to permit an addition to an existing school for the formerly 10-acre school property tract located approximately ½ block to the east at 501/515/601 S. Riverview Rd. – BOA Approved 01/11/1988 per case notes.

BBOA-213 – Betty Stevenson – Request for Special Exception and Variance from setbacks for a carport for the N. 43' of Lot 3, Block 15, [Original Town of] *Bixby*, located approximately 2 ½ blocks to the northwest of subject property at 208 S. Main St. – BOA Conditionally Approved 07/03/1989.

BZ-203 – Patricia L. Woods – Request for rezoning from RS-3 to RMH for a "mobile home park" for Lots 6 and 7, Block 25, [Original Town of] *Bixby*, located approximately 2 ½ blocks to the northwest of subject property at 405 S. B Ave. – PC recommended Denial 06/21/1993 and City Council Denied 07/12/1993.

BBOA-282 – Bixby Public Schools – Request for Special Exception to allow a Use Unit 5 school on part of the SW/4 SE/4 of the section (appears to include all of the school-owned tracts in the SW/4 SE/4 lying south of Bixby Creek) located approximately 2 ½ blocks to the southeast of subject property – BOA Approved 08/01/1994.

BBOA-321 – Barbara Redding – Request for Special Exception for a Use Unit 5 daycare (most recently the "A Childs Dream DayCare & Preschool Inc.") for the S/2 of Lot 3, Block 26, [Original Town of] *Bixby*, located approximately 1 ½ blocks to the northwest at 213 E. Stadium Rd. – Withdrawn prior to 09/03/1996 meeting.

BZ-225 – Barbara Redding – Request for rezoning from RS-3 to CS for a daycare (most recently the "A Childs Dream DayCare & Preschool Inc.") for the S/2 of Lot 3, Block 26, [Original Town of] *Bixby*, located approximately 1 ½ blocks to the northwest at 213 E. Stadium Rd. – PC recommended Approval 09/16/1996 and City Council Approved 10/28/1996 (Ord. # 747).

BBOA-339 – Bixby Public Schools – request for Special Exception to allow the expansion of the existing Use Unit 5 Bixby Central Elementary school building in the RS-3 district for all of Blocks 9 and 16, [Original Town of] *Bixby*, located two approximately 2 ½ blocks to the northwest of subject property at 201 S. Main St. – BOA Approved 08/03/1998.

BBOA-407 – Anita Lechlider – Request for Special Exception for a day care for the S. 57' of Lot 3, Block 15, [Original Town of] *Bixby*, located approximately 2 ½ blocks to the northwest of subject property at 210 S. Main St. – BOA Conditionally Approved 08/04/2003.

BBOA-521 – JR Donelson for Bixby Public Schools – request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 school facility in an AG Agricultural District on the former 72-acre school property tract located approximately 3 blocks to the northeast of subject property – BOA Approved 06/07/2010.

BBOA-570 – Lois & Richard Daniels – request for Variance from certain bulk and area requirements of Zoning Code Section 11-7B-4.A.1 Table 3 to allow for a Lot-Split in the RS-3 Residential Single-Family District for property located approximately 2 blocks to the northwest of subject property at 313 S. Main St. – BOA Conditionally Approved 01/07/2013.

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property is vacant, has an average depth of approximately 100.975' (mathematical estimation), and has 70' of frontage on Stadium Rd., and so contains approximately 7,068.25 square feet (0.16 acres), and is zoned RS-3 Residential Single-Family High Density District. The subject property slopes downward slightly to the south toward Bixby Creek.

Special Exception Request. The Applicant is requesting a Special Exception for a Use Unit 7 duplex for property within the RS-3 Residential Single-Family District. The Applicant has provided a site plan, floor plan, and building elevations information. The proposed duplex would face north to Stadium Rd., would have a one (1)-car attached garage for each unit, and would appear to meet the setback requirements in the RS-3 district.

