

BOARD OF ZONING ADJUSTMENT MINUTES
October 22, 2013

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: David Fulton, Chairman

Roll Call: Matthew Tapp, Director

Members Present: David Fulton, David Fricke, Brian Klopfenstein and Vernon Reed

Members Absent: Mike Johnson

Staff Present: Matthew Tapp, Director
Tim Flook, Assistant County Counselor

Mr. Fulton: Okay let's call the regular October 22, 2013 meeting of Clay County Board of Zoning and Adjustment to order. Would you call roll please.

Mr. Tapp: Mike Johnson?

Mr. Johnson: No answer.

Mr. Tapp: Brian Klopfenstein?

Mr. Klopfenstein: Here.

Mr. Tapp: David Fricke?

Mr. Fricke: Here.

Mr. Tapp: Dave Fulton?

Mr. Fulton: Here.

Mr. Tapp: Vernon Reed?

Mr. Reed: No answer. (See comment added on page 2)

Mr. Tapp: Thank you Mr. Chairman.

Mr. Fulton: Okay everyone has received the minutes of the meeting from September the 24th meeting of the Board of Zoning Adjustments are there any additions or corrections?

Mr. Fricke: I move they be approved as submitted.

Mr. Fulton: A motion has been made.

Mr. Klopfenstein: I will second.

Mr. Fulton: And seconded that the minutes of the September 24th be approved all in favor signify by saying aye.

All: Aye.

Final Vote **3/0** **Approved** **September 24, 2013**
BZA Minutes

Mr. Fulton: Okay we have one request this evening and we have one gentleman in the audience that may want to testify and so right now if you would stand we swear in any individuals that are going to testify or make the application, if you would and state your name first.

Mr. Wilson: Brian Wilson.

Mr. Fulton: Brian Wilson do you solemnly swear to tell the truth the whole truth and nothing but the truth so help you God? If so say "I do".

Mr. Wilson: I do.

Mr. Fulton: Thank you very much, now you can be seated. We will call on you in just a minute, Mr. Wilson. We have one request and that request is from Brian and Amy Wilson for a request for variance of Section 151-6.3B (5B) of the Clay County Development Code of 2011 pertaining to placement of an accessory building in front of the principal dwelling unit in a Residential Rural (R-1) district, and they need a variance because it's in non-compliance as it now stands with the County Code of Requirements where the out buildings cannot be in front of a primary residence. With that staff, Matt would you like to ... we have all received the packet which is well done as usual.

(Board Member Vernon Reed arrived to the meeting)

Mr. Flook: Before you initiate you want to acknowledge for the record for the minutes that Board Member Reed is now present so you can make sure he missed roll call he is now present.

Mr. Fulton: Okay, let the record show that Vernon Reed entered at this time.

Mr. Reed: With apologies for being late.

Mr. Fulton: And now you are on record to being here.

Mr. Reed: Alright.

Mr. Fulton: Thank you.

Mr. Tapp: Mr. Chairman, if I may before I continue I would like to attach the staff report as part of the record.

Mr. Fulton: Absolutely.

Mr. Tapp: Summarized the staff report 13-104BZA dated September 21, 2013.

Mr. Fulton: Very good, are there any questions to Matt relative to the staff report that we all received and had a chance to look at?

Mr. Fricke: Any additional feedback, Matt, from the neighbors, any letters?

Mr. Tapp: Yes Mr. Fricke, I don't believe there were any correspondences from neighbors. I will check the record real quick, but based on what I know we have gotten zero correspondences with phone or e-mail or otherwise.

Mr. Fricke: Very good, thank you.

Mr. Fulton: We will open the time period of public comment to hear any proponents and likewise, if there are any enter the room, any opponents. We'll hear first from a proponent whose Mr. Wilson I take it, if you would come to the podium and state your full name and why we should approve it.

Mr. Wilson: My name is Brian Steven Wilson, like Matt said earlier we purchased the property, it's almost been a year now and I have a lot of stuff and one of the things we wanted to do was to have a structure so that we could put some of our belongings in and the way that the previous builder, built the property he pushed the home clear to the back of the property which is a 1,000 feet from the road, the house cannot be seen from the road the structure would not be able to be seen from the road even in the winter, I think it would be tough to see it. In the way terrain is it's very steep behind the home, we have

some utility lines in the way of a propane tank that runs and a propane line that runs on the north side of the home and we also have a large lateral field and septic below the pool area and a steep sloop down to the edge of the property line on the south side of the home. So really this is the only place that we feel we can put the structure we are wanting to build and have it secure also where we can keep an eye on the building and our belongings. So we are asking for approval on this so that we can proceed if it's possible and appreciate your consideration.

