

# **Johnson County Board of Zoning Appeals**

## **May 19, 2020 Meeting Minutes**

The Johnson County Board of Zoning Appeals met on Tuesday, May 19, 2020 in the Johnson County Courthouse Annex Auditorium. The meeting was called to order at 7:03 PM by Chairman Chad Bowman.

### **I. ROLL CALL:**

**Present:** Chad Bowman, Chris Campbell, Dan Cartwright, James Kaylor, Stephen Powell, Attorney Francis Mattingly (Legal Counsel - not voting), David Hittle (Director - not voting), Michele Hansard (Planner – not voting) and Angela Olson (Recording Secretary – not voting).

**Absent:** Paul Clodfelter (Alternate)

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### **II. APPROVAL OF MEETING MINUTES:**

Chair Chad Bowman called for a motion to approve the February 25, 2020 Board of Zoning Appeals meeting minutes.

**Motion:** Approval of January 25, 2020 Board of Zoning Appeals meeting minutes. **Moved** by Dan Cartwright. **Seconded** by Chad Bowman. **Yes:** Bowman, Campbell, Cartwright, Kaylor and Powell. **No:** None. **Motion approved 5-0.**

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### **III. PUBLIC HEARINGS:**

#### **V-7-20; Evan Icenogle – Variance of Development Standards. 4507 W. Runyon Lake Dr.**

Staff presented findings and facts to the board and recommended approval of both variance components.

Staff read into the record that two (2) letters were received in support of this variance request from Justin Patton and Jim Davis.

Petitioners Evan Icenogle (4507 W. Runyon Lake Dr., Greenwood 46143) was present to speak and address concerns.

Board members asked questions and expressed concerns which were addressed by the Petitioner and staff as follows:

- Q. Board member Dan Cartwright inquired as to whether or not the new building is in the same location as the previous building?

A. Yes, however this building will be smaller.

- Q. Board member Stephen Powell asked if the proposed structure was going to be similar in design as the neighboring structures?

A. Yes.

- Q. Board member Stephen Powell inquired as to whether or not there was an active Homeowners Association?

A. No.

- Q. Board member Dan Cartwright inquired as to whether or not it was the Petitioner's intention to connect the proposed garage to the residence once the septic finger has been moved?

A. Yes.

- Q. Board member Dan Cartwright asked if the proposed structure would be much larger once connected to the residence?

A. Undecided at this time but may instead create an addition to the residence instead once the septic finger has been moved.

**Motion:** To approve V-7-20 to allow for the construction of a 1,200 square foot, 19.5 foot tall accessory structure and Petitioner's Findings of Fact. **Moved** by Chris Campbell. **Seconded** by James Kaylor. **Yes:** Bowman, Campbell, Cartwright, Kaylor and Powell. **No:** None. **Motion approved 5-0.**

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#### **V-8-20; Mike and Shelly Oswalt – Variance of Development Standards. 4104 Golden Grove Rd.**

Staff presented findings and facts to the board and recommended denial of variance to allow for the construction of an accessory structure where all accessory structures will total 3, 124 square feet in building area, which will exceed the size limitation of 2,007 square feet for all accessory structures at this property. Further, staff recommends approval of variance to allow for the construction of an accessory structure with a 32 foot height.

Contractor Ryan Wampler with RKW Homes (5326 Travis Rd., Greenwood 46143) and Petitioner Mike Oswalt (4104 Golden Grove Rd., Greenwood 46143) were present to speak and address concerns.

Board members asked questions and expressed concerns which were addressed by the Petitioner, Remonstrator and staff as follows:

- Q. Board member Stephen Powell asked for confirmation from staff that they were sticking to their denial of the square footage and if the Petitioner was aware of staff's stance on the denial?

A. Yes.

- Q. Board member Chris Campbell inquired as to the size of the other existing structures on the property?

A. Staff did not have the individual sizes for each of the existing structures but the combined square footage of all three (3) is 1,121.

- Q. Board member Dan Cartwright asked for clarification of whether there were two (2) or three (3) existing structures?

A. Three (3).

- Q. Board member Chad Bowman inquired as to whether or not the Homeowners Association had approved?

A. Yes.

- Q. Board member Chad Bowman referenced that the staff report mentioned that the new request withdrew the dwelling and reduced the square footage size by 315 square feet, the dwelling what not 315 square feet correct?

A. Yes, it was not 315 square feet.

- Q. Board member Stephen Powell inquired as to how many members are on the Homeowners Association (HOA) architectural team and if it had to go to the HOA board for approval?

