MINUTES OF REGULAR MEETING

ST. CHARLES COUNTY BOARD OF ZONING ADJUSTMENT

DATE: November 7, 2019
TIME: 7:00 P.M.
PLACE: COUNTY EXECUTIVE BUILDING
100 NORTH THIRD ST.
EXECUTIVE COUNCIL CHAMBERS
ST. CHARLES, MO 63301

MEMBERS PRESENT: Gerry Prinster, Chairman; Kevin DeSain, Secretary; David Bauer, Vice-Chairman; Vicki LaRose; and John Matlick

MEMBERS ABSENT: Leslie Gross, Alternate Board Member; and Robert Boschert, Alternate Board Member

STAFF PRESENT: Robert Myers, Planning & Zoning Director; Mark Price, County Planner; Ardita Roark, Associate County Counselor; and Jhimae Brock, Recording Secretary

SPEAKERS: VAR19-05: Art Bond, Property Owner; and Arnie C. “AC” Dienoff, P.O. Box 1535, O’Fallon MO

ZAP19-01: Andrew Koor, applicant’s representative with Suddarth & Koor LLC, 755 West Terra Lane, O’Fallon, MO; Tom Adams, Property Owner; James E. Sullivan, 233 Lakeview Drive, St. Charles, MO; Charles Lopanec, 101 Bowen Avenue, St. Charles, MO; Cheryl Lopanec, 101 Bowen Avenue, St. Charles, MO; and Arnie C. “AC” Dienoff, P.O. Box 1535, O’Fallon, MO

CALL TO ORDER

Board of Zoning Adjustment Chairman Gerry Prinster called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, he welcomed the audience, explained the functions of the Board of Zoning Adjustment and the format of the meeting, and explained the procedures for speakers. Chairman Gerry Prinster also introduced The Unified Development Ordinance (UDO) and Zoning Maps of St. Charles County into the record.

CHANGES TO THE AGENDA

NONE
I. **VARIANCE REQUEST – 1865 HIGHWAY C**

Application: VAR19-05  
Owner: Dardenne Realty Company  
Applicant: Civil Engineering Design Consultants  
Variance Requested: A request to vary Section 405.355.B.2 of the Ordinances of St. Charles County (OSCCMo) to allow for the replacement of the Dardenne Hunting Club Boathouse to be constructed at 11.76 feet below the base flood elevation rather than at 1-foot above the base flood elevation, in accordance with Section 405.375 OSCCMo.  
Property Zoning: A, Agricultural District, with Floodway and Floodway Fringe Overlay Districts  
Parcel Area: Approximately 782 acres  
Location: Approximately 2,125 feet north of the intersection of Highway B and Highway C; a mile south of the Mississippi River  
Council District: 6  
Account No.: 267150A000

Board Secretary Kevin DeSain read the variance request aloud. Chairman Gerry Prinster then opened the public hearing and asked the owner or owner’s representative to approach the podium to explain the request.

Art Bond, property owner, was sworn in. Mr. Bond is representing Bond Architect and is one of the owners of Dardenne Duck Club. The applicant is requesting to replace a boat house that was destroyed during the flooding that occurred this summer. He stated that the footprint of the new structure will essentially be the same as the original footprint of the previous boat house that had stood since the early 1960s. The applicant is requesting to have the base floor level 11.76 feet lower because they flood the fields during the fall and raise it up almost to grade level, about 2.5 feet lower than their floor elevation. He stated that if they had to raise it up, they could not access the boats that come onto the boat docks. He stated that they have a second floor which is approximately 6 feet above the flood elevation. He stated that there is a caretaker on the property that has been instructed in the past to open all garage doors to allow flooding to move through freely.

Chairman Gerry Prinster asked if the County staff had any comments regarding to this variance request.

Mark Price, County Planner, stated that commercial structures in the County are required to implement a flood proofing plan. Mr. Price stated that the first floor of the structure is made of concrete and should be flood resistant.

