

REVIEW

Patrick and Diane Wilhelm own Lot 59 of Green Briar Estates, approximately 3.35± acres located at 14813 Green Briar Drive. There is a single family residence currently located on the property, which is zoned Residential Rural (R-1) District.

The Land Development Code (LDC) states that “*In a residential district, no accessory building shall be erected forward of the principal dwelling unit.*” The LDC prohibits the construction of an accessory building in front of the principal structure in residential zoning districts. The purpose of this restriction is to regulate the location of structures like barns and garages, and see that they are placed behind the house, to limit visibility and appearance of accessory buildings from the street.

The Wilhelm’s would like to construct a 30’ x 30’ pole barn/garage in order to store and protect the family vehicles. Attached are the following exhibits:

- **Exhibit A** the applicant describes the circumstances regarding their variance request.
- **Exhibit B** the applicant shows the location on the property of the proposed accessory structure.
- **Exhibit C** the applicant provides photos of the proposed building site.
- **Exhibit D** the applicant provides a site approval from the Clay County Public Health Center.

The applicant is requesting a variance to *Section 151-6.3B (5b)* for the proposed accessory structure being located forward of the principal dwelling unit.

- **Location of Proposed Accessory Structure:** forward of the principal dwelling unit (i.e., house).

In review of a non-use variance request, the following approval conditions must be met [*Section 151-3.12D (2)*]:

- A.** “*The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner’s intentional action;*”

Staff Response: **Exhibits A,B,C, & D** have been presented by the applicant.

- B.** “*The granting of the permit for the Variance will not be contrary to the public interest and will not adversely affect the rights of adjacent property owners or residents;*”

Staff Response: Public Notice was published for this case in the Kearney Courier on November 3rd, 2016, and certified letters were sent on November 4th, 2016 to the adjacent property owners at the addresses furnished by the applicant. At this time, there have been no written objections to the request.

- C.** “*The strict application of the provisions of which a Variance is requested will constitute an unnecessary hardship upon the property owner represented in the application;*”

Staff Response: **Exhibits A,B,C, & D** have been presented by the petitioner.

- D.** “*and, The Variance desired will not adversely affect the public health, safety, or general welfare, nor destroy the intent of the Comprehensive Plan.*”

Staff Response: The subject property falls within the Urban Services Tier as well as the Urban Services Transition Sub-Tier as identified by the 2008 Clay County Comprehensive Plan. This request for a variance will have no negative implications on the 2008 Comprehensive Plan. In addition, no written opposition to this variance has been received to date.

