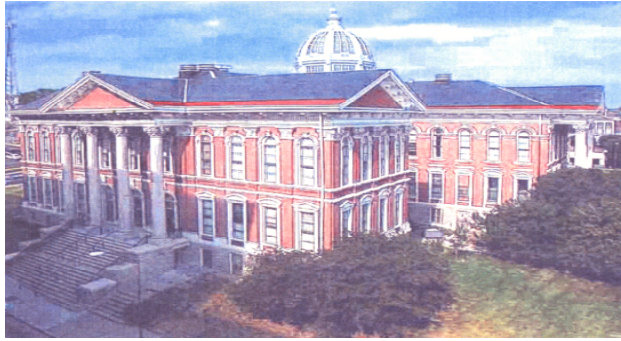


BUCHANAN COUNTY PLANNING AND ZONING

St. Joseph, Missouri

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James Whitson, Chairman
Steve Reardon, Vice - Chairman
Johnaphine Fenton, Secretary

MINUTES OF THE BUCHANAN COUNTY PLANNING AND ZONING COMMISSION

JANUARY 8, 2020

The Chairman, Jim Whitson, and the Vice-Chairman, Steve Reardon, were both absent from this meeting so Alfred Purcell, Board Member, was asked to chair. Mr. Purcell called the Buchanan County Planning and Zoning Commission meeting to order at 7:00 p.m. in the Thomas J. Mann III Room # 223. This room is located on the 2nd floor of the Buchanan County Courthouse, 411 Jules Street, Saint Joseph, Missouri, 64501.

Rosan Bowers, Wayne D. Barnett, Fred Corkins, Scotty Paul Sharp, Glen Frakes, Shirley Day, Rodney Fry and Alfred Purcell were the Board Members present for roll call.

Also present were Chad Gaddie, Legal Counsel, Presiding Commissioner, Lee Sawyer, and Denise Embrey, Planning and Zoning Director.

Mr. Purcell asked the Zoning Director, Denise Embrey, to validate the Agenda before the meeting went on.

Denise Embrey: Director: “We have Item # 1 which is a Conditional Use Permit request by Edward & Frances Evans, 6633 SE Monroe Road, Agency, MO, 64401 to place a modular home on a seventeen (17.5) acre m/l parcel located on SE Monroe Road, Agency, MO, 64401, located in Section 17, Township 56, Range 34. Item # 2 is a request to rezone a six (6.19) acre m/l tract of land located on SE State Route A, St. Joseph, MO, 64507. This item has been tabled due to illness, so if anyone is here for that agenda item, we will not be discussing that tonight. Item # 3, the amendment to Zoning Order # 721.5 has been tabled as well.”

Someone inquired when Item # 2 would be on the Agenda again. Ms. Embrey, Director, informed those in attendance for this Item would be notified by certified letters again and a legal notice would be republished.

AGENDA

ITEM # 1 – A Conditional Use Permit request by Edward & Frances Evans, 6633 SE Monroe Road, Agency, MO, 64401 to place a modular home on a seventeen acre m/l parcel located on SE Monroe Road, Agency, MO, 64401 located in Section 17, Township 56, Range 34.

REPRESENTATION OF REQUEST

Fran and Ed Evans, 6633 SE Monroe Road, Agency, MO 64401: “About a year ago, we bought my aunt’s farm which is twenty three acres and we are wanting to sell the south side which is seventeen and a half acres and the kids that are wanting to buy it are wanting to put a modular home on there and we are asking for a permit for that.”

Alfred Purcell: Acting Chairman: “Are there questions of the Board?”

Glen Frakes: Board Member: “What is the ground being used for south of the road?”

Fran Evans: “Nothing right now. Most of it is just elm trees and we have been haying it a little bit too. On the edge of it there is grass and the neighbor’s hay it for us. But, the middle part of it is just wild trees and brush.”

Mr. Purcell called for any more questions from the Board.

