

MINUTES
BIXBY BOARD OF ADJUSTMENT
BIXBY CITY HALL, COUNCIL CHAMBERS
7:00 PM, July 07, 2008

STAFF PRESENT:

Deborah Forbes, Asst. City Planner
Donna Crawford, Community Development Coordinator

ATTENDING:

See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 7:00 PM.

ROLL CALL

Members Present: Jeff Wilson, Lonnie Jeffries, Darrell Mullins, Murray King, and Dave Hill.

Members Absent: None.

MINUTES

1. Approval of Minutes for June 02, 2008

Dave Hill made a MOTION to APPROVE the Minutes of June 02, 2008. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, & Wilson

NAY: None.

ABSTAIN: Mullins, King.

MOTION CARRIED: 3:0:2

OLD BUSINESS: None

NEW BUSINESS:

2. **BBOA-478 – Mike Redmond.** Discussion and possible action to approve (1) a 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, (2) a Variance from the 750 square foot accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 2,400 square foot garage accessory structure, and (3) a Variance from Zoning Code Sections 11-7B-3.1.b and 11-8-8.B.5 to allow the accessory building to be constructed in the front yard in the RE Residential Estate District on property with legal description as follows, to-wit:

Property located: Lot 8, Block 6, *Bixby Ranch Estates*; 14238 E. 208th St. S.

Chair Jeff Wilson introduced the item and called on Donna Crawford for the staff report and recommendation. Mrs. Crawford summarized the staff report as follows:

- LOCATION: – 14238 E. 208th St. S.
– Lot 8, Block 6, Bixby Ranch Estates
- LOT SIZE: Approximately 4+ acres
- ZONING: RE Residential Estate District
- REQUEST:
- (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 2,400 square foot garage accessory structure, and
 - (3) Variance from Zoning Code Sections 11-7B-3.1.b and 11-8-8.B.5 to allow the accessory building to be constructed in the front yard, all in the RE Residential Estate District

SURROUNDING ZONING AND LAND USE: RE & AG; Rural residential homes and vacant lots in Bixby Ranch Estates, with vacant/wooded land to the east zoned AG in unincorporated Wagoner County.

COMPREHENSIVE PLAN: Rural Intensity + Residential Area.

PREVIOUS/RELATED CASES:

RELEVANT AREA CASE HISTORY:

(includes only accessory building BOA cases in Bixby Ranch Estates)

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

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

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

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

BBOA-462 – Wes Jones – Request for Variance to allow a 1,500 square foot accessory building for property at 13262 E. 205th St. S. – Approved by BOA 11/05/2007.

BBOA-465 – Jeff Seager – Request for Variance to allow a 30' X 40' (1,200 square foot) accessory building for property at 14015 E. 205th St. S. – Approved by BOA 11/05/2007 for 30' X 50' (1500 sq. ft.) building size.

BBOA-475 – Jeff Seager – Request for Variance from Zoning Code Sections 11-7B-3.1.b and 11-8-8.B.5 to allow a 30' X 50' (1500 sq. ft.) accessory building, previously approved as to size per BBOA-465, to be constructed in the side yard for property at 14015 E. 205th St. S. – Approved by BOA 05/05/2008.

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property is a large vacant lot with heavy tree cover, and contains a small drainageway which flows in an easterly direction through the property. Per the submitted survey, there is a small wood shed in the approximate area the new accessory building would be located. Per a site inspection on Friday, June 17, 2008 (during the Public Notice sign posting), Staff observed the concrete foundation has been poured in the location the proposed accessory building would be located. It is evident the Applicant has poured the foundation at his own risk, recognizing the Variances required to permit the building.

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.

Analysis and Staff Recommendation for Variance to Allow Garage Accessory Structure as Principal Use. An accessory structure is defined as:

“ACCESSORY USES OR STRUCTURES: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.”

To be an accessory structure, it must be associated with a principal structure on the same lot. In Staff’s estimation, the Zoning Code was written with the intent to disallow accessory structures prior to the construction and occupancy of principal uses for several reasons, the most important of which would be:

1. Accessory buildings, especially when large in size and/or owned and operated by persons living elsewhere from the premises, have the potential to be used for non-residential purposes (e.g. woodworking shop, automotive repair, metal fabrication, construction contracting storage, etc.), which may become an annoyance to the neighborhood.
2. Accessory buildings may be occupied as a dwelling, when the structures are customarily not built in accordance with building code requirements to allow for residential occupancy. Use as a substandard dwelling unit, in addition to being relatively unsafe, may become an annoyance to the neighborhood.

The principal problem presented with accessory buildings constructed prior to principal dwellings revolve around their use, or potential for misuse. If it can be demonstrated that the use of the accessory building would not be substantially detrimental to the neighborhood or public good, the principal problem would be rendered moot.

The Applicant has expressed interest in constructing the accessory building first, stating, “We plan to use the storage building to protect a tractor, pickup, Flatbed trailer, horse trailer, and tools while waiting for construction on the primary residence to begin. Upon completion of the primary residence, the buildings use for vehicle storage and protection will continue and horse stalls may be added.” Based upon this statement, it is clear that the building’s use, at this point in time, is intended for domestic vehicle and tool storage, and not a commercial operations base or residential quarters.

Based on the submitted building permit information, the building will not have plumbing (water or sewer), but will likely have electric service. Staff did not notice plumbing fixtures in the concrete slab when visiting the site on Friday, June 27, 2008. These conditions would not lend themselves to future misuse of the building.

