

**MINUTES**

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

**Monday, April 12, 2010  
7:30 pm**

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

Members Present: Jon Larson, Chair  
Lorn Clement  
Dr. Tom Taul  
Diane Hoobler  
Julie Henton

Members Absent: None

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

Others Present: Joe Ryan, Mark Oberhelman, Fred Willich and Richard Jahnke

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**OPEN PUBLIC COMMENTS**

None.

**CONSENT AGENDA**

The minutes of the March 8, 2010 meeting were presented and approved. The Report of Fees for the month of March (\$1,400.00) were presented and approved.

Lorn Clement moved to close the Board of Zoning Appeals. Diane Hoobler seconded. Carried 5-0.

**RILEY COUNTY PLANNING BOARD**

**Gray – (Plat & Rezone)**

Jon Larson opened the public hearing at the request of Billy Gray, petitioner and Billy and Angelia Gray, owners, to rezone a tract of land from “G-1” (General Agricultural) to “A-5” (Single Family Residential) and plat the tract into one (1) residential lot.

Bob Isaac presented the request. He explained that the subject property is a 12.3-acre portion of a larger 144-acre tract, generally located at the northwest corner of the intersection of Fancy Creek Road and Ober Road. Mr. Isaac stated Ober Road transects the parent tract, creating the appearance of two separate parcels. He explained that the subject property has been developed several years with a limestone home, likely incidental to a former farming operation. Mr. Isaac said the Applicant wishes to sell the subject property under the auspices of an extraneous farmstead. Mr. Isaac stated the home and a few outbuildings will remain on the proposed lot, while the remainder of the parent tract will stay in agricultural production and open space.

Mr. Isaac stated that the request was reviewed by the Health Department, County Engineer, and Ft. Riley with no objections. Mr. Isaac stated the Riley County Conservation District had no objections but pointed out the house is within the designated 100-year floodplain.

Staff recommended that the Planning Board forward a recommendation of approval of the request to rezone the proposed property based on the following:

- Existing residential development for several years;
- The site has existing ingress/egress onto a county road, with no additional impact to existing traffic patterns;
- Generally conforms to the objective of the “extraneous farmstead” language found in Chapter 14: Action Plan (6), of the Vision 2025 Comprehensive Plan, which strongly encourages the continued use of these sites by developing regulations that facilitate the process as much as possible;
- Continued use of an existing residential structure will sustain the tax value of the property;
- Platting and rezoning the property will allow the farmstead (home, barn, outbuildings) to continue to be used for residential purposes, while allowing the surrounding cropland/pastures to stay in agricultural production.

Staff also recommended approval of the request to plat the proposed property, as it has been determined that all requirements of the Riley County Subdivision Regulations, Zoning Regulations and Sanitary Code have been met.

The Board had no questions for Mr. Isaac.

The Board asked the Applicant’s representative if he had any comments.

Tim Sloan, with SMH Consultants (representative), stated the Applicant owns two farm houses and is currently renovating one of them. Mr. Sloan said the Applicant wants to sell the home in the listed petition.

Jon Larson asked if there were any proponents or opponents.

Tom Taul moved to close the public hearing. Julie Henton seconded. Carried 5-0.

Tom Taul said he had thoughts and wanted input from the other Board members in regards to Vision 2025 and the LESA System. He noted that the request scored “strong for preservation” and the south half of the tract consists of prime soils. Mr. Taul wondered why the house could not be sold off with fewer acres of land, leaving the vacant land to farm.

Lorn Clement was concerned that rezoning extraneous farmstead sites to “A-5” will affect future LESA scores said there should be some mechanism put in place that will recognize these tracts as an exception.

Monty Wedel said the county wants to promote extraneous farms but at this time we are caught between the new Plan and the old regulations. Mr. Wedel stated the only option at this time is residential.

Jon Larson stated he feels this is the most practicable thing for this tract of land. Mr. Larson said that although the south half of the tract consists of prime soil, the north half might have rock in it. Mr. Larson stated this is an ideal situation as the proposed lot is not next to native grasses that would be burned; the native pasture is on the other side of the ravine. He said that this is a good location for someone who may want horses.

Julie Henton moved that the Board forward a recommendation of approval to the Board of County Commissioners, to rezone the subject tract of land from “G-1” (General Agricultural) to “A-5” (Single Family Residential) for reasons listed in the staff report.

Tom Taul seconded. Roll call voting was completed with all Board members affirming. Carried 5-0.

Tom Taul moved to approve the Final Plat of the Gray’s Addition.

Diane Hoobler seconded. Roll call voting was completed with all Board members affirming. Carried 5-0.

Mr. Isaac announced that the Board of County Commissioners will hear the request on April 26, 2010 at 9:20 AM.

### **Riley County, Kansas Land Development Regulation Project Diagnosis and Annotated Outline by Clarion Associates**

Monty Wedel stated the diagnosis is Phase 1 of the project which is an outline of the regulations. Mr. Wedel said that staff has been through the entire set of regulations with Clarion Associates and identified areas that needed fixed. He said staff stressed that the zoning and subdivision regulations be combined into an integrated set of land development regulations. Mr. Wedel asked the Board if they were ready for staff to move forward with Phase 2 (drafting of the regulations).

Lorn Clement stated that Clarion Associates has the experience to share with us.

Monty Wedel said that finding the funding is going to be the biggest concern in these tight budget times. He stated there is a possibility that the project may have to be completed over the course of two or three budget years. Mr. Wedel said the next step is to present the document to the Manhattan Urban Area Planning Board and then to the Board of County Commissioners.

Lorn Clement suggested that staff proceed to Phase 2. The Board unanimously concurred.

### **Quarterly Analysis of the LESA System**

Bob Isaac stated that at this time there have not been enough requests to accurately assess the effectiveness of the LESA system in implementing the plans and goals of Vision 2025.

Monty Wedel reminded the Board that the Vision 2025 Comprehensive Plan (Chapter 13) strongly suggests that the LESA system be “scrutinized quarterly for effectiveness in the first two years, then annually thereafter.”

Mr. Isaac reminded the Board that the next review would be at the July 2010 RCPB meeting.

### **Resolution Establishing an Attendance Policy**

Monty Wedel asked the Board members if they all had received the letter from Clancy Holeman and the resolution establishing an attendance policy for all boards. All members received the resolution and were in agreement with the proposed language.

Lorn Clement moved to adjourn as the Riley County Planning Board and reconvene as the Board of Zoning Appeals. Tom Taul seconded. Carried 5-0.

## **BOARD OF ZONING APPEALS**

Bob Isaac reminded the Board that the resolution that established the Riley County Planning Board as the Riley County Board of Zoning Appeals (BZA) required that the BZA adopt a set of bylaws. Mr. Isaac explained that staff had fashioned a set of bylaws from examples used in other counties across Kansas. Mr. Isaac explained that a copy of that document was included in the BZA training packet for the March meeting. Mr. Isaac suggested that if there were no questions, concerns or modifications, the Board could proceed with adoption of the proposed bylaws.

Julie Henton moved to adopt the proposed bylaws for Board of Zoning Appeals as presented. Tom Taul seconded. Roll call voting was completed with all Board members voting affirming. Carried 5-0.

## **NexGen Energy Partners – Variance**

Jon Larson opened the public hearing at the request of NexGen Energy Partners, petitioner, and Riley County USD 378, owner, for a variance authorization to increase the maximum total height of a non-commercial wind energy conversion system tower from 150 feet to 160 feet (6.67%).

Bob Isaac, Planner, presented the staff report, which included the background of the subject property. He explained that USD 378 entered into an agreement with NexGen Energy Partners, LLC, in October 2009, in order to install and operate two (2) 100kW horizontal axis wind energy generators on the Riley County High School campus. Mr. Isaac explained the purpose was to reduce energy costs to the school by 10-15% per year. Mr. Isaac explained that due to the inability to secure a state grant, the Applicant was forced to reduce the number of turbines to one (1) 156-foot (total height) turbine (funded by USDA). Mr. Isaac stated that NexGen Energy Partners, LLC will own the tower and will be responsible for the installation, operation, maintenance, insurance and decommissioning of the tower and the school district will be responsible for hosting the turbine on their property.

Mr. Isaac stated the request was reviewed by officials on Fort Riley. He said Herb Abel, Chief of Ft. Riley's Environmental Division, has conferred with other installation personnel and concluded that the impact of the construction and operation of the proposed single turbine would, by itself, cause little adverse impact to Fort Riley's operations and regional aviation operations.

Mr. Isaac explained that Mr. Abel reported that although Fort Riley has no objections to construction and operation of that particular tower alone, they are concerned about the potential cumulative adverse effects if additional similar towers were to be constructed and operated in Riley County. Mr. Isaac reviewed staff's assessment of the variance criteria in relation to the request. Staff recommends that the requested variance be approved.

Jon Larson asked if there were any proponents or opponents.

Tom Taul moved to close the public hearing. Julie Henton seconded. Carried 5-0.

Lorn Clement moved to approve the request of NexGen Energy Partners, petitioner and Riley County USD 378, owner, for a variance authorization to increase the maximum total height of a non-commercial wind energy conversion system tower from 150 feet to 160 feet (6.67%).

Tom Taul seconded. Roll call voting was completed with all Board members affirming. Carried 5-0.

## **Fred Willich – Variance**

Jon Larson opened the public hearing at the request of Fred Willich, petitioner and Frederick W. Willich Living Trust, owner, for a variance authorization to reduce the front yard (north property line) and rear yard (south property line) requirements from 25 feet to 15 feet.

Bob Isaac, Planner, presented the staff report, which included the background of the subject property. Mr. Isaac stated in January 1983, the subject property was rezoned from “A-5” (Single Family Residential) to “A-4” (Single Family Residential) (Pet #83-03) in order to build a house. He said that according to the minutes of the March 28, 1983, RCPB meeting, the tract was practically unbuildable due to the 1140 elevation line and the front and rear yard (building setback) requirements of the “A-5” (Single Family Residential) zoning district, which at that time were 50 feet, respectfully. Mr. Isaac stated the tract was rezoned to “A-4” (Single Family Residential), which had smaller front and rear yard (building setback) requirements (25 feet respectfully), allowing the property owner to build. Mr. Isaac stated regardless of the efforts to accommodate the structure, it is assumed that the distance from the south right-of-way line of W. 59<sup>th</sup> Avenue was measured incorrectly, resulting in the home being placed within the required front yard (setback). Mr. Isaac explained that the intent of the variance request is to bring the home into compliance with the Riley County Zoning Regulations and correct a longstanding zoning violation. Mr. Isaac continued that the illegally non-conforming status of the structure would prevent the homeowner from expanding, building on, or if a disaster were to occur, rebuilding the home. Mr. Isaac stated the Applicant also wishes to eventually build a garage onto the existing home. Mr. Isaac reviewed staff’s assessment of the variance criteria in relation to the request. Staff recommends that the requested variance be approved.

Jon Larson asked if there were any proponents or opponents.

Julie Henton moved to close the public hearing. Diane Hoobler seconded. Carried 5-0.

Tom Taul moved to approve the request of Fred Willich, petitioner and Frederick W. Willich Living Trust, owner, for a variance authorization reduce the front yard (north property line) and rear yard (south property line) requirements from 25 feet to 15 feet.

Diane Hoobler seconded. Roll call voting was completed with all Board members affirming. Carried 5-0.

The meeting was adjourned at 9:18 P.M.