

BUTLER COUNTY PLANNING COMMISSION
Scheduled Meeting
June 2nd, 2020
Butler County Courthouse - 4th Floor
205 W. Central
El Dorado, Kansas 67042

MINUTES

The scheduled meeting of the Butler County Planning Commission began at 7:00 p.m. on Tuesday, June 2nd, 2020 on the 4th Floor of the Butler County Courthouse located at 205 W. Central in El Dorado, Kansas.

Chairman: Jeff Varner

Members Present: David Greene Jr., Kristi Sullivan, Andy Jones, Kermit Frey, Jim Ralston

Members Absent: Jeremy Sundgren

Guests: Roger Cutsinger, Josh Debita, Whitney Debita, Brenda Debita, Dana Taylor, T.A. Williams, Jeff Haenggi

The meeting was called to order and a quorum was declared

Approval of the June 2nd, 2020 Planning Commission Agenda

Motion: David Greene, Jr.

Second: Kristi Sullivan

Approved

Approval of the March 3rd, 2019 Planning Commission Meeting Minutes

Motion: Andy Jones

Second: Kermit Frey

Approved

Old Business:

None

New Business:

Board of Zoning Appeal heard zoning case VA 20-01

VA 20-01

Request for a Variance to allow the placement of a Guest House/Tiny Home

Applicant/Owner: Josh Debita

Agent: N/A

Location: 5990 NE Hwy 177, El Dorado, KS

Discussion: Staff recommends approval

Staff: This is a request for a Variance to allow the placement of a Guest House/Tiny Home to be placed southeast of the existing residence to provide housing for his mother on the property. The property consists of 30 acres, is a legal lot of record and is zoned Rural Residential (RR). The proposed home will be placed in a way that it will allow for the connection of water and sewer utilities. The RWD has already placed a meter to serve the home will attach to the existing lagoon.

Article 26-3-Variations-Criteria

A request for a variance may be granted upon a finding by the Board that **ALL** of the following conditions have been met.

1. **The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;**

Staff: There really are no conditions that are unique to this particular property. This request arises from the fact that the applicant wishes to place a Guest House/Tiny Home in close proximity to his house, which will provide living quarters for his Mother. It is also staffs understanding that the applicant's Lagoon is adequate to support Home.

2. **The granting of the variance will not adversely affect the rights of adjacent property owners or residents;**

Staff: Residents have a right to expect that Zoning Laws will be enforced consistently countywide. The RR zoning typically allows for the construction of one single family residence but does not allow for the construction of a Guest House. In this particular situation this would be considered a Guest House even though it is not located within an AG-40 or AG-80 zoning classification. Thus the need for the Variance.

With this in mind, staff feels locating the structure in an area that is in close proximity to the existing residence, to provide Housing for his Mother, will not adversely affect the rights of adjacent property owners.

In fact, Staff has heard from one of the property owners within the 1,000' radius notification area, as well as a member of the Chelsea Township, and neither party had a problem with the request.

3. **The Strict application of the provisions of the zoning ordinance of which the variance is being requested will constitute an unnecessary hardship upon the property owner represented in the application;**

Staff: The meaning of the term hardship for variance purposes is whether the strict application of the zoning ordinances would prevent the property owner from being able to use his/her property for a use that is normally allowed in the affected zoning district in which they are located. In this instance, the applicant would not be allowed to place the home, due to the RR zoning classification, and would make it impossible for the applicant to provide the onsite housing quarters as proposed.

This request stems merely from the desire of the applicant to provide onsite housing for his Mother.

4. **The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;**

Staff: Public health, safety, morals, order, convenience, prosperity, or general welfare should not be adversely impacted with the placement of the Guest House/Tiny Home on the property, as they will be sharing the same driveway and the closest neighbor is approximately 800' south of the proposed site.

6. **That granting of the variance desired will not be opposed to the general spirit and intent of these regulations.**

Staff: The request does not necessarily meet the strict requirements for the granting of a variance. An argument could be made that the granting of the variance would undermine the general spirit and intent of the regulations, but in this case the size of the home will have minimal impact to the neighbors and in fact will be smaller than an existing Barn that is on the property.

