

**BOARD OF ZONING ADJUSTMENT MINUTES**

**August 22, 2017**

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

Call to Order

@ 5:30 pm: Buddy Raasch

Roll Call: Kipp Jones, Manager

Members Present: Buddy Raasch, Larry Whitton, Randall Morris, Kristi Soligo  
Fleshman and Zachary Kramer

Members Absent:

Staff Present: Kipp Jones, Manager  
Debbie Viviano, Planner  
Andy Roffman, Assistant County Counselor  
Angie Stokes, Secretary

**Mr. Raasch:** I am going to call this meeting to order, would you like to start with a roll call Mr. Jones?

**Mr. Jones:** Zachary Kramer?

**Mr. Kramer:** Present.

**Mr. Jones:** Kristi Soligo Fleshman?

**Ms. Fleshman:** Present.

**Mr. Jones:** Larry Whitton?

**Mr. Whitton:** Present.

**Mr. Jones:** Randall Morris?

**Mr. Morris:** Present.

**Mr. Jones:** Chairman Buddy Raasch?

**Mr. Raasch:** Present. Let's start with the approval of the minutes for May 23, 2017, do I hear a motion?

**Mr. Whitton:** So moved.

**Ms. Fleshman:** Second.

**Mr. Raasch:** Roll call.

**Mr. Jones:** Zachary Kramer?

**Mr. Kramer:** Approve.

**Mr. Jones:** Kristi Soligo Fleshman?

**Ms. Fleshman:** Approve.

**Mr. Jones:** Larry Whitton?

**Mr. Kramer:** Approve.

**Mr. Jones:** Randall Morris?

**Mr. Morris:** Approve.

**Mr. Jones:** Chairman Buddy Raasch?

**Mr. Raasch:** Approve.

**Final Vote 5/0/0 Approve Minutes from May 23, 2017**

**Mr. Jones:** It's up to you Chairman if you want to swear everybody in at once.

**Mr. Raasch:** Yes, who would like to talk on this first case, if you do raise your right hand, do you swear to tell the truth, the whole truth and nothing but the truth?

**Mr. Taylor:** Yes

**Ms. Taylor:** Yes.

**Mr. Raasch:** I think we are ready to start on our first case, would you like to summarize it?

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

**Mr. Raasch:** Yes.

**Mr. Jones:** Summarizes case number 17-105BZA, a request for variance to Section 151-6.3(B)(5)(b) of the 2011 Clay County Land Development Code, staff report dated August 8, 2017.

**Mr. Raasch:** At this time we need to hear from the applicants or the representative of the applicant that want to speak, will the first one step up.

**Ms. Taylor:** I am Betty Jo Taylor, I live at 15404 Wilson Ln, Overland Park, KS and I am here to discuss our moving to our son's property, who lives at 13620 Woodriver Drive in Kearney, MO. I prepared a presentation that is about four minutes, it's probably too long but I didn't know how much you wanted to know about us and why we are here and why we are pursuing this variance, so if it's okay I will read it. Doug and I live in Overland Park. Our son, his wife and three granddaughters live in Kearney on Woodriver Drive and their property is the one that we are discussing this evening, they have lived there for five years and they are the second owner of this property and tonight is kind of a culmination of our years of planning for a place to downsize and we began seriously looking in Kearney because we wanted to be near our granddaughters and be involved in their activities and also we want less home maintenance and we want to travel freely without worrying about the constant maintenance of a house and after looking and planning, Gardner and Tina invited us to live on their lower level of their home which is quite nice and living with Gardner and Tina on their lower level seemed ideal with one exception. We needed a garage for our cars and with the granddaughters starting to drive and Gardner and Tina have their cars there was no space for us to use their garage. So Gardner and Tina have a pretty large property but unfortunately the home sits in the back of the property and the only portion available for us that we could find to build a garage was on a plateau about 50 feet down from the current garage and this defacto area had some signs of being developed by the previous owner, it looked as if it should work well for the garage, so then we take it to the County office to get a permit to build the garage and this is when our current difficulties began. First Kipp told us that the rotation was apparently six feet, I am not sure about that, in front of the corner of the permanent home structure and then then we found out that the planned garage building may be less than the required 75 feet from the center of this small creek that was below the plateau and a portion of the planned garage building was on the neighbor's property and he was on the other side of the creek and we had no idea that that portion belonged to the neighbor. So we had come so far we didn't want to give up in pursuing this and so

our son said he would check with the Peacock's and see if they would consider selling that portion and Peacock's are very nice people so they made an arrangement with them. Then we hired M&M Surveyors and they had both our Son's and the Peacock's property resurveyed. We are now back to one variance since the garage will still be in front of the house and so we are here tonight to get approval to build the garage on the plateau of his property. Do you have any questions for me?

