

MINUTES

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

**Monday, February 14, 2022
7:30 pm**

**Courthouse Plaza East
Commission Meeting Room
115 North 4th Street**

Members Present: Diane Hoobler, Chair
John Wienck, Vice-Chair
Joe Gelroth
Rita Cassida

Members Absent: Nathan Larson

Staff Present: Amanda Webb – Director, Bob Isaac – Planner and Lisa Daily -
Administrative Assistant

Others Present: Mike Gillespie and Kyle Spurlock

OPEN PUBLIC COMMENTS

None

CONSENT AGENDA

The minutes of the January 10, 2022 meeting were presented and approved. The Report of Fees for the month of January (\$2,103.00) were presented and approved.

Joe Gelroth moved to approve the consent agenda. John Wienck seconded. Carried 4-0.

Joe Gelroth moved to adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and, due to the lack of agenda items for the Board of Zoning Appeals, moved to reconvene as the Riley County Planning Board. John Wienck seconded. Carried 4-0.

RILEY COUNTY PLANNING BOARD

Gillespie Family Trust – Replat

Chairman Hoobler opened the public hearing at the request of the Gillespie Family Trust, petitioners, and owners, to replat Lots 97-102, Block One (1) of Bridge View Heights (subdivision) into one (1) lot, in Jackson Township, Section 23, Township 7 South, Range 6 East, in Riley County, Kansas.

Bob Isaac presented the request stating the subject was originally platted in July 1964 as Bridge View Heights and was later zoned residential. He stated a building permit was issued March 1967 for a single-family residence (summer cabin) that was constructed on Lot 100, Block 1. Mr. Isaac said Lots 96-98 and Lots 101-102 were never developed and remain vacant. He said the applicant wishes to combine the lots to increase the overall size of the property serving the home to be in compliance with the Sanitary Code.

Mr. Isaac said the subject homesite is currently served by a private water well. He said the applicant is in the process of replacing an old septic tank with a new septic tank, with a raised bed alternative system.

Staff recommended that the Planning Board approve the Final Plat of Bridge View Heights, Unit 7, as it has been determined to meet the minimum requirements of the Land Development Regulations for Riley County, Kansas, and the Sanitary Code.

Chairman Hoobler opened the public hearing and asked if the applicant wanted to speak.

The applicant, Michael Gillespie stated he and his wife purchased the property with an A-frame house on it. He stated the house has been totally stripped on the interior and there is no plumbing or electricity. Mr. Gillespie said he was made aware when purchasing the property that it didn't meet the Sanitary Code.

Mr. Gillespie stated that Environmental Health Specialist, Perry Piper, conducted a site inspection and provided them with the additional amount of land they would need to support a proper wastewater system. Mr. Gillespie stated they were able to purchase the additional adjoining lots and have hired a licensed contractor to complete the work. He stated if the request is approved, they will kick off the remodel and have the new wastewater system installed.

There were no proponents or opponents.

John Wienck moved to close the public hearing. Rita Cassida seconded. Carried 4-0.

John Wienck moved to approve the request to replat Lots 97-102, Block One (1) of Bridge View Heights (subdivision) into one lot, to be known as Bridge View Heights Unit 7, for reasons stated in the staff report.

Joe Gelroth seconded. Carried 4-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on February 24, 2022, at 10:20 am, in the County Commission Chambers.

Spurlock – Replat

Chairman Hoobler opened the public hearing at the request of the Kyle Spurlock, petitioner and Deborah Depew & Larry Tuttle, owners, Lots 16-19 of Blue River Hills Third Addition into one (1) lot in Sherman Township, Section 19, Township 8 South, Range 7 East, in Riley County, Kansas.

Bob Isaac presented the request stating the subject was platted as Lots 16-19 of Blue River Hills Third Addition in August 1997. He stated the applicant wishes to eventually build a house on the subject property but must combine the lots to meet the size requirements of the Sanitary Code. He said there was no requirement to rezone the property as part of this request.

Mr. Isaac stated the nearest fire station is located on Bobwhite Lane, which is literally right down the street. He said an entrance permit will be required and the driveway will be subject to the Driveway Standards in the Unincorporated Area of Riley County, Kansas. Mr. Isaac stated the driveway will need to be inspected by the County Engineer before a Certificate of Occupancy can be issued for the home.

Mr. Isaac said the Environmental Health Specialist had completed a soil profile test of the property and found a suitable location for an in-ground system. He said that, although there is a rural water main located within the south right-of-way of Summit Drive, the applicant wishes to attempt to install an on-site water well to serve the property. He stated if the well doesn't work out, he will connect to rural water. Mr. Isaac explained that the applicant will have to truck in soil to set up a bed for a raised-bed alternative system.

