

**MINUTES  
BIXBY BOARD OF ADJUSTMENT  
BIXBY CITY HALL, COUNCIL CHAMBERS  
7 PM, February 4, 2001**

**MEMBERS PRESENT  
JEFF WILSON  
LONNIE JEFFRIES  
DAVE HILL**

**STAFF PRESENT  
JIM COFFEY**

**MEMBER ABSENT  
CARL CARNAHAN**

- 1. CALL TO ORDER** Chairman, Jeff Wilson, called the meeting to order at 7:00 PM.
- 2. CONSIDERTION OF MINUTES OF DECEMBER 3, 2001.**  
Dave Hill moved with correction of time adjourned for approved.  
Lonnie Jeffries seconded for approval.  
**VOTING FOR:** Wilson, Hill, and Jeffries  
**VOTING AGAINST:** None  
**ABSTAINING:** None  
**MOTION APPROVED: 3-0-0**
- 3. BBOA 374** Discussion and Possible Action to continue item to March 4, 2002 on written request from attorney Jeffery Levinson representing Westec Properties.  
Dave Hill moved and Lonnie Jeffries seconded for approval.  
**VOTING FOR:** Wilson, Hill, and Jeffries  
**VOTING AGAINST:** None  
**ABSTAINING:** None  
**MOTION APPROVED: 3-0-0**
- 4. BBOA 377 Consideration and possible action to approve a Special Exception for an elderly care home in a residentially zoned area at 11785 S 87<sup>th</sup> East Ave, Kyle Rackley, applicant.**

This item was to be on the January meeting but was withdrawn because the purchase of the home was abandoned. The elderly care home has been in operation at this site for several years as a non-conforming use. The applicant who discovered this was a non-conforming use would like to move the home to a conforming use. The staff recommends

approval. The home is licensed by the state. Use Unit 8 is permitted in a RS district by Special Exception.

Kyle Rackley, 7083 W 191<sup>st</sup>, Mounds, Ok. Home is licensed by the State for 6 elderly people. Home has been there a number of years and would continue to operate as it has in the past.

Commissioner Hill asked if Rackley was the present owner. Rackley replied he was not the present owner but was at one time going to purchase the home. He had changed his mind on this location but wanted the owner to have the special exception.

Chairman Wilson asked what had been done to see if there was former action by the Board of Adjustment.

Rackley stated that the Planner had checked the records but had found no action. Owner would be required by the state to have an approval from the City and has operated for since 1993 with a state license. That record could not be located. Search the state records but they keep records only for three years. Owner remembers having to do something like this but can not find documentation of action by the Board of Adjustment.

Chairman Wilson asked if Rackley was considering purchase of the home when he filed the special exception. Rackley replied he was at that time.

Commissioner Hill asked if the lack of records concerning action of the Board of Adjustment was a reason he decided not to buy. Rackley said it was.

Nancy Johnson, the owner, explained she and her daughter went into business in 1993. We had a mentor from a friend in Tulsa who instructed us on how to start the home. We were told to check the zoning, told that we would be limited to 6 elderly people with two caregivers. What we have found in our record is a 1993 letter from the City Manager telling us if the City code definition matched the federal definition there was no problem. We thought that as long as we had 6 residences or under that zoning was not an issue. We did not realize that we had to come to the Board of Adjustment. We got our State license on November 19, 1993, and have been operating since that time.

Chairman Wilson asked about the definition. The Planner explained that the City can be more restrictive but not less restrictive than the State. What about the paper work asked the chairman. The Planner replied that a search of the records had not rendered any prior information. What we have is the letter from the City Manager supplied by Ms Johnson.

Chairman Wilson asked if Ms Johnson had operated from 1993 with 6 residents. Ms Johnson said she had. She has four employees but only two works at one time.

Commissioner Hill asked if Ms Johnson lived at the home. She said she did not but was there 7 nights a week. There is staff twenty-four hours a day.

Chairman Wilson asked if she had received any complaints over the years. Ms. Johnson replied she had never had a complaint.

Chairman Wilson questioned what legal standing Rackley had to request the Special Exception since he was not going to purchase the home. The Planner explained that Rackley was now acting as a representative of Ms Johnson. The board had a discussion among themselves.

Chairman Wilson asked about how the item was advertised. The Planner said it was advertised as a special exception for the property concerned and that Mr. Rackley name was mentioned only as the applicant. Applicants can act on the owner's behalf.

Carolyn Boreeski, 11756 S 87<sup>th</sup> East Ave., lives across the street from the property. She stated that the covenants for the subdivision do not allow businesses. The home has been no problem. Concerned that at some point it might change hands and be a problem. She is opposed.

Maggie Stephens, 8641 E 118 Street South is not concerned with Ms Johnson but would be concerned if it were sold to someone else to operate.

Commissioner Hill asked Ms Stephens where she lives and she replied across the street.

Lois Hill, 11777 S 87<sup>th</sup> East Ave said the other speakers had said what she wanted to say.

Rod Sandburg, 11807 South 87<sup>th</sup> East Ave, lives south of the property and said there is no problem with the home. Nancy is a good neighbor. When the home started we were ask to sign a paper before she got her license stating it was OK with us. We have been there longer than the home and she is the best neighbor we have had. I signed a paper to allow the home and that is all it took in those days.

Commissioner Hill asked Mr. Sandburg if he remembered signing a paper to allow the home and Sandburg replied he did. Hill inquired if he was sure it was for Johnson and Sandburg said it was.

Commissioner Hill asked Ms Johnson if she remember having people sign a document to allow her elderly care home. She was not for sure but though she had to get signatures.

Commissioner Hill stated it appears that no one objects to Ms Johnson but the concern is if she sales the property to someone else.

The Planner explained that a Special Exception goes with the property.

Winsford Spears, 14140 S 59<sup>th</sup> East Ave., said he had noting to say.

Commissioner Hill asked what would happen if someone purchased the property and did not keep it up. The Planner explained that the nuisance code of the city would be enforced.

Chairman Wilson asked how a new owner could change the property. The Planner explained that the same code that Ms Johnson has to follows would be the same for the new owner. It is a residential neighborhood with an elderly care home and all of the safeguards would be the same.

Motion was made by Hill and seconded by Jeffries to grant the Special Exception.

**VOTING FOR:** Hill, Jeffries, and Wilson

**VOTING AGAINST:** None

**ABSTAINING:** None

**MOTION PASSED: 3-0-0**

**5. OLD BUSINESS:** None

**6. NEW BUSINESS:** None

**7. ADJOURNMENT:** Meeting adjourned at 7:50 pm.

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Approval

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Date