A. Three (3) on the architectural team. No, it did not go to the HOA board for approval.

- Q. Board member Stephen Powell asked the Remonstrator where is property was in relationship to the Petitioner?

A. One-half (1/2) mile west of the Petitioner's residence.

- Q. Board member Stephen Powell asked the Remonstrator if he was in support of the staff's recommendations?

A. Yes.

- Q. Board member Stephen Powell asked the Petitioner if he was willing to compromise on the square footage?

A. No.

Remonstrator Paul Jablonski (4118 Waterbrook Way, Greenwood 46143) was present to express his concerns regarding proposed structure to be used as a future guest house and the overall abundance of structures on the property with lack of green space.

**Motion:** To approve V-8-20 to allow for the construction of an accessory structure where all accessory structures will total 3,124 square feet in building area, with a 32 foot height and

Petitioner's Findings of Facts. **Moved** by Stephen Powell. **Seconded** by Dan Cartwright. **Yes:** Campbell, Cartwright, Kaylor and Powell. **No:** Bowman. **Motion approved 4-1.**

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**V-9-20; Gregory Lukenbill – Variance of Use and Development Standards. 1856 N. 450 W.**

Staff presented findings and facts to the board and recommended that this matter be continued to the meeting on June 23, 2020 in order to allow the Petitioner time to remove one (1) of the bedrooms in order to meet the Health Department's septic requirement.

Petitioner Gregory Lukenbill (1204 W. Greenbriar Dr., Greenwood 46142) was present to speak and address concerns.

April Phillips (1223 W. Old South St., Bargersville 46106) was present to speak in favor of the variance. Mrs. Phillips is the potential buyer of the property. April Phillips advised the board that they will be removing a closet from one of the bedrooms in the main residence and converting the room into a den.

Realtor Carlos Higareda (address unknown – experienced Zoom connection issues) was present to speak in favor of the variance.

Board members asked questions and expressed concerns which were addressed by the Petitioner, Remonstrators and staff as follows:

- Q. Board member Dan Cartwright asked staff if they knew how many bedrooms are in the existing residence?

A. Staff believes that there are three (3) bedrooms.

- Q. Board member Dan Cartwright inquired as to if this would be a mute subject since there are three (3) bedrooms?

A. No, because there can only be three (3) bedrooms as a whole for both the existing residence and the new addition. The new addition has one (1) bedroom as well.

- Q. Board member Dan Cartwright asked how we could determine that one (1) bedroom had been removed?

A. We would inspect the residence.

- Q. Board member Dan Cartwright requested confirmation that Greg Lukenbill was the property owner and that April Phillips was interested in purchasing the residence?

A. Correct.

- Q. Board member Stephen Powell inquired as to whether or not all of the parts were now considered one (1) residence?

A. Yes.

- Q. Board member Stephen Powell asked staff for clarification that because the structure was added on it is viewed as an accessory structure and not part of the dwelling?  
  
A. It is viewed as a secondary dwelling unit even though it is attached. We see these second dwelling units one of two fashions. It's either an apartment that is attached to the house or a completely different structure but the rules are the same. You can only have one (1) dwelling unit on a given lot.
- Q. Board member Dan Cartwright asked for clarification that this is one (1) home, including both sides of the garage? That it is not classified as an accessory structure at this time?  
  
A. Yes. Correct, it could not be used in that way unless this variance is approved. Further, the existing accessory structure could be used as a bedroom as long as there is no bathroom and kitchen.  
  
one (1) dwelling unit on a given lot.
- Q. Board member Dan Cartwright asked if we knew what rooms were currently in the existing accessory structure?  
  
A. No. Staff advised that there have been no permits provided to allow for that.
- Q. Board member Dan Cartwright asked the Petitioner how many bedrooms were in the original house?  
  
A. Three (3).
- Q. Board member Dan Cartwright inquired as to what the interior layout was for the accessory structure?  
  
A. Living Room, Kitchen, Dining Room, Bedroom and Bathroom.
- Q. Board member Chris Campbell inquired as to whether or not you could access the accessory structure through the attached garage?  
  
A. No.
- Q. Board member Chris Campbell asked if the accessory structure had its own heating and air conditioning?  
  
A. Yes.
- Q. Board member Dan Cartwright inquired as to how long the Petitioner has owned the property?  
  
A. Four (4) years.
- Q. Board member Dan Cartwright asked the Petitioner for confirmation that when he purchased the property the residence and accessory structure were existing and that he built the garage in between connecting them?

A. Yes.

- Q. Board member Stephen Powell asked for confirmation that the Health Department has stated that the current septic will only allow three (3) bedrooms?