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

The Special Exception requests approval for a Use Unit 7 duplex in the RS-3 district. The same could be achieved by rezoning to an RD Residential Duplex district. However, a "spot-zoned" RD district would not be as appropriate as a Special Exception allowing a singular duplex in an appropriate area with Conditions of Approval appropriate for the site. Rezoning also triggers additional planning and development exercises which may be excessive due to the limited scale

of the infill duplex proposed for an existing platted lot. Since the zoning/land use approval as requested here would be similar to rezoning to RD, the Comprehensive Plan's "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan can be used to inform this land use decision.

The Development Sensitive designation appears to correspond to the 100-year (1% Annual Chance) Regulatory Floodplain. Floodplain areas may sometimes have soils which are not naturally conducive to construction, and may require remedial soil chemical work and/or special construction methods. In this case, the duplex must be constructed on an elevated, flow-through foundation with openings sized to meet FEMA specifications for same. This will ensure (1) the First Finished Floor of the duplex would be at least one (1) foot above the 100-year Base Flood Elevation, and (2) the area underneath the floor will allow the water underneath the structure during flooding, so as not to displace floodwaters onto other properties. These are required by FEMA and City of Bixby Floodplain Regulations.

The "Matrix" on page 27 of the Comprehensive Plan provides that RD zoning (a proxy for duplex use) *May Be Found In Accordance* with the Development Sensitive designation of the Comprehensive Plan Land Use Map.

Page 7, item numbered 1 of the Comprehensive Plan states:

> " The Bixby Comprehensive Plan map depicts desired land uses, intensities and use and development patterns to the year 2020. Intensities depicted for undeveloped lands are intended to develop as shown. Land uses depicted for undeveloped lands are recommendations which may vary in accordance with the Intensities depicted for those lands." (emphasis added)

This language is also found on page 30, item numbered 5.

This text introduces a test to the interpretation of the Comprehensive Plan Land Use Map, in addition to the Matrix: (1) If a parcel is within an area designated with a specific "Land Use" (other than "vacant, agricultural, rural residences, and open land," which cannot be interpreted as permanently-planned land uses), and (2) if said parcel is undeveloped, the "Land Use" designation on the Map should be interpreted to "recommend" how the parcel should be zoned and developed. Therefore, the "Land Use" designation of the Comprehensive Plan Land Use Map should also inform/provide direction on how rezoning applications should be considered by the Planning Commission and City Council.

Staff believes that RD zoning would be, and the proposed duplex residential use is consistent with the Residential Area land use designation of the Comprehensive Plan Land Use map.

Surrounding Zoning and Land Use. To the north and west of the subject property are single-family residential homes and vacant lots and a 4-unit mobile home park to the northwest, all zoned RS-3, and the existing or former "A Childs Dream DayCare & Preschool Inc." to the northwest at 213 E. Stadium Rd. zoned CS, all in the [Original Town of] *Bixby*.

A 15-acre RM-1 district abuts the subject property to the south, and contains an unplatted vacant parcel immediately to the south, belonging to Bixby Public Schools, and the 10-acre Parkwood Apartments apartment complex to the southwest in Lot 1, Block 1, *Parkwood Apartments*.

Abutting the subject property to the east is the platted but un-built southerly dead-end of South E. Ave. and a vacant lot belonging to Bixby Public Schools between it and Riverview Rd., all zoned RS-3 in the [Original Town of] *Bixby*. The Bixby Public Schools various school campuses, all unplatted and zoned AG, occupy most of the E/2 of this section across Riverview Rd. to the east.

Staff believes that the proposed duplex use would be compatible and consistent with surrounding zoning and land use patterns. The proposed duplex would make an appropriate buffer between the 15-acre RM-1 district abutting to the south, including the 10-acre Parkwood Apartments to the southwest, and the single-family residential areas to the north. Further, due to the proximity of the various school campuses to the east, including the high school football stadium, the lights, noise, and traffic that these intensive uses generate, the proposed duplex use would appear a more likely form of infill than a single-family home.

