



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

Phone: 417 546-7225 / 7226 • Fax: 417 546-6861

website: www.taneycounty.org

MINUTES

TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, APRIL 19, 2017, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dan Boone called the meeting to order at 6:00 p.m. A quorum was established with four members present. They were: Dan Boone, Tony Mullen, Tom Gideon, and Trent Edwards. Staff present: Scott Starrett and Bonita Kisse-Souttee. The governing statutes were read by Mr. Starrett who also read a statement outlining the procedures for this meeting and presented the exhibits.

Mr. Boone swore in each speaker before their respective hearings.

Public Hearings:

Emerald Pointe, LLC Reconsideration of Appeal; a request to the Board to reconsider their decision to deny an appeal of the Taney County Planning Commission decision to place a stop work order on road construction in Phase 12 of Emerald Pointe Subdivision. Mr. Starrett read the staff report from the previous meeting and presented location maps, subdivision plat, road standards and pictures. Mr. O'Flaherty representing the applicant spoke for the applicant who was present along with the contractor for the project, their banker was also present. Mr. Boone gave the applicant the opportunity to postpone again since one person was not present. They chose to proceed. Mr. Boyce presented an itemized bid proposal and explained it. He stated there are several issues for concern such as erosion and he explained what would need to be done to help this. Mr. Edwards discussed curb and gutter and asked if plans were to be the same style. Mr. Boyce stated that it would and explained why. There isn't this type of curb and gutter throughout the development. Mr. Mullens asked for road construction plans. Mr. Boyce stated that he wasn't aware that he needed this and that the grades could not be addressed. Mr. Mullens clarified that no plans had ever existed.

Jerry McMurtrey who is a member of the Homeowners Association, discussed the performance security purpose, and gave his qualifications. He asked that the Board require the developer to present a performance guarantee to cover all uncompleted phases of the development.

Steve Trauth, who lives at Emerald Pointe and is a member also of the HOA, presented the Performance Security scope and value of the project. A history of the correspondence with the County was presented by Mr. Trauth. In his opinion all

remaining costs should be addressed. He stated that also in his opinion the County's Stop Work Order was consistent with Mo. Law.

Mike Moss a resident of Emerald Point discussed the road infrastructure construction standards and described the current status of the roads at the development and previous meetings regarding the development with various officials. He pointed out that his road was built to current standards so why can't they build Phase 12 the same way.

Jeff Drexler who is also a member of Emerald Pointe HOA discussed safety and stormwater control. He pointed out in the County regulations which cover these issues, and that Phase 12 does not comply with them. The original decision of record approved by the 2008 Planning Commission was read by Mr. Drexler. He also read a letter from Chris Berndt, Western District Fire Chief that stated that safety equipment could not utilize the roads because of the poor quality in his opinion. Also in Mr. Berndt's opinion the roads would not even be safe for the residents. Mr. Drexler also presented pictures of the roads of Phase 12 and of Phase 7.

Ken Bell summarized the key points of the other speakers. He pointed out that without a bond there is no guarantee. In his opinion it was the County's intent that the bond was to cover all phases. Mr. Bell feels that the developer should have plenty of money to construct the roads and pointed out lot sales and prices of the lots. The County could have liability issues down the road if this kind of construction is allowed to continue in his opinion.

Don Hicks is a property owner in phase 12, and doesn't live here. He reported that the developer misrepresented the project to the property owners by telling them there was plenty of money to finish the various phases of the project. Mr. Hicks stated that he repeatedly tried to get a response from the developers, but received none. He has been hurt financially and there is no way to recoup his money.

Steven Rinders who lives in Illinois and owns property in phase 12 stated that if in his opinion there isn't a bond in place there is no way that the roads could be completed. He asked the Board to please help the property owners and keep the stop work order in place.

The Board asked Mr. Cotty the County's Counsel, what the question of the meeting was, and he stated that error of law. Discussion followed.

Mr. O'Flaherty stated that they were prepared to post the bond, and that the plat was previously approved and they have been operating under that. They have been attempting to comply since January of this year. They would like the stop work order lifted so they can proceed with the work and fix the roads.

Mr. Mullens pointed out that Emerald Pointe, LLC were aware they needed plans and a bond to proceed since January. Further discussion followed. Mr. Mullens stated that none of the County Officials had seen any plans. Mr. Boyce pointed out that if they are not working, the soil is going to wash out and base rock was put underneath contrary to the opinion of the owners and staff. Mr. Boyce discussed that a permit was given to proceed with the work in 2009 and previously. He stated that he wasn't aware of any road standards in place at that time. Mr. Mullens explained that construction must comply with current road standards.

