

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, July 10, 2017
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

Members Present: Diane Hoobler
John Wienck
John Osarczuk

Members Absent: Lorn Clement, Jr., Chair
Dr. Tom Taul, Vice-Chair

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

Others Present: Jeremy Sutton, Steve Glanzer, Tony Siebold, Trevor Smail, Lindsey Westberg, Karen Armbrust, John Armbrust, Sue Knight, Mitch Knight, Eldo Heller, Elaine Heller, Russ & Karen Grater, Jeri Hynek, Sandy Hynek, Paul E. Klover, Korrina Kientz, Tom Wirtz, Dennis Doak, Jon & Jan Dreith, Katherine & David Poole, Todd Lowe, Darrell & Amanda Gocken, Dennis R. Egan and David Ogden.

OPEN PUBLIC COMMENTS

None

CONSENT AGENDA

The minutes of the June 12, 2017 meeting were presented and approved. The Report of Fees for the month of June (\$2,850.00) were presented and approved.

John Osarczuk moved to adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and reconvene as the Board of Zoning Appeals. John Wienck seconded. Carried 3-0.

BOARD OF ZONING APPEALS

Smail-Westberg – Variance

Diane Hoobler opened the public hearing at the request Trevor Smail & Lindsey Westberg, petitioners and owners, for a variance authorization to reduce the front yard (building setback) requirement from 25 feet to 0 feet.

Bob Isaac presented the request stating the applicant wishes to construct an attached wrap-around deck. He explained that the subject property was platted as Lot 19 of Lake Land Addition in January 1963 and said the original plat did not include building lines or setbacks. He said that the existing home was constructed in 1965, prior to county zoning and thus, was not subject to yard (setback) requirements. Mr. Isaac stated the home is currently considered a “legal” non-conformity and, if approved, the variance would bring the entire home into compliance and allow the applicant to construct the aforementioned addition to the home.

Staff recommended approval of the request based on reasons listed in the staff report.

Diane Hoobler asked members of the Board to declare any ex parte contact they may have had regarding this item and to declare any conflict of interest or communications they may have had that could influence their ability to be impartial.

All Board members confirmed no ex parte contact.

Hoobler asked if the Applicant wanted to speak.

Trevor Smail stated the existing deck is 12 feet in width and they don't want to make it any wider. Mr. Smail explained they would like to square off the deck and put on a covered porch, which would bring the deck closer to the street by about 7 to 8 feet.

Diane Hoobler asked if there were any proponents within 1,000' of the request. There were none.

Diane Hoobler asked if there were any opponents within 1,000' of the request.

Tom Wirtz stated he owns properties to the south and wanted to know if the request will impact the cul-de-sac. He wanted to know if he would still have public access to his property.

Bob Isaac stated that the variance will not impact on the existing cul-de-sac as the deck will not extend out into the right-of-way.

Mr. Wirtz said at this time he is unable to access his property from the cul-de-sac.

Mr. Smail explained they are re-roofing the house; there is a 30-yard dumpster on site along with framing material. He said he will make sure the road right-of way is clear.

John Wienck moved to close the public hearing. John Osarczuk seconded. Carried 3-0.

John Osarczuk moved to approve the request for a variance authorization to reduce the front yard (south property line) requirement from 25 feet to 0 feet.

John Wienck seconded. Carried 3-0.

Diane Hoobler stated that if anyone is dissatisfied with the decision of the Board, they have 30 days in which to file an appeal in District Court.

Mr. Smail asked if that meant he had to wait 30 days to apply for a permit to build.

Mr. Isaac explained that he may apply for the permit to build but it is recommended to wait the 30 days.

Sutton – Variances

Diane Hoobler opened the public hearing to consider the request of Jeremy Sutton, petitioner and owner, for a variance authorization to reduce the front yard (setback) requirement from 25 feet to 0 feet; a variance authorization to reduce the side yard (setback) requirement along the west property line from 10 feet to 3 feet; and for a variance authorization to reduce the side yard (setback) requirement along the east property line from 10 feet to 2 feet; all in Section 36, Township 9 South, Range 9 East; Wildcat Township.

Bob Isaac presented the request stating that although the applicant is seeking variances to allow him to add onto the west side of the home by replacing an existing attached, one-car garage with a standard sized attached, one-car garage, Mr. Isaac noted that the home is already within the front yard and west and east side yards. He explained that the home is currently considered a “legal” non-conformity and if all are approved, the requested variances will bring the home into compliance and allow the applicant to add the addition to the home.