Stadium Rd. functions as a collector street, connecting Memorial Dr. to Riverview Rd. at the mid-mile point between 151st and 161st Streets South, and it has a stoplight at Memorial Dr. Riverview Rd. also is or functions as a collector street, located at the mid-mile point between Memorial Dr. and Mingo Rd. Riverview Rd., located ½ block to the east, was recently widened to add a center turning lane, has had a sidewalk added to one or the other side of the street, and has had stormsewer drains installed to improve area drainage. This existing and improved infrastructure further enhances the develop-ability of the area, including the subject property.

The two (2) houses to the north of subject property are mobile homes, one (1) of which appears to have add-ons. There is a 4-unit mobile home park to the northwest of the subject property. There are three (3) houses on the south side of this block to the west. The house immediately to the west appears to be fully brown-brick. The house to the west of that does not appear to have masonry, but the third house to the west to D. Ave. appears to have partial brick. The apartment buildings in Parkwood Apartments appear to be almost fully brick. Staff believes it would be appropriate to ask the Applicant their willingness to consider at least partial brick masonry in order to be compatible with surrounding dwellings with masonry, especially the house immediately to the west.

Staff Recommendation. Due to the Comprehensive Plan and surrounding zoning and land use patterns, and for all the other reasons outlined above, Staff recommends Approval subject to (1) substantial conformance to the plans provided by the Applicant and (2) full compliance with City Engineer recommendations as to drainage, utilities, and access.

City of Bixby
Board of Adjustment Application

Applicant: Kevin Blake
Address: 8812 E 110th ST Tulsa, OK 74133
Telephone: 918-232-4668 *Cell Phone:* 918-232-4668 *Email:* _____

Property Owner: Huggins Masonry Inc If different from Applicant, does owner consent? YES
Property Address: 802 W 81st Tulsa, OK 74132
Existing Zoning: RS-3 *Existing Use:* Vacant Lot *Use Unit #:* _____
Proposed Use: New Duplex Construction

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

* E/2 Lot 1 Block 30 Bixby OT

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

If Applicant is other than Owner, indicate interest: Buyer - close date set for 5/1/14

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

Application for: [ ] Variance [X] 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?
See Attached

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

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

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

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: Kevin Blake (NAME)

8812 E 110th ST (ADDRESS) Tulsa, OK 74133 (CITY) 918-232-4668 (PHONE)

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

Signature: _____ Date: 04/15/14

APPLICANT – DO NOT WRITE BELOW THIS LINE

BBOA-____ Date Received _____ Received By _____ Receipt # _____
Board of Adjustment Date _____

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

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

BOA Action: _____ Conditions: _____

Date: _____ Roll Call: _____
Staff Rec. _____

Response to Page 1

A: We are seeking a Special Exception to current RS-3 zoning that would allow for the new construction of a single story duplex. Without a "Special Exemption" we cannot move forward and will likely sell the property or it will remain vacant.

B. Lot is in close proximity to Riverview Rd and the Bixby Football Stadium. A duplex could serve as a buffer between Riverview and the neighboring Single Family Homes

C. Per Bixby City Planner – Erik Enyart The lot is currently zoned RS-3 Residential Single-Family District. The Comprehensive Plan designates the property as Development Sensitive, which could allow for RD or RT zoning. RM-1 zoning is abutting to the south (vacant) and southwest (Parkwood Apartments). There is a mobile home park to the northwest and a daycare center business further west along Stadium Rd., which essentially functions as a collector street, and has a stoplight at Memorial Dr. A good case may be made for (1) rezoning to RD or RT, or (2) a Special Exception to allow a duplex in the current RS-3 district. I would suggest the latter, as the Board of Adjustment can (presuming approval, but which cannot be guaranteed) apply reasonable and necessary Conditions of Approval to address concerns such as drainage, architectural compatibility (e.g. masonry requirement), and other such matters..

D. Re-Zoning would require much more effort and cost including a PUD. A Special Exception is much easier and can accomplish the same objective.