**Mr. Raasch:** Does the Board have any questions?

**Mr. Jones:** I do want to add that the applicant did provide a site plan with pictures included in your staff report so there are multiple reasons, I believe the applicant is requesting this variance they include the floodplain, topographical reasons you can tell by the aerial image that we have up on the screen the lot is heavily wooded, so I just wanted to point these things out to you.

**Mr. Kramer:** I would like to know the distance from the road to where the building is going to be at.

**Ms. Taylor:** What was that?

**Mr. Kramer:** The distance from the road to where the building will be?

**Ms. Taylor:** The main road?

**Mr. Kramer:** Approximately.

**Mr. G Taylor:** I don't have that but we can get that for you.

**Mr. Raasch:** Do you have any idea how long the driveway is?

**Mr. G Taylor:** It is pretty long, if you look at the map the road is way out there we are set way back in there, I don't know how long, maybe 100 yards.

**Mr. Jones:** I believe we can measure that on the map, so if you give us just a second we should have a distance for you.

**Mr. Kramer:** How tall will the building be?

**Ms. Taylor:** Just as high as the cars are (*inaudible*)

**Mr. Kramer:** Just a one car...

**Ms. Taylor:** A two car garage.

**Mr. Kramer:** One story?

**Ms. Taylor:** Yes.

**Mr. Jones:** And our code would not allow the garage to be taller than the house, so we can regulate that.

**Mr. Kramer:** What is the exterior of building going to be?

**Ms. Taylor:** We haven't planned that yet we are getting this through first but it will be comparable to the home. Something woodsy, that is what they have cedar, it will fit in with the home.

**Mr. Morris:** Once the property is split, will the adjoining property still be appropriate parcel size? It is only 10.52 together.

**Mr. Jones:** So the Peacock's property which is the neighbor's property is bigger than the Taylor's property it's roughly five and a half acres and Taylor's is roughly four and a half so we are basically just going to swap, the Peacock's is going to become closer to five and Taylor's is going to be closer to five. So it kind of just balances the two out and that is just the same as the neighborhood it's not going to make it stick out in the area by any means. I think we are having some trouble with the measuring device, by looking at the aerial I would guess that's at least a couple hundred feet back from the road, if you look on your front, the first page of your staff report you can see just across the property line my estimate would be at least 200 feet from the road and I have driven by the property

it's going to be hard pressed to even see that proposed garage once it's constructed because it is heavily wooded.

**Mr. Raasch:** How long is your pool?

**Mr. G. Taylor:** How long is the pool? It is 25.

**Mr. Raasch:** If you look at the pool and its 25 feet it is probably a little bit more than 200 feet.

**Mr. Jones:** It may be, but a least 200 I would say for sure.

**Mr. Kramer:** Has there been any opposition from anyone?

**Mr. Jones:** Planning and Zoning has not received any opposition, we have had a few phone calls, the main concern from the neighbors would be they were concerned that the garage was going to go up in the front in that clearing here but Debbie can you go back to the aerial please. So the neighbors were concerned that the building was going to go here in the clearing but once we explained to them that the proposed site was towards the side property line in the trees, there was no opposition for it. The building site is roughly right here so the neighbors were worried that it would be up here.

**Mr. Raasch:** Any other questions? Thank you very much. Did you want to talk sir? State your name.

**Mr. D. Taylor:** Thank you, I am Doug Taylor and she is my boss. My real purpose here this evening is to just follow our script that we have prepared for you; the variance as Mr. Jones has pointed out our variance request is based upon four real influences upon the property. Gardner is the second owner, I think that if Gardner had been the first owner we might have even thought about getting a different lot, this lot this area where his home is a beautiful home, a beautiful setting, horrible for additional construction, our variance request is built upon, I am repeating myself, second owner, number two the topography of this site, it's up and down all over the place. There are two spots where construction could have occurred or can occur, that's where the first owner built the house and then where we are hoping to build the two car garage other than that there are no other areas, there is a septic problem, not a problem it's just there but that makes building additional structures pretty much impossible and then the floodplain. If you were alert last night in Johnson County or in Clay County floodplains are extremely important. Now I did prepare or we prepared photographs there is a script under each one of those, that corresponds with this handmade map if you will and the numbers are circled one through twelve, the numbers represent where I was standing and then taking a photograph of the area immediately in front of me, I don't want to pretend that you are ignorant people so I don't really know that I need to read this script to you, but I am willing to do that. Number one and I will read it not making fun of anyone here, if I were standing...

**Mr. Jones:** Mr. Taylor, if you want to go through it please but it was included in the staff report the Board members got it last week so unless the Board members want to hear more about I don't think that is necessary.

**Mr. Taylor:** Okay, I think my act is over than and I appreciate it and I do hope you consider us for the variance.

**Mr. Raasch:** Does anyone have any questions for Mr. Taylor? Thank you.

**Mr. Taylor:** Thank you.

**Mr. Raasch:** At this time are there any comments from the Board?

**Mr. Kramer:** Yes, (*inaudible*) can we change it so we can say the exterior needs to match the house, can we do that?

**Mr. Jones:** I am going to lean on legal counsel, have we ever added a condition into a variance?

**Mr. Roffman:** Typically that is (*inaudible*) because there are going to be permits, that type of issue will go with them.

