



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653
Phone: 417 546-7225 / 7226 • Fax: 417 546-6861
e-mail: rcbrish@co.taney.mo.us

AGENDA

TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, JUNE 16, 2010, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

*Establishment of Quorum
Explanation of Public Hearing Procedures
Presentation of Exhibits
Governing Statutes*

Public Hearing:

Forest Park Estates Property Owners Association

Old and New Business:

Review and Action:

Minutes: May 2010

Adjournment.



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TANEY COUNTY BOARD OF ADJUSTMENT
STAFF REPORT
FOREST PARK ESTATES PROPERTY ASSOCIATION
JUNE 16, 2010
#10-1

Public Hearing for Forest Park Estates Property Association, 151 N. Rainbow Dr. in the Branson Township, Sec. 26 Twp. 23 Rng. 22.

The applicants request an appeal of the March 17, 2010 permit to construct a garage.

History: A permit was issued by the planning staff to Gary and Brenda Nash to construct a garage for an RV, which will have a laundry room. The property owners will live in the RV while it is parked in the garage structure.

General Description: The subject property is located in Forest Park Estates Phase One, 151 N. Rainbow Dr. The adjoining properties to the request consist of residential.

Review: The applicants maintain that the proposed building is covering almost the entire buildable area of the lot, that it is a habitable building and should adhere to the 10' setback in the rear of the property.

Summary: If the Taney County Board of Adjustment approves these variances, the following requirements shall apply, unless revised by the Board:

1. Permit #09-52 is revoked.
2. The property owner must adhere to the 10' setback requirement to the rear of the property.
3. All other provisions of the Taney County Development Guidance Code met.
4. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Appendix D Sep 6).



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TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT

FOR VARIANCE OR APPEAL

(Circle one)

Variance (\$125.00) Appeal (\$125.00)

PLEASE PRINT

Applicant Forest Park Estates Property Assn Phone 417-337-8605

Address, City, State, Zip 100 Royal Oak Drive Branson, MO 65616

Representative Harold Hitchler Phone 417-337-8605

Owner of Record same as applicant Signature: Harold Hitchler

Name of Project: Gary & Brenda Nash - RV garage for winter

Section of Code Protested: (office entry) _____

Address and Location of site: 151 N Rainbow Dr. Branson, MO 65616

Subdivision (if applicable) Forest Park Estates - Phase one

Section 26 Township 23 Range 22 Number of Acres or Sq. Ft. _____

Parcel Number 07-7.0-26-004-003-004.001

Does the property lie in the 100-year floodplain? (Circle one) Yes X No.

Required Submittals:

- ☒ Typewritten legal description of property involved in the request
- ☐ Alphabetical list of all property owners within 600 feet of the request
- ☐ Proof of public notification in a newspaper of county-wide circulation
- ☐ Proof of ownership or approval to proceed with request by the owner
- ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.

The Forest Park Estates Property Owners Association is filing this appeal because Building Permit #09-052 which was issued to Gary A. Nash is issued in error.

A copy of this Building Permit was obtained from Taney County Planning and Zoning Department on March 17, 2010. The Building Permit site plan shows the main building 5 ½ feet from the rear lot line.

According to the setback information we have received from the Taney County Development Guidance Code, it clearly states that main buildings are required to have a rear yard setback of 10 feet. All non-habitable outbuildings or accessory structures are required to be set back 5 feet from the rear lot line.

The Thorndike Barnhardt dictionary defines an outbuilding as a shed or building built near a main building.

We have come to the conclusion that since this proposed building is covering almost the entire buildable area of the lot, that this is a main building and not an outbuilding and a 10 foot rear yard is required.

We also feel that since the building will have a laundry room and the owners will be living in their motor home under the roof of the building that this building is habitable and requires a 10 foot rear yard.

Our appeal is obviously not being filed within 90 days of the original decision. Beings building permits are not required to be published for citizen review we had no way of knowing when the permit was issued. We are thus filing this appeal within 90 days of when we obtained a copy of the building permit and became aware of the rear yard setback issue.

On April 20, 2010, we met with County Attorney, Bob Paulson. Mr. Paulson recommended that we go ahead and file an appeal with the Taney County Planning Commission's Board of Adjustments.