Staff recommended that the Planning Board approve Final Plat of Blue River Hills Unit Six, as it has been determined to meet the minimum requirements of the Land Development Regulations for Riley County, Kansas, and the Sanitary Code.

Chairman Hoobler opened the public hearing and asked if the applicant wanted to speak.

Kyle Spurlock, applicant, said he had been in contact with the Environmental Health Specialist, Perry Piper, for the alternative wastewater system. He said they are aware they only have 15-inches of good soil, and the requirement is 18-inches. Mr. Spurlock stated he works for MCM, which has topsoil that he will truck in and, to be on the safe side, will raise the area higher than what is required to be on the safe side.

There were no proponents or opponents.

Rita Cassida moved to close the public hearing. John Wienck seconded. Carried 4-0.

John Wienck moved to approve the request to Lots 16-19 of Blue River Hills Third Addition into one (1) lot, for reasons stated in the staff report.

Joe Gelroth seconded. Carried 4-0.

Mr. Isaac announced that the Board of County Commissioners would hear the request on February 24, 2022, at 10:30 am, in the County Commission Chambers.

Annual Comprehensive Plan Review Process

Bob Isaac stated that every year the Riley County Planning Board is tasked statutorily of completing a full review of the comprehensive plan and forward their findings to the Board of County Commissioners. He stated in the agenda packet is a copy of the executive summary of the Plan which is typically used. He asked if all the Board members had a copy of the comprehensive plan and if so, to carefully go through document.

Mr. Isaac stated staff is going to bring before the Board a more in-depth review. He said staff will go through the goals, objectives and do a quick analysis of what parts of the Plan should be fortified, modified, or updated for the actual update. He explained comprehensive plans usually have a 20-year horizon and at the 10-year mark, staff starts looking at what needs to be updated. He stated if you are in high development area and a lot of changes have happened, then updates to the Plan need to be done sooner. Mr. Isaac said having no Planning Board meeting for March will allow the Board time to review the Plan as well.

Mr. Isaac said staff is anticipating hiring a consultant, at least part time to assist with the comprehensive plan update.

Riley County Land Development Regulations

Bob Isaac explained several issues have been discovered since adopting the Land Development Regulations for Riley County, Kansas on January 1, 2022. He said staff has prepared their findings to discuss with this Board, the Manhattan Urban Area Planning Board, and the Board of County Commissioners. He stated after the discussions are held, staff will proceed to public hearing.

Mr. Isaac pointed out that the cover page doesn't list the actual title of the document. He said Article 1: General Provisions lists the title of document to be officially known and cited as the "Land Development Regulations for Riley County, Kansas". He said however, other references have been found throughout the document as "Riley County Land Development Regulations". Staff is recommending that the document be officially named Riley County Land Development Regulations. The Board concurred with the following amendment:

SECTION 1.1 – TITLE

The title of this document shall be officially known and cited as the "*Riley County Land Development Regulations for Riley County, Kansas.*"

Mr. Isaac explained SF-4 and SF-5 are now the new SF-1 zoning. He said through discussions the side yard setback was changed from 10 feet to 15 feet, along with the addition of the requirement that side yard setback increases one foot for every one foot of building height over 16 feet.

Mr. Isaac said staff contacted the consultant, Elizabeth Garvin and she didn't understand why the note was listed in these two zoning districts. Mr. Isaac stated that she said there is a maximum height for each district, which is reasonable when it comes to residential development. Mr. Isaac stated he informed Ms. Garvin that the additional side yard setback requirement was listed in the SF-1, SF-2, SF-3, TF, and MF residential districts. He said she recommended that the requirement be removed. Mr. Isaac explained that new SF-2 and SF-3 zoning districts consist of relatively smaller lots, with higher density, therefore the requirement negatively impact development of certain lots or make the lots unbuildable. He said the average *total* height of a single-story house is around 20 feet. He explained if the requirement is left in the regulations, it could preclude anyone from building a two-story house. Mr. Isaac stated that staff recommended removing the additional side yard setback requirement for all residential districts except the MF (Multiple-Family Residential) from the Land Development Regulations. The Board concurred with staff recommendations.