Mr. Isaac stated after reviewing the Certificate of Survey and the yard requirements for the “AG” (Agricultural District) zoning district, it was discovered that the home was already out of compliance with both the east and west side yard (setback) requirements, as well as the front yard (setback) requirement, notwithstanding the proposed improvements to the home. He said to bring the home into compliance with the regulations and to allow the proposed improvements to occur, three separate variances would be needed.

Staff recommended approval of the request for a variance to reduce the front yard (setback) requirement from 25 feet to 0 feet; and approval for a variance to reduce the side yard (setback) requirement along the west property line from 10 feet to 3 feet; and approval for a variance to reduce the side yard (setback) requirement along the east property line from 10 feet to 2 feet.

Diane Hoobler asked if the Applicant wanted to speak.

Jeremy Sutton stated Mr. Isaac did a good job explaining the request. He said the existing lean-to style roof on the garage is starting to deteriorate and does not have enough pitch on the roof.

Diane Hoobler asked if there were any proponents or opponents. There were none.

John Osarczuk moved to close the public hearing. John Wienck seconded. Carried 3-0.

John Wienck moved to approve the request for a variance authorization to reduce the front yard (setback) requirement from 25 feet to 0 feet.

John Osarczuk seconded. Carried 3-0.

John Osarczuk moved to approve the request for a variance authorization to reduce the side yard (setback) requirement along the west property line from 10 feet to 3 feet.

John Wienck seconded. Carried 3-0.

John Wienck moved to approve the request for a variance authorization to reduce the side yard (setback) requirement along the east property line from 10 feet to 2 feet.

John Osarczuk seconded. Carried 3-0.

John Wienck moved to adjourn the Board of Zoning Appeals meeting and reconvene as the Riley County Planning Board. John Osarczuk seconded. Carried 3-0.

RILEY COUNTY PLANNING BOARD

Board of County Commissioners of Riley County, Kansas – Special Use Authorization

Diane Hoobler opened the public hearing to consider the request of the Board of County Commissioners of Riley County, Kansas, petitioner and owner, for a Special Use Authorization to permit a 40' x 60' metal storage building in Center Township, Section 2, Township 7 South, Range 5 East, in Riley County, Kansas.

Bob Isaac presented the request stating the subject site is a satellite equipment storage yard for Riley County Public Works. He said it has been determined that a storage structure is needed at that location to store trucks, road graders, and other road maintenance equipment for Riley County Public Works. The purpose of the structure is to keep the vehicles out of the elements as much as possible.

Staff recommended approval of the request, as it had been determined to meet the requirements of the Riley County Zoning Regulations and the Riley County Sanitary Code. Staff further recommended that the request be approved with the understanding that the following conditions be included in the Special Use Authorization:

1. All drives and parking areas shall consist of all-weather surfacing including crushed stone or gravel as a minimum.
2. All proposed lighting shall have directional control or appropriate cut-offs to minimize spillage/glare onto Fancy Creek Road.
3. Existing areas with native tree stands, as shown on the site plan, shall remain intact as much as possible to retain the existing beauty and character of the property and to serve as screening.
4. The site shall be in compliance with the Riley County Sanitary Code.

Diane Hoobler asked if a representative was present. There was not.

Diane Hoobler asked if there were any proponents within 1,000' of the request. There were none.

Diane Hoobler asked if there were any opponents within 1,000' of the request.

Jon Dreith stated he owns property next to the subject site and understands retaining beautiful trees for screening. He said he wasn't sure how far back in history to go but the Township originally had the site before the County took it over. Mr. Dreith explained that culverts used to be stored there and the tree line eventually moved over onto his property. He said he would like to see them cleared out.

Mr. Dreith said he has no issues with the construction of the proposed building. He said when the County acquired the property from the U.S. Corp of Engineers, there were several yellow stakes that clearly marked out where the property line were. Mr. Dreith said stakes have been removed but would assume the monuments are still there. He said he would like to clearly know where the property lines are located so he can clear out the trees on his property.

Bob Isaac suggested that Mr. Dreith contact a surveyor to determine the property line and to also contact the Director of Public Works, Leon Hobson.