Wayne Dale Barnett: Board Member: “You live on the north side then?”

Fran Evans: “We had three (3) acres on the north side and then we bought the other part because it was my Grandma’s farm and that was where I was raised. We are just selling the south side. We are saving nine (9) acres on our side and there is seventeen (17) acres on the other side. The original farm was pie shaped.”

Glen Frakes: Board Member: “How many acres of that ground on the south side of that road is hay ground? It looks like there is quite a little bit.” Mr. Evans responded there was probably six or seven acres.

Wayne Dale Barnett: Board Member: “But, you guys are wanting to sell the land, but are you guys getting the Special Use Permit?”

Fran Evans: “We have to get the permit and then they said it was transferable to the kids. They are back there if you need to know any information about the modular that they want to put on and everything.”

Jeremy Davis, 332 East Baker, Osborn, MO: “We are the ones looking to buy. My wife and I are not fans of basements. We never wanted a basement. A root cellar or a storage cellar has worked for quite a few years really well. The place we are interested in is 1,800 to 2,000 square feet, so it will be more than enough area for us without having to put in a basement. It will be on a foundation.” Mr. Davis then showed several Board Members where it would be placed on the property.

Alfred Purcell: Acting Chairman: “Is it your intent to subdivide the land?”

Jeremy Davis: “No, it is my intent to purchase the land and die there.”

Mr. Purcell then asked for any further questions from the Board.

Glen Frakes: Board Member: “I’ve got a question about these Conditional Use Permits. Are you using these things in two different ways? If you get a Conditional Use Permit for a mobile home, that goes to that person. Now then, they are applying for a Conditional Use Permit, but yet he’s going to get (inaudible).”

Alfred Purcell: Acting Chairman: “I would like to ask Counsel for his comment.”

Chad Gaddie: Legal Counsel: “Typically, the Conditional Use Permit runs with the land.”

Glen Frakes: Board Member: “But, it doesn’t with a mobile home.”

Chad Gaddie: Legal Counsel: “I am not looking at the context of a mobile home. I think you are ...”

Glen Frakes: Board Member: “I am not talking about them. I am talking about a Conditional Use Permit, period.”

Alfred Purcell: Acting Chairman: “We are talking about two separate things here. One is the modular you are speaking of which is between 1,800 and 2,000 feet. That is not a mobile home. It doesn’t have wheels or axles. Now, I would like to deal with the first. In terms in what you are opposing in terms of the Conditional Use Permit, it stays with the land. Should Ed and Frances be the ones asking for the Conditional Use?”

Denise Embrey: Director: “Yes, because they are the current landowners. So, since it goes with the land, then Jeremy would be purchasing that and the land would be ready to go.”

Alfred Purcell: Acting Chairman: “We’ve got to be bureaucratic. What I am looking at in terms of my information, merely states: ‘A Conditional Use Permit requested by Edward and Frances Evans’, and so you are asking for the Conditional Use Permit and your intent is to sell to this young man, so they are requesting the Conditional Use Permit.”

Glen Frakes: Board Member: “But, if they decide not to sell to him, they can lot that thing off and split it up.”

Wayne Dale Barnett: Board Member: “We can put a stipulation on that, that it not be more than one (1) residence.”

Fran Evans: “The challenge is, their bank, unless they can already guarantee they can put a house on there, won’t give them a loan. So, therefore, we have to come up and make sure they can get the house before their bank will do business with them.”

Ed Evans: “To make sure they can get a Conditional Use Permit on the land.”

Alfred Purcell: Acting Chairman: “Our focus should be to Frances and Edward in terms of a Conditional Use Permit for that land.”

Mr. Purcell then asked for any more questions from the Board. With no further questions from the Board, he then called for opposition.

OPPOSITION

Richard Tolbert, 6460 SE Monroe Road, Agency, MO, 64401: “I don’t necessarily have an opposition, but I do have some questions. There’s an old trailer there now that belongs to the Stout’s, and I want to know if that is going to be gone and then there is another one on down around the corner. I think some people still live in it, I’m not sure who owns it. It’s a piece of junk and is on this property.”