Mr. Fulton: Any questions for Mr. Wilson? I didn't get a chance to get out, on the moving a propane line is not a big deal, I was curious was there room there to even be in the front of the building to the north?

Mr. Wilson: It would be I don't what your codes are on structure between houses.

Mr. Tapp: Five feet, five for separation yes.

Mr. Wilson: Okay and there's also quite a sloop up that way too, to the septic tank so it would be another terrain issue on the

Mr. Klopfenstein: On the other side.

Mr. Wilson: On the north side.

Mr. Klopfenstein: Okay.

Mr. Tapp: The red.

Mr. Wilson: The red is the septic and the previous or the line that runs through the home. There is also electric and water that runs east runs

Mr. Tapp: Black line.

Mr. Wilson: ...on the north side yeah the black line is the electric and water and they actually enter the home back where the red line does for the propane also.

Mr. Fulton: Thank you, other questions? Hearing no questions, thank you very much for coming in and let the record show there are no one else in the room to testify either as proponents or as opponents. So you may be seated we will reserve a right to call you back just in case. Gentlemen I would at this stage entertain a motion to approve this request for a variance.

Mr. Fricke: Mr. Chairman I would develop the history on this I think based on the overlays and Wilson's request and how they've outlined it I think it qualifies I see no problems under our stipulations of the four requirements and with that I would like to make a motion that we approve Case number 13-104 for approval as submitted.

Mr. Fulton: Is there a second?

Mr. Reed: I second it.

Mr. Fulton: A motion has been made and seconded to approve the request as we have it in front of us as submitted; now we open it up for discussion.

Mr. Klopfenstein: Okay here is my concern, why would you want to put the barn in front of the house or the shed in front of the house? And I get it but I'm struggling with part A. You mean to tell me there is nowhere else on the property, I get it should be around the house, I get that but it just strikes me that..

Mr. Reed: It's my sense that because the long narrow lot...

Mr. Klopfenstein: driveway..

Mr. Reed: ... and the house being set all the way back you've got an unrealistic front yard, it's really property, it's not a yard and you got plenty of opportunities to build something there. It's a wooded area, it's nothing that is going to violate somebodies sensibilities driving by down the road, oh wait a minute there's a barn in front the house, nobody's really going to be aware of that.

Mr. Klopfenstein: What's that thing in the picture the Lazy J map can we go back to that?

Mr. Tapp: I believe that's the building you are talking about that's on the aerial photography; I think that Mr. Wilson can indicate that that building's been torn down.

Mr. Klopfenstein: Okay.

Mr. Tapp: Is that correct?

Mr. Klopfenstein: That's not the picture I am talking about Matt.

Mr. Tapp: To the west?

Mr. Wilson: *(inaudible)*

Mr. Tapp: It's this one that being illustrated on the...

Mr. Klopfenstein: There yes, what is that?

Mr. Tapp: That is gone right?

Mr. Wilson: No it's still there.

Mr. Tapp: Oh it's still there, okay.

Mr. Wilson: That is an old pole barn that's about to fall down, it was there when I purchased the property.

Mr. Reed: Is it used for anything?

Mr. Wilson: Some lumber.

Mr. Reed: Storage.

Mr. Wilson: It's open sided barn.

Mr. Fulton: Mr. Wilson I have one other question, if you could come back to the microphone. It appears to me if everything is to scale, I take it it's to scale, Matt on this map?

Mr. Tapp: That one is not on the front page of the staff report further back on attachment, I think its C that is to scale.

Mr. Fulton: I'm looking at the distance between the line because there's plenty room north and south of to put it on... put it north right behind the propane line and you don't have to move the propane line. It looks like more than 30 feet between there and where it drops off. Is there not? Did you investigate that possibility?

Mr. Wilson: The pictures at the end of the staff report show that terrain behind where the....

Mr. Fricke: There's steep terrain back there.

Mr. Klopfenstein: Would you go through and tell me where each of the pictures, picture one.

Mr. Wilson: The first picture C, Exhibit C, I believe.

Mr. Klopfenstein: Yes.

Mr. Wilson: Is looking northeast across the septic field from down on the west side, so I am standing approximately right about here looking this way on that picture.

Mr. Klopfenstein: Okay.

Mr. Wilson: And this shows the pool there's kind of a palm tree you'll see a fake palm tree in the picture.

