

BOARD OF ZONING ADJUSTMENT MINUTES
November 22, 2016

Regular meeting of the Clay County Board of Zoning Adjustment, Commission Hearing Room, 3rd Floor, County Administration Building, One Courthouse Square, Liberty, Missouri.

Call to Order
@ 5:30 pm: Brian Klopfenstein, Chairman

Roll Call: Kipp Jones, Manager

Members Present: Buddy Raasch, Brian Klopfenstein, Kristi Soligo Fleshman and Zachary Kramer

Members Absent: Larry Whitton

Staff Present: Kipp Jones, Manager
 Kevin Graham, County Counselor
 Angie Stokes, Secretary

Mr. Klopfenstein: This is the November 22, 2016 and this is the Clay County Board of Zoning Adjustment, would you call the roll?

Mr. Jones: Buddy Raasch?

Mr. Raasch: Present.

Mr. Jones: Brian Klopfenstein?

Mr. Klopfenstein: Present.

Mr. Jones: Larry Whitton?

Mr. Whitton: Absent.

Mr. Jones: Kristi Soligo Fleshman?

Ms. Fleshman: Present.

Mr. Jones: Zachary Kramer?

Mr. Kramer: Present.

Mr. Klopfenstein: We have a quorum?

Mr. Jones: Yes.

Mr. Klopfenstein: Welcome aboard to the two new members, I hope you have fun and then when it gets too contentious I still hope you have fun, so welcome aboard. So tonight we have an application case number 16-103BZA the applicants are Patrick and Diane Wilhelm, welcome, thank you for coming, would you care to give us the background Mr. Jones.

Mr. Jones: Yes, I don't want to step on your toes do you want to approve the minutes first?

Mr. Klopfenstein: Well, okay I don't see the minutes I don't have a packet, with my minutes.

Mr. Jones: Here is a copy.

Mr. Klopfenstein: Thank you, before us are the minutes from the September 27, 2016 meeting, members present were Mr. Raasch, myself and Larry Whitton, everybody's

probably had a chance to read the minutes however only three of us can make a motion to vote to see if the minutes are accurate and should be accepted.

Mr. Raasch: Well I make a motion to accept the minutes from the last meeting.

Mr. Klopfenstein: Alright, is there a second? I'll second the motion because I am the only other one here. All those in favor of accepting the minutes from the September 27, 2016 Board meeting please indicate by saying aye.

Mr. Raasch: Aye.

Mr. Klopfenstein: Aye, all oppose say nay, the ayes have it the minutes are approved.

Final Vote 3/0/2 Approve Minutes from September 27, 2016

Mr. Klopfenstein: Alright, we've got the minutes, is there anyone who wishes to testify with the regards to the application 16-103BZA by Patrick and Diane Wilhelm, if you wish to testify would you raise your right hand and be sworn in. For those of you who are testifying raise your right hand to be sworn in, do you solemnly swear the testimony provided will be the truth, the whole truth and nothing but the truth so help you God.

Audience: I do.

Mr. Klopfenstein: Thank you, alright Mr. Jones.

Mr. Jones: I would like to add the staff report as part of the official record.

Mr. Klopfenstein: So be it.

Mr. Jones: Summarized the staff report 16-103BZA dated November 10, 2016.

Mr. Raasch: The 30 foot would go passed the setback line right, they will still be behind that?

Mr. Jones: On the side is that where you are talking about?

Mr. Raasch: The setback line in the front.

Mr. Jones: Yes.

Mr. Raasch: Or is that in the middle...

Mr. Jones: This is what we consider, anything in front of this line here we would consider forward of the principle dwelling so anything up in this area would not be allowed by the 2011 Land Development Code. This is the property line here, this white line and this is the build line off the front property and this is where they are proposing to put the building. They would meet all their setbacks, they will meet the setback for the side property line, they will be 37 feet off of that and they are going to be approximately 175 feet, I think Mr. Wilhelm said off the street. But for our Land Development Code they would meet all their setbacks. And the applicant can speak in more detail to this than I can but the red is indicating where his current septic fields are when the Wilhelm's moved into the house my understanding is that the septic system was failing and they had to redo the septic system and they put in three fields.

Mr. Klopfenstein: Anybody have any questions? Okay so my suggestion is to take testimony from Mr. and Mrs. Wilhelm do you have a preference who would go first? You are Patrick Wilhelm.

Mr. Wilhelm: Yes.

Mr. Klopfenstein: Welcome thank you, okay so tell us about your application.