If the Board finds that the arguments presented above, in the application, and others that the Applicant may provide during public hearing and consideration of this case at the meeting, substantially meet the Variance tests and standards provided in State Statutes and the Bixby Zoning Code for this Variance, based on the precedent set with a similar case (BBOA-471), Staff would recommend Approval of this Variance with the following Conditions of Approval:

1. Variance approval shall expire and be automatically vacated upon certain conditions, such as the sooner of: Two (2) years (or another relatively small number of years as determined appropriate and reasonable by the Board and Applicant) from issuance of a building permit for the accessory structure, or completion of construction and issuance of a Certificate of Occupancy for the principal dwelling, at which point it will become a conforming accessory structure as to use.
2. Variance approval shall expire and be automatically vacated if the structure is maintained or used as a dwelling unit, permanently or temporarily, or maintained or used for non-residential purposes, other than as a temporary staging area used exclusively for and during the period of construction of the principal dwelling.
3. If either of the above conditions is violated, the City of Bixby, at the direction of the City Council, may require the vacation of use of the structure or its demolition, or other such remedies at law as deemed necessary and appropriate.

Analysis and Staff Recommendation on the Variance to Exceed 750 Square Feet. On November 05, 2007, the Board of Adjustment approved BBOA-462 and BBOA-465, both concerning large accessory buildings in Bixby Ranch Estates, finding that the tests and standards for granting

Variance were met in those applications and, more specifically, that the size of those lots, at approximately five (5) and nine (9) acres, respectively, were circumstances unique and different than that of more standard 'city lots' in the RE district, and that strict application of the 750 square foot maximum size restriction would cause an unnecessary hardship, as they would not be permitted adequately-sized accessory buildings. During the same meeting, the Board indicated agreement with Staff's recommendation to direct the matter be reported to the City Council for possible direction to proceed with an amendment to the Zoning Code to allow for larger accessory buildings on larger lots or in larger lot zoning districts. This reporting is pending along with other possible amendments to the Zoning Code.

Using the same arguments for the justification of Variance, as found adequate in the cases of BBOA-462 and BBOA-465 for allowing larger accessory structures on larger lots, the subject property would appear to qualify for a somewhat larger accessory building.

If the Board finds that the arguments presented above, based on the decisions in the cases of BBOA-462 and BBOA-465, or others as presented in the application or those that the Applicant may provide during public hearing and consideration of this case at the meeting, substantially meet the Variance tests and standards provided in State Statutes and the Bixby Zoning Code for this Variance, Staff would recommend Approval.

Analysis and Staff Recommendation for Variance to Allow Accessory Building in Front Yard. The accessory building is proposed to be located in the front yard, rather than the rear yard (all that part of the lot behind the rear line of the dwelling). Zoning Code Section 11-7B-3.B.1.b provides:

"A detached accessory building shall not be located in the front or side yard, or encroach upon a minimum building setback line, but this limitation shall not apply to carports, provided the minimum required front yard or side yard or setback line is observed." (emphasis added).

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

"In the RE and RS districts, detached accessory buildings may be located in a rear yard, provided the accessory building in the aggregate do not cover more than twenty percent (20%) of the area of the rear yard or exceed seven hundred fifty (750) square feet of floor area, whichever is less." (emphasis added).

Therefore, a Variance from these two (2) code provisions would be required to allow an accessory building in the front yard as proposed.

Of the several fundamental purposes for imposing restrictions on the placement of primary and accessory buildings, the primary reason is for the sake of consistency of design, mode of placement, and orientation of structures (aesthetics).

In furtherance of this Variance request, the Applicant has stated "As shown by my previous submitted site plan, my lot is shaped as a right triangle, with one of the 45° corners at the road access. Due to the terrain (sloped, with a creek crossing the property) the most acceptable location for the primary structure will be on the high-ground at the Northwest corner [sic]. The lower area near the city street will be used as pasture, with the shop/garage in this area. Though technically this area is consider the "Front Yard", the actual dwelling will be out of [sight], at the top of the ridge."

Staff notes that, due to the rural character of the subdivision and extremely large lots, standard placement of homes and accessory structures is not common in this subdivision.

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

Chair Jeff Wilson called on the applicant. The applicant was not present. Mr. Wilson recommended that the case be continued until applicant could be present.

Donna Crawford stated that there was a building permit pending.

Chair Jeff Wilson asked if there were any further questions or comments. There being none, Mr. Wilson asked to entertain a Motion. Dave Hill made a MOTION to CONTINUE BBOA-478. Lonnie Jeffries SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, Murray, King, & Wilson
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

3. **BBOA-479 – Ben Holliday.** Discussion and possible action to approve (1) a Variance from the 150’ minimum spacing standard of Zoning Code Section 11-9-21.C.9.a and (2) a Variance from the maximum display surface area standard of Zoning Code Section 11-9-21.D.3 of the to allow the installation of (A) a 119.41 square foot, 30-foot tall freestanding ground sign, (B) a 21.83 square foot freestanding menu board, (C) a 8.33 square foot freestanding pre-sale menu board, and (D) a flag pole of undetermined square feet, in the CS Shopping Center District with PUD 40.
Property Located: Lot 3 and a part of Lot 4, Block 1, *Regal Plaza*; 10437 S. Memorial Dr.
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Chair Jeff Wilson introduced the item and called on Donna Crawford for the staff report and recommendation. Mrs. Crawford summarized the staff report as follows:

LOCATION: – 10437 S. Memorial Dr.
– Lot 3 and a part of Lot 4, Block 1, Regal Plaza
– Part of the NW/4 NW/4 of Section 25, T18N, R13E

LOT SIZE: Approximately 37,000 square feet; 0.85 acres, more or less

ZONING: CS Shopping Center District + PUD 40

REQUEST: Variance from the 150’ minimum spacing standard of Zoning Code Section 11-9-21.C.9.a to allow the installation of (A) a 119.41 square foot, 30-foot tall freestanding ground sign, (B) a 21.83 square foot freestanding menu board, and (C) a 8.33 square foot freestanding pre-sale menu board.

SURROUNDING ZONING AND LAND USE: CS, CS/PUD 40, CS/PUD 370A (Tulsa) & AG; Commercial to the north, east, and south in Regal Plaza / PUD 40, with commercial and vacant land zoned CS/370A and AG in the City of Tulsa (west of Memorial Dr.).