John Matlick asked if it would be necessary to have an automatic system to handle potential flooding on the property in case someone is not there.

Mark Price responded that would be required for a residential structure. Mr. Price stated that since this is a Commercial structure with a staff member on site 24 hours a day, 7 days a week, they are allowed to provide that as an alternative.

Vicki LaRose asked if the electrical and HVAC are above the flood base level.
Art Bond responded in the affirmative. Mr. Bond stated that they won’t use a HVAC system, but will utilize a radiant heating unit on the second floor.

Dave Bauer asked if the structure has flooded in the past.

Art Bond responded in the affirmative and stated that the previous boat house was a wooden structure. Mr. Bond stated that the wave action on the wood frame walls has destroyed the entire building.

Mark Price stated that there will be no changes to the footprint of the proposed structure, therefore it does not require any kind of notarized certification.

For the record, the County did not receive any written communications regarding this variance request.

Chairman Gerry Prinster asked if there was anyone in the audience that would like to speak for or against this application.

Arnie C. “AC” Dienoff, P.O. Box 1535, O’Fallon MO, was sworn in. Mr. Dienoff stated that County staff recommended denial for this application because the property is in a floodplain and a flooded area. He stated that he is not opposed to the variance request, but he does have concerns. He stated that he is concerned that the environment is protected if it is going to flood on an annual basis. He is concerned about trash dumpsters floating away and believes that the responsibility should be put on the property owner. He stated that this property has flooded annually over the past 5 years, and the County should have strict requirements on cleaning up the environment after a flood occurs and prevention. He stated that he would like for the Board to consider his concerns and to have conditions that will handle future floods.

Chairman Prinster stated that after flooding a few years prior, there were propane tanks and dumpsters floating around at the north end of the County.

Mark Price responded that the County ordinance has provisions on anchoring after a flood event. For the record, County staff did not make a recommendation for approval or denial. If the Board chooses to approve the variance request, County staff recommended that two conditions be added to the variance approval.

Robert Myers stated that County staff has specific criteria with typical variances, but there are additional considerations with variances that are in the flood zone or that deal with flooding, as shown in the Staff Report. Mr. Myers stated that because of the nature of this application that deals with flooding, the Board could address those part of the conditions. For instance, if there was a propane tank built at grade, the Board could ensure that one of the conditions be that it is anchored or tied down to prevent it from floating away. In terms of this application, County staff has not seen any concerns or comments about a dumpster.

Chairman Prinster asked County staff if they had any further comments regarding this application.

Mark Price responded in the negative and stated that the Board should review this variance request and add conditions if they feel it is necessary.

David Bauer asked the applicant if there were any loose items on the property that floated away during the last flood.

Art Bond responded that there is not a dumpster located at the boat house, but on an elevated platform at the other end of the property. Mr. Bond stated that they also have a diesel tank on an elevated platform.

David Bauer asked if they were flooded this year.
Art Bond responded in the negative and stated that they were dropped. Mr. Bond stated that they were located on the mound behind the residence, located at the east end of the property.

Chairman Prinster asked if any debris floated onto the subject property.

Art Bond responded in the affirmative and stated that they lost several Robo Ducks.

There being no further speakers from the audience, Chairman Gerry Prinster closed the public hearing and called for discussion from the Board members.

There being no further discussion from the Board, Chairman Prinster asked for a motion to approve this variance.

David Bauer made a motion to approve VAR19-05, subject to staffs recommended conditions. The motion was seconded by John Matlick.

The vote on the motion was as follows:

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<td>John Matlick</td>
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<td>Vicki LaRose</td>
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Application VAR19-05 was **APPROVED**.

The vote count was 5 Yeas, 0 Nays, and 0 Abstentions.