Response to Page 2 and "APPLICATION FOR A SPECIAL EXCEPTION"

Applicant's Comments:

A new construction duplex is the best fit for this Lot because it's surrounded by various non-single family homes including (schools, stadiums, a daycare business, mobile homes and apartments).
A duplex would also serve as a buffer between the current residential properties on E Stadium Rd and the very busy Riverview Dr where the football stadium is located.

Residents and property owners in the neighborhood will benefit from this proposal as it provides one of the only new construction projects on the street, it encourages development in the area and potentially increases home values for everyone. In addition, a new duplex will also attract more young professionals and families to the area that would otherwise migrate to the large apartment complexes outside of Old Town.

The Marilyn Courtyard duplexes at Breckenridge Ave and Parker St are a good example of how infill duplexes can be beneficial to Old Town Bixby.

Please Bill To:
Kevin Blake
8812 E. 110th St. S.
Tulsa, OK 74133
(918) 232-4668
(918) 499-5726

BIXBY BOARD OF ADJUSTMENT
PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the **Board of Adjustment in the City Council Chambers of Bixby City Hall, 116 West Needles Ave., at 6:00 PM on June 02, 2014.**

At that time and place, consideration will be given to the application **BBOA-588 – Kevin Blake:**

Applicant seeks a Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow a Use Unit 7 duplex for property within the RS-3 Residential Single-Family District with legal description as follows, to-wit:

> The E/2 of Lot 1, Block 30, [Original Town of] *Bixby*, City of Bixby, Tulsa County, Oklahoma, according to the recorded plat thereof.
> Property located: 300-block of E. Stadium Rd.

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

If you have questions concerning this request, call or write Bixby City Hall, Attn.: City Planner, 116 W. Needles Ave., Bixby, Oklahoma 74008, (918) 366-4430. When calling, please refer to **Case Number BBOA-588.**

Dated at Bixby, Oklahoma, this 14th day of May, 2014.