Glen Frakes: Board Member: “The mobile homes he is talking about are on the north side of the road, not the south side of the road where they are talking about buying. Am I correct? I was out there yesterday. I know where those mobile homes are. They are on the north side of that road. One of them has trees growing up through it.”

Mr. Tolbert commented it used to belong to this house.

Shirley Day: Board Member: “But that’s not the property where they are wanting to put the house?”

Alfred Purcell: Acting Chairman: “We will address the answer to that when we have them come back.”

Mr. Purcell then called for any other opposition.

Curtis Gabriel, 6910 SE Monroe Road, Agency, MO 64401: “I will clarify on some of the pictures I’ve got here. I guess my opposition is that Ed & Fran own the property that the trailers sit on. They own the property now, so they are asking for the Conditional Use Permit, so, I too am wondering if something goes through that they don’t sell it, will it look just like these properties and stuff that they have on their properties as well? That is my concern.”

Mr. Gabriel then passed photos around of the properties he was referring to.

Earl Huskamp, 6415 SE Monroe Road, Agency, MO 64401: “I have a few questions. First of all, how many square feet there is going to be in this home, second, is it just going to be strictly residential or will there be other conditions added to it? What will be the intent of the use of the land? Basically, those are my two biggest concerns. I also have another question. In my years being an attorney, I have dealt with (inaudible). My question is, Mr. and Mrs. Stout are asking for a Conditional Use Permit to put a modular home on this property. It’s not their home that they put on there, it is someone else’s, and yes, the permit would go with the land. However, I think it is inappropriate that they are asking for the Conditional Use Permit, because once they get it, they can do whatever they want to do with it and the object for this young man is to put a modular home on it, so I think it is inappropriate.”

Bryan Gabriel, 6750 SE Monroe Road, Agency, MO 64401: “I have a lot of concern about putting another modular home there with what is already around that area. I am against rezoning it.”

Mike Monroe, 6320 SE Monroe Road, Agency, MO 64401: “My concern is the Conditional Use, being able to put anything on there that you want. The placement of that house, where they are talking about putting it, I was on that field not too long ago and I got stuck. There’s a spring that runs through there. They will have running water through their house. Not a very good choice for the placement of a home.”

Chip Harris, 6931 SE Monroe Road, Agency, MO 64401: “How many acres do you have to have to put a modular on it for your septic and all that?”

Denise Embrey, Director, responded you have to have at least “two (2) acres.”

Mr. Harris inquired when they changed all that from twenty (20) to two (2).

Denise Embrey: Director: “When you have twenty (20), you do not have to come before the Board. Anything less than that has to come before the Board.”

Chip Harris: “Shouldn’t they have to have a perk test or something like that done ahead of time before they grant a permit to do this? Mike is saying that the ground doesn’t perk out. You guys give them a permit, they can move this thing wherever they want.”

Denise Embrey: Director: “No, it doesn’t work that way. They get a soil morphology. They have an installer design a system that will work with a type of soil. They get a septic application from our Office, and after that has all been approved, then they are issued a building permit.”

Chip Harris: “Is this a brand new modular they are bringing in?”

With several people answering this question, Mr. Purcell, Acting Chairman, asked Mr. Harris to ask his questions and then the applicant’s would come back and address them.

Chip Harris: “And, when you say a foundation, is that like skirting around the trailer or is that an actual brick foundation? I don’t want to see three years down the road and there is vinyl skirting blowing all over the place.”

Mr. Purcell, Acting Chairman, then called for any further opposition. With no opposition heard, he called Ed and Frances to come back and speak since there had been a number of questions raised.