RECOMMENDATION

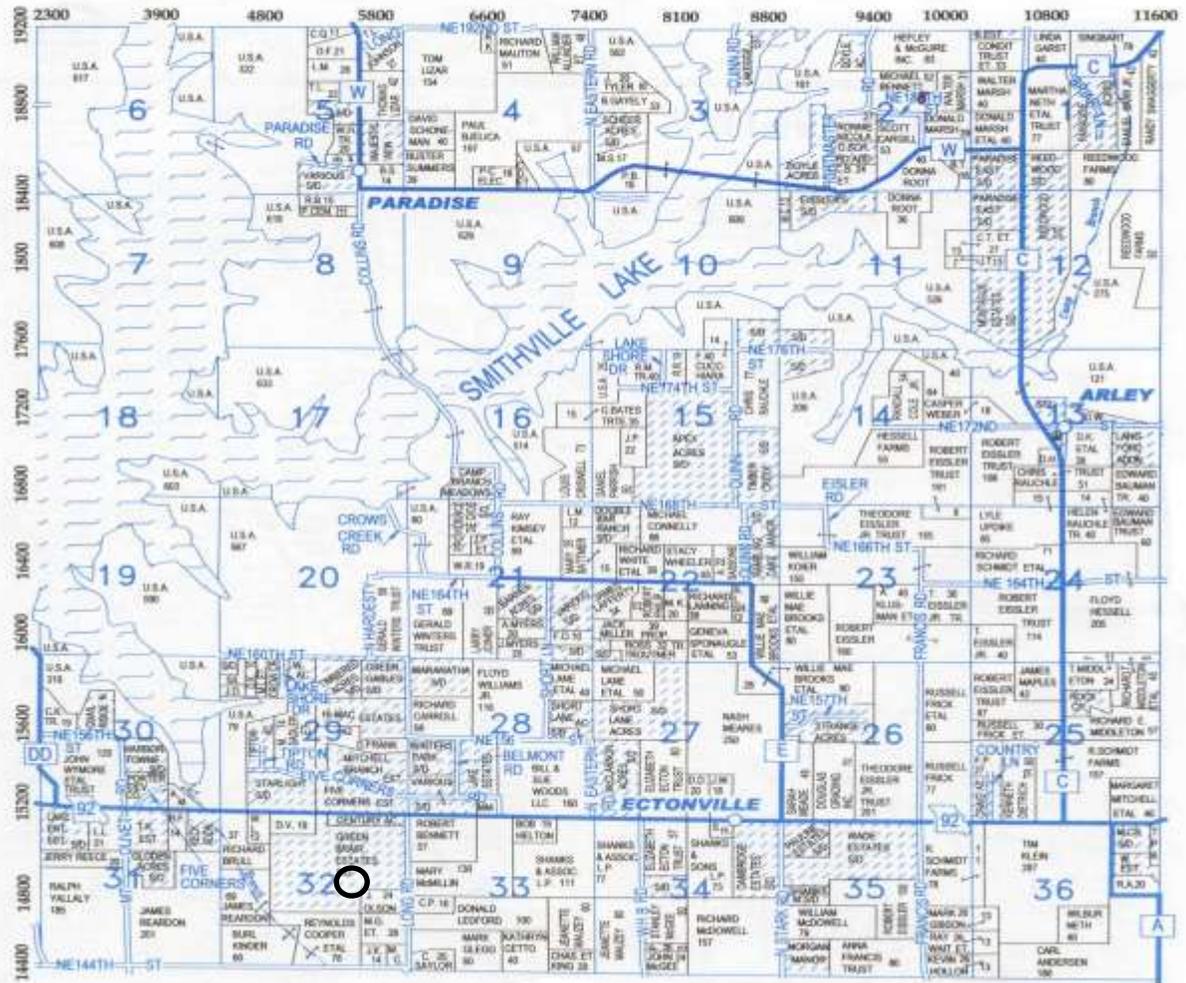
If the Board of Zoning Adjustment finds that the non-use variance approval criteria under Section 151-3.12D (2) have been met, then the following variance is to be authorized:

1. A location variance from *Section 151-6.3B (5b)* to allow a proposed accessory structure to be built forward of the principal dwelling unit.