John Wienck moved to close the public hearing. John Osarczuk seconded. Carried 3-0.

John Wienck moved forward a recommendation of approval to the Board of Commissioners of Riley County for a Special Use Authorization to permit a 40' x 60' metal storage building.

John Osarczuk seconded. Carried 3-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request on July 27, 2017, at 9:50 am, in the County Commission Chambers.

Knight – Residential Use Designator – Extraneous Farmstead

Diane Hoobler opened the public hearing to consider the request of Mitch & Sue Knight, petitioners and owners, to receive a Residential Use Designator - Extraneous Farmstead in Center Township, Sections 27 & 28, Township 6 South, Range 5 East, in Riley County, Kansas.

Bob Isaac presented the request stating the subject site is a 20-acre tract, split from two (2) contiguous 80-acre tracts, located in two different sections. He explained the applicant wished to downsize the living arrangements and farming operation by selling the 140 acres surrounding the 20-acre farmstead in May. He said that although the 20-acre farmstead is large enough to be exempt from platting, it was determined that the proposed agricultural use of said tract was not substantial enough to constitute a bona fide agricultural operation and was therefore denied an Agricultural Exemption from the Riley County Zoning Regulations. Mr. Isaac said the applicant is seeking a residential use designator for an extraneous farmstead for the 20-acre site.

Staff recommended approval of the request to receive a Residential Use Designator–Extraneous Farmstead, waiving the requirement to plat the subject property, as it had been determined that it met the minimum requirements of the Riley County Zoning Regulations.

Monty Wedel asked if there will be a travel easement for the driveway.

Mr. Isaac said the tract of land had already been sold and the travel easements have been filed with the Register of Deeds office.

Diane Hoobler asked if the Applicant wished to speak. The Applicant had no comment.

Diane Hoobler asked if there were any proponents or opponents. There were none.

John Osarczuk moved to close the public hearing. John Wienck seconded. Carried 3-0.

John Osarczuk moved to approve the Residential Use Designator – Extraneous Farmstead and waive the requirement to plat the subject property for reasons listed in the staff report.

John Wienck seconded. Carried 3-0.

Poole – Rezoning

Diane Hoobler opened the public hearing at the request of David C. and Katherine M. Poole, petitioners and owners, to rezone Lot 3, Moyer Subdivision No. 2, from “AG” (Agricultural

District) to "SF-5" (Single Family Residential) Grant Township, Section 15, Township 9 South, Range 7 East, in Riley County, Kansas.

Bob Isaac presented the request stating that the subject property was platted as Lot 3 Moyer Subdivision No. 2 in August 1980. Mr. Isaac explained that the August 25, 1980 Riley County Planning Board minutes revealed that due to the Applicant wishing to not rezone the property to residential at that time because he didn't want to develop right away and wanted to have horses, the lot remained zoned agricultural. Mr. Isaac explained the current owners of the property are desiring to prepare the property for residential development for a single family home. He explained that since non-agricultural homes are no longer a permitted use in the current zoning district, the applicant's wish to build a home will require the property be rezoned to an appropriate residential zoning designation.

Mr. Isaac stated presently horses are not regarded as an agricultural use. He said the tract is located within a designated growth area and is not being used for an agricultural purposes. He explained that it would be difficult justifying not requiring the property to be rezoned to residential.

Staff recommended that the Planning Board forward a recommendation of approval of the request to rezone the subject property to the Board of Commissioners of Riley County, as it has been determined that it meets the requirements of the Riley County Zoning Regulations, Riley County Subdivision Regulations and the Riley County Sanitary Code.

Diane Hoobler asked if the Applicant wanted to speak.

David Poole stated he and his wife, Katherine, purchased the property two to three years ago with the intentions of building a house. He said he thought the property was zoned residential when they purchased it.

Diane Hoobler asked if there were any proponents within 1,000 feet of the request. There were none.

Diane Hoobler asked if there were any opponents within 1,000 feet of the request.

Jerry Hynek stated he lives at 6001 Stony Brook Drive and that he is not in favor of the request because it will look down into his backyard. Mr. Hynek asked if the property has been percolation tested for wastewater system.

Bob Isaac stated a lagoon will serve the site.

Katherine Poole said a spot was found on the property that passed the percolation test. She stated the dilemma was trying to decide between a lagoon and an underground septic system. Mrs. Poole said the recommended from the County was a lagoon.

