

BOARD OF ZONING ADJUSTMENT MINUTES

May 19, 2015

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, Buddy Raasch, Vernon Reed and Larry Whitton

Members Absent: Brian Klopfenstein

Staff Present: Matthew Tapp, Director
Debbie Viviano, Planner
Tim Flook, Assistant County Counselor
Angie Stokes, Secretary

Mr. Fulton: I call the May meeting of Clay County Board of Zoning and Adjustment to order. How long Matt should we wait for the applicant?

Mr. Tapp: I would give them five minutes.

Mr. Fulton: Five minutes, okay. Is there any other business anyone wants to bring before this body?

Mr. Reed: We should make plans for a party.

Mr. Fulton: I can't believe the Counselor is quiet.

Mr. Flook: I am sorry you were asking if anybody had a comment, I've been a lawyer for over 20 years and it means I finally learn to keep my mouth shut.

Mr. Fulton: Okay let's go ahead and call roll please.

Mr. Tapp: Buddy Raasch?

Mr. Raasch: Present.

Mr. Tapp: Larry Whitton?

Mr. Whitton: Here.

Mr. Tapp: Vernon Reed?

Mr. Reed: Here.

Mr. Tapp: Chairman Dave Fulton?

Mr. Fulton: Here.

Mr. Reed: I would like to make a motion that the staff be requested to prepare minutes from memory and as much as the recorder itself was not operable, just to get on the record the action that we took.

Mr. Fulton: Do I have a second?

Mr. Whitton: Second.

Mr. Fulton: Is there any discussion on making the minutes from the last meeting?

Mr. Flook: Will she have to be sworn in so she is telling the truth?

Mr. Fulton: Okay all those in favor signify by saying aye.

All: Aye.

Final Vote **4/0/0 Reconstruct April 28, 2015**
BZA Minutes

Mr. Fulton: So if the staff will make abbreviated minutes to indicate that we actually did take minutes. While we are waiting on the applicants would you brief us Matt, the applicant does not need to be here to have the staff report read?

Mr. Tapp: Yes, Mr. Chairman the property owner who is also the applicant, the property address is 29204 Ridge Road and it is case number 15-104BZA and Mr. O'Neill is requesting a variance from the minimum front side setback as well as an accessory building being forward of a house at the subject property as I indicated 29204 Ridge Road, which is 46± acres zoned agricultural. This is in anticipation of a future rezoning subdivision to the Planning and Zoning Commission, we as staff advised to get the variance or pursue the variance first as that should be the beginning point otherwise if they do not receive this it's a moot point. As you can see the staff has highlighted the non-use variance request approval criteria and the applicant has submitted the information as shown under I believe Exhibit A under petitioner letter and Exhibit B our pictures that the applicant took along his property and then Exhibit C a plot plan from when I believe the house and accessory building are both built at the same time and so the requesting is 16 foot front side setback and then again accessory building be forward of the principal house.

Mr. Reed: Is the outlined area in yellow planned to become a subdivision?

Mr. Tapp: Yes the applicant is looking to subdivide about two lots, one of which will be a 20 acre land locked piece with a 60 foot ingress/egress to get back there and then the remaining portion to be tied to the existing house and accessory structure and doing so they fall under twenty acres and in residential zoning accessory buildings must be to the side or to the rear and not take larger the lot etc., etc..

Mr. Raasch: Can you tell me when the buildings were actually built, it says approximately 2000, is there an exact date or we just going to guess when it was built?

Mr. Tapp: No we have an exact date when we put that on there we just give it an approximate date. Obviously in 2000 there was a building permit but I don't have the final numbers in front of me, Board Member but I can certainly get that information for you, in 2000 we have detail.

Mr. Raasch: When was it in '09 when the law changed, or the setback? What was the setback prior to that? The 50 foot is it in effect now?

Mr. Tapp: And it will always be because agricultural zoning is the current zoning and they have to rezone it to R-1 as they go under the 20 acre minimum lot size and that's also 50 feet in front.

Mr. Fulton: They are going to rezone this.

Mr. Raasch: Okay.

Mr. Tapp: So because of that you are going from AG to R-1 front setback they have to get a variance for and being forward of the house as it converts to residential zoning. But it was preexisting prior to the pursue of rezoning and Mr. Chairman if you would like to make a note for record.