Fran Evans: “As I said before, it’s my aunt’s farm and we just bought it. We are trying to find someone to pull the old trailer off as we speak. Then, we are going to clear the land. Like I said, nobody has taken care of it since 1970. It’s just grown up. We are going to get bulldozers in there and get it all cleaned up. The trailer next to our house, my grandson lives in and they don’t take care of it like we want them to. I respect my neighbors and we gave them notice in November that they need to move. So, as soon as they save up enough money, they are going to move. The minute they are gone, the trailer is gone because I don’t want anybody else moving back. So, that is the answer to the mobile homes.”

Shirley Day: Board Member: “I do want to verify though, that those are **not** on the property that we are discussing.”

Mr. Evans stated they were across the road.

Alfred Purcell: Acting Chairman: “You had a couple of folks that were very concerned. Although these trailers are not on this particular property that is being requested for a Conditional Use Permit, the concern expressed is will this area here resemble that?”

Fran Evans: “The kids are buying it brand new. Even though we think of a trailer having skirting, they’ve got pictures of it and it looks like any other house, like the one we built. It looks like a stick built house. It doesn’t look like a trailer or a double wide mobile home.”

At this point, Mr. Davis presented the plans and a rendering of the home. Those in attendance were asked to look at the plans.

Jeremy Davis: “The exterior walls are 2’ x 8’, the interior walls are 2’ x 4’. It is around 1,800 square feet. There won’t be any skirting. It is rock. There will be a crawlspace and it will be on concrete footings.”

Discussion was then held regarding the foundation and the inability to move it since there were no wheels on it.

The Director was asked to explain the building permit process again. She directed the question to Fred Corkins, Board Member, who has expertise in this area.

Fred Corkins: Board Member: “They have to get a soil morphology before they can get a septic permit or a building permit, either one. There is no such thing as a perk test anymore. It’s outdated.”

Alfred Purcell: Acting Chairman: “So, the response to Mr. Harris, in terms of the size, the foundation and talking in terms of perk test or whatever, it really goes back to Mr. Monroe expressing concerns about springs and whatever, that would fall up underneath all that.

Fred Corkins: Board Member: “The soil morphology will tell you what you have to have, whether that’s a specialized system or a lagoon or a standard septic system.”

Denise Embrey: Director: “That also has to be done by a State licensed person.”

Alfred Purcell: Acting Chairman: “So, has everyone had an opportunity to voice your concern and you’ve heard responses back to your concerns?”

An attendee asked when this home was delivered, is it delivered in on wheels and then you unhook the hitch?”

Jeremy Davis: “I will not have wheels and axles that are sitting underneath it. Those are not part of the purchase I am making. It won’t have a tongue on it. Once it is there, it is anchored down and those mobile aspects of it are completely eliminated. They are not even an option.”

Chip Harris: “So, if you want to move it again, you put the axles back on it and hook the hitch back on it and pull it out?”

Jeremy Davis: “It doesn’t have axles. It comes on a trailer and they slide it off the trailer onto the foundation.”

Alfred Purcell: Acting Chairman: “My role is not to defend this. My role is to facilitate the dialogue. I will step out of character for just a minute, step out of my role. This is a modular home. There is a dramatic difference between modular homes and mobile homes. This is built modularly...”

At this point Chip Harris interrupted by saying it was built in a factory, it has house trailer wheels and a house trailer hitch on it...

Several **no** comments were made from the Board and others.

Fred Corkins: Board Member: “A lot of modular homes come out and they set them with a crane. They bring them on a flat bed trailer.”

Chip Harris: “I was asking if he had a garage or if everything was just going to sit outside.”

Jeremy Davis: “Not at first, no. It will. The plans are definitely there to have a garage and a shop.”

Mr. Purcell asked for anymore questions from the Board.

Glen Frakes: Board Member: “Will the garage and shop be separate from the house?”

Mr. Davis responded they would be and you would have to go outside to get to each one of them.

Shirley Day: Board Member: “Can we as a Board put conditions on the Conditional Use Permit? Is that correct? Can we put a condition that only one single family dwelling be allowed?” She was informed that was permissible.

