

## MINUTES

### RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, October 13, 2014  
7:30 pm

Courthouse Plaza East  
Commission Meeting Room  
115 North 4<sup>th</sup> Street

Members Present: Lorn Clement, Chairman  
Dr. Tom Taul, Vice-Chair  
Diane Hoobler  
John Wienck

Members Absent: Julie Henton

Staff Present: Monty Wedel – Director, Bob Isaac – Planner, Lisa Daily –  
Administrative Assistant

Others Present: Lorene Kendall, Wayne Kendall, Kevin McKeeman, Charles J. Lake, Ron  
Wilson, Jeanette Campbell, Phyllis Walters and Trevor McKeeman

---

#### **OPEN PUBLIC COMMENTS**

None.

#### **CONSENT AGENDA**

Bob Isaac advised the Board that he hadn't received the mylar for the Tegtmeier Winery Final Development Plan. John Wienck made a motion to remove Tegtmeier Winery Final Development Plan (LAWE, LLC) from the consent agenda. Diane Hoobler seconded. Carried 4-0.

The minutes of the September 8, 2014 meeting were presented and approved. The Report of Fees for the month of September (\$3,887.00) were presented and approved.

Diane Hoobler moved to adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and convene as the Board of Zoning Appeals. John Wienck seconded. Carried 4-0.

#### **BOARD OF ZONING APPEALS**

##### **Kendall – Variance**

Lorn Clement opened the public hearing at the request of Wayne Kendall, petitioner and L M Kendall Trust, owner, for a variance authorization to reduce the front yard requirement of the north property line from 25 feet to two (2) feet.

Bob Isaac presented the request. Mr. Isaac described the history, location and physical characteristics of the subject property. Mr. Isaac explained that the applicant wishes to enclose the existing covered carport to protect stored items from theft and the elements. He said through this application process, it was discovered that the existing garage is already located within the rear setback and the Applicant has applied for a variance which will be presented at the November 10, 2014 meeting.

Tom Taul asked for clarification on the 10-foot rear setback and the other variance will be next month. He asked how the Board could consider the variance request presented tonight as the property would still be in non-compliance.

Bob Isaac said the variance for the rear setback should have been included with this application. He explained that the structure still would require two separate variances; however, since it was not discovered at the time of application, it will be presented at next month's meeting.

Chairman Clement asked if the Applicant would like to make a statement.

Wayne Kendall stated that the proposed wall on the north side will not be any wider than what is necessary to install a garage door. Mr. Kendall said he assumed the east lot line was located in the middle of the alley, however, such is not the case and will be addressed at next month's meeting.

Bob Isaac explained that the carport didn't require a building permit, therefore the building setbacks didn't apply. He said in order to enclose the carport, the applicant will need a building permit. Mr. Isaac said due to the carport being located in the north and east building setbacks, the two variances will need to be approved before a permit to build can be issued.

Chairman Clement asked if there were any proponents or opponents within 1000 feet.

Janette Campbell stated she and her husband own property a couple blocks south and west of the subject property. She said she is not completely against enclosing the carport and it is her hope that in doing so it will help clean up the clutter and improve the appearance of the subject property.

Mrs. Campbell said if approved, it seems to be inconsistency with decisions made in the past for people to add onto their properties who were not allowed to. She said a property owner wanted to enlarge his house and was told he could build up but not increase the footprint. Mrs. Campbell said in the process of removing part of the structure, apparently the owner removed too much and was not allowed to do anything. She said she couldn't understand why he couldn't build a new house on the existing slab in the middle of the property but yet this applicant is allowed to expand clear to the borders of his property. Mrs. Campbell said another property owner had to purchase the lot next door in order to expand his building because it was too close to the edge.

Monty Wedel said that Keats is a very complicated area with very small lots with no central sewer or water. He stated floodplain and sanitary code are issues and a review of the individual properties would need to be done in order to answer her questions.

Phyllis Walters stated she lives a block and a half from the subject site. She said her concerns are the building being that close to the road and will the stuff be contained inside or is it going to be stacked around the side and out into the road. She said this is a problem in Keats.

John Wienck moved to close the public hearing. Diane Hoobler seconded. Carried 4-0.

Tom Taul asked Bob Isaac how far the existing carport is from the property line.

Bob Isaac replied approximately 22 feet.