Mr. Wilhelm: The reason this came up is because Diane's dad passed away last year and her mom is 85 years old and she is not doing all that great either, so they had some older cars that they wanted to give to us and we don't have a place to store them. We

wanted to build a pole barn so we could store them we are going to have one for the old car and the other one will be for our daughter to store her car and what we wanted to do is just is build this pole barn and the best place to put it on our property without having to have any other problem with our septic field, what they told us when they built the septic fields the low drip irrigation system is no heavy vehicles can go over that system at all. So we've been trying to maintain that and that's all been done no trees or anything be planted in that area so what we wanted to do is like I said just, the original intent when we bought the house in 2000 is right where you see the yellow is where the pole barn was supposed to go, the previous owner actually had, he was going to plum it out from the side house there on the east side over to there and when we bought the house there was a big hole in the basement and that had problems with water going into our basement we didn't know because of our shelves. The other problem was when we moved in is when the, because the grass is really high and again this gentleman was a builder and the builder of this house and he had the septic going out to the creek which is on the left side of there he had a garden hose pumping all the stuff out to the creek so when I saw this I attempted to redo the systems I dug it all up by hand I connected all the pipes it took me quite a while and so we ran it and the system failed, it just bubbled right up and the original system was on the east side, go up higher to where field number two is right there that's where the original system was it ran from across the house near the driveway. The system ran from here all the way over to here to a field over here so when I connected that it bubbled right up, we called Clay County we had them come out and do a perk test and there wasn't one spot on our property that would perk out and we wanted to do a septic pond and so that was an option two. Option one was the laterals which we had, we couldn't do laterals, we wanted to do the septic ponds we couldn't do that so they came up with a system for us for three septic fields and we were the first ones in Clay County to ever have three septic fields which costs a total of \$22,000. So you can see that kind of put our pole barn idea on hold for quite a few years because we had to pay all of that off, so now we are at the point that our family of girls have grown and we want to put one of the cars in the garage, I can put the other one in my garage here and then just for safety, we've had some issue now coming up in our neighborhood with some crime and some strangers being around, we had been talking about it some in the last couple of hours so we just really want to kind of protect our property and my girls from any situation here also with the pole barn being here the lines run underneath here when they, the septic systems are here one field is here, it shoots is down over here, runs a line up here so it drains off here goes across the driveway to field number two and the third one comes up underneath here and goes over here to this field. So I am not infringing any of the aspects of the current septic system we have in there and I am going to nestle it right in between the two fields and Clay County Health have approved this also and they feel it's the best but this is where I am coming from. When I went to Kipp's office there and I was up front with them and said I knew what I was in for and I know someone in the neighborhood that's over here down the road they applied also for they were within the 15 feet boundary where they wanted to put their pole barn so we are kind of familiar with the process and we knew this was are only option we had. All my electrical, gas, everything comes out this side of the house, I was thinking about I could build a garage, a third garage over here but I have everything comes out that side and it would be a horrible mess to dig into all that so the pole barn I want to build is a very nice pole barn I have it professionally engineered and my neighbors will testify I am always doing

improvements on my property. We've never put up anything that would make my neighbors angry and I would always try and do what's best for our neighborhood and I will show you here a picture, the pole barn would look very similar to this here and of course we'd landscape around it and what I am trying to do is match the peak on my garage, the doors will match the doors that are on my garage so everything I am trying to keep aesthetically pleasing to what I am doing here with my house and with the barn. I think I understand this is a rarity that you guys approve something like this but I am at the mercy of this because I really don't have any other options to do any other kind of structure on this property. One thing on my property on the side is I have a retaining wall right here so I really can't drive over the property right here or this would have been a great place to put up a pole barn but with the septic lines running over here I just can't put a drive across that, I have to kind of keep that as virgin as I can so to speak.

Mr. Klopfenstein: Does anybody have any questions?

Mr. Kramer: Yes, is there a HOA?

Mr. Wilhelm: No there's not.

Mr. Kramer: What is the height of the pole barn?

Mr. Wilhelm: The pole barn is going to be, its ten foot from the garage up from the ground level to where the roof will start, to the eaves and probably fifteen feet high.

Mr. Jones: And I can add that, our code would require that the accessory building would have to be shorter than the primary dwelling being measured on an even plane.

Mr. Klopfenstein: Any other questions?

Ms. Fleshman: What is the material that will be used to build the barn, will it be like the material as your home?