Please publish one (1) time on May 22, 2014

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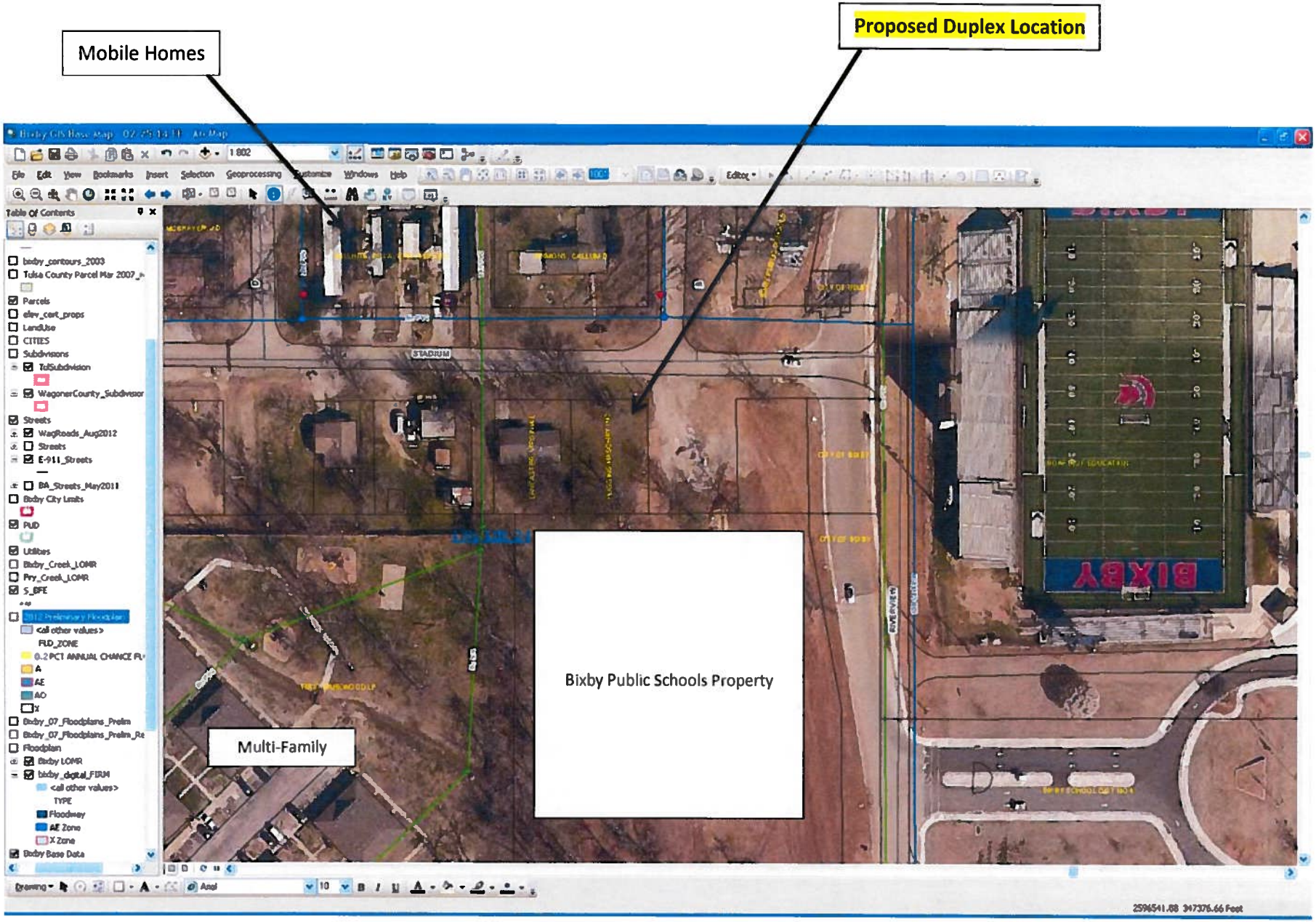
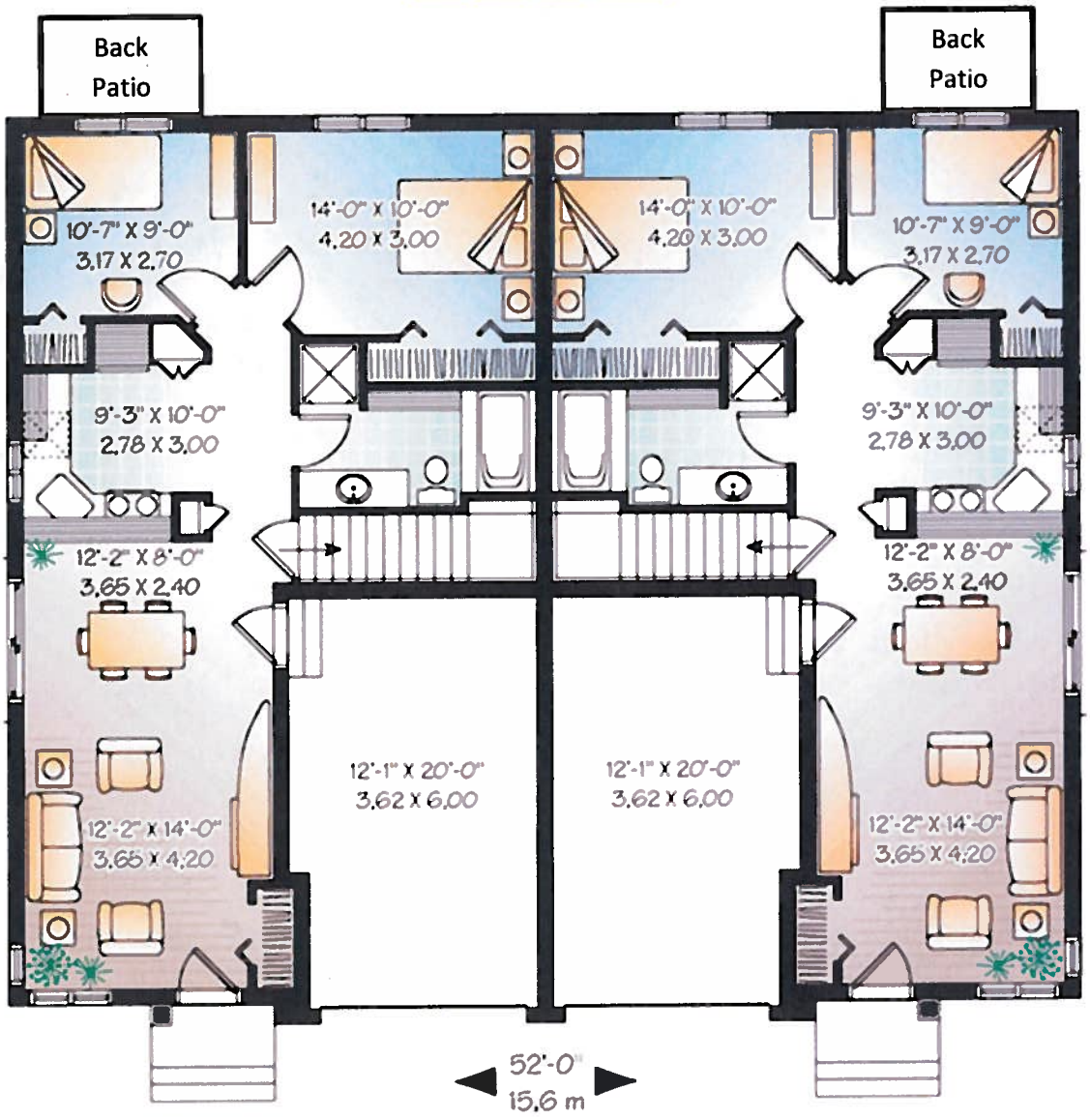