**Mr. Raasch:** Okay.

**Mr. Jones:** There may be an HOA.

**Mr. Raasch:** At this time we are ready to take, or is there anyone in the audience have any other comments on this? At this time...

**Mr. Jones:** I want to make sure I didn't miss a motion; we haven't had a motion at this point correct?

**Mr. Whitton:** No, I move to grant the variance.

**Mr. Raasch:** Second?

**Ms. Fleshman:** I will second that.

**Mr. Raasch:** Roll call vote.

**Mr. Jones:** Zachary Kramer?

**Mr. Kramer:** Approve.

**Mr. Jones:** Kristi Soligo Fleshman?

**Ms. Fleshman:** Approve.

**Mr. Jones:** Larry Whitton?

**Mr. Kramer:** Approve.

**Mr. Jones:** Randall Morris?

**Mr. Morris:** Approve.

**Mr. Jones:** Chairman Buddy Raasch?

**Mr. Raasch:** Yes.

**Final Vote 5/0/0 Approved Case 17-105BZA  
Variance Request Accessory Structure Placement**

**Mr. Raasch:** We well now move on to the second variance.

**Mr. Jones:** Yes and before we get into the staff report I was contacted by a representative of the applicant and my understanding is that they are requesting a continuance until next month's meeting, Angie is passing out the letter that was submitted. The applicant is here but before I got into the staff report I wanted to bring that up and let the Board decide on that first.

**Mr. de la Fuente:** (*inaudible*)

**Mr. Jones:** I will let the applicant talk but my understanding now they want to go through with the case, so that is up to the Board. They requested the continuance, I don't know if Legal Counsel wants to add anything.

**Mr. Roffman:** Did you already notify some of the people who might have been here to oppose this.

**Mr. Jones:** Yes and that is my issue, I tried to reach out to everybody that had contacted Planning and Zoning on this case to tell them that if they came to the meeting there might be a chance that it will be continued because the applicant requested a continuance.

**Mr. Roffman:** It is not my decision to make but it seems as if notice was given to people (*inaudible*).

**Mr. Jones:** If the Board wants to ask me what I think of it I would be happy to tell you what I think.

**Ms. Fleshman:** Mr. Jones what do you think?

**Mr. Jones:** I don't feel comfortable having the hearing with the applicant requesting a continuance and me reaching out to folks saying this may not happen tonight, that's my opinion. The applicant never, I was not aware the applicant wanted to go through with this tonight until just now, but it is the Board's decision.

**Mr. Kramer:** Well, I make a motion that we move this to next month's meeting.

**Mr. Morris:** Second.

**Mr. Raasch:** Do we need to vote on it?

**Mr. Jones:** Yes sir, Zachary Kramer?

**Mr. Kramer:** Approve.

**Mr. Jones:** Kristi Soligo Fleshman?

**Ms. Fleshman:** Approve.

**Mr. Jones:** Larry Whitton?

**Mr. Kramer:** Yes.

**Mr. Jones:** Randall Morris?

**Mr. Morris:** Approve.

**Mr. Jones:** Chairman Buddy Raasch?

**Mr. Raasch:** Approve.

**Final Vote 5/0/0 Approved Case 17-106BZA  
Variance Request Length of Cul-de-sac  
Tabled to September meeting**

**Mr. Raasch:** At this time is there anything else?

**Mr. Jones:** I do, included as part of your packet was a calendar for next year; we like to turn these in early to make sure we get the room. The only date that needs to be moved is the December meeting, it falls on Christmas. I would propose that we move it to December 18<sup>th</sup> but if the Board members have other ideas I would be happy to hear them but we would like to request the room this week if possible. I don't know if I need a vote I would just like an approval if nobody has any conflicts, I know it is far out.

**Mr. Raasch:** You said that was for December?

**Mr. Jones:** It falls on Christmas, we may not have a meeting either way but December 18<sup>th</sup> would be the best way to move it.

**Mr. Raasch:** That won't be a problem.

**Mr. Jones:** If everybody is good with that, we will just put those dates down. I know it is far out but we have some competition for the room sometimes so we just wanted to get it on the schedule. That is all I have. So we just need a motion to adjourn.

**Mr. Raasch:** Do I hear a motion to adjourn the meeting?

**Ms. Fleshman:** So moved.

**Mr. Raasch:** Second?

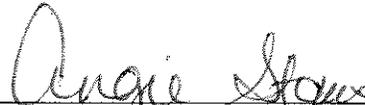
**Mr. Whitton:** I second the motion.

**Mr. Raasch:** Meeting is adjourned, thank you folks for coming.

**Meeting Adjourned**

  
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*Chairman, Board of Zoning Adjustment*

  
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*Secretary, Board of Zoning Adjustment*

  
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*Recording Secretary*