Dennis Doak stated he and wife own a lot of property west of the subject property. He said someday they would like to develop their land for several home sites and have been seeking a public road access through the subject property.

Paul Clover stated he lives at 3700 Cottonwood Circle and is not an opponent. He said during the 1993 flood, they had to go through the property across the road. Mr. Clover asked if the plat adjoined Corp of Engineers property.

Bob Isaac replied to the north.

Paul Clover asked if an access road could be installed between the subject project and the Corp of Engineers property.

Katherine Poole replied yes there could be an access road, if all parties agreed.

Diane Hoobler asked for access in case of a flood again.

Paul Clover replied no. Mr. Clover asked if the property behind the subject property is developed, will there be a road that they can get to their housing addition.

Katherine Poole replied yes there could be, if the owners agree.

Jerry Hynek said he realized it was a moot point but wanted to verify there still could be a lagoon.

Diane Hoobler said a lagoon was approved but a location was found for an underground system.

Jerry Hynek stated he was scared where the location of a lagoon might be placed.

David Poole went to the display of the aerial photo of the subject site and pointed out the potential location for the lagoon.

Jerry Hynek stated he would not speak for the property owners to the south but it appears the lagoon would encroach on their property.

John Wienck moved to close the public hearing. John Osarzcuk seconded. Carried 3-0.

John Wienck moved to forward a recommendation of approval of the request to rezone the subject property "AG" (Agricultural District) to "SF-5" (Single Family Residential) for reasons listed in the staff report.

John Osarzcuk seconded. Carried 3-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request on July 27, 2017, at 10:00 am, in the County Commission Chambers.

Grater – Residential Use Designator – Extraneous Farmstead

Diane Hoobler opened the public hearing at the of Karen Grater, petitioner and Russell E. and Karen L. Grater Trust, owners, to receive a Residential Use Designator – Extraneous Farmstead and plat a 4.7-acre tract of land in Grant Township, Section 28, Township 8 South, Range 6 East, in Riley County, Kansas.

Bob Isaac presented the request stating the subject site is an approximately 4 ½ acre portion of an larger 78-acre parent tract. He said the site has been developed for several years as a farmstead with a home, which was constructed around 1983. The applicants wish to retain the existing farmstead and sell off the surrounding cropland.

Mr. Isaac stated that a portion of the subject site lies within an unnumbered 1% annual chance floodplain. He said none of the developed portion of the property, including the driveway actually lie within the flood hazard area; however, the lagoon does.

Mr. Isaac said due to the third order stream that runs through the property, a 50-foot Zone 1 and 50-foot Zone II riparian buffer is required for a distance total of 100 feet measured horizontally and perpendicularly from the north bank of the stream. He said the buffer area will be subject to the standards set forth in Section 21C – Development Standards of the Riley County Zoning Regulations.

Staff recommended approval of the request to receive a Residential Use Designator – Extraneous Farmstead, as it was determined the request met the minimum requirements of the Riley County Zoning Regulations. Staff also recommended that the Board approve the concurrent plat of Parker Family Estate, as it was determined it met all requirements of the Riley County Subdivision Regulations, Zoning Regulations and the Sanitary Code.

Monty Wedel asked Mr. Isaac to explain how the lagoon is protected in the flood hazard area.

Mr. Isaac stated the berm is above the base flood elevation.

Diane Hoobler asked if the Applicant wanted to speak. The Applicant had no comment.

Diane Hoobler asked if there were any proponents or opponents. There were none.

John Wienck moved to close the public hearing. John Osarzduk seconded. Carried 3-0.

John Osarzduk moved to approve the Residential Use Designator – Extraneous Farmstead and the concurrent plat of CAG Addition for reasons listed in the staff report. John Wienck seconded. Carried 3-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request on July 20, 2017, at 9:50 am, in the County Commission Chambers.

Sandmann – Replat

Diane Hoobler opened the public hearing at the request of Clint & Stacy Sandmann, petitioners and owners, to replat Lots 50-53, Blue River Hills Third Addition into a single lot in Sherman Township, Section 19, Township 8 South, Range 7 East, in Riley County, Kansas.