Mobile Homes
Proposed Duplex Location
Bixby Public Schools Property
Multi-Family
STADIUM
BIXBY

East Stadium Road – Duplex Exception Request by Kevin Blake

Structure Dimensions:

- 52' Wide (East and West) – Lot is 68 Wide
- 44' Deep (North and South) – Lot is 103' Deep
- Appropriate Flow-Thru Foundation and Set Backs will be implemented as required by the City

Backyard (South Side)



Front of Unit (North Side)

East Stadium Road

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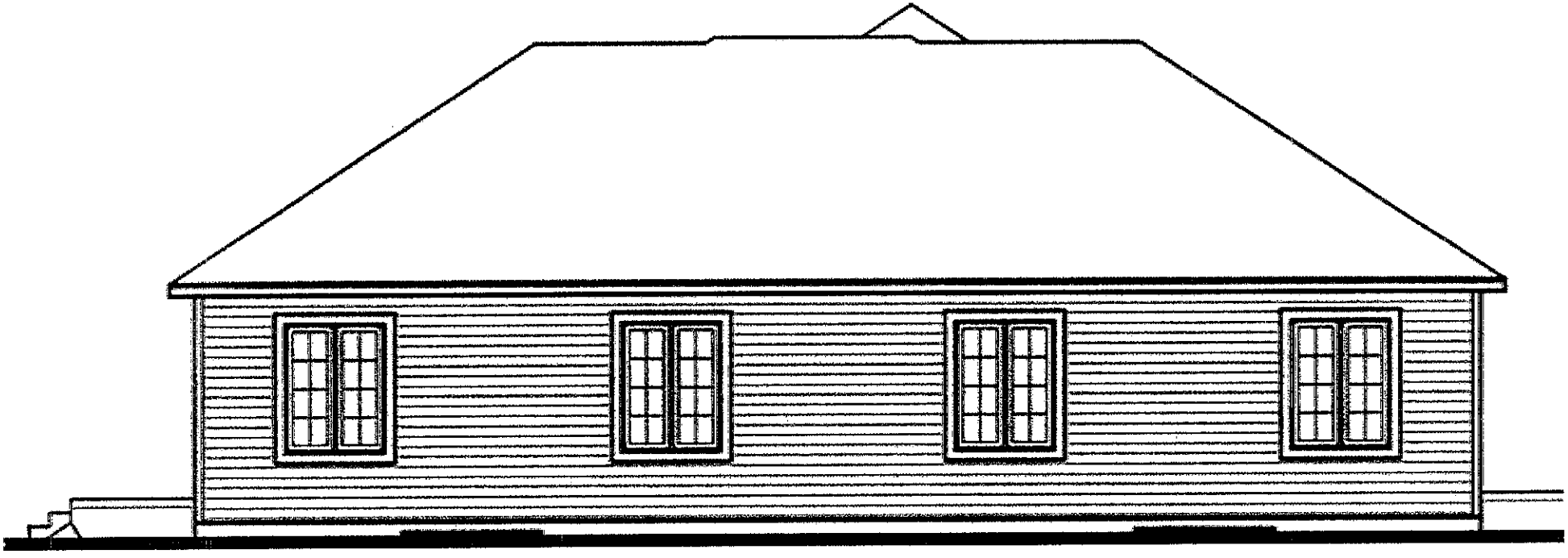
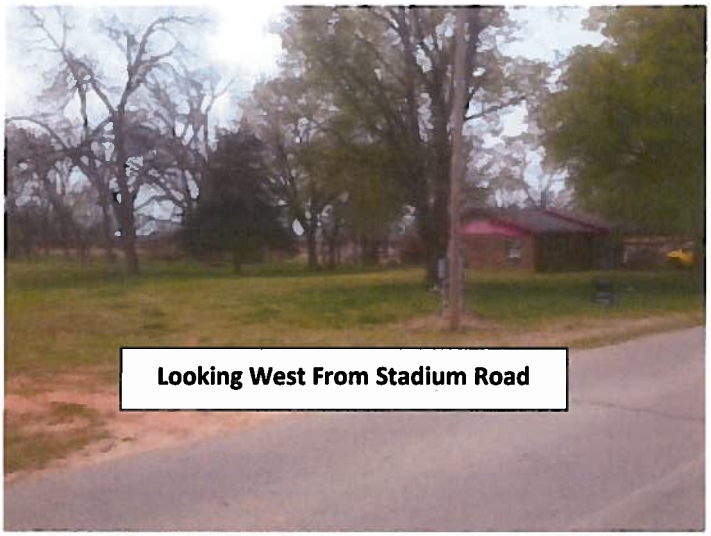
h2

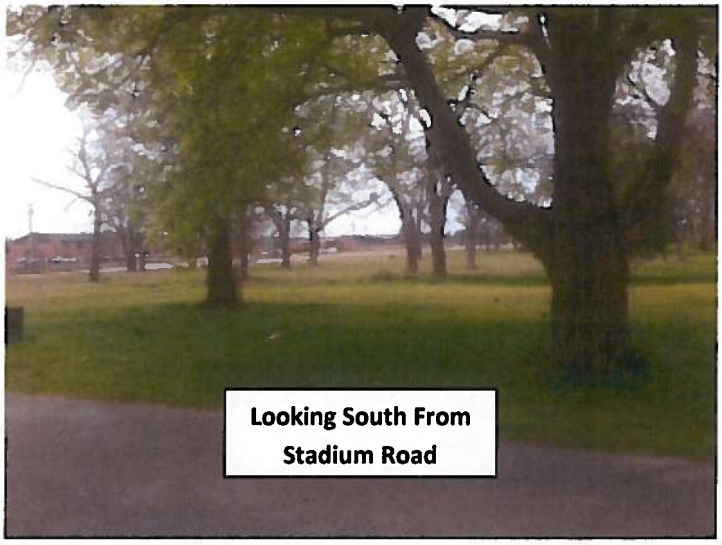
Blake, Kevin

From: Blake, Kevin
Sent: Tuesday, May 20, 2014 4:34 PM
To: 'kevin.blake88@gmail.com'
Subject: Duplex Back