COMPREHENSIVE PLAN: Corridor + Medium Intensity + Commercial Area.

PREVIOUS/RELATED CASES:
BZ-92 – Allen G. Oliphant – Request for rezoning from AG to CS for part of subject property (that part later platted as Wildwood Garden Center, since vacated in favor of Regal Plaza) – Recommended for Approval by PC 08/25/1980 and Approved by City Council 09/02/1980 (Ord. # 411).
Final Plat of Wildwood Garden Center – Request for Final Plat approval for part of subject property – Approved by PC 09/29/1980, subsequently approved by City Council, and recorded 11/07/1980 (since vacated in favor of Regal Plaza).
BZ-244 – Gertrude Oliphant et al. – Request for rezoning from AG to CS for part of subject property (related to PUD 24) – Approved by City Council 02/22/1999 (Ord. # 787).
PUD 24 – Oliphant Center – Request for PUD zoning for part of subject property (related to BZ-244) – Approved by City Council 02/22/1999 (Ord. # 788).
PUD 40 – Regal Plaza – Recommended for Approval by PC 05/16/2005 and Approved by the City Council 06/13/2005 (Ord. 981) (Replaced PUD 24).
PUD 40 Minor Amendment # 1 – Approved by the Planning Commission on 12/19/2005.

Preliminary Plat of Regal Plaza – Request for Preliminary Plat approval for Regal Plaza (includes subject property) – Approved by PC on 08/15/2005 (older version of the plat, apparently). The revised, final version was approved by the Planning Commission February 21, 2006 and by the City Council on February 27, 2006.

Final Plat of Regal Plaza – Request for Final Plat approval for Regal Plaza (includes subject property) – Approved by PC 06/19/2006 and by the City Council on 07/10/2006.

PUD 40 Minor Amendment # 2 – Approved by the Planning Commission on 05/21/2007.

BL-355 – Home Ventures, Inc. – Request for Lot-Split approval to separate the southern portion of the frontage of Lot 4 to attach to Lot 3 to create subject property for the Chick-fil-a restaurant – Approved by PC 06/23/2008.

BSP 2008-03 / AC-08-07-02 – Chick-fil-a – Request for Planning Commission and Architectural Committee approval of a Detailed Site Plan for Lot 3 (and that part of subject property Lot 4 to be attached thereto for the Chick-fil-a restaurant) – pending PC and AC consideration 07/21/2008.

RELEVANT AREA CASE HISTORY:

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property is a vacant commercial lot composed of Lot 3 and the southern 57.32 frontage-feet of Lot 4, Block 1, Regal Plaza, and is the site of a proposed new Chick-fil-a fast-food restaurant. The subject property is bordered on the north by a concrete entrance drive and the Coppertown coffee business, both located on the balance of the frontage of Lot 4. It is bordered on the east by the back portion of Lot 4, containing a part of the primary commercial building complex in Regal Plaza. It is bordered on the south by 105th St. S. (? – Regal Place?), which has the Applebee's restaurant to the south of that. Memorial Dr. serves as its west boundary. The Regal Plaza's combined development entrance sign is located to the south and west of the subject property, in an area designated for this purpose between Memorial Dr., Lot 3, and 105th St. S. (? – Regal Place?).

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 to Alleviate the Unnecessary Hardship.

Variance Element: Ground Business Sign 1 of 3. The restaurant proposes one (1) ground business sign along Memorial Dr., to advertise the business in addition to wall signage, as is also permitted. However, this sign would be prohibited by the strict application of the Zoning Regulations, due to the location of other existing signage: a ground business sign serving the Coppertown coffee business to the north on the northern portion of Lot 4, and a combined development sign to the south advertising the SpiritBank Event Center, the Hampton Inn & Suites, and other businesses in Regal Plaza (see the submitted drawings and photographs depicting area ground signage). This prohibition could be considered an unnecessary hardship, as this business would not be permitted signage to advertise its business, as have all other surrounding businesses fronting on Memorial Dr., and so it would be at a competitive disadvantage. Staff notes that there is a Popeye's Chicken restaurant just to the north of the subject property, which may be considered a more direct competitor than other surrounding fast food restaurants.

Zoning Code Section 11-9-21.C.9.a requires a 150' minimum spacing between ground signs in the CS district. Not coincidentally, the Zoning Code also requires a minimum 150' lot width in the CS district. The two (2) 150' standards work together to ensure that there are not more than one (1) ground sign per 150', which helps to maintain the aesthetic quality of the City's commercial corridors.

The subject property should be considered to peculiar, extraordinary, and/or exceptional conditions or circumstances by virtue of the following facts, considered together:

- Regal Plaza was platted with six (6) 'outparcel' lots, all fronting on Memorial Dr., with two (2) [rights-of-way] Mutual Access Easement parcels subtracting approximately 111.02 of the total available approximately 880 frontage-feet along Memorial Dr. This left an

average of approximately 128 feet per lot, which is less than the 150' frontage requirement in the CS district.

- The Lot 3 portion of the subject property had peculiar, extraordinary, and exceptional conditions and circumstances, as it was platted with only 99.96 frontage-feet on Memorial Dr.
- A 25'-wide part of what would be included in the frontage was not included in Lot 3, as it was reserved for the combined development sign area as described above.
- The subject property became conforming as to frontage along Memorial Dr. when the southern 57.32 frontage feet of Lot 4 was separated from Lot 4 and added to Lot 3 per BL-355.
- The subject property is the last of the 'outparcels' along Memorial Dr., and so the Coppertown coffee business to the north and the combined development sign to the south had already been installed, leaving the subject property inadequate room to install a ground business sign in conformity to the 150' minimum separation standard.

These conditions, considered together, gave rise to the subject property's unnecessary hardship.