Our Association is thus contesting the 5 ½ feet rear yard setback which was granted with Building Permit #09-052. This appeal is based off the setbacks from the Taney County Development Guidance Code. As relief, we are requesting that this building be set back 10 feet from the rear property line.

Enclosed is a petition with the property owners in Forest Park who oppose a set back variance.

The Forest Park Estate Property Owners Association is thus requesting your consideration in granting us this appeal in order to keep this building in compliance with the setbacks of the Taney County Development Guidance Code.

March 31, 2010

Taney County Planning Commission
Eddie Coxie - Administrator
Dan Nosalek - Division I & II Inspector

RE: BUILDING PERMIT #09-052 FOR GARY A. NASH

Dear Mr. Coxie and Mr. Nosalek:

It has been brought to the attention of the Forest Park Board of Directors that Building Permit #09-052 was issued to Gary A. Nash to build a main building 5 ½ feet from the rear lot line.

According to the setback information we have received from your department, it states that main buildings are required to have a rear yard setback of 10 feet. All non-habitable outbuildings are required to be set back 5 feet from the rear lot line.

The Thorndike Barnhart dictionary defines a outbuilding as a shed or building built near a main building.

We have come to the conclusion that Mr. Nash is building a main building and not an outbuilding and a 10 foot rear yard is required.

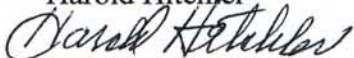
The Forest Park Board of Directors and the Architectural Committee is thus requesting your cooperation to bring the permit into compliance with your zoning regulations before construction on the building is started.

A written response to this letter is requested and may be mailed to:

Forest Park Estates
100 Royal Oak Drive
Branson, MO 65616

Sincerely,

President
Harold Hitchler



Architectural Committee Chairman
Duane Pavlish



PETITION

The property owner of lot 55 wants to put up a Steel Storage Shed 51 feet long, 22 feet high and 22 feet wide with an attached 12 foot lean to on the north side. In accordance to our covenants this type of structure is not allowed. And the current Architectural Control Committee did not approve the structure. This type of structure would devalue all of our property.

The proposed structure does not fit within the Taney County setbacks and the owner will have to request a set back variance. If you do not want the variance granted please sign this petition.

| Name | Address | Forest Park Estates |
|--------------------|----------------------|---------------------|
| Judy Lee | 121 Forest Park Lane | |
| Donna Green | 173 Forest Park Lane | |
| Betty Green | 173 Forest Park Lane | |
| Yvonne Jones | 185 N. S. S. | |
| McDuff Pauling | 149 Hill Drive | |
| Lyle Pauling | 149 Hill Drive | |
| Verna Harris | 161 N. Rainbow Dr. | |
| Willard Seubert | 201 N. Rainbow Dr. | |
| Billy Brosch | 210 N. Rainbow Dr. | |
| Roberta Brosch | 210 N. Rainbow Dr. | |
| Marlene McWilliams | 195 N. Rainbow Dr. | |
| Duane Paulish | 195 N. Rainbow Dr. | |
| Harold Vaile | 146 Starview Drive | |
| Lou L. Vaile | 146 Starview Drive | |
| Steve Smith | 161 Starview | |

Name

Address

Forest Park Estates

| | | |
|-------------------------|------------------------------------|--|
| Edna M. Smith | 161 STARVIEW | |
| J. J. Pierce | 169 N RAINBOW DR | |
| Joan Pierce | 169 N. Rainbow Dr. | |
| Estel Ketchum | 118 Hill Dr. | |
| Gale Walker | 199 N. Rainbow | |
| Robert Walker | 199 N. Rainbow | |
| J. M. Cur | 187 N Rainbow | |
| Barbara E. Eastin | 147 N Rainbow | |
| Edith Little | 193 Rocky Mtn Rd. | |
| Ed P. Higgins & Char | 161 Rocky Mtn Rd. | |
| Art Knight | 119 Starview Dr | |
| Everie Knight | 119 Starview | |
| Mark Byrd | 200 N Rainbow | |
| Betty Byrd | 200 N Rainbow | |
| Bobby Short | 174 Starview Dr. | |
| Marilee Short | 174 Starview Dr. | |
| Ralph Starnes | 146 Rocky Mtn Rd. | |
| Wayne Watson | 154 HILL DR. | |
| Kay Watson | 154 Hill Dr. | |
| Patricia Q. Upd | 214 N Rainbow Dr | |
| Ann Rock | LOT 52 N. RAINBOW DR | |
| J. A. S. (M. P. Palmer) | 123 N. Rainbow Dr. Lots 58 + 59 | |
| Muriel Phelan | Lot 47 Hill Dr. | |

