

**Parkville Board of Zoning Adjustment
Regular Meeting Minutes
City of Parkville, Missouri
Tuesday September 26, 2017 at 5:30 p.m.
City Hall Boardroom**

1. Call to Order

Vice Chair Russ Downing called the meeting to order at 5:30 p.m.

2. Roll Call

Board Members Present:

Carla Dods, Chair
Russell Downing, Vice Chair
Marion Newcomer, Secretary
Jack Shafferman
Ken Wright (absent with notice)

A quorum of the Board of Zoning Adjustment was present.

Staff Present:

Stephen Lachky – Community Development Director
Shakedra Knight – Assistant to Community Development Director

3. General Business

A. Approval of the September 26, 2017 Board of Zoning Adjustment meeting Agenda.

Chair Dods called for discussion on the proposed agenda. Seeing none she called for a motion to approve the agenda.

Member Downing moved to approve the agenda, Member Shafferman seconded. Motion passed 4-0.

B. Approval of Minutes from the August 22, 2017 Board of Zoning Adjustment meeting.

Chair Dods called for discussion on the Special Meeting Minutes. Seeing none she called for a motion to approve the August 22, 2016 minutes as published.

Member Newcomer moved to approve the minutes, Member Downing seconded. Motion passed 4-0.

4. Public Hearing

- A. Application for variance for the reduction of "R-3" Single-Family Residential District front-yard setbacks from 25 feet to 20 feet, for all for single-family lots in the Thousand Oaks Sixteenth Plat, Thousand Oaks 19th Plat, and Thousand Oaks – 22nd Plat, in order to relieve practical difficulty / practical hardship due to exceptional topographical conditions. *Case # BZA 17-01, David Barth, Forest Park Development Company of Kansas City, LLC, applicant.*

Chair Dods introduced the item to be addressed and then invited Director Lachky to present it. Lachky explained there were two types of variance and said the applicant requested a setback due to exceptional topography. He said the application was for a five foot reduction of "R-3" district front-yard setback for all lots in the Thousand Oaks – 16th, 19th and 22nd plats. He detailed setback requirements and illustrated examples of each. Lachky illustrated the general proposed locations and said he would present all three plats together. He illustrated the 22nd plat and said it was approved for development in June 2017. He showed topographic imagery and explained there were substantial elevation drop-offs in the rear yard of properties. Lachky introduced the 16th plat. He said it was approved for development in December 2016, described its characteristics and illustrated several views of the plat. Director Lachky said the 19th plat was also approved in December 2016. He explained there was a portion of the plat in the flood hazard area but it did not prevent building. He added that the variance may help by shifting the house out of the flood hazard area. Lachky illustrated the difference in elevations from NW River Rd to proposed development. He pointed out the Board of Zoning Adjustment (BZA) had approved a similar variance for the 20th plat last year.

Director Lachky presented the criteria for staff review and the effect of the decision. He confirmed public hearing notice was given in the proper manner. The first condition staff addressed was the rolling terrain, bluffs and drastic elevations which were unique to the subject property. Next was adversely affecting the rights of adjacent property owners. Lachky explained staff did not feel the setback would affect residents for neighbors. He gave examples of similar variances granted in the past. He covered unnecessary hardship and said the inability to safely develop based on the unique topographical conditions would result. He added financial hardship due to additional land stabilization was a possible result, although it was subjective. Lachky said the setback did not appear to adversely affect public health, safety, morals, or general welfare and could help establish private property from public property and provide adequate depth for private uses, including parking. Director Lachky addressed the general spirit and intent of the Development Code. He detailed uses in "R-3" Single Family District and explained that the front-yard setback did not affect the intent of the development code. He explained the Master Plan development process and how it could be used in subdivision development to address setback needs. He gave examples of those developments and illustrated them. Director Lachky gave examples to show the request was common. He gave staff's recommendation that the variance be approved based on the merits of the application and the findings and conclusions in the staff report.

Director Lachky noted staff received letters from a legal representative of the Leo and Dorothy O'Brien Trusts. He said the letters were regarding stormwater detention and runoff from the developments that were already approved. He pointed out that issue was related to the plat and current discussion should focus on the variance. Director Lachky said he was available for questions.

Chair Dods called for questions of the Board. Seeing none she opened the meeting for public comment.

Resident Damien Fosmoe approached the Board. He spoke about the variance impacts to safety and said there were a lot of assumptions in staff's presentation. He

said the reductions created less usable front-yard space for kids and that steep property in the back-yard would still be there. Mr. Fosmoe said developers knew about the topography and should have included the variance reduction in the master plan. He added if the subject properties were deemed flood hazards by FEMA that flood insurance would still be required.

Member Shafferman responded to Mr. Fosmoe's comment regarding flood hazard areas. He said there was the option to build above the floodplain and be exempt from NFIP insurance as long as the foundation did not touch the flood area.

Director Lachky pointed out those instances in the past where the BZA had denied variances were for single lots adjacent to homes that had been built for several years and seeking a variance prior to development would be better aesthetically.

Resident Ted Derks spoke. He said he was there because of fairness. He presented information he had researched regarding property in the Thousand Oaks subdivision and then said the variance should be granted based on the Barth's experience.

Resident Allyson Berberick addressed the Board. She said she was a 13th plat resident between 16th and 19th plats and her issue was the new developments would have 20 foot setbacks versus 25 feet in the 13th plat. She said cars would flood the streets due to lack of driveway space and there was no overnight parking on the street according to the HOA covenant. She also said the topography was challenging but possible to handle with adjustments.

Mr. Fosmoe responded to Mr. Derks. In regards to the research Derks presented, Fosmoe said he was not sure of its purpose. He said he bought his home and should get what he paid for.

Developer David Barth addressed the Board. He said he knows the land in Thousand Oaks and what it took to build quality homes.

Keith O'Brien spoke on behalf of the O'Brien family property. He said his family did not disagree with development; however, he disagreed the variance did not affect their property. He read from a letter he received from the Corp of Engineers which stated realignment could affect flood hazard. Mr. O'Brien said the setback affected density and compact development and it generated more houses and more runoff. He referenced a drain water study and other material he gathered.

Chair Dods told Mr. O'Brien that if he had information that showed changing the setback would change water runoff that would be relevant to this item. He responded he did and said that no study had been done to show watershed to his property.

Chair Dods asked whether a study was done. Director Lachky said that request was unusual with such a small adjustment based on the size of the lots. He added the Public Works Department had reviewed the studies that were done.

Mr. O'Brien concluded presenting information. Chair Dods reiterated that she hoped he understood the Board had specific obligations to fulfill relevant to the application request.

Director Lachky explained the Board had the option of adding conditions as a part of their motion.

Vice Chair Downing offered an informed statement from his experience regarding a runoff survey. He explained how the setback reduction should decrease the amount of runoff.

Discussion ensued regarding the effects of the variance.

Chair Dods called for additional questions. Seeing none she called for a motion.

Member Downing moved to approve the Application for variance for the reduction of "R-3" Single-Family Residential District front-yard setbacks from 25 feet to 20 feet, for all for single-family lots in the Thousand Oaks Sixteenth Plat, Thousand Oaks 19th Plat, and Thousand Oaks – 22nd Plat, in order to relieve practical difficulty / practical hardship due to exceptional topographical conditions with the condition that staff verified impact of stormwater runoff, Member Newcomer seconded. Roll call vote failed the motion: 3-1.

5. Regular Business

None

6. Unfinished Business

None

7. Other Business

A. Upcoming meetings & dates of importance:

- Planning and Zoning Commission Regular Meeting: Tuesday October 10, 2017 at 5:30 p.m. and Tuesday November 14, 2017 at 5:30 p.m.
- Board of Aldermen Meeting: Tuesday, November 7, 2017 at 7:00 p.m. and Tuesday, November 21, 2017 at 7:00 p.m.
- Board of Zoning Adjustment Meetings: Tuesday, November 28, 2017 at 5:30 p.m. December meeting TBD.

8. Adjournment

Vice Chairman Downing adjourned the meeting at 7:15 p.m.

Submitted by:



Stephen Lachky
Community Development Director

9-26-17
Date



Shakedra Knight
Community Development Assistant

9-26-17
Date