As the Zoning Code was intentionally written to have the 150' minimum lot width in the CS district correspond with the 150' minimum ground sign separation standard, the Zoning Code intended to allow each business to have one (1) ground business sign. Recognizing also that the City of Bixby approved the plat of Regal Plaza, with commercial lots not meeting the 150' lot width standard along Memorial Dr., Staff believes that the Variance to allow the one (1) ground business sign on the subject property would not cause substantial detriment to the public good or impair the purposes, spirit and intent of the Zoning Code or the Comprehensive Plan, and that the Variance would be the minimum necessary (one (1) sign) to alleviate the unnecessary hardship.

Variance Element: Menuboard Signs 2 and 3 of 3. The Site Plan for the fast-food restaurant exhibits a relatively conventional design and indicates the proposed internal automobile traffic and pedestrian flow and circulation and parking. The lot will have access to privately-maintained Mutual Access Drive, 105th St. S. (? – Regal Place?), on its south side, and will have stub-out driveway entrance to the adjoining private drive on the balance of commercial Lot 4 to the north. There is no direct access to Memorial Dr., as per the Limits of No Access on the plat.

One significant departure from the otherwise conventional design is the plan to place the two (2) drive-thru menuboard signs in front of the building and between it and Memorial Dr. Placement of ground signage in view of the street disqualifies them for the exemption per Zoning Code Section 11-9-21.C.4, and so this Variance is being requested.

This design will have the exclusive drive-thru lane wrap around the front / Memorial Dr. side of the building and cut-off the primary parking areas on the north, west, and south sides of the lot. Pedestrians will be required to walk across the drive-thru lane (and sometimes between cars) to access the buildings front/west and side/north entrances. A "Caution Watch For Pedestrians" sign will therefore be erected on the west side of the building between the second menuboard sign and the drive-thru window on the south.

Staff advised the developer's agent, Lawrence Cates & Associates, LLP of Dallas, TX, in an early meeting held March 11, 2008 and in subsequent phone conversations in the months following, to advise their client not to go forward with a (then tentative) plan to put the drive-thru lanes and menuboard signs along the Memorial Dr. side of the building. However, this option was not exercised.

There is approximately 19 feet between the building and the 50' Building Setback Line, and so the building could be moved up closer to Memorial Dr. by as much as 19 feet. The 19 feet is composed of:

- Nine (9) feet for the Drive Thru lane,
- Seven (7) feet is a green/landscaped strip separating the building from the Drive Thru lane, and
- Three (3) additional feet of driveway in addition to the 15' to the west.

If the building and its seven (7) foot green/landscaped strip were advanced by nine (9) feet, there should be adequate room to place the menuboards in the rear of the building and out of sight from Memorial Dr., as is customary for such fast-food restaurant developments. The developer's

agent, Lawrence Cates & Associates, LLP, in a phone conversation a couple of months ago, indicated that this would be possible, but such a redesign was not made.

A redesign of the building site would eliminate the need for the Variance to allow for two (2) of the three (3) ground signs in front of the building. Because this element of the Variance request can be considered a self-imposed hardship, Staff does not believe that it meets the tests and standards for granting Variance.

Further, there are three (3) signs requested by this Variance to be located within an area less than 150 feet. Staff would not consider that three (3) signs could be considered the minimum necessary to alleviate the unnecessary hardship, recognizing that the Variance would not be required for the menuboard signs if the site were redesigned.

Staff Recommendation. For the reasons set forth above, Staff recommends APPROVAL only to the extent of approving the one (1) ground business sign. The developer should consider advancing the building and placing the menuboards in the rear of the building, eliminating the need for Variance for these two (2) signs.

Chair Jeff Wilson called on the applicant to present the case.

Bryan Burger of 14800 Quorum Dr. #200, Dallas, TX, engineer for *Chick-fil-a*, explained the Variances requested. Mr. Burger explained the reason for the request: there are two (2) existing signs, one to the south, which is the shopping center sign, and one to the north, which is the coffee house's sign. Mr. Burger stated that they were 200 feet apart, which made it hard to place an identification sign along Memorial Drive while still meeting the 150 foot separation requirements. Mr. Burger explained that the property was a very tight site which has been enlarged from 6/10 of an acre with a lot split or a plat to [get up to] eighty-five hundredths of an acre, in order to get enough width to function properly. Mr. Burger stated that the building plan on the lot was modified to be a "reverse layout," just to provide for the smallest prototype *Chick-fil-a*. Mr. Burger stated that he had met with Mr. Enyart to discuss the layout of the menu boards' locations, and explained that one would normally would get into line on the south side and circle around to the back ordering your meal than exit on the north side after picking up your meal, and how the new layout was different.

Lonnie Jeffries and Darrell Mullins questioned where the entry doors are located, size of the signs and how the traffic will work if it was mirrored. Bryan Burger stated his client has changed it to a reverse layout that has customer traffic circle in the front of the building due to the lot depth that is very shallow and tight. Mr. Burger stated his client was honoring all of the City's codes and ordinances and was in accordance with the PUD. Mr. Burger stated he had met with the Fire Marshal, who was very pleased with the layout. Mr. Burger added that they will be planting three (3) Red Bud and one Chinese pistache trees for landscaping purposes [which would further block the view of the menuboard signs]. Mr. Mullins noted that, if the pedestrians would be walking in through the menu boards, it wouldn't be any different than walking into any other restaurant with traffic flowing around it.