Mr. Fulton: Let it shown that the O’Neill’s arrived at 25 minutes until 6 o’clock and we will now for the minutes if you are ready to begin.

Mr. O’Neill: You bet, we have going around to doors to find one that was open. Sorry I didn’t know.

Mr. Fulton: If you are going to speak would you stand up and raise your right hand, do you solemnly swear to tell the truth the whole truth and nothing but the truth so help you God?

O’Neill Family: I do.

Mr. Fulton: Okay everyone is sworn in. So since you have now arrived we went ahead with the staff report on your application is there any more questions for Matt?

Mr. Tapp: Board Member Raasch does that conclude your questions?

Mr. Raasch: Yes.

Mr. Fulton: I call Matt the same question for you so then after this we take the action tonight if we approve it will go to the ..

Mr. Tapp: The Planning and Zoning Commission for rezoning and platting.

Mr. Fulton: Okay, the applicant has been sworn in if you would like to now come to the microphone and state your name and since we are being recorded and why we should approve your request for a variance?

Mr. O’Neill: Danny O’Neill, so the idea is to really, I don’t know if you can point at that or if it is really necessary but there’s kind of a mill pasture that’s like what abuts the pond space so it’s maybe six or eight acres a perfect spot with a great view of the Fishing River to build kind of a house/barn that we want to build.

Mr. Reed: Did you say a house/barn?

Mr. O’Neill: Yes kind of like a place that we can do a maybe for the kids to play basketball on one side and we could; I’m from Iowa and they had in the old days, I don’t know what they called them but you could drive through the middle but then on the top there would be like a hay loft and on both sides would be like a corn crib and I would love build something that style if we can. And then this is a great house, the guy who built it, built it in ’01 and it’s twice the size of our house in Brookside so we are not trying any monster we live in a house less than half that size in Brookside. But it’s a certain style Country/Country Oak and to kind of tell you how we got there and at any point if I give you too much information just stop me. So we were going to kind of start slowly but surely remodeling it and going through it and then I said this is perfectly suited for somebody and they might like it just the way it is and it’s really not set up for us it’s so big but not in the areas that we would have the bedrooms are huge and everything so if we could build in back that would be great. So I talked to Rick and talked to our neighbor Dale and talked to another neighbor Rex Brinker and I said, is it possible can you do that? And Rick, said let me see if they are giving water meters, and then he said yes they are and I said can we get utilities back there and he said yep. Then I talked to a Bill Hightower who Rex gave me his name I said is this even possible to do and how do you do it. So they said, call Matt and Debbie, and so we started down the process. So that is kind of what we wanted to do. If you guys say that listen we do not want any houses built out there then we wouldn’t do it, but that is the idea to do, it feels perfect. I’ve got a bazillion pictures, that is right there on top of, right there and then we own about half of where there is a line going through there that is more or less our property marker on the right side so that is more or less what we want to do is nothing

extravagant it's not like a McMansion or something it's probably more barn than house and...

Ms. O'Neill: We just need some space for the kids to be able to have kids over on the weekend and play inside the one half of the house more of a...

Mr. O'Neill: You need to come up to the microphone.

Ms. O'Neill: Oh sorry I don't know the rules.

Mr. Fulton: We will give everyone a chance to speak.

Mr. O'Neill: So then we thought what do we have to do, kind of laid it out this is the first step and then we have to get like a DOT or MOT to make sure we could put a road way back, then what would that look like that's really it. So in a perfect world, we would sell this the house and barn up front and this is more land than what we were looking for if we would have found this with seven acres we would have bought it but it happened to be 47 acres, but we literally ran into the farmer selling it when we drove down the road and so..

Mr. Reed: Would you mind going to the screen and pointing out some of the specifics I am having trouble following.

Mr. O'Neill: Yes, no worries, so this is the and I drove around all this property and I thought we owned was I driving on the neighbor's property and didn't know it eight years ago so it is a little bit deceiving. So this is our neighbor Dale and then here's our house and our barn and the guy who built this, they built this as their dream home in 2001 and they actually lived in the barn for a year while they built their house. They put the barn right here so we are more or less on this property right here nice straight stretches, this is all Missouri Department of Conservation land and so this is our property all the way back to Fishing River right there.

Mr. Reed: What is the red mark up there?