With this in mind, staff feels the granting of the variance would not be opposed to the general spirit and intent of these regulations. If this property were smaller in acreage and the area more populated with single family homes, staff might be taking a different position towards the request; however, due to its size and location staff would recommend approval.

Josh Debita: The entire house is going to be approx. 390 square feet.

Board: Normally circumstances like this would call for a medical hardship which is temporary. Would this be permanent?

Staff: I do not believe that is the case in this situation. I do want to add that we received a letter from a neighboring property owner and they did not have a problem with it just as long as it is removed in the future.

No further questions or comments were made

Motion: David Greene Jr.

Second: Andy Jones

Action: Approved 5-0

This case decision is a final decision and will not move to the BOCC Board of Zoning Appeals meeting was adjourned

June 2nd Planning Commission Meeting has now been opened

RZ 20-04

Request for a Zoning Change from AG 40 to RR Zoning District

Applicant/Owner: Jeffery Haenggi

Agent: Roger Cutsinger, Savoy Company P.A.

Location: 15247 SW 130th Street, Rose Hill, KS

Discussion: Staff recommends approval

Staff: This is a request for a zoning change from AG 40 to RR on 3+/- acres which would allow the applicant to then sell the newly created tract and allow a new owner to then build a new Single Family Residence on that specific property. The surrounding area is a mixture of AG 40 and RR. The proposed

change in zoning may or may not be detrimental to the area. There could be perceived changes or changing conditions in the area that could make the proposed change in zoning necessary. This request arises from the mere desire of the applicant to want to sell the 3 +/- acres. It is staff's opinion that a change in zoning may not necessarily have a negatively effect since there are surrounding tracts in the area that are similar in size. The property will have access to water and a sewage system will be required. There is also access to electric which would be provided by either Evergy or Butler Rural. The property is located within the Urban Growth Area of the County. We did receive a comment from a gentleman that was representing the Flint Hills Golf Course and he did not have a problem with this.

Roger Cutsinger, Savoy Company: I am here tonight with the owner of the property and we believe with all the RR scattered throughout the area, that this will fit the neighborhood.

Board: my only concern with the tract only being 3 acres is that it takes away the possibility of a lagoon. [inaudible]

Roger Cutsinger: Yes that is correct. It takes 5 acres to be able to have a lagoon.

No further questions or comments were made.

Motion: Jim Ralston

Second: Andy Jones

Action: Approved 5-0

To be heard before the BOCC on June 23rd, 2020 @ 9:00am

RZ 20-05

Request for a Zoning Change from AG 40 to RE Zoning District

Applicant/Owner: Thomas and Karen Williams with Dana Taylor

Agent: N/A

Location: 15754 SW 40th Street, Benton, KS

Discussion: Staff recommends approval

Staff: This is a request to rezone approx. 15 +/- acres from AG 40 to RE, Residential Estates. The applicants are requesting the change in zoning classification so they could then split approx. 5 acres off for their daughter to build a residential structure on it. The property is located inside of the Urban Growth Area of the County and is located on SW 40th, which is unpaved, just east of Butler Road. The surrounding area is a mixture of AG 40, RE and RR and a ¾ mile from the City of Benton and may not be detrimental to the area. It is staff's opinion that a change in zoning may not necessarily have a negatively effect since there are surrounding tracts in the area that are similar in size. The property currently has a Single Family Dwelling on it. There is access to water to the property and a sewage system would be required if a split was to occur. Access to electric would be though Butler Rural Electric.

Dana Taylor: We are looking forward to getting back to the area I grew up in. The thought of being close to family and being able to help each other out is very exciting. We are not looking to divide the property any more than what we are proposing to preserve the rural character all while making it functional for us.

Staff: I do want to state that a majority of the property to the east is owned by one individual but we did not receive any comments.

No further questions or comments were made.

Motion: Andy Jones

Second: Kristi Sullivan

Action: Approved 5-0

To be heard before the BOCC on June 23rd, 2020 @ 9:00am

***** MEETING ADJOURNED*****