Chair Jeff Wilson asked if there were any further questions or comments. There being none, Mr. Wilson asked to entertain a Motion. Dave Hill made a MOTION to APPROVE BBOA-479. Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, Murray, King, & Wilson
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

4. **BBOA-480 – Rick Dodson for Brumble Dodson Construction, LLC.** Discussion and possible action to approve a Special Exception per Zoning Code Sections 11-7B-2 Table 1 to allow a Use Unit 5 subdivision swimming pool, pool house facility, and family playground in the RS-3 Residential Single Family District.
Property located: Lots 6 and 7, Block 1, WoodCreek; 7301 E. 111th Pl. S.
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Chair Jeff Wilson introduced the item and called on Donna Crawford for the staff report and recommendation. Mrs. Crawford summarized the staff report as follows:

LOCATION: – 7301 E. 111th Pl. S.
– Lots 6 and 7, Block 2, WoodCreek
LOT SIZE: Approximately 17,875 square feet; 0.41 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 5 subdivision pool, poolhouse facility, and family park and playground in the RS-3 Residential Single Family District
SURROUNDING ZONING AND LAND USE: RS-3; Residential and vacant residential lots in WoodCreek. AG to the north across 111th St. S. in the City of Tulsa; PSO substation and vacant land, and a developing subdivision to the northeast zoned RS-3 with (Tulsa) PUD 707.
COMPREHENSIVE PLAN: Corridor + [Existing] Vacant, Agricultural, Rural Residences, and Open Land.
PREVIOUS/RELATED CASES: (not a comprehensive list).
BZ-304 – Brumble Dodson Construction, LLC – Request for rezoning from AG to RS-3, RT, and CS for the WoodCreek (includes subject property) and Woodcreek Village subdivisions – Recommended for Approval by PC 06/21/2004 Approved by City Council 07/12/2004 (Ord. # 891) (previously considered for lesser acreage and RS-3 only).
Preliminary Plat of WoodCreek – Request for Preliminary Plat approval for WoodCreek (includes subject property) – Approved by PC on 09/23/2004 and by the City Council on 09/27/2004.
Final Plat of WoodCreek – Request for Final Plat approval for WoodCreek (includes subject property) – Approved by PC 02/22/2005 and by the City Council on 04/25/2005.
Planning Commission Agenda Item: Discussion and possible action to approve “an Amendment to the Final Plat for Wood Creek” to include a swimming pool on subject property Lots 6 and 7, Block 2 – No action by PC 10/16/2006 and Approved by City Council 10/23/2006.
RELEVANT AREA CASE HISTORY:
BACKGROUND INFORMATION:

The motivation for this application, according to statements from certain property owners in WoodCreek, is to establish a private neighborhood park and playground on the existing pool / poolhouse site, in order to prevent a resident sex offender from re-entering the subdivision upon court hearing, calling upon a state law preventing such offenders from residing within a certain distance from parks and other protected areas.

Staff observed the new playground equipment in place when posting the public notice sign on the subject property on Friday, June 27, 2008.

This application requests after-the-fact Special Exception approval of a Use Unit 5 subdivision pool, poolhouse facility, along with the newly erected playground equipment on the subject property, and for the subject property to be recognized as a park and playground by the City of Bixby, through the granting of Zoning approval. The City Council approved an “Amendment to the Final Plat of

WoodCreek” to allow a pool on the subject property, but this action is not a substitute for the grant of Zoning approval by Special Exception, the process for which is outlined in the Zoning Code. This action should, however, establish legislative intent for this application and inform the Board on the Council’s desire for the disposition of this Zoning action.

The subdivision developer, Brumble Dodson Construction, LLC, owns the subject property. It is customary for Reserve areas originally planned in subdivisions to contain subdivision-serving neighborhood facilities, such as pools and parks, to be transferred to the Homeowners Association (HOA) upon the substantial or total completion of the subdivision build-out.

Because the pool, poolhouse facility, and park were evidently not originally planned with this subdivision, the developer should consider making amendments to the Deed of Dedication and Restrictive Covenants to provide for the perpetual maintenance of the common facilities by the HOA, upon conveyance to the HOA. Staff did not observe language to this effect in the Deed of Dedication and Restrictive Covenants filed with the plat, but the same may have been the subject of an amendment pursuant to the City Council’s action to approve “an amendment to the Final Plat.” Any such amendment should be provided to the City of Bixby for placement with the permanent records.

ANALYSIS:

General. The developer of the WoodCreek subdivision has constructed a Use Unit 5 neighborhood pool and pool house facility, pursuant to the City Council’s approval action on October 23, 2006 (see above).

Zoning Code Section 11-7B-2 Table 1 allows for a Use Unit 5 neighborhood pool, pool house facility, and park and playground to be approved by Special Exception, which is requested by this application.

Similar Cases. The Board of Adjustment approved a Special Exception for a Use Unit 5 community pool and playground in the Reserve at Harvard Ponds in 2005 (BBOA-438), and approved a Use Unit 5 Splash Park serving the Southbridge subdivision in 2007 (BBOA-454).

More recently, the Board of Adjustment approved a swimming pool and pool house facility in The Ridge at South County on May 02, 2008 (BBOA-477).

Surrounding Zoning and Land Use Compatibility. The surrounding zoning is primarily RS-3, with the exception of AG zoning to the north across 111th St. S. in the City of Tulsa, containing a PSO substation and vacant land, and a developing subdivision to the northeast zoned RS-3 with (Tulsa) PUD 707. The proposed low-intensity recreational use, the community swimming pool, pool house facility, and neighborhood park and playground would be consistent with the surrounding planned residential in the surrounding WoodCreek subdivision.

Community swimming pools, pool house facilities, and neighborhood parks and playgrounds have historically and today are often found in large residential subdivisions.

Staff Recommendation. Recognizing that the Zoning Code contemplates the Use Unit 5 community swimming pool, pool house facility, and neighborhood park and playground and provides for its approval, and recognizing that the City Council established its intent to allow a pool by its action on October 23, 2006, and for all the other reasons outlined above, Staff believes that the proposed facilities would be in harmony with the spirit and intent of the Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff recommends Approval.

Chair Jeff Wilson called on the applicant to present the case.

Reza & Brenda Ghavami of 7318 E. 113th St. S. stated that they were representing the neighborhood. Reza & Brenda Ghavami stated they all wanted to have the case approved.

Darrell Mullins asked if there was a buffer area there. Mr. Ghavami answered that there was a big fence there that is a buffer to the area.