Mr. Isaac stated that yet another issue, specifically with the SF-2 and SF-3 Single Family Residential districts, was regarding the established side yard setback. He said that currently, the side yard setback requirement is "10% of the lot width"; not a set amount like the SF-1 Single Family Residential zoning district of 15 feet. He said the percentage measurement accommodates smaller lots with lot widths of less than 100 feet; however, staff has recently discovered platted lots that are long and narrow, with widths up to 200 feet. He said the percentage measurement method would consequently dictate a 20-ft side yard setback, which could unreasonably force development to only occur in the center of the property, regardless of topography. He said this could lead to a lot of requests for variances or deter infill development

where non-agricultural residential development should go. He stated that the previous zoning regulations took that into account and included the text “but not to exceed 10 feet” following the text “10% of lot width”. Staff recommended that the proposed text be added back into the dimensional requirements for the SF-2 and SF-3 Single Family Residential districts. The Planning Board concurred with staff’s recommendation of the following amendments:

SECTION 4.8 – SINGLE FAMILY RESIDENTIAL (SF-1) DISTRICT

Table 4.4 – Dimensional Requirements

Referencing the side yard setback:

Notes: ~~[5] Setback increases one foot for every one foot of building height over 16 feet.~~

SECTION 4.9 – SINGLE FAMILY RESIDENTIAL (SF-2) DISTRICT

Table 4.5 – Dimensional Requirements

Side: 10% of lot width, *but not to exceed 10 feet.*

Referencing the side yard setback:

Notes: ~~[4] Setback increases one foot for every one foot of building height over 16 feet.~~

SECTION 4.10 – SINGLE FAMILY RESIDENTIAL (SF-3) DISTRICT

Table 4.6 – Dimensional Requirements

Side: 10% of lot width; *but not to exceed 10 feet.*

Referencing the side yard setback:

Notes: ~~[4] Setback increases one foot for every one foot of building height over 16 feet.~~

SECTION 4.11 – TWO-FAMILY RESIDENTIAL (TF) DISTRICT

Table 4.7 – Dimensional Requirements

Referencing the side yard setback:

Notes: ~~[4] Setback increases one foot for every one foot of building height over 16 feet.~~

Mr. Isaac said the Short-Term Rental licensing requirements state: “It shall be unlawful for any person to operate and or advertise any short-term rental without a valid short-term rental license, as approved pursuant to the application procedure herein.” He said this language conflicts with the Transitional Provisions in Article 1, specifically Section 1.16.B., which states: “Except as specifically provided in these regulations, if any use, building, structure, lot, or parcel that legally existed on the effective date of these Regulations does not meet all standards set forth in these Regulations, such use, building, structure, lot, or parcel shall be considered a legal nonconformity and shall be controlled by Section 5.6, Nonconformities.”

Mr. Isaac said that at this time, all short-term rentals are now “grandfathered” and do not require licensing. He said that it was not the intention of the Board of County Commissioners to allow existing short-term rentals to be “grandfathered” from the new licensing requirements. Mr. Isaac

said to correct this issue, an effective date will be inserted, and all short-term rentals will be required to be licensed from that date forward. Mr. Isaac stated that after further review and the reasons behind the need for short term rentals to be licensed, it was expected that all short-term rentals would be required to be licensed upon adoption of the Land Development Regulations and that there would be no grandfathering. Staff explained that the potential consequences of implementing no “grandfathering” could put those short-term rental businesses that could not meet the minimum requirements for a license out of business. It was the consensus of the Planning Board to go forward with the proposed text insertion, requiring all short-term rentals to comply with the licensing requirements of the Land Development Regulations, as follows:

SECTION 5.2 – USE-SPECIFIC STANDARDS

AD. Short-Term Rental

3. Licensing Requirements

- a. *As of the effective date of these regulations, as amended (date), it shall be unlawful for any person to operate and or advertise any short-term rental without a valid short-term rental license, as approved pursuant to the application procedure herein.*

Mr. Isaac stated the standards for short term rentals are geared towards the health and safety of the people (e.g., smoker detectors, carbon monoxide detectors, fire extinguishers, etc.) He said current regulations state that for a room to be used as a bedroom, it must have a window. Mr. Isaac stated that the regulation doesn’t specify the type or size of the window. He said that the Sanitary Code specifies what constitutes an acceptable window when determining the number of bedrooms. He explained the number bedrooms determines the size of the wastewater system. He said the Sanitary Code further specifies the size of window for rooms above ground and rooms below ground. He stated staff recommended to amend the current language of the Land Development Regulations to be consistent with the Sanitary Code.

Rita Cassida stated the International Building Code refers to the size of the *opening*, not the overall size of the window. Mr. Isaac stated that he would research the requirement further and may suggest modifying the size requirement language.

SECTION 5.2 – USE-SPECIFIC STANDARDS

4. Standards

- k. *A room shall not be used as a bedroom unless it has ~~a window~~ at least two (2) points of ingress/egress (may include a window). For a window to be included as a point of ingress/egress, the window shall be 24” x 36” or larger for rooms above ground and shall be 36” x 36” or larger for rooms below ground (basement/subterranean).*

The Riley County Planning Board agreed by consensus to amend the current language of the Land Development Regulations to be consistent with the Sanitary Code, as recommended by staff.

John Wienck moved to adjourn. Rita Cassida seconded. Carried 4-0.

The meeting was adjourned at 9:05 P.M.