Tom Taul asked if expanding the existing garage, does the applicant have to go that far.

Bob Isaac said the applicant is enclosing the existing carport.

Lorn Clement reopened the public hearing.

Wayne Kendall stated he is just putting up a wall at the end of the existing carport with a garage door that goes vertically up into the building.

Diane Hoobler verified with applicant that he is not building a new structure but just closing in the existing carport.

Mr. Kendall replied correct.

John Wienck moved to close the public hearing. Diane Hoobler seconded. Carried 4-0.

Tom Taul stated he has a concern with the height difference between the carport and the house and feels that both variances should be heard at the same time.

Chairman Clement said it would make more sense to hear both variances at the same time.

John Wienck asked Mr. Isaac if the applicant wasn't in compliance after the carport was built.

Bob Isaac explained the applicant is in compliance because the carport is not considered a building. He said in order to enclose the carport to make it a building the Applicant will have to get a building permit. Mr. Isaac stated in order to get the building permit, the Applicant will need a variance for both the north and east property lines.

Bob Isaac stated if the Board is more comfortable hearing both variances together he would recommend tabling this item. He said he wanted to point out for clarity that the subject property is not zoned residential but agricultural and accessory structures don't have height limitations.

Diane Hoobler moved to table the request for a variance authorization to reduce the front yard requirement of the north property line from 25 feet to two (2) feet to the November 10, 2014 meeting. John Wienck seconded. Carried 4-0.

### **Carson – Variance**

Lorn Clement opened the public hearing at the request of Bill Carson, petitioner and Russell Briggs Trust, owner, for a variance authorization to permit construction of a detached accessory structure (garage) 2.8 feet below the required elevation of one (1) foot above base flood elevation.

Bob Isaac presented the request. Mr. Isaac explained the property owner is Russell Briggs and Bill Carson is requesting the variance for his structure. Mr. Isaac described the history, location and physical characteristics of the subject property. Staff recommended approval of the request.

The Board and Mr. Isaac discussed the similarities of this request with previous petitions for Manhattan Township, Deam and Cook. John Wienck pointed out that this petition request is for an existing structure.

Bob Isaac stated the applicant started building the structure and then found out it is in a floodplain. Mr. Isaac said he wasn't for sure if a building permit has been issued.

Chairman Clement asked why the applicant didn't have a building permit.

Bob Isaac said the applicant started without the permit and currently is in violation.

Chairman Clement said this falls in the category of "just fix it" and has bothered him ever since he started on this Board. Mr. Clement stated he has been on this Board since 1991 and has seen this before. He stated that he is kind of tired of it.

Diane Hoobler said the structure is basically built and it doesn't have the flood proofing vents installed.

Chairman Clement said the building is a pole structure and it can be picked up. He stated he is not here to just “fix it” for people.

Diane Hoobler said it has always bothered her about the violation of regulations; there are no teeth in them.

Chairman Clement said this is a very good case to say it’s not that difficult to saw off those posts, pick up the structure and build it to compliance. He said it is a simple structure and can be elevated.

Monty Wedel stated he is not defending the applicant but when a violation occurs, staff seeks a remedy, such as a variance. He said if the Board doesn’t want to grant the variance, which is perfectly understandable, staff will go to the next remedy.

Chairman Clement asked if the Applicant was present.

Monty Wedel replied he didn’t believe anyone was present for the petition.

Diane Hoobler asked if the Applicant wants to enclose the structure.

Bob Isaac replied yes, the Applicant wants to finish constructing the building to meet the wet-flood proofing techniques, such as installing vents.

Monty Wedel said staff told the Applicant to stop building, but he continued to build.

Diane Hoobler stated it appears to be finished.

Chairman Clement said this should be tabled and Mr. Carson should be required to appear at that meeting if he wants to pursue the variance.

Tom Taul moved to table the request for a variance authorization to permit construction of a detached accessory structure (garage) 2.8 feet below the required elevation of one (1) foot above base flood elevation to the November 10, 2014 meeting.

John Wienck seconded. Carried 4-0.

Diane Hoobler moved to adjourn the Board of Zoning Appeals meeting and convene as the Riley County Planning Board. Tom Taul seconded. Carried 4-0.