Chair Jeff Wilson asked if there were any further questions or comments. There being none, Mr. Wilson asked to entertain a Motion. Darrell Mullins made a MOTION to APPROVE BBOA-480. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, Murray, King, & Wilson
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

5. **BBOA-481 – Bryan Wiesman for High Pointe Homes.** Applicant seeks a Variance from Zoning Code Section 11-7B-4.A.1 Table 3 to reduce the rear yard setback in the RS-4 Residential Single Family District with PUD 44 from 20 feet to 17.5 feet.
Property located: Lot 18, Block 1, *Village at the Legends*; 9586 E. 109th St. S.
-

Chair Jeff Wilson introduced the item and called on Donna Crawford for the staff report and recommendation. Mrs. Crawford summarized the staff report as follows:

LOCATION: – 9586 E. 109th St. S.
– Lot 18, Block 1, *Village at the Legends*

LOT SIZE: Approximately ¼ acre, more or less

ZONING: RS-4 Residential Single Family District + PUD 44

REQUEST: Variance from Zoning Code Section 11-7B-4.A.1 Table 3 to reduce the rear yard setback in the RS-4 Residential Single Family District with PUD 44 from 20 feet to 17.5 feet.

SURROUNDING ZONING AND LAND USE:

North: RS-4/PUD 44 & RS-3; New residential homes and vacant residential lots in *Village at the Legends* and *Legends*.

South: AG; A vacant 9+ acre tract.

East: RS-3; The stormwater detention pond in *Legends*.

West: RS-4/PUD 44; New residential homes and vacant residential lots in *Village at the Legends*.

COMPREHENSIVE PLAN: Low Intensity + [Existing] Vacant, Agricultural, Rural Residences, and Open Land.

PREVIOUS/RELATED CASES: (not a comprehensive list)

PUD 44 – Village at the Legends – Request for rezoning from AG to RS-4 and PUD 44 for *Village at the Legends* – Recommended for Approval by PC 05/16/2005 and Approved by the City Council 09/12/2005 (Ord. 913).

Final Plat of Village at the Legends – Request for Final Plat approval for *Village at the Legends* (includes subject property) – Approved by PC 06/19/2006 and by the City Council on 06/26/2006.

RELEVANT AREA CASE HISTORY:

BACKGROUND INFORMATION:
Staff discouraged this application from being submitted, explaining to the Applicant that there would not appear to be any valid hardship, and that the subject property did not appear to be unique or special and requiring special treatment.

ANALYSIS:

Property Conditions. The subject property is a vacant residential lot in *Village at the Legends*.

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 to Alleviate the Unnecessary Hardship.

Nature of Variance. The Applicant is a homebuilder and has prepared a home design for a prospective buyer. The home design proposes to place the house up to the 17.5' Utility Easement, which would encroach on the 20' Rear Yard zoning setback in the RS-4 district and PUD 44 by 2.5 feet.

Detailed Analysis. The Applicant has submitted a proposed plot plan showing the proposed location and orientation of the house on the lot. When reviewing the plot plan prior to submitting the application, the Applicant confirmed Staff's statement that that the same house could be reoriented on the lot to meet setbacks and not lose any square footage or architectural design. However, this was not done.

Of the several fundamental purposes for establishing Zoning Setbacks, which schedule the standard acceptable placements of primary and accessory buildings, one primary reason is for the sake of consistency of design, mode of placement, and orientation of structures (aesthetics). Approval of this application, while requiring all other homebuilders in the addition to conform to the standards would confer upon the Applicant a special privilege, not extended to other builders. Alternatively, if this Variance were granted, the Board would likely be bound to approve all other similar Variance applications in this addition or area, causing certain homes to lack consistency in placement of homes on lots, which could render a diminution in value for the entire neighborhood.

A significant component of home value, as established by several studies on the matter, is the value added by the surrounding neighborhood. Neighborhoods lacking consistency in design and visual character can easily forfeit such added value for all homes within.

Additionally, from a building standpoint, houses should be set back from utility easements by a significant buffer distance as necessary to protect the integrity of the foundation and supporting wall, in the event of excavation of the Utility Easements up to its interior edge, as utility companies are allowed by right to do within Utility Easements. Expressed more plainly, if the proposed house were built up to the 17.5' Utility Easement, its foundation and supporting wall could be compromised during future Utility Easement excavation.

Finally, based on the submitted plot plan, the house would be skewed on the lot and not face the cul-de-sac at the standard and desirable (from an aesthetic standpoint) 90° angle. The house would look out of character with other surrounding houses fronting the same cul-de-sac at the standard and desirable 90° angle.

For these reasons, Staff believes that the Variance cannot be granted without causing substantial detriment to the public good or impair the purposes, spirit and intent of the Zoning Code or the Comprehensive Plan.

The Board may wish to consider the arguments set forth in the Applicant's application. However, Staff believes that the arguments amount to a preference for house siting and orientation, which is a self-imposed hardship not adequate for justification under Statutes and the Bixby Zoning Code. As confirmed to Staff by the Applicant, a Variance would not be necessary to build on the lot, or even build the same house design with a slightly different (and more standard and desirable) orientation on the lot.

Staff Recommendation. For the reasons set forth above, Staff is not supportive of this application. The builder should reorient the house on the lot to comply with minimum building setback standards.

Chair Jeff Wilson called on the applicant to present the case.

Bryan Wiesman of 11831 E. 121st St. S., Broken Arrow, stated that he was a residential construction home builder that has been building in the south Tulsa County area for 15 years. Mr. Wiesman described the layout of the home on the property that the customer has requested be built. Mr. Wiesman added that there is no Substantial Detriment or Impairment to the existing property due to the Legends storm water detention facility. Mr. Wiesman stated that the city's code has a 20 foot backyard requirement, but there was no neighbor located to the back of the property, and they could not gain any additional space for the home. Mr. Wiesman added that

they were moving the house 2 ½ feet towards the rear in order to add additional driveway space to make the curve into the garage more [acceptable]. Mr. Wiesman stated there was a similar case that was approved on March 3rd. Mr. Wiesman described the storm water drainage at the property and stated that the subject property could not have any changes made to allow for more room for the house location. Mr. Wiesman presented a sketch layout of the home to the board members.