16-103BZA – Wilhelm

Attachment A – Vicinity Map

TOWNSHIP 53N • RANGE 32W



ADDRESS: 14813 Green Briar Dr, Smithville, MO 64089

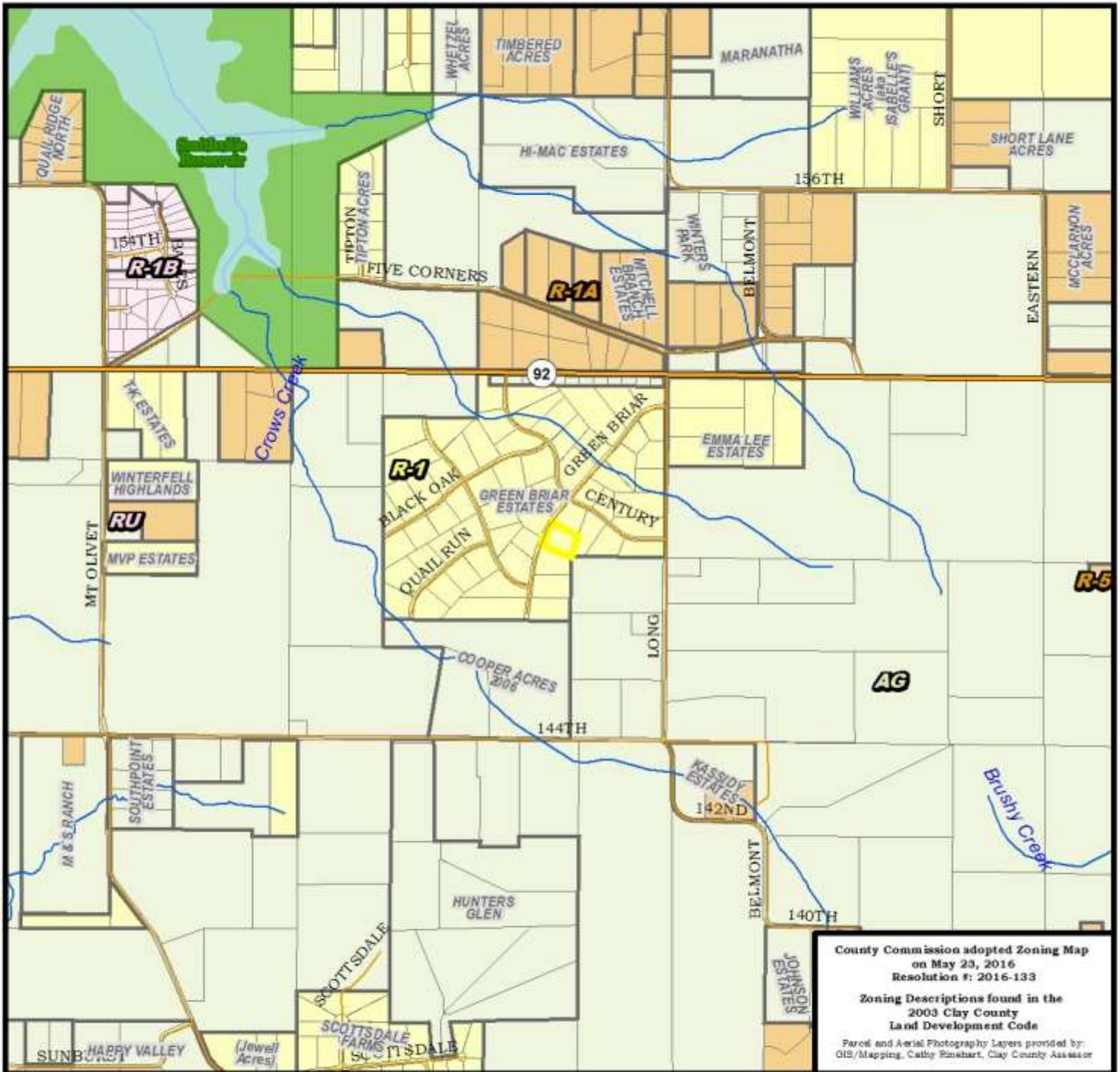
FROM Courthouse in Liberty go East to **Lightburne Street** turn North (2.7 miles)

Merge onto **I-35 North** to Kearney Exit 9 (6 miles), turn West on **92 Highway** (7.88 Miles) to **Long Road**, turn South on Long Road, at first right
Turn on **Green Briar Drive**

14813 Green Briar Dr is the second house on the **left** past Century Drive

16-103BZA – Wilhelm - Accessory Building

Attachment B - Existing Conditions Map



County Commission adopted Zoning Map on May 23, 2016
 Resolution #: 2016-133
 Zoning Descriptions found in the 2003 Clay County Land Development Code
 Parcel and Aerial Photography Layers provided by: GIS/Mapping, Cathy Reinhardt, Clay County Assessor

Planning & Zoning Department



1 inch = 2,000 feet
 1 inch = 0.38 miles

LEGEND

- Property Line
- Streams (EPA)
- Railroads
- Interstates
- State Highways
- Local Roads
- Highway Ramps
- Subdivisions
- 2016 City Limits
- Parks
- County Boundaries
- Zoning Districts**
- AG
- R-1
- R-1A/R-5
- R-1B/RU
- R-3
- C-1
- C-2
- C-3
- L-1
- L-2
- OP

16-103BZA – Wilhelm - Accessory Building

Attachment C - Site Plan Map



Map Document: (G:\GIS\Project_Files\Vacancy Map - 8 x 11 Print) 11/10/2016 -- 10:10:18 AM



Planning & Zoning Department



1 inch = 75 feet
1 inch = 0.01 miles

LEGEND

 Property Line	 Streams (EPA)	 Interstates	 Subdivisions
 Railroads	 State Highways	 Local Roads	 2016 City Limits
	 Highway Ramps		 Parks
			 County Boundaries

16-103BZA – Wilhelm

Exhibit A – Property Owner Letter

Oct 24, 2016

To: Board of Zoning Adjustment

Ref: Property of 14813 Green Briar Drive, Smithville, Missouri 64089

I am applying for a variance for the property legal description of LT 59 GREEN BRIAR ESTATES to build a 30x30 pole barn/garage structure adjacent to our driveway.

