

**Minutes of the
Board of Zoning Adjustment Meeting
City of Parkville, Missouri
Thursday November 10, 2016 @ 5:30 p.m.
City Hall Boardroom**

1. CALL TO ORDER

Vice Chair Carla Dods called the meeting to order at 5:30 p.m.

2. ROLL CALL

Board Members Present:

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

A quorum of the Board of Zoning Adjustment was present.

Staff Present:

Stephen Lachky - Community Development Director
Shakedra Knight - Assistant to the Community Development Director

3. GENERAL BUSINESS

A. Community Development Director Stephen Lachky welcomed new members in attendance Marion Newcomer and Jack Shafferman. The mayor appointed Member Newcomer to the Board of Zoning Adjustment at the May 3, 2016 Board of Aldermen Meeting. Member Shafferman was appointed by the mayor at the November 1, 2016 Board of Alderman Meeting

B. Election of 2016-2017 BZA Officers

Director Lachky opened the floor for Chair nominations. Seeing none by default Vice Chair Dods was appointed Chair of the Board. Chair Dods nominated Secretary Downing for Vice Chair. Member Wright nominated Member Newcomer Secretary.

Member Wright motioned to nominate Member Newcomer Secretary and Member Downing Vice Chair, Member Shafferman seconded. Motion passed 4-0.

C. Approval of Board of Zoning Adjustment Meeting Agenda.

Chairman Dods called for any discussion of the proposed agenda. Seeing none she called for a motion to approve the agenda as proposed.
Secretary Downing moved to approve the agenda, Member Wright seconded. Motion passed 4-0.

D. Approval of minutes from the Tuesday April 26, 2016 Board of Zoning Adjustment meeting

Chairman Dods called for any discussion of the proposed minutes.

Seeing none she called for a motion to approve the minutes as proposed.

Member Shafferman moved to approve the minutes, Secretary Newcomer 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 single-family lots in the Thousand Oaks – 20th Plat, in order to relieve practical difficulty/practical hardship due to exceptional topography conditions. . Case BZA16-04, Forest Park Development of Kansas City, applicant**

Chair Dods read the item to be addressed and then invited Director Lachky to provide background. Lachky began by illustrating an aerial view of the subject area on the map. He explained the applicant was requesting the 5 feet setback for safety purposes due to the unique topography of the plat. Lachky displayed photos of various views to display current topography. Next he detailed the purpose of the Board in considering a Variance and the criteria. He referenced Section 480.050 of City Code and stated a variation in the yard requirements in any district so as to relieve practical difficulties or particular hardships by reason of exceptional topographical conditions or other extraordinary and exceptional situations should comply with the spirit of the Zoning Code and at the minimum possible. He added any variance granted should not be for reasons of convenience, profit, or caprice; also, it should not victimize the public or future property owners.

Lachky confirmed Public Hearing notice requirements were met and then listed staff findings and conclusions of matters to be considered. The first matter addressed, was the proposed variance contrary to public health, safety, and welfare. Lachky explained the purpose of front-yard setback was to meet the minimum vehicle parking requirement of eighteen (18) feet and not encroach upon the sidewalk. He revealed staff finding that the proposed variance did not affect that matter. The second matter he addressed, would enforcement result in unnecessary hardship. Lachky explained the topographical conditions could be determined as a hardship and the variance would position homes in a safer manner. Next Lachky discussed whether conditions were unique to parcel and not created by the owner. He pointed out the rolling terrain and bluffs were common throughout the 20th Plat and the drastic elevation changes could be deemed unique. He also pointed out the argument the applicant could re-plate the layout of the streets and lots; however, the land and streets had already been graded. The fourth matter addressed whether granting the variance adversely affected the rights of adjacent property owners. Lachky stated staff did not see substantial adverse effects. He pointed out the abutting properties within unincorporated Platte County “R-7” District had a thirty (30) feet setback and would be buffered and separated by Homeowner Association amenities around Myers Circle and NW 66th Terrace which distinguished the entrance. He displayed images to illustrate site lines and landscape buffer. Lachky mentioned notice was given to those property owners and staff received no feedback.

Member Wright questioned whether that County land could be incorporated. Director Lachky answered it was possible and explained the process would occur through an annexation petition.