Dave Hill questioned if the customer was set on this particular home being built.

Jeff Wilson questioned the drainage for the lots.

Bryan Wiesman answered that Lot 17 had more water frontage for the pond and Lot 18 had more curve restrictions for the driveway.

Donna Crawford questioned the covered patio if it was getting into the utility easement line.

Darrell Mullins stated the design of the house is a problem leaving no room for the garages to let cars exit properly.

Chair Jeff Wilson asked if there were any further questions or comments. There being none, Mr. Wilson made a MOTION to DENY BBOA-481. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, Murray, King, & Wilson
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

6. **BBOA-482 – Craig Thurmond for Sheridan South Development, LLC.** Applicant seeks a Special Exception per Zoning Code Sections 11-7B-2 Table 1 to allow a Use Unit 5 subdivision swimming pool and pool house facility in the RS-4 Residential Single Family District on property with legal description as follows, to-wit:
Property located: Reserve E in Block 4, *Seven Lakes I*; 12553 S. 68th E. Ave. or 6710 E. 125th Pl. S.

Chair Jeff Wilson introduced the item and called on Donna Crawford for the staff report and recommendation. Mrs. Crawford summarized the staff report as follows:

LOCATION: – 12553 S. 68th E. Ave. or 6710 E. 125th Pl. S.
– Reserve E in Block 4, *Seven Lakes I*
LOT SIZE: 2 acres, more or less
ZONING: RS-4 Residential Single Family District
REQUEST: Special Exception per Zoning Code Sections 11-7B-2 Table 1 to allow a Use Unit 5 subdivision swimming pool and pool house facility in the RS-4 Residential Single Family District.
SURROUNDING ZONING AND LAND USE: RS-4; Newly-constructed homes and vacant single-family residential lots in *Seven Lakes I*. A future phase to *Seven Lakes* is planned to the north on land also zoned RS-4.

COMPREHENSIVE PLAN: *Low Intensity + [Existing] Vacant, Agricultural, Rural Residences, and Open Land.*

PREVIOUS/RELATED CASES:

BZ-309 – Wynona Brooks, Trustee of Mildred A. Kienlen A Revocable Living Trust – Request for rezoning from AG to RS-4 for area including Seven Lakes I, subject property, and 23 acres abutting to the north – Recommended for Approval by PC on 01/18/2005 and Approved by City Council 02/14/2005 (Ord. 901).

Preliminary Plat of Seven Lakes I – Request for Preliminary Plat approval for Seven Lakes I abutting subject property to the south – Approved by PC 06/20/2005 and by City Council 06/27/2005.

Final Plat of Seven Lakes I – Request for Final Plat approval for Seven Lakes I abutting subject property to the south – Approved by PC 10/16/2006 and by City Council 10/23/2006.

RELEVANT AREA CASE HISTORY:

ANALYSIS:

General. The developer of the Seven Lakes I subdivision plans to construct a Use Unit 5 neighborhood pool and pool house facility. The community swimming pool and pool house have been planned to be a part of this subdivision from the beginning of the development review process. On the face of the plat of Seven Lakes I, the words “Pool Site” are indicated on Reserve E, and the Deed of Dedication and Restrictive Covenants clearly state that a swimming pool and recreational uses were intended. The Preliminary and Final Plats of Seven Lakes I were both approved by the Planning Commission and City Council. This establishes legislative intent to allow for these Use Unit 5 facilities.

Zoning Code Section 11-7B-2 Table 1 allows for a Use Unit 5 neighborhood pool and pool house facility to be approved by Special Exception, which is requested by this application.

Similar Cases. The Board of Adjustment approved a Special Exception for a Use Unit 5 community pool and playground in the Reserve at Harvard Ponds in 2005 (BBOA-438), and approved a Use Unit 5 Splash Park serving the Southbridge subdivision in 2007 (BBOA-454).

More recently, the Board of Adjustment approved a swimming pool and pool house facility in The Ridge at South County on May 02, 2008 (BBOA-477).

Surrounding Zoning and Land Use Compatibility. The surrounding zoning is primarily RS-4, and surrounding uses consist of newly-constructed single family homes and vacant residential lots in Seven Lakes I. The proposed community swimming pool and pool house would be consistent with the surrounding planned residential in the surrounding Seven Lakes I subdivision.

Community swimming pools and pool houses have historically and today are often found in large residential subdivisions.

Staff Recommendation. Recognizing that the Zoning Code contemplates the Use Unit 5 community pool and pool house facility and provides for its approval, and recognizing that the City Council established its intent to allow such a facility by its approval of the Preliminary and Final Plats, and for all the other reasons outlined above, Staff believes that the proposed facilities would be in harmony with the spirit and intent of the Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff recommends Approval.

Chair Jeff Wilson called on the applicant to present the case.

Craig Thurmond described the proposed clubhouse.

Two anonymous guys showed up and were not against the case.

Chair Jeff Wilson asked if there were any further questions or comments. There being none, Mr. Wilson asked to entertain a Motion. Dave Hill made a MOTION to APPROVE BBOA-482. Lonnie Jeffries SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, Murray, King, & Wilson
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

7. **BBOA-483 – Thomas & Shelley Adams.** Applicant seeks a Variance from Zoning Code Sections 11-7B-3.B.1.b and 11-8-8.B.5 to permit an accessory storage building in the side yard in the RS-1 Residential Single Family District on property with legal description as follows, to-wit:

Property located: Lot 8, Block 1, *Poe Acreage*; 12902 S. 77th E. Ave.