## **RILEY COUNTY PLANNING BOARD**

### **Lake – Plat & Rezone**

Lorn Clement opened the public hearing at the request of Charles J. Lake, petitioner and owner, to **rezone** a tract of land from "AG" (Agricultural District) to “SF-5” (Single Family Residential) and **plat** the aforementioned tract of land into one (1) lot, all in Manhattan Township, Section 34, Township 10 South, Range 8 East, in Riley County, Kansas.

Bob Isaac presented the request. Mr. Isaac described the background, location and physical characteristics. He stated the Applicant expressed there would be a financial hardship if the request would be denied as he would not be able to refinance the home and due to high mortgage payments, he would be forced to sell.

Staff recommended that the Planning Board forward a recommendation to the Board of County Commissioners to approve the request to rezone a tract of land from “AG” (Agricultural District) to “SF-5” (Single Family Residential) for reasons listed in the staff memo. Staff also recommended that the Board approve the of the concurrent plat of Lake Subdivision, as it has

been determined to meet the minimum requirements of the Riley County Subdivision Regulations, Zoning Regulations and the Sanitary Code.

Tom Taul asked about the parent tract.

Mr. Isaac explained the remainder of the tract will be less than 20 acres and is currently leased as pasture and grassland for grazing cattle. He said the Applicant plans to sell this tract of land to the property owners to the north, the McKeeman's, to allow access to their property. Mr. Isaac said the new property owners have applied for an agricultural exemption for the remainder for continued agricultural use.

Diane Hoobler questioned the travel easement on Dawn Avenue.

Bob Isaac explained that Dawn Avenue comes terminates at Sedam Avenue and there is a travel easement that runs along the east property line of the subject property.

Tom Taul asked if the property owners to the north have access to the travel easement.

Bob Isaac replied yes. Mr. Isaac explained when the property to the north was subdivided the Riley County Subdivision Regulations has a clause that no two houses shall be served by a single driveway. He said the McKeeman's wanted to find another access to their property.

Chairman Clement asked if the Applicant would like to make a statement.

Charles Lake said he wants to downsize to a five acre tract and continue to live there.

Chairman Clement asked if there were any proponents or opponents within 1000 feet.

Kevin McKeeman explained that he has land to the north and which is basically land-locked. He said in order to get to their land, they have to go through two easements and there isn't direct access. He said he farms about 1,800 acres and will continue to hay his property and the remainder of the parent tract.

John Wienck moved to close the public hearing. Diane Hoobler seconded. Carried 4-0.

Tom Taul moved to approve Petitions #14-27 and #14-28 for reasons listed in the staff report. John Wienck seconded. Motion carried 4-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on November 3, 2014, at 10:15 am, in the Commission Chambers.

### **Proposed Sign Regulations**

Monty Wedel explained this started as a moratorium for on premise digital signage. Mr. Wedel said while working on the digital signage, staff decided to review the entire sign regulations to be in compliance with constitutional issues. He said consultant, Elizabeth Garvin, was hired for the project.

Mr. Wedel said purpose statements, new digital sign and other types of sign definitions were added and an Ag directional sign category for agriculturally related advertisement with the limitation of one (1) off-site sign. Mr. Wedel said due to distractions and aesthetics, digital billboards will still be prohibited. He said digital signage will be prohibited in residential districts.

Chairman Clement suggested adding in the purpose section about protecting the night sky.

Monty Wedel said staff received a concern from a local business owner that the current sign regulations limit commercial districts to two signs. Mr. Wedel reviewed this with the consultant

and it was decided to change the requirement to one (1) square foot of signage per lineal foot of lot frontage.

The Board, by consensus, agreed for staff to move forward with the proposed sign regulation changes.

#### **Manhattan Urban Area Comprehensive Plan update**

Monty Wedel said there will be meetings in November. He said staff is concentrating on staying with commercial/industrial around the shop area and residential to the north, which was the area in Vision 2025 projected for future long term growth. Mr. Wedel said the consultant for the MUACP will come up with criteria for judging the appropriateness for sewer, water and a road network.

#### **Big Blue Floodplain Management Plan Update**

Monty Wedel said there will be public meetings to review the goals and objectives, but the dates have not been determined yet.

John Wienck moved to adjourned. Diane Hoobler seconded. Carried 4-0.

The meeting was adjourned at 9:11 P.M.