Mr. Isaac presented the request stating the applicant is requesting to replat Lots 50, 51, 52 & 53 of Blue River Hills Third Addition into a single lot. He said the applicant wished to construct an accessory structure/shop building but discovered that such structure is required to be located on the same lot as the principal building, the house. Thus, in order to allow the structure to be built at the location preferred by the Applicant, the lots must be combined into one lot via a replat.

Staff recommended approval of the Final Plat of Blue River Hills Unit Four, as it has been determined to meet the minimum requirements of the Riley County Zoning Regulations, Subdivision Regulations and Sanitary Code.

John Osarzduk asked if the turn-around area is part of the road right-of-way.

Bob Isaac stated it is public road, which is a tear-drop version cul-de-sac.

Diane Hoobler asked if the Applicant wanted to speak. The Applicant had no comment.

Diane Hoobler asked if there were any proponents within 1,000' of the request.

Todd Lowe stated he used to own the subject property and his parents own the land on the other side of Elk Court. He said that neither have any issues with the building being built and mentioned there are at least two other properties that built similar structures in Blue River Hills.

Bob Isaac explained that the primary reason to combine the lots is to build an accessory structure. He explained that accessory structures must be built on the same lot as the principal building (house). He said the chosen location of the accessory structure is not currently located on the same lot as the home. He also mentioned that even if the replat were to be approved, the accessory structure will require a variance for setback possibly the overall size of the building. Mr. Isaac stated the replatting request by itself will not allow the applicant to build the building in the location he is proposing. Mr. Isaac said this evening the Board is reviewing the replat and making a finding as to whether or not it meets the minimum requirements of the subdivision regulations, regardless of the reason for the request.

Diane Hoobler asked if there were any other proponents or opponents within 1,000 feet of the request.

Tony Siebold stated he is the President of the Blue River Hills Improvement District Board. He said his Board has questions about the subject lots being in Unit Three but now are showing in Unit Four.

Mr. Isaac explained currently the lots are in Unit three, however, if the request to replat is approved, the lots will be in Unit Four.

Mr. Siebold wanted to know why the lots couldn't stay in Unit Three. He explained in 1984, the bylaws were established that each lot would be assessed a certain amount of dollars once a year for maintenance. Mr. Siebold said replatting four lots into one lot is taking money away from the improvement district. He asked who has the authority to change the lots from Unit Three to Unit Four and asked if Blue River Hills Board should have been notified.

Monty Wedel said the Register of Deeds office requires to change the subdivision name or unit number for tracking purposes. He said as far as notifying the improvement district, it has never come up before but he said it could be done.

Bob Isaac said, as far as taking away money from the district, it depends on how the bylaws were written and suggested they seek legal advice to examine the language or amend them.

Tony Siebold asked for clarification so that he could explain to the other Board members, how the County can tell Blue River Hills Improvement District that they have another unit.

Bob Isaac said it the property owner's right to go before the Planning Board to request permission to replat their property. The Board has to determine if the request meets the platting requirements of the Subdivision Regulations as adopted by the County.

Monty Wedel said since this has never come up before, staff could visit with County Counsel about what happens when the lots are renamed.

Mr. Siebold said they are not against the replatting request but need to know how this will affect the benefit district.

John Osarzcuk moved to close the public hearing. John Wienck seconded. Carried 3-0.

John Wienck moved to approve the request replat Lots 50-53, Blue River Hills Third Addition into a single lot, for the reasons listed in the staff report.

John Osarzcuk seconded. Carried 3-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request on July 20, 2017, at 10:50 am, in the County Commission Chambers.

Update on Zoning and Subdivision Regulations re-write

Monty Wedel stated that the draft of Articles 6 and 7 have been received and the consultant is proposing such things as tree preservation and ridge line protection regulations and is asking if Riley County wants such regulations. He said he decided staff should not be making executive decisions regarding whether or not to have such regulations. He explained he had visited with the Board of County Commissioners about using the Steering Committee to review the proposals and decide which regulations to include and the BOCC was comfortable with that approach. He also had visited with the consultant about this approach as well as it will take some time to arrange such a review. The consultant is also comfortable with the approach.

Update on Fort Riley Joint Land Use Study

Monty Wedel said there will be a Technical Advisory Committee meeting on Wednesday, July 19th and a public information meeting that evening at Manhattan's City Hall.

John Wienck moved to adjourn. John Osarzcuk seconded. Carried 3-0.

The meeting was adjourned at 9:12 P.M.