Mr. O'Neill: That's more or less the area that we would like to build in and that's about half way to the river to our, it's about 6/10 of a mile long and I had this in my phone, its maybe 800 and some feet wide. This is Dale they carved out I think either 7 or 10 acres and he actually owns all this and sold this to his brother-in-law this and so we bought this and so what we would want to do there's a little road going down to that field more or less like right here and we would like to make that an all-weather road it's just a dirt road right now that was a trail before and then we would put something probably facing south it would be, you'll look at it from afar you say that's a barn and we want to put like a weekend house quarters on one side and have a place for probably equipment and then maybe a basketball and sometimes when these guys get up and go to college and get out of the house then some farmer down the road can use it for equipment.

Mr. Fulton: For this Board we are focused on the lot split and with the Planning and Zoning you'll be addressing that with them.

Mr. O'Neill: Oh, cool.

Mr. Fulton: So all we do, we are ruling on the variance because since you are splitting it off the barn is in noncompliance in a residential area because it is out in front of the house. So we are ruling to give a variance basically for that if it was the big acreage it would be no problem but since it's the small split we have to rule.

Mr. O'Neill: You bet, and they built it in..

Mr. Fulton: Isn't that basically it?

Mr. Tapp: Yes that is correct Mr. Chairman, Mr. O'Neill just focus on the letter you written to them and the points in there and how topographical issues there are.

Mr. O'Neill: You bet.

Mr. Tapp: Topographical issues as to why the accessory building is currently in front of the house.

Mr. O'Neill: That's the only flat spot there is, so I mean that's why he put it there and was it legal in '01 to do that or 2000 I am curious? Was it, okay, but why and if there were if he didn't do it there that would be behind the house on the north side like if he bulldozed or cut down a lot of really nice trees they could have made a flat spot there. That is the only reason, I shouldn't say the only reason but the only flat spot on the whole property aside from that field, the next flat spot is the X that we had on there before there is no flat spot and that's why he put it there.

Mr. Raasch: When did you buy the property?

Mr. O'Neill: We bought it eight years ago or seven years ago?

Ms. O'Neill: Seven.

Mr. O'Neill: So about 2008.

Mr. Raasch: So really it was the previous owner's job to get this variance not his right? To sell it to him.

Mr. Tapp: The reason for the variance is because he's pursuing the subdivision which requires this to be rezoned to residential.

Mr. Fulton: If it would stay agricultural it would be no problem.

Mr. Tapp: Correct, there by requiring the variance. Up to this point it's been in compliance because it's zoned agricultural.

Mr. Raasch: I see.

Mr. Tapp: With the looming or incoming rezoning and subdivision then it's residential zoning.

Mr. Raasch: What you are basically what a weekend getaway or are you wanting to live out there?

Mr. O'Neill: It's a weekend getaway, that's what we do now, we go up after school on Friday and come back Monday morning or Sunday night and it doesn't matter we just been.

Mr. Fulton: So you plans are not to sell this other half of the property?

Mr. O'Neill: Well we would sell the house and barn and however much we needed to like seven acres or ten acres or whatever. I am totally at your guy's disposal, meaning if you said we really like you to sell two acres I would say okay.

Mr. Tapp: That's more for the Planning and Zoning this is purely the variances.

Mr. O'Neill: Oh, sorry.

Mr. Raasch: That is not decision.

Mr. Reed: We are not going to try and tell you what to do.

Mr. O'Neill: And I played devil's advocate with, I think it's, like if this is my neighbor I would say it's a good deal. I mean we are not going to build anything out of compliance and then I think having over 47 acres and splitting off..

Mr. Fulton: Okay so I can be clear, the present house that you are living in you are still going to live in it too?

Mr. O'Neill: No we would sell it.

Mr. Fulton: Okay, you are going to sell it.

Mr. O'Neill: Yes that is the idea to sell the house and barn and we have no idea that we couldn't build, the barn was there we bought it as is. And we would basically would sell it as is.

Mr. Fulton: But the lot split as how many acres?

Mr. Tapp: I think we have looked at section line, which is basically if you look at Exhibit C it kind of shows where the section.

Mr. Fulton: But how many acres roughly.

Mr. Tapp: I think it's about ten or eleven maybe twelve, depending on the right away dedication things of that nature. So it would be somewhere approximately 30 some odd acres in the north part where he's going to build his new building then 11/12 acres in the southern portion.