Mr. Haes Taney County Road and Bridge Administrator explained there were road standards in place when construction started and they have since been upgraded. He explained what was needed for the County to base the proper bond amount on the project. He further explained what the standards are and how the bond is arrived at. A question was asked how many of the members had physically been to the site. They all had been there.

Mr. Boone discussed with the Board how the motion was supposed to be done according to legal counsel. After discussion a motion was made by Mr. Gideon to keep the stop work order in place. Seconded by Mr. Mullen. The vote to keep the stop work order in place was unanimous.

There was a 5 minute recess at this point in the meeting.

Friendly Hills Nightly Rental; a request for an appeal of the Taney County Planning Commission decision to deny a special use permit for a nightly rental business at 189 Friendly Hills. The property is owned by Marc & Liz Kirby. Mr. Starrett read the staff report and presented maps and pictures of the site. Mr. and Mrs. Kirby were present. Mrs. Kirby clarified her request and stated they have made many improvements including wastewater system. She pointed out that the closest neighbor is in favor of the request. The covenants did not state nightly rental could not be done in this location when they bought the property. Mr. Edwards asked how often the house would be rented, advertising, and how much they charge to rent. Becky Reiser lives across the street read a letter from the President of the Property Owners Association opposing the use. Mrs. Reiser stated that she and her husband also opposed this request as well. Robert Johnston who lives on Lenhart Lane opposed the use as well and stated his concerns were; setting precedence, compatibility, parking, and property values. He presented a presentation of slides and maps of the neighborhood. Mr. Johnston pointed out the house was built in the right of way. In his opinion the property owners should not have to suffer because someone else wants to change their use. Marc Ryes who lives across the street also spoke in opposition of this use. His concerns were; traffic, noise, privacy, trash, type of renters, road conditions in the winter and steepness of the driveway. C.J. Perme lives on Lenhart Lane spoke both in favor of the request, and pointed out the problems as well. After discussion a motion

was made by Mr. Mullen to deny the request. Seconded by Mr. Edwards. The vote to deny was unanimous.

Todd Rammer; a request for a variance from the provisions of Section 7, Table 1, Setbacks of the Taney County Development Guidance Code and the November 19, 1997 setback variance on property located at Yogi Bear RV Resort. The request is for the back and side property line setbacks for a 36' x 18' carport placed on the property to cover and protect the RV. The applicant is seeking a 2' variance from the east property line and a 3' x 4' side setback variance from the south property line allowing the existing carport in its current location. Mr. Starrett read the staff report and presented location maps and pictures of the site. Mr. Rammer was present. He informed the board that he is in a flood plain so no permanent structures can be built there. Mr. Gideon asked what kind of structure is on the property and suggested another way to gain some inches to move the carport. Mr. Edwards asked if the board at Yogi Bear met with him when he moved the RV in. He stated that they didn't, and did not give him any rules or anything. The trailer has been there about 8 months and the carport a couple of months. He talked to the next door neighbor who didn't have a problem with the request. Mr. Rammer didn't know where his pins were. Rudy Bussard Vice-President of the homeowners association was present and discussed their covenants. He asked the Board to deny the variance and ask the property owner to have a survey done and that the County should require an accurate survey be provided before a permit is issued. Mr. Gideon discussed the width of the RV and the building on the lot. George Ekley another member of the HOA suggested that if so many variances are given in the park it will continue to become too crowded. Property lines were discussed and if they are accurate. Mr. Rammer stated that when he put everything in he thought he was in the right spot. After discussion a motion was made by Mr. Gideon to deny. Seconded by Mr. Edwards. The vote to deny was unanimous. The Board suggested the applicant obtain a survey and then apply for a Division I Permit.

William Mills; a request for a variance from the provisions of Section 7, Table 1, Setbacks of the Taney County Development Guidance Code from the required front property line setback and 20' from the north side of the lot allowing for the placement of a new mobile home with the building eaves being located 20' from the northern-most front property line. The property is located in the Dixieland #4 Subdivision. Mr. Starrett read the staff report and presented pictures and location maps of the site. The Board discussed that the request is in the same spot as what was previously there, just to replace the mobile. After discussion Mr. Gideon made a motion to approve based upon the decision of record. Seconded by Mr. Mullen. The vote to approve was unanimous.

Review and Action:

Minutes; March 15, 2017; with no additions or corrections a motion was made by Mr. Edwards to approve the minutes as written. Seconded by Mr. Mullen. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Starrett reported that there will be two variance requests for next month.

Adjournment:

With no other business on the agenda for April 19, 2017 the meeting adjourned at 8:40 p.m.