Director Lachky went on to state the spirit of the Zoning Ordinance was the purpose of the uses which were single-family homes in that area. He added no uses would be changed and only variance would be made. Lastly, Lachky addressed whether the request was the minimum possible. Staff findings revealed the five (5) feet proposed was the minimum possible and appeared to address safety concerns of the applicant. Lachky provided additional information of similar exceptions approved via Conditional Use Permit. He provided images from the National Golf Club of Kansas City to display the twenty (20) feet front-yard setback.

Director Lachky concluded with staff conclusion and recommendation. He pointed out the proposed variance was not contrary to public health, safety, or welfare; appeared to be a hardship to the property owner; topographical conditions were unique to the subject area; would not adversely affect rights of adjacent property owners; did not oppose spirit of the zoning ordinance; and was the minimum possible for reasonable use. He stated staff recommended approval of the proposed variance based on the merits of the application and findings and conclusions in the staff report and stated he was available for questions.

Chair Dods asked what the County setback was. Lachky responded he believed it was thirty (30) feet.

Chair Dods asked whether Thousand Oaks had sidewalks on both sides of the street. Director Lachky informed that this area had sidewalks on both sides.

Member Shafferman asked what the Planning & Zoning Commission's thoughts were. Lachky explained that when the issue was addressed by the Commission one of the conditions for approval was to include the landscape.

Chair Dods addressed the Board for additional questions. Seeing none she opened the floor to the public.

Applicant David Barth approached the Board. He stated the terrain was the main reason he requested the hardship. He added the phase was recently paved and ninety (90) percent complete. Barth stated the request was not due to a financial issue. He stated that rock prevented lowering and he had dirt hauled in to combat the solid rock. Barth pointed out he recently had setback requests approved for two (2) phases in Riverside. He commented his preference was to leave the greenways through the ditches and build in-between and then explained the hardship he had experienced with other projects.

Chair Dods asked Barth whether he had sold any lots. Barth answered he had three (3) on hold. He explained that once the homes were built and recorded they could be sold.

Chair Dods asked for additional questions from the public. Seeing none she called for a motion. **Chair Dods made a motion to approve application for Variance as proposed. Secretary Newcomer seconded. Motion Passed 4-0.**

B. Application for Variance for the reduction of “R-3” Single-Family Residential District front-yard setbacks from 25 feet to 20 feet, for lots 547, 548, 550, 552, 555, 596, and 597 in the Thousand Oaks – 12th Plat. . Case BZA16-05, Forest Park Development of Kansas City, applicant

Chair Dods introduced the public hearing item and asked staff to present findings.

Director Lachky gave history of the application. The application was presented to the City four years ago. It resulted in a split decision and ultimately denied since four (4) members were needed in order to be approved. Lachky pointed out this item addressed specific lots and the hardship presented due to topographical conditions. He illustrated the plat on an aerial map and indicated it was ninety (90) percent developed. Lachky stated the plat was approved in 2004 and revised in 2007. Next he displayed photos of each lot. He explained the concern of some Board Members four years ago was that construction had begun on homes within the development. He listed the same standards of review for variance approval, hardship due to topography, the need to comply with the spirit of the zoning code, must be the minimum necessary, and not create a threat to public safety and then he confirmed public notice had been given.

Director Lachky went through the matters considered. He stated staff did not see any concerns with public health, safety, and welfare in regards to the 5 feet setback. He stated the hardship presented was the inability to safely develop homes due to the topography, the variance allowed flexibility, but there was development of adjacent lots under current district requirements. Lachky stated the rolling terrain, bluffs, and drastic elevation changes were unique conditions of the parcel but one could argue the applicant platted the layout in a manner that created these challenges. Next he addressed the rights of the adjacent owners. Lachky pointed out staff believed there may be adverse effects impacting aesthetics and/or view sightlines with lots 552 and 555. He also pointed out public notice was given and members of the public were present. Lachky illustrated the two (2) lots staff did not recommend for approval, as well as those within the cul-de-sac that were recommended. He stated the applicant would be able to comply with the spirit of the zoning code by maintaining district requirements and the minimum variances had been requested. He again presented the example of the National Golf Club of Kansas City to display the twenty (20) feet front-yard setback. Director Lachky added something for Board consideration was the hardship of time since there had not been development on the lots in four (4) years. Following review staff recommended approving the proposed variance for lots 547, 548, 550, 596, and 597 and did not recommend variance approval for lots 552 and 555.