Chair Jeff Wilson introduced the item and called on Donna Crawford for the staff report and recommendation. Mrs. Crawford summarized the staff report as follows:

LOCATION: – 12902 S. 77th E. Ave.
– Lot 8, Block 1, *Poe Acreage*
LOT SIZE: ½ acre, more or less
ZONING: RS-1 Residential Single Family District
REQUEST: Variance from Zoning Code Sections 11-7B-3.B.1.b and 11-8-8.B.5 to permit an accessory storage building in the side yard in the RS-1 Residential Single Family District.

SURROUNDING ZONING AND LAND USE: RS-1 & RS-2; Single-family residential in *Poe Acreage* and adjoining unplatted residential tracts to the north, and RS-2 in *Village Ten Addition* to the northeast.

COMPREHENSIVE PLAN: Low Intensity + Corridor + [Existing] Residential Area.

PREVIOUS/RELATED CASES: Upon a cursory search of City Zoning applications, Staff did not find when or under what circumstances the *Poe Acreage* subdivision and the adjoining residential areas were initially zoned or rezoned to RS-1. No other cases were found.

RELEVANT AREA CASE HISTORY: Upon a cursory search of Board of Adjustment cases in *Poe Acreage*, Staff found no local precedent for a side-yard accessory building Variance.

ANALYSIS:

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 applied for a building permit for an accessory building. Staff observed that the accessory building would be located in the side yard (all that part of the lot between the front and rear yards), rather than the rear yard (all that part of the lot behind the rear line of the dwelling). Zoning Code Section 11-7B-3.B.1.b provides:

“A detached accessory building shall not be located in the front or side yard, or encroach upon a minimum building setback line, but this limitation shall not apply to carports, provided the minimum required front yard or side yard or setback line is observed.” (emphasis added).

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

“In the RE and RS districts, detached accessory buildings may be located in a rear yard, provided the accessory building in the aggregate do not cover more than twenty percent (20%) of the area of the rear yard or exceed seven hundred fifty (750) square feet of floor area, whichever is less.” (emphasis added).

Therefore, a Variance from these two (2) code provisions would be required to allow an accessory building in the side yard as proposed.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The subject property may be determined to have Peculiar, Extraordinary, or Exceptional Conditions or Circumstances by virtue of the combination of the following facts:

- The subject property appears to be the only corner lot in Poe Acreage, and the surrounding residential areas for that matter, which has the dwelling facing the longer street frontage. In addition, the dwelling is located toward the north end of the lot. These conditions create a peculiar, extraordinary, and exceptional situation, as it renders the large and wide area to the south of the dwelling, which is a rear yard for all similarly situated lots, a side yard.; they set the subject property apart from all other observed lots within this RS-1 district. This technicality, which causes the southern approximately half of the lot to be considered a side yard, gives rise to the hardship and cause for Variance to be granted to alleviate the unnecessary hardship.
- According to an inspection of the plat, the Poe Acreage subdivision was platted on May 02, 1957, presumably in unincorporated Tulsa County and subsequently annexed by Bixby.
- Per County Assessor's records, the house on the subject property was constructed in 1959.
- The City of Bixby did not adopt a Zoning ordinance until circa the original 1974 Zoning Ordinance # 272.
- Had the accessory building been constructed at the time of the construction of the principal dwelling, it presumably would not have conflicted with the Zoning Code placement restrictions and so today would be legally nonconforming ('grandfathered').

Unnecessary Hardship. The RS-1 district requires a rear-yard setback of 25 feet. The house is set back from the rear (west) property line by approximately 35 feet. This only leaves about 10 feet in which to construct the storage building, and less than that when set back from the house a reasonable distance to allow maneuverability around the building. The proposed storage building would be 24' X 30', which is less than the 750 square foot maximum permitted in the RS-1 district, and is also a reasonably adequate and necessary size for general domestic storage purposes.

Therefore, the strict application of the Zoning Code to the subject property would prohibit the property owner from having an accessory building, as is afforded all other lots in the RS-1 district. This should be considered an unnecessary hardship.

Finding of No Substantial Detriment or Impairment. Of the several fundamental purposes for imposing restrictions on the placement of primary and accessory buildings, the primary reason is for the sake of consistency of design, mode of placement, and orientation of structures (aesthetics).

Per the Applicant, as confirmed by a site inspection and aerial and satellite data, there is already an existing smaller accessory building in the location the new accessory building would be located. Replacement of an existing structure in the same place, albeit with a larger frame, would serve to maintain the continuity of the visual character of the neighborhood.

Also per the Applicant, the accessory building will be painted to match the color of the primary dwelling. These conditions should help remove any potential for detriment due to aesthetic considerations contemplated by the rear-yard-only restriction of the Zoning Code.

For these reasons, Staff believes that the approval of the requested Variance would not cause substantial detriment to the public good or impair the purposes, spirit and intent of the Zoning Code or the Comprehensive Plan.

Staff Recommendation. If the Board agrees with Staff that the arguments presented above, or others as presented in the application or those that the Applicant may provide during public hearing and consideration of this case at the meeting, substantially meet the Variance tests and standards provided in State Statutes and the Bixby Zoning Code for this Variance, Staff would recommend Approval.

Staff would note that the "minimum necessary to alleviate any hardship" standard should be considered not applicable, or otherwise inherently satisfied, as this Variance seeks a qualitative and not quantitative form of relief.

Chair Jeff Wilson called on the applicant to present the case.

Tom Adams introduced himself as the property owner and described the 24' X 30' pole barn that he was requesting.

Jeff Wilson questioned which address would be used for this property. Donna Crawford answered that the placement of the driveway was where the address name would be based on.

Chair Jeff Wilson asked if there were any further questions or comments. There being none, Mr. Wilson asked to entertain a Motion. Murray King made a MOTION to APPROVE BBOA-483. Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, Murray, King, & Wilson
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

ADJOURNMENT

There being no further business to discuss, Jeff Wilson made a MOTION to ADJOURN. Dave Hill SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Hill, Jefferies, Murray, King, & Wilson
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

Meeting adjourned at 8:35 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary