

**MINUTES
BIXBY BOARD OF ADJUSTMENT
BIXBY CITY HALL, COUNCIL CHAMBERS
7 PM, SEPTEMBER 5, 2006**

MEMBERS PRESENT	STAFF PRESENT	MEMBERS ABSENT
JEFF WILSON	JIM COFFEY	
DAVE HILL		
LONNIE JEFFRIES		
MURRY KING		
DARRELL MULLINS		

- 1. CALL TO ORDER**
- 2. Approval of Minutes from July 3, 2006.** Hill moved and Mullins seconded to approve minutes.
VOTING FOR: Mullins, Hill, King, & Wilson
VOTING AGAINST: None
ABSTAINING: Jeffries
MOTION PASSED: 4-1-0
- 3. Approval of minutes from August 7, 2006.** King moved and Hill seconded for approval
VOTING FOR: Mullins, Jeffries, Hill, King, & Wilson
VOTING AGAINST: None
ABSTAINING:
MOTION PASSED: 5-0-0
- 4. BBOA 446 Discussion and possible action to approve a Variance to Section 11-9-17D, parking requirements for mini storage area in Bixby Crossing, PUD 49, located East of Memorial and South of 134th Street, Sack & Associates, applicant.**

STAFF REPORT

The plan indicates 10 parking spaces. Parking requirement is one space for 5000 sq ft of buildings for mini storages. The number required by ordinance would be 17 spaces. Parking is never much of a problem in a mini storage application. Staff recommends approval.

Jim Beach, Sack & Assoc, 111 S Elgin, Tulsa, presented the case for the developer saying the spaces as planned were ample for the need to park cars. The need was just a few people coming to rent, pay a bill, and the employees who needed a space.

Hill asked if the other mini storage north on memorial had more spaces. The planned answered they only have three or four and did not meet the code of parking spaces.

Hill moved and King seconded for approval.

VOTING FOR: Mullins, Jeffries, Hill, King, & Wilson

VOTING AGAINST: None

ABSTAINING:

MOTION PASSED: 5-0-0

- 5. BBOA 447 Discussion and possible action to approve Special Exception to Section 11-9-4A to permit a cellular antenna and accessory equipment to be located on an existing 105 foot Wind Energy Conversion System Tower; Section 11-9-4 C (1) to allow the 105 foot tall Wind Energy Conversion System Tower to be used as an antenna in an Agricultural Zoned District; (2) to permit the present structure location of less than 400 foot from a residential dwelling; (3) to not require the antenna supporting structure be designed and constructed to accommodate co-location of a minimum of two wireless telecommunication systems, and (4) allow the cellular antenna to be located on an existing lattice antenna tower as opposed to an monopole design. Property located at 10213 east 121st Street.**

There are several items all lopped together on this application. They are all necessitated by the fact this is an old Wind Energy Conversion System Tower. Because it is an old tower, the height is grandfather in. The height would have been 60 feet without a special exception from the Board of Adjustment. The fact is it did not receive a Special Exception for height and probably was in place before the tower ordinance. The tower does not meet the design standards of a mono pole, it is very close to the residence it presently serves, and also close to a business located to the west. In the opinion of staff it is an attempt to use an old structure for a new application. Even if the old tower is structurally

sound it does not meet requirements in several areas and could fall at a future date. Many of the requirements of the present ordinance are based on safety. If the tower were to fall, given our present ordinance and assuming the board approves, I'm not sure but the City might incur some liability for approving a structure that was outside of the ordinance.

Cell Towers are difficult to locate and our ordinance is difficult to adhere to. The ordinance is restrictive to construction type and height. However we have this ordinance and we have been very careful in approving the construction of cell towers. Most every application has come before this board. We turned down one because it was too close to residential and far exceeding the 60 foot height. Another was approved because it was in a floodplain and left proper safety barriers should in fall.

The staff recommends denial.

Lou Reynolds 2727 E 21st Street Suite 200, Tulsa, Ok, attorney for cingular wireless presented the request. He said the application was on an existing tower and although the tower would be updated it would be the same tower. He did not feel it would fall on the existing residence or business. He also did not feel the City would have any liability for the approval of the tower. He passed out several drawings and location survey to show the tire was needed.

Hill asked the planner if the City Attorney felt there would be a liability problem if the board approved the special exceptions. The planner answered the City Attorney had indicated there could be a liability problem.

Lou Reynolds countered that he was an attorney and did not believe there was a problem.

Hill indicated he was ready to make a motion to deny.

Reynolds ask if he could confer with the City Attorney and have the item continued.

Hill moved to continue to the next meeting and Jeffries seconded.

VOTING FOR: Mullins, Jeffries, Hill, King, & Wilson

VOTING AGAINST: None

ABSTAINING:

MOTION PASSED: 5-0-0

6. **BBOA 448** Discussion and possible action to approve a variance to Section 11-7B-4, Building Line Set Back on property located at 10508 South 87th East Avenue. David Alexander, Eagle Homes, applicant

Another home in Legacy Park. This one is a bit unusable. Attached are some photos that show the house is not extended further to the east than the house next door, nor is it extended further to the street on the house that is behind to the west. How can that be? The house is on a curved street and the arc of right of way from the street on the east into the entry for the property to the west makes placement difficult. The 25 foot building line arcs across the corner of the lot and connects to a 15 set back for a side street. The house is set back 23'3" on the side making it set back further than the house behind that is set back 15'. If the front 25' set back had been square no error would have occurred. To complicate placement the road right of way is 64' to accommodate a center island into the area behind this house, but at the side of this house the right of way is still 64 ft when it normally would have been on 50 feet like the other streets in the subdivision. The developer has agreed if the variance is approved he will remove the corner of the porch that is encroached on the utility easement.

Because staff feels the developer was allowed to plat the streets without proper consideration for house placement; the house has an occupancy permit from the City, and because the building permit was approved for a house that could not meet the bulk area requirements; we recommend approval of the Variance from the Building Line Set Back.

David Alexander, presented his case for a variance. The property is sold and the plat is very unusual. He was very apologetic and admitted it was his fault.

Darrell Mullins questioned the error and asked why the placement was not done accurately. If you lay out the area correctly then the house will be set

on the lot correctly. There should not be a problem if the job is done correctly.

Hill moved and Wilson seconded for approval.

VOTING FOR: Jeffries, Hill, King, & Wilson

VOTING AGAINST: None

ABSTAINING: Mullins

MOTION PASSED: 4-1-0

7. No New Business

8. No Old Business

9. Adjournment.

Approved Date:_____

By_____

Chairman

The tape for this meeting did not record and minutes were done with incomplete notes.