

**PLANNING AND ZONING BOA PACKET 2006**

**AGENDA  
TANEY COUNTY BOARD OF ADJUSTMENT  
WEDNESDAY, SEPTEMBER 20, 2006, 7:00 P.M.  
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM  
TANEY COUNTY COURTHOUSE**

Call to Order:

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

Public Hearing:

*Conrad Graff*

Review and Action:

*Minutes, August 2006*

Old and New Business:

Adjournment.

**TANEY COUNTY BOARD OF ADJUSTMENT**

***STAFF REPORT***

***CONRAD GRAFF***

***SEPTEMBER 20, 2006***

Public Hearing for Conrad and Melonee Graff located at 198 Iowa Colony Road in the Oliver Township Sec. 13 Twp. 22 Rng. 22.

The applicant's request a variance for the reduction of the setback from the 25' setback from Iowa Colony Road.

History: The applicant's wish to construct a house on the property, however the site severely drops off in the back preventing the structure from being moved back from the road.

General Description: The subject property is in the Rinehart and Clark Subdivision Lot 4. The adjoining properties to the development consist of residential.

Review: The variance request will be between 6-8 feet within the 25' setback from Iowa Colony Road.

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

1. Variance is for the setback of 6-8 feet for the construction of a single family dwelling. (Appendix H, Table 12, Setbacks, Taney County Development Guidance Code)
2. Compliance letter from the Fire District.
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

**MINUTES  
TANEY COUNTY BOARD OF ADJUSTMENT  
WEDNESDAY, JULY 19, 2006, 7:00 P.M.  
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM  
TANEY COUNTY COURTHOUSE**

Call to Order:

Chairman Dave Clemenson called the meeting to order at 7:00 p.m. A quorum was established with three members present. They were: Dave Clemenson, Alan Lawson, and Bob Anderson. Staff present: Kurt Larsen, Larry Rowland, Eddie Coxie, and Bob Paulson.

A statement explaining the meeting procedures was read and the Taney County Development Guidance Code was placed into evidence 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. The speakers were sworn in before each case was heard. Mr. Clemenson announced that anyone who wanted to postpone until next month when a full Board was present could do so.

Public Hearings:

Lonnie and Melanie Smith, William Cummings, Mary Parker, Members of the Jehovah's Witness Kingdom Hall, Etal. Requesting a rehearing of the Yearly Redi-Mix plant on property located at 13181 East St. Hwy. 76. This hearing was postponed until the August 2006 meeting.

Marilyn Beltz request for appeal of the April 17, 2006 decision of the Taney County Planning Commission to approve a condominium project at Vickery Resort in the Lakeland Beach Subdivision area at 238 Tina St. Mr. Larsen read the staff report and presented pictures and a video of the property. Five people signed up to speak in favor of revoking the permits, they were as follows:

Marilyn Beltz: opposed to Vickery Resort request from the beginning and feels Planning and Zoning was "caught with their pants down". In her opinion the Board is dragging everything out to discourage residents from coming to the meetings hoping everything would blow over. She stated that she had met with a consultant about the Master Plan and felt that the County dismissed her because the County Commission does not want a master plan. She also stated that she is

ashamed of the Board, that they are lying to the property owners and wanted to know what they did to make them sue the Board? Mr. Clemenson responded that this Board is not the Planning and Zoning Commission. Mr. Paulson gave a history of Vickery and explained the course of action taken by those not given the answer they desire.

Pat Kraeck: asked the names of all the Board members and Planning Commission. Expressed concern over the public not knowing the powers of authority of different governing bodies or the election procedures. She read a prepared general statement and specifically stated that by changing to condominiums, Vickery no longer falls under the "grandfather" clause. She also expressed concerns over traffic and parking not just in the resort area but for the rest of the Poverty Point area. She does not want the area to become cheap looking or trailers to be stored on property for a fee, because businesses are not allowed.

Mr. Paulson recited the names of the Board Members, and praised them for their work, and explained to the audience how the process works.

JoAnna Burdof: lives at the corner of Lakeland and Dale and is annoyed with trucks and beeping, and driving through the neighborhood. Reported drastic changes in the Poverty Point area since projects started. She stated that the Board would have to be "deaf, dumb, blind, and stupid not to see the damage that has been done" and asked if the Board was familiar with the song "Paved Paradise and Put Up a Parking Lot?"

Mary Jo Greene: did not sign up, but the Board allowed her to speak after being sworn in. She stated that she is for progress and beauty but not for greed. She lives at the end of the cove and people use that area to turn around. She also had a concern about ingress and egress. By allowing the Vickery project she feels Planning and Zoning is opening a "can of worms", and feels their "right hand doesn't know what the left hand is doing".

Mr. Clemenson explained that the approval was for 18 units not for 27.

Don Ingram attorney for the applicant, explained in his opinion, three errors of law were made:

- 1) The Planning Commission made no attempt to go through analysis for relative policies to assign a positive or negative score.
- 2) There are no condominiums within 10,000' so this does not conform to Appendix M. (why is 18 okay but not 27?)

- 3) Inconsistent in their decisions. The Niners request was denied because it was not compatible with a residential neighborhood. How can Vickery be ok with the same neighborhood?

Speaking in favor of Vickery Resort:

Marie Murphy: lives at 218 Tina adjacent to Vickery on the East. She likes improvement and sees no problem with traffic, and is also representing her son who lives at 125 Lakeland and Gene Pershall who resides at 188 Tina St.

Jeff Hodges: lives in Poverty Point and his parents owned Vickery Resort in 1976. The resort was built in 1959. He stated that this business was a "Mom and Pop" business and is struggling to reinvent itself. The State Park Marina is within 1000' which in his opinion makes the property compatible. Going from 13 units to 18 units should not impact traffic after construction is complete in his opinion.

Harry Styron representing Vickery Resort stated that the business has been there for 50 years. It was approved as a commercial site when the Codes were adopted. Compatibility is handled through performance standards. Condo form of ownership is not a land use but a form of ownership, and in Mr. Styron's opinion can apply to a dock, land, and air space. He stated that in his opinion you cannot place any rules on condos that you would not impose on any other type of building, and this is a modest increase in density, and a change in the type of ownership. This is not to rule on history or previous projects but specifically to look at the approval granted to reconstruct the Resort. Mr. Styron addressed the errors of law:

- 1) Scoring does not apply in this case. This is not a change of use or a compatible issue this is the same as it has always been.
- 2) This is not the same application that had been turned down, it is for a smaller permitted use. To take away the resort privilege would be a confiscation.
- 3) The Niner site was not used as a resort. That project would have been a change from residential to commercial.

Mr. Anderson made sure that Ms. Beltz understood that the original 13 units were being torn down and not added to.

Mr. Lawson addressed the comment from Mr. Ingram about grandfathering limiting the increase in size.

The Board adjourned for 5 minutes at 8:18 p.m.

After reconvening at 8:23 p.m. the Board discussed the hearing. After discussion a motion was made by Alan Lawson to deny the appeal of Marilyn Beltz on the basis that no error occurred on the three points of law. Bob Anderson seconded. The vote to deny was unanimous.

Old and New Business:

No discussion.

Review and Action:

Minutes, June 2006: with no additions or corrections a motion was made by Bob Anderson to approve the minutes as written. Seconded by Alan Lawson. The vote to approve the minutes was unanimous.

Adjournment:

With no other business on the agenda for July 19, 2006 a motion was made by Alan Lawson to adjourn. Seconded by Bob Anderson. The vote to adjourn was unanimous. The meeting adjourned at 9:00 p.m.