Mr. Fulton: My point is the lot split should equal what they are going to sell.

Mr. Tapp: If I am following correctly, yes they would sell the south lot with the house.

Mr. Fulton: Exactly.

Mr. Tapp: Then they would have an ingress/egress easement to get to the back part for the new.

Mr. Fulton: So is that do able under the ...

Mr. Tapp: Yes, otherwise you would not be hearing it right now.

Mr. Fulton: Ten plus acres in the Comprehensive Plan?

Mr. Tapp: With an Agricultural Land Preservation, which we won't get into much detail that is more Planning and Zoning Commission.

Mr. Fulton: Alright.

Mr. Tapp: It can be done, yes.

Mr. Fulton: Okay.

Mr. Reed: Is this green strip at the bottom is that bottom land, is that hill country where it's red and yellow.

Mr. Tapp: Yes, what I am showing here is the high precision digital elevation data, so the white then the red, orange, yellow, green is low so just trying to get an idea of how quickly it falls down into this drainage, the road is right here the house and the accessory building right in here. So you can see you can't really put it behind the house because of the fall ground to be in compliance.

Mr. Reed: And at the rear this is Fishing River that's a valley and it will come up and down into the Missouri River flood plain?

Mr. Tapp: Correct yes.

Mr. Reed: You will be building in the hills?

Mr. O'Neill: Yes on the ridge itself, yes. It goes down quickly on one side and pretty quickly on the other. We have flat bottom next to the Missouri River but I don't want to build there I am sure it's flooded right now we haven't been out there.

Mr. Reed: Don't build your house in the floodplain.

Mr. O'Neill: Yes we wouldn't bring that up.

Mr. Fulton: Any other questions? Do you have any more comments?

Mr. O'Neill: No I don't think so; I appreciate you guys giving us the time.

Mr. Fulton: Anyone else that would like to testify? Okay and there is no one in the courtroom this evening that would want to speak in opposition to it, but I understand you had one response to your notification to the neighbors.

Mr. Tapp: Yes we received a phone call from the adjacent neighbor to the west he had concerns over the loss of his quality of life, the loss of his view as it would be related to their new structure but that's more for the Planning and Zoning, land use verses a variance that we are here to discuss.

Mr. Fulton: Right and no one showed up this evening.

Mr. Tapp: No.

Mr. Reed: I move that we accept the request and approve the variance.

Mr. Fulton: The motion has been made to approve the variance as requested is there a second?

Mr. Whitton: I second.

Mr. Fulton: It has been seconded, now any additional discussion? The staff report, the applicant has sent us all the necessary information are we ready to rule? Call for question.

Mr. Tapp: Buddy Raasch?

Mr. Raasch: Yes.

Mr. Tapp: Larry Whitton?

Mr. Whitton: Yes.

Mr. Tapp: Vernon Reed?

Mr. Reed: Yes.

Mr. Tapp: Chairman Dave Fulton?

Mr. Fulton: Yes.

**Final Vote 4/0/0 Approved Case 15-104BZA
Daniel O'Neill**

Mr. Fulton: Your request has been approved.

Mr. O'Neill: Thank you guys very much.

Mr. Fulton: Now you go onto the next level.

Mr. O'Neill: That's it.

Mr. Reed: Before you leave I've got some questions to ask you.

Mr. O'Neill: Yes you bet.

Mr. Fulton: Is there any other business to come before the, Matt anything else to come before the Board?

Mr. Tapp: No Mr. Chairman there is no other business.

Mr. Fulton: The Chair will entertain a motion to adjourn?

Mr. Raasch: I make a motion to adjourn.

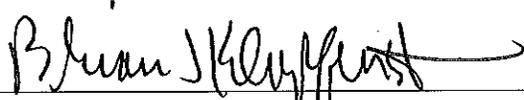
Mr. Whitton: Second

Mr. Fulton: The motions been made and a second, all those in favor say aye.

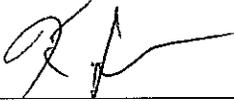
All: Aye.

Mr. Fulton: We are adjourned.

Meeting Adjourned



Chairman, Board of Zoning Adjustment



Secretary, Board of Zoning Adjustment



Recording Secretary