Shirley Day: Board Member: “I make a motion that we are voting on only one Single Family Dwelling on that property.”

With a second, and all ayes from the Board, the motion carried.

Alfred Purcell: Acting Chairman: “I would like to go back to the fundamental question, that is a Conditional Use Permit, to the person buying it or to the persons that own the land. This goes with the land. And so, Edward and Frances Evans are the ones requesting the Conditional Use Permit and with the proviso, obviously they have talked about what they are going to do with this. They have a right to sell land and we have been asked to do a Conditional Use Permit on that land.”

Mr. Purcell announced that comments had been closed since he felt everyone had an opportunity to voice their opinions and ask questions and felt confident that those had been answered. Roll was then called, but Glen Frakes, Board Member, inquired if there was a time frame for the removal of the two mobile homes. Mr. Purcell responded they were not on this property and that was a separate issue but he would ask Counsel.

Alfred Purcell: Acting Chairman: “Do we have within our purview to have a conversation about what is in the contiguous area?”

Chad Gaddie: Legal Counsel: “I understand your comment and if you would do something with your trailers, it would certainly benefit the entire neighborhood and community. You have a lot of people here that would appreciate you taking care of that matter promptly. Legally speaking, there is not a provision related to this specific condition.”

Alfred Purcell: Acting Chairman: “The question I asked also, does this Planning and Zoning Board have the purview and authority to remove trailers off of property?”

Chad Gaddie: Legal Counsel: “We don’t, and we don’t have authority related to land that is not subject to this permit. That issue cannot be enforced.”

Alfred Purcell: Acting Chairman: “I think there is probably a process if you have a concern, that you could come to the County and voice your concern and then someone could take action as a result of that. That is not the purview of this Planning and Zoning Board.”

The meeting was then closed and roll was called to vote on Item # 1.

Denise Embrey: Director: “We need to vote on Shirley’s motion first.”

Alfred Purcell: Acting Chairman: “We did. I called for vote and everyone said aye.”

Chad Gaddie: Legal Counsel: “It has to be done as a roll vote.”

Mr. Purcell, Acting Chairman, asked Shirley Day, Board Member, to state her motion again.

Shirley Day: Board Member: “I made the motion that we have a condition added to the Conditional Use Permit that would say it can only be used for one (1) Single Family Dwelling on the property.”

Roll was called again to vote on the proposed condition.

DECISION OF THE PLANNING & ZONING COMMISSION

Rosan Bowers: “Yes.”

Wayne Dale Barnett: “Yes.”

Fred Corkins: “Yes.”

Scotty Paul Sharp: “Yes.”

Glen Frakes: “Yes.”

Shirley Day: “Yes.”

Rodney Fry: “Yes.”

Alfred Purcell: “Yes.”

This motion passed.

Alfred Purcell: Acting Chairman: “Next, we will ask for your vote, yes or no, in terms of approving the Conditional Use Permit requested by Edward and Frances Evans with the amendment.”

DECISION OF THE PLANNING & ZONING COMMISSION

Rosan Bowers: “Yes – Appropriate Use.”

Wayne Dale Barnett: “Yes - Appropriate.”

Fred Corkins: “Yes - Appropriate.”

Scotty Paul Sharp: “No – Got a lot of opposition on this.”

Glen Frakes: “No – Leave it agricultural.”

Shirley Day: “Yes - Appropriate.”

Rodney Fry: “Yes - Appropriate.”

Alfred Purcell: “Yes - Appropriate.”

Denise Embrey: Director: “That did pass. If anyone is aggrieved by the decision of the Board, you have the right to appeal within thirty (30) days.”

Alfred Purcell: Acting Chairman: “Do we have anything else to come before the Board?”

With no further business or discussion, a motion was made and seconded to adjourn the meeting.

Denise K. Embrey
Director of Planning & Zoning