A. Yes.

- Q. Board member Stephen Powell asked for confirmation that the accessory structure currently has a kitchen and bathroom?

A. Yes.

- Q. Board member Stephen Powell asked for confirmation on what this variance approval was for?

A. Approval to make legal the second dwelling unit.

- Q. Board member Chad Bowman asked April Phillips for confirmation that her purchase of the property was contingent upon the variance approval?

A. Yes.

- Q. Board member Chad Bowman asked April Phillips for confirmation that if the variance was approved if she was agreeable that this dwelling unit was only to be used for her mother?

A. Yes.

- Q. Board member Chad Bowman asked Greg Lukenbill if he also owned the property north of the present variance request property?

A. Yes, it is all of the same property.

- Q. Board member Stephen Powell asked for confirmation that the town of Bargersville does not have any jurisdiction?

A. Correct.

- Dan Cartwright commented that he felt that the application was incomplete and needed to have a floor plan of the existing residence and the existing accessory structure. This would allow him to be in a better position to be able to make a decision on the matter.

- Chad Bowman discussed amicable solutions regarding the floor plans and conditions.

- Q. Board member Chad Bowman asked staff if the board could make the alterations of the floor plans part of the conditions of the approval?

A. Yes.

- Q. Board member Chad Bowman asked both the Petitioner and April Phillips if they would be agreeable to any and all board and staff conditions that would imposed with approval regarding the removal of a bedroom and inspection of said removal?

A. Yes.

- Q. Board member Stephen Powell asked for confirmation that property was vacant at this time?

A. Yes.

- Q. Board member Stephen Powell asked the Remonstrators if they were opposed to anyone residing in the residence?

A. No, they just want to make sure that the septic system will handle the amount of occupancy.

- Board member Chris Campbell commented on his and the board's concerns regarding the use of second dwellings on a property and advised that at this time the best that can be imposed is specific language on the deed for these matters.

- Q. Board member Dan Cartwright inquired as to whether or not the realtor was able to e-mail a floor plan?

A. No, the listing sheet did not contain a floor plan.

- Q. Board member Dan Cartwright inquired as to whether or not a building permit would need to be acquired for the remodel of the original residence to convert the bedroom into a den?

A. No, not necessarily but it could be required in order to initiate and an inspection and affirm that the work was completed.

- Q. Board member Chad Bowman requested confirmation that the deed language specified that when Mrs. Phillips mother no longer needed the dwelling that the variance would end?

A. Yes.

- Board member James Kaylor commented that he was in favor of the staff's recommendation of requiring a building permit for the remodel for inspection and verification that the alteration had been completed.

- Q. Board member Stephen Powell inquired as to whether or not the new buyer would have to come back before the board for another variance?

A. No, staff explained that unlike the Variance of Use the Variance of Developmental Standards go with the land to the next buyer.

Remonstrators Steven & Jennifer Wilson (1985 N. 500 W., Bargersville 46106) were present to express their opposed views and concerns regarding the future use of the second dwelling.

**Motion:** To continue this matter to the June 23, 2020 meeting to allow the Petitioner time to provide a floor plan of the existing structures. **Moved** by Dan Cartwright. **Seconded** by Stephen

Powell. **Yes:** Cartwright, Kaylor and Powell. **No:** Bowman and Campbell. **Motion approved 3-2.**

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#### **IV. NEW BUSINESS:**

Adoption of Findings of Fact for V-4-20 signed.

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#### **V. REPORTS AND RECOMMENDATIONS:**

Board member Dan Cartwright advised the board that even though they have not met over the last two (2) months due to the coronavirus the Design Standards Committee is still active. Mr. Cartwright would like the opportunity to advise the board of what is going on in the future and the objective to have a revised design standards for the county for recommendation by the end of this year.

Chairman Chad Bowman stated that he would allow Mr. Cartwright to update the board whenever he deemed necessary.

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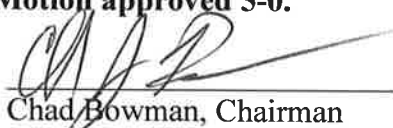
#### **VI. ADJOURNMENT:**

Chair Chad Bowman called for a motion to adjourn the meeting at 9:07 PM

**Motion:** Adjourn the meeting. **Moved** by Dan Cartwright. **Seconded** by James Kaylor. **Yes:** Bowman, Campbell, Cartwright, Kaylor and Powell. **No:** None. **Motion approved 5-0.**

Approved on: June 23, 2020

By:

  
Chad Bowman, Chairman

Attested By:

  
Stephen Powell, Secretary