Mr. Wilhelm: Yes the pole barn will be all metal as far as painted metal but the structure it's self will be wood, the walls and everything will be wood. The trusses will be wood, the outside will be metal framed and it's going to be insulated inside and a cement floor also.

Mr. Klopfenstein: Any other questions? Thank you, would you like to testify?

Ms. Wilhelm: The wife always wants to testify.

Mr. Klopfenstein: Welcome.

Ms. Wilhelm: So again I just want to echo my..

Mr. Klopfenstein: And for the record you are Diane Wilhelm.

Ms. Wilhelm: I am sorry I am Diane Wilhelm. I just want to echo my gratitude for listening to our proposals and I do want to accept responsibility that it's my fault that we waited this long because frankly I wasn't enamored with the idea of having more places to put things, however now after 16 years in Clay County and different things my husband has done to the property it has become clear to me that we do need more space. I have a Harley Davidson motorcycle, I work for Harley Davidson Motor Company and that is part of the reason why we don't have space in our current garage, my husband is a big improver of the property and so the rest of our current garage is full of a majority of his construction equipment and so it's our earnest desire to be able to have a place that could actually house vehicles. The vehicle that he mentioned from my father who passed unexpectedly last year, I have to admit I am not in a position emotionally to just sell it. It was something that was near and dear to him and so I would like to be able to keep it in a place where it will be protected.

Mr. Klopfenstein: Okay so I have to ask, what is the vehicle?

Ms. Wilhelm: My father although he was an extreme American Patriot, he was a BMW enthusiast, so he has very rare M Series BMW; it's approximately 24 years old. I am not personally a BMW enthusiast although being his daughter I've grown up around them, it's very much my dad and so I want to keep it in the family for a while longer yet. So that would be the other aspect of that. It is very nestled, the location, as you can see is very practical, I am a practical person and it was the only viable option for us, we wouldn't waste your time if we had other viable options we certainly would not waste your time coming in and asking for your approval.

Mr. Klopfenstein: Does anyone have questions? Thank you so much, anyone else wish to testify? Come on up sir, your name for the record.

Mr. Moats: My name is James Moats, I live on Green Briar down the street and I am from that neighborhood. Just a couple of things I would like to say, the red line that you showed up there showing the frontage of the house, I've got to say in our neighborhood that it's all different as far as my house, I'm three car links from the Green Briar Street, so pretty much any place in the back I've got just tons of room to build in the back. When I look at this house here I don't know how many feet it is from Green Briar Street but his house goes way back so he's at a disadvantage to start with because of the placement of the house and I understand in like a city or something all the houses are right in a row is there a reason for that don't they have something like you have to build your house right there. Out where we live there is no reason, you can put your house any place you want. So I guess is there any convenience or reasons why the houses can be built any place on our property out there, why that might have happened?

Mr. Jones: Well the County has a minimum setback requirements you have to be a certain distance from the street but we do not have a maximum feet distance, as long as you fit your house on that parcel within our minimum setbacks you can put your house where ever you would like. Now when people come in for building permits we try and tell them especially if they are in a residential district that if they want to put it way back in the lot that limits them where they can put their other buildings, obviously this one got built by a previous owner.

Mr. Raasch: Was there a setback before 2008?

Mr. Jones: Yes, when it came in effect I don't know, I know at least until 2001, the minimum setbacks not a maximum.

Mr. Raasch: So before 2001 there was not a setback?

Mr. Jones: I would have to look that up for you to be for sure, but I don't think there was one before 2001.

Ms. Fleshman: A setback from the road?

Mr. Raasch: Yes.

Mr. Jones: There may have been but that is the earliest version of the Land Development Code was 2001.

Ms. Fleshman: I think there was and the only reason I am saying this is because we built our house in 1997 and I remember our builders saying we had to be a certain distance.

Mr. Klopfenstein: As an adjoining neighbor do you have any objections?

Mr. Moats: Absolutely not and the question you asked earlier about how the building was going to be constructed I would say what he has proposed is probably exactly what everybody else in the neighborhood has done. He mentioned the pole barn but I guess any kind of wood structure with metal would be considered a pole barn but I really don't

see anything built with poles anywhere, it's all standard lumber. Everybody that has put an outbuilding up in the neighborhood has put one that he has proposed and actually they usually put them way in the back or on the side I kind of like the aspect of having his right at the concrete, it looks like a garage, I have absolutely no problem with it at all.

Mr. Klopfenstein: Okay, anyone have any questions? Thank you very much and how about you ma'am?

Ms. Pelling: My name is Jackie Pelling, I live at 14821 Green Briar Drive and my property is adjacent to his so it would be in between our houses and I've talked with my husband and we don't see any reason why it would affect our property and knowing his property that is the logical place to put it and also knowing the Wilhelm's I have never known them put up anything that would take down the cost of our house. So we are all for it.

Mr. Klopfenstein: Thank you so much.

Ms. Pelling: Thank you.

Mr. Klopfenstein: Does anybody have any questions? Anyone else wish to testify? Alright I am going to close the meeting now so for you folks in the audience what that means is we have taken all the testimony we will on the application and now it's the Board's discussion so does anyone have a motion they would wish to make on the application? And by anyone that would be any of the Board Members if you wish to make a motion to either approve the application or to deny the application. We need a motion before we can have a discussion about it.

Ms. Fleshman: I move that we accept the application as requested.

Mr. Klopfenstein: And I assume further that in your motion you also are telling us that you agree that it meets the four criteria identified by Mr. Jones from section 151-3.12D, yes?

Ms. Fleshman: Yes.

Mr. Klopfenstein: Okay the motion has been made now to approve the application is there a second?

Mr. Kramer: I'll second it.

Mr. Klopfenstein: Thank you I have a second on the motion now anybody have any discussion anything you want to say thoughts, ideas anything like that.

Mr. Kramer: So I pulled up the Google Map for what looked like to me the whole neighborhood and there were many outbuildings, some of them were setback some of them were even, there really wasn't any...

Mr. Klopfenstein: Uniform.

Mr. Kramer: Right and as it was pointed out the houses are set at different distances from the road.

Mr. Raasch: Basically I feel that when these people built these houses if they had known this was going to be in effect later they would have built them maybe in a different place. It is a hardship the way this is for people who had built their houses on the back side of the properties and I don't have a problem with it.

Mr. Klopfenstein: Okay, any other discussion? Any questions for Mr. Jones? It seems to me my question Mr. Jones would be do you believe they have met the criteria, the part that I thought was the strongest was the indication that through no fault of their own the positioning of the pole barn has to be where it is.

Mr. Jones: Yes that would be, so you are talking A about not a result in the owner's intentional actions, I would agree it is not a result of this owners intentional act.

Mr. Klopfenstein: The number of lateral fields is just mind boggling; my commenting on anything is my goodness gracious.

Mr. Jones: And that is unfortunately like I said earlier, if somebody comes to us with a new residence we try to push them towards leaving more room for accessory buildings, a lot of reason people move to the county is because they want the room and they want their toys and need room to put up other buildings. We would try to talk somebody out of putting the house in that location if they came to us at this point.

Mr. Klopfenstein: Okay, alright does anybody want to call the question, vote on the motion or further discussion? What would you like?

Mr. Raasch: I think we are ready to vote.

Mr. Klopfenstein: Okay, alright so Mr. Jones will you call the roll?

Mr. Jones: Buddy Raasch?

Mr. Raasch: Approve.

Mr. Jones: Brian Klopfenstein?

Mr. Klopfenstein: Yes.

Mr. Jones: Kristi Soligo Fleshman?

Ms. Fleshman: Approve.

Mr. Jones: Zachary Kramer?

Mr. Kramer: Approve.

**Final Vote 4/0/0 Approved Case 16-103BZA
Variance Request Outbuilding Forward of House**

Mr. Klopfenstein: The vote's unanimous, congratulations, any other business?

Mr. Jones: We will not be having a meeting next month.

Mr. Raasch: Thank you.

Mr. Jones: Your welcome, we will have a small get together at P&Z if the Commissioners like to come on the 15th you will get an e-mail from Angie. It's going to be Holiday, Christmas cookies things like that a two hour meal just to say thank you for serving on our Board.

Mr. Raasch: What day?

Mr. Jones: December 15th.

Mr. Klopfenstein: For the new Board members the food is always to die for so.

Mr. Jones: Now you put pressure on us. I think it's going to be 12 to 2 over lunch so hopefully we can have more attending and then for our first meeting next year whenever it is we will now that we have a full board we will vote on Chairperson and we have three members that your terms are up Mr. Klopfenstein, Mr. Raasch and Mr. Whitton in March I would love to have you back we will discuss that I will give you a call later on but I would love to have you back so think about that and that is all I've got.

Mr. Klopfenstein: Thank you without objection we will adjourn the meeting have a great Thanksgiving.

Meeting Adjourned



Chairman, Board of Zoning Adjustment



Secretary, Board of Zoning Adjustment



Recording Secretary