Chair Dods opened the floor for Board questions or comments.

Member Shafferman asked if there was anyone present to represent lots 552 and 555. Director Lachky pointed out staff a letter from the property owner of lot 551 but the

owner was unable to attend in person. Lachky also pointed out staff received another letter from a citizen pointing out development had constructed despite the setbacks. He displayed both lots on the map.

Chair Dods opened the hearing up to public comments.

Citizen George Heyns at 6549 N Whitetail Way, Parkville, MO (lot 549) addressed the Board. Heyns stated his property had more significant drop off than any other lot and there was no problem building without reducing the setback requirements. He added there was no safety concern or hardship to Forest Park Development and suggested the applicant reduced the price of the lots. Heyns also stated there had been development of fifty (50) homes in the past four years with no problems.

Chair Dods invited additional members of the public to speak.

Citizen Jay Johnson at 15024 NW 66th Street, Parkville, MO (lot 553) addressed the Board. Johnson stated he recently moved in and felt impacted by the setback reductions. He stated his children played in the front-yard since his home did not have a back-yard due to the significant drop off. He believed traffic that came around the bend presented a safety issue although the children knew not to play in the street.

Applicant David Barth addressed the Board. He stated for clarification the development was over ten (10) years old and there had not been fifty (50) homes built on this plat. He stated Forest Park Development was concerned with safety and agreed with staff recommendation regarding the two (2) lots on the main street. Barth stated variance approval allowed him to build bigger homes and he had held out to avoid building smaller homes. He again stated it was ten (10) years the lots had been sitting and that he accepted staff recommendation.

Member Shafferman confirmed with the applicant the two (2) lots he was referencing. Director Lachky illustrated lots 552 and 555 on the map while Barth explained. Barth also pointed out he requested the minimum five (5) feet setback and that he had requested fifteen (15) feet on other projects.

Member Shafferman asked the applicant if he had an architectural view of the proposed aesthetics with the setback. Barth replied it was usually driven by the buyer once the lots were sold. He gave examples of the current trends and again stated the hardship.

Citizen George Heyns approached the Board in response Barth's comments. Heyns stated his property on lot 549 had the same topographical conditions and that his home was a four thousand square feet, reverse. He added there was no problem building and no need to change the guidelines that were in place.

Chair Dods asked for additional questions from the public. Seeing none she called for a motion.

Discussion ensued regarding variance approval of specific lots.

Member Shafferman made a motion to deny the Application for Variance for lots 552 and 555 as proposed. Secretary Newcomer seconded. Motion Passed 4-0.

Chair Dods made a motion to deny the Application for Variance for lots 547, 548, and 550 and to approve the Application for Variance for lots 596 and 597 as proposed. Member Wright seconded. Motion Denied 3-1.

Secretary Newcomer made a motion to deny the Application for Variance for lots 547, 548, 550, 596, and 597 in the Thousand Oaks – 12th Plat as proposed. Member Wright seconded. Motion Passed 4-0.

5. **REGULAR BUSINESS**

None

6. **UNFINISHED BUSINESS**

None

7. **OTHER BUSINESS**

A. Upcoming meetings & dates of importance:

Director Lachky informed the Board of the upcoming Open House for Zoning Code Update Project at Mosaic Life Care Center Wednesday November 16, 2016 from 5:30 p.m. to 7:30 p.m.

- Planning and Zoning Commission Special Meeting: Monday, November 14, 2016 (5:30 p.m.)
- Board of Aldermen Meeting: Tuesday, November 15, 2016 (7:00 p.m.)
 - Board of Zoning Adjustment Meetings: Tuesday, November 22, 2016 – Cancelled; No Agenda Items.
- Planning and Zoning Commission Special Meeting: Tuesday, November 29, 2016 (5:30 p.m.)
- Board of Aldermen Meeting: Tuesday, December 6, 2016 (7:00 p.m.)
- Planning & Zoning Commission Regular: Tuesday December 13, 2016 (5:30 p.m.)

8. **ADJOURNMENT**

Seeing no other discussion, Chair Dods called for a motion to adjourn.

Member Wright moved to adjourn, Secretary Newcomer seconded. Motion to adjourn passed 4-0. Meeting adjourned at 6:36 p.m.

Submitted by:


Stephen Lachky
Community Development Director

11/10/16
Date