Mr. Klopfenstein: Okay.

Mr. Wilson: That is the corner that is right here. So I am looking this way up this hill.

Mr. Klopfenstein: And it doesn't show the steep drop off behind, correct?

Mr. Wilson: Right. And the next picture Exhibit D I'm standing approximately where this dot is right here.

Mr. Klopfenstein: Okay.

Mr. Wilson: Well actually no I'm more right beside the house here looking up the hill, so basically I'm standing right about here.

Mr. Klopfenstein: Okay.

Mr. Wilson: And looking that way and then the next picture is basically off the back deck of the house looking up the hill, so you can actually kind of see the rail in the picture, not real well some flowers and stuff in the picture, and I'm standing on my deck right here looking that way. So there's I would say about 15 feet here before we start going up a hill and probably got 50 feet here before you start going up the hill here.

Mr. Klopfenstein: Okay.

Mr. Reed: From the public road at the other end of your driveway here as shown is there much of a view of your house?

Mr. Wilson: You can't see the house from the road, no.

Mr. Reed: Yes and that is my point is that there's a since of splendid isolation back here and I cannot even imagine needing to consider that wilderness in between a lawn or yard it's not that. This is just a quirk of the way of our land use regulations are written that would consider that a front yard, it's not a front yard.

Mr. Wilson: It's a very odd shape lot in where they positioned the house, this is not typical.

Mr. Reed: Yes.

Mr. Fulton: Very good thank you very much.

Mr. Klopfenstein: Mr. Chairman I am willing to call the question if you'd like, my questions have been satisfied.

Mr. Fulton: Very good. Are you ready to.. any more discussion? See heads wave there is no more discussion let's call for the question.

Mr. Tapp: Call the vote? Brian Klopfenstein?

Mr. Klopfenstein: Yes.

Mr. Tapp: David Fricke?

Mr. Fricke: Yes.

Mr. Tapp: Chairman Fulton?

Mr. Fulton: Yes.

Mr. Tapp: Vernon Reed?

Mr. Reed: Yes.

**Final Vote 4/0 Approved Case 13-104BZA
Brian and Amy Wilson**

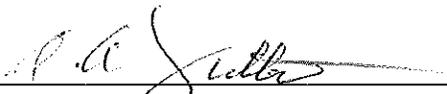
Mr. Fulton: Mr. Wilson your request for variance has been granted unanimously so thank you again for coming in and sharing with us and we appreciate it. Is there any other?

Mr. Tapp: Yes there actually before members head out we wanted to discuss the 2014 meeting schedule we will more than likely not meet in November or December, it's not looking, December might be a possibility but let's not chance it. So the dates to look at is May 27th which is right after Memorial Day and then November 25th is the week of Thanksgiving.

Mr. Fricke: Thanksgiving week yes.

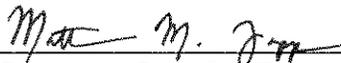
Mr. Tapp: And then December 23rd. Well all the dates around there which would be the 23rd is not correct actually it will be the 24th but we are off a half day.

Mr. Fulton: Let's start with the first, let's start May.
Mr. Tapp: Okay, bump it up a week.
Mr. Fulton: Move it up a week if the board approves it.
Mr. Fricke: The 20th.
Mr. Fulton: To the 20th that sounds satisfactory? The next date was?
Mr. Tapp: November 25th, which is the dark green, are your dates as they stand.
Mr. Fricke: We can do the same thing couldn't we?
Mr. Fulton: Definitely let's just go a week earlier 18th.
Mr. Reed: To the 18th?
Mr. Tapp: Yes. And then December 24th that's clearly not going to work.
Mr. Fricke: The 23rd.
Mr. Fulton: The 23rd let's do the same thing go up a week.
Mr. Tapp: Oh it is the 23rd.
Mr. Fulton: But we still have Christmas week.
Mr. Tapp: Yes okay I will put that down and put it into our calendars.
Mr. Fulton: Good.
Mr. Klopfenstein: Thank you.
Mr. Tapp: That is all Mr. Chairman.
Mr. Fulton: Okay is there a motion to adjourn?
Mr. Reed: I move that we adjourn.
Mr. Fulton: Is there a second?
Mr. Fricke: I'll second that.
Mr. Fulton: All those in favor say aye.
All: Aye.
Mr. Fulton: We are adjourned.
Meeting Adjourned



Chairman, Board of Zoning Adjustment

9/22/2014



Secretary, Board of Zoning Adjustment

09/24/14



Recording Secretary