PETITION

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The proposed structure does not fit within the Taney County setbacks and the owner will have to request a set back variance. If you do not want the variance granted please sign this petition.

[illegible]



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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, MAY 19, 2010, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dave Clemenson called the meeting to order at 7:00 p.m. A quorum was established with four members present. They were: Dave Clemenson, Jack Johnson, Tom Gideon, and Dave Nelson. Staff: Eddie Coxie, Bonita Kisse, Dan Nosalek and Bob Paulson.

Mr. Coxie read a statement explaining the meeting procedures and placed the Taney County Development Guidance Code as Exhibit A, the Staff Report as Exhibit B, and the staff files including all pertinent information as Exhibit C, and the Taney County Board of Adjustment bylaws as Exhibit D. The State Statutes that empower and govern the Board of Adjustment were read. Mr. Clemenson swore in the speakers before the respective hearing.

Public Hearings:

Matthew Scott Stallcup: a request for a variance from Appendix G, sign permit requirements of the Taney County Development Guidance Code located off St. Hwy. 76 near the Jct. of St. Hwy. 76 and M. The applicant would like to use the property as an off-site advertising structure. Mr. Coxie read the staff report and presented pictures and a video of the site. Mr. Stallcup explained why he wants the variance. Plans are for a lighted dual sided sign. There would be two encroachments on either side at the location where the applicant wishes to place the sign. Mr. Coxie stated that in his opinion this was approved it would be granting a privilege. After brief discussion Mr. Clemenson entertained a motion. Mr. Johnston made a motion to approve the variance. The motion died because there was a lack of second. Discussion followed regarding the state statute covering granting a privilege. Tom Gideon made a motion to deny based upon lack of hardship and to grant the variance would be a violation of the state statute. The motion was seconded by Dave Nelson. The vote to deny was three in favor of denial, and one against.

Valerie and Robert Budd: a request for a variance from Table 1 of the Taney County Development Guidance Code located in Oakmont Hills Phase 1 Lot 17 for a cabin which was started too close to the property line when the bank foreclosed on the

property. The dwelling is 17' from the property line. Mr. Coxie read the staff report and presented pictures and a video of the site. He explained the location and gave a history of the project. Mr. Budd owns three other houses in the same subdivision. He stated the cabin could not have been moved back because the lot is built up for the sewer lines. There are some cabins in other phases of the project which are within the setbacks. Mr. Clemenson stated that the applicant was aware of the situation of the cabin and familiar with the area. Mr. Nelson wondered if a slab could be poured in the back. Mr. Budd stated that since the developer has gotten out of the business, the property owners have developed their own homeowners assoc. He also stated that no one lives at the subdivision full time. After discussion a motion was made by Tom Gideon to approve based upon the decision of record with the addition of a variance of 12' into the setback area. Seconded by Dave Nelson. Discussion followed regarding how the applicant could comply with the rules. The vote to approve was two in favor and two against approval therefore the request was denied.

Review and Action:

Minutes, April 21, 2010: with no additions or corrections a motion was made by Jack Johnston to approve the minutes as written. Seconded by Tom Gideon. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Coxie reported on a previous request for a variance for a storage shed in Big Bear Estates and what has transpired since that request was denied. The applicant and the next door neighbor were present to request a rehearing and extend the 90 day period. After discussion the Board voted unanimously not to rehear the request. Mr. Coxie informed the applicant that his next option was to appeal to circuit court.

Mr. Coxie brought the Board up to date on the work sessions with the County Commission regarding the zoning districts. Discussion followed.

The next meeting agenda was discussed.

Adjournment:

With no other business on the agenda for May 19, 2010 the meeting adjourned at 8:10 p.m.