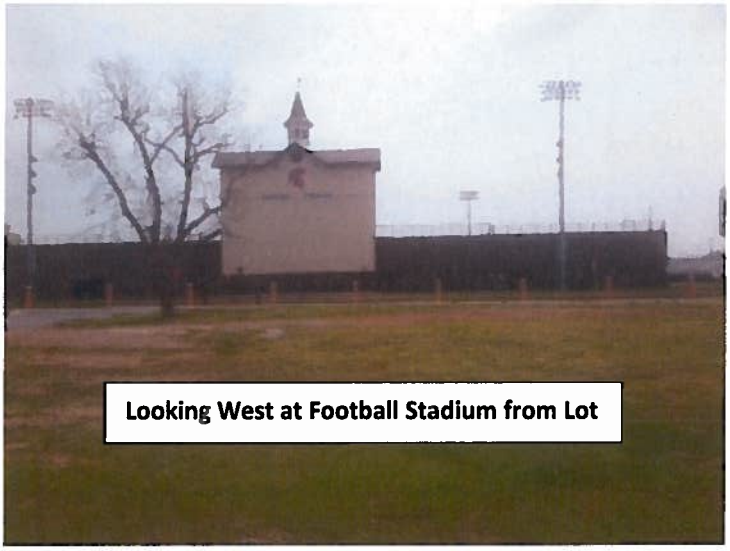




Looking West From Stadium Road



Looking South From Stadium Road



Looking West at Football Stadium from Lot

Tulsa County Clerk - PAT KEY
Doc # 2014038839 Page(s): 2
Recorded 05/08/2014 at 04:03 PM
Receipt # 468635 Fee $15.00
Doc Stamps: $10.50

D.S. $ 10.50
Property Address: East Stadium Road, Bixby, OK, 74008
Buyer Mailing Address: 8812 E 116th St Tulsa OK 74133

GENERAL WARRANTY DEED

(with Survivorship clause)

THIS INDENTURE, made this May 5, 2014 between **Huggins Masonry Inc**, party of the first part, and **Kevin C.Blake and Laura D. Blake, husband and wife**, joint tenants, with the right of survivorship as hereinafter set out, parties of the second part.

WITNESSETH, that in consideration of the sum of Ten Dollars, and other good and valuable considerations, receipt of which is hereby acknowledged, said parties of the first part does by these presents grant, bargain, sell and convey unto the said parties of the second part, as joint tenants, and not as tenants in common, on the death of one the survivor, their heirs and assigns of the survivor, to take the entire fee simple title to the following described real estate, situated in the County of **Tulsa**, State of Oklahoma, to-wit:

TITAN TITLE & CLOSING, LLC
110 E A ST
JENKS, OK 74037
14-331

The East half (E/2) of Lot One (1), Block Thirty (30), in the Town of Bixby, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

Together with all fixtures and improvements, and all appurtenances, subject to existing zoning ordinances, plat or deed restrictions, utility easements serving the Property, including all mineral and water rights owned by Seller but excluding previously recorded reservations and conveyances of mineral rights.

TO HAVE AND TO HOLD the same as joint tenants, and not as tenants in common, with the fee simple title in the survivor, the heirs and assigns of the survivor, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining forever.

And said party of the first part, its successors, grantees, executors, and administrators, does hereby covenant and agree to and with said parties of the second part that, at the delivery of these presents, they are lawfully seized of an absolute and indefeasible estate of inheritance in fee simple, of and in, all and singular, the above granted and described premises, with appurtenances, that the same are free clear and discharged and unencumbered of and from all former and other grants, titles, charges, judgments, estates, taxes, assessments and encumbrances of whatsoever nature and kind, EXCEPT: Easements and building restrictions of record and special assessments not yet due; setback lines and zoning ordinances, if any of record and that party grantor will WARRANT AND FOREVER DEFEND the same unto said parties of the second part, their heirs, successors and assigns against said parties of the first part, its successors and assigns, and all and every person or persons whomsoever lawfully claiming, or to claim the same.

TULSA ABSTRACT & TITLE CO.
612 S. DENVER AVE.
TULSA, OK 74119

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