I am requesting this variance due to the restrictions on our property as a result of installing a Drip Irrigation Septic System in 2005. This low drip irrigation system was necessary due to the failure of the original septic system installed by the original owner and builder of the home and no longer met the code requirements for Clay County. This engineered system consisted of 3 fields, the first in Clay County to have 3 fields. The first two fields covers the front of the house on both sides of the driveway and the third field covers the entire north east side of the house.

The overall property is a general pie shape, smaller in the back and gets wider towards the front which the location of the house is situated more towards the back of the property. So the bulk of the property that is even with the house and behind our house is covered with woods and a quarter acre pond, which leaves insufficient room to construct a pole barn/garage.

The proposed location for the pole barn/garage is adjacent to our driveway and would be nestled between two of the septic fields, thus not affecting the operation of such which has been approved by the Health Department. Since our house is set toward the back of the property, the proposed location of the pole barn/garage will be set back 175 feet from the road (Green Briar) as well as 37 feet at the closest point from back of the pole barn/garage of our property line with adjacent neighbor, thereby preserving their property rights.

We would like to have the vehicles for the family garaged for safety purposes. With two daughters of driving age, plus my wife, I want to protect them and their vehicles. I would not ask for this variance if there was another viable location on our property to construct the pole barn/garage without destroying the natural environment of the property, i.e. woods and creek; however, the proposed location is the most optimal for use, aesthetics and accessibility.

Thank you for your time in considering this matter.

Sincerely,
Patrick and Diane Wilhelm

16-103BZA – Wilhelm

Exhibit B – Site Plan



16-103BZA – Wilhelm

Exhibit C – Proposed Building Site (Photo 1 of 2)



16-103BZA – Wilhelm

Exhibit C - Proposed Building Site (Photo 2 of 2)



16-103BZA – Wilhelm

Exhibit D – Clay County Public Health Center Approval



CLAY COUNTY PUBLIC HEALTH CENTER
ENVIRONMENTAL HEALTH PROTECTION DIVISION
800 Haines Drive Liberty, MO 64068
Phone: 816.595.4350 FAX: 816.595.4394
www.clayhealth.com

PERMIT #
16-72AB

SITE APPROVAL APPLICATION RECEIVED

ACCESSORY BUILDING, HOME ADDITION OR SWIMMING POOL

OCT 03 2016

A \$30 application fee, payable to Clay County Public Health Center, must be paid in advance, (fees are non-refundable). A site plan with the proposed building location must be included. Please allow 5 working days for approval.

NAME: PATRICK WILHELM PHONE: 816-739-6343

ADDRESS: 14813 GREEN BRIAR DR., SMITHVILLE, MO 64089

SUBDIVISION/LOT NUMBER: GREEN BRIAR ESTATES

APPLICATION FOR APPROVAL OF (e.g. garage) POLE BARN 30x30

SIGNATURE: Patrick Wilhelm DATE: 9/17/16

(Attach diagram or add sketch on back side of this application)

Approved by: Allison Winters Date: 10/4/16

Denied by: _____ Date: _____

Reason denied: _____

<i>For office use only:</i>		
PERMIT FEE: <u>30.00</u>	DATE RECEIVED: <u>10/3/16</u>	RECEIVED BY: <u>RN</u>
TOTAL DUE: <u>30.00</u>	PAYMENT TYPE: CASH _____ CHECK <input checked="" type="checkbox"/> M.O. _____	CREDIT: Visa, MC, Discover
AMOUNT RECEIVED: <u>30.00</u>	CHECK or M.O. # <u>1716</u>	CREDIT AUTH # _____
NAME OF CHECK/CARD: <u>DIANE & PATRICK WILHELM</u>		
SCP 09/08		

10/4/16 TO ALLISON W.