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### II. APPEAL OF DIRECTOR’S DECISION – 233 LAKEVIEW DRIVE

- **Application:** ZAP19-01
- **Owner:** Thomas P. Adams
- **Applicant:** Suddarth & Koor, LLC
- **Appeal Request:** An appeal of the Planning & Zoning Division Director's determination that a residence has sustained substantial damage
- **Property Zoning:** A, Agricultural District, with Floodway and Floodway Fringe Overlay Districts
- **Parcel Area:** 0.66 acres
- **Location:** In the Karmill Wood Acres Subdivision, 500 feet south of the Mississippi River
- **Council District:** 6
- **Account No.:** T090400004

Board Secretary Kevin DeSain read the appeal aloud. Chairman Gerry Prinster then opened the public hearing and asked the owner or the owner’s representative to approach the podium to explain the appeal.

Andrew Koor with Suddarth & Koor LLC, the applicant’s representative, was sworn in. Mr. Koor stated that the property owner, two of his neighbors, and the contractor who gave the owner a bid for repairs for this property are also present this evening. Mr. Koor stated that the property owner would like to move back into his house. He presented a copy of an appraisal of the subject property (which was dated November
5, 20190 and asked for the Board and County staff to review it. Mr. Koor stated that County staff may or may not be aware of this appraisal, but it shows the value of the property to be $165,000 dollars.

David Bauer asked when the submitted appraisal was done.

Andrew Koor responded that it was done within the past two days.

Gerry Prinster asked if this appraisal was done prior to the damage from the 2019 flood event.

Andrew Koor responded in the affirmative.

John Matlick asked if the comparisons for this appraisal were based on the home being in a non-flooded state.

Andrew Koor responded in the affirmative.

Ardita Roark, Associate County Counselor, stated that the standard of review for the Board of Zoning Adjustment when it is alleged that a decision or determination made by the Director of Planning and Zoning has been made in error is to make a decision based on the evidence that was submitted to County staff at the time the decision or determination was made. Since the applicant’s appraisal was not submitted at that time, the Board should choose whether they wish to consider this appraisal as part of their decision. If the Board chooses to consider this new information, they should then give the Planning and Zoning Division staff an opportunity to take time to review this appraisal and reconsider their original determination.

Andrew Koor stated that one week prior, he received a letter in the mail from County staff with information about tonight’s meeting. He stated that he doesn’t know when the next Board meeting will be, but his client would like to begin making the necessary to move back into his home and is unable to do so until the Board makes a decision on this appeal.

Kevin DeSain asked if the estimated value shown on the submitted appraisal report reflects the value of the home before or after the flood damage.

Andrew Koor responded that this report shows what the home would appraise for in proper condition.

Kevin DeSain asked if it was in March or April when the flooding started.

Andrew Koor responded that the appraisal report shows what the appraised value of the home would have been prior to the flood. Mr. Koor stated that the property owner is unable to obtain a permit to repair his home because County staff has determined that the amount of damage to the home exceeds 50% of the value of the structure. If their recent appraisal is correct, the damage is less than 50% and would allow for his client to repair and move back into his home.

Mark Price asked about the instructions given to the appraiser in terms of appraising the property. He asked Mr. Koor if the submitted appraisal includes the land, additional structures on the property, and the house, or if the appraised value of $165,000 dollars is only for the house.

Andrew Koor believes that only the property was appraised and stated that the property owner could provide that answer.

Tom Adams, the property owner, was sworn in. Mr. Adams disagreed with the damage assessment done by St. Charles County, so he hired an appraiser to do an appraisal of what his home would be worth without the damage caused prior to the flood.

Mark Price asked if the appraisal includes the outdoor structures on the property, and the land.
Tom Adams responded in the affirmative.

Mark Price stated that County staff only used the Assessor’s current value on the home when making this determination. The determination does not include the outdoor structures, the land, the septic system, or any of the other improvements on the property.

Tom Adams responded that the appraiser stated that the buildings and carport only account for a small percentage of the appraised value. He added that prior to this appraisal, St. Charles County forced him to combine his lots with his buildings and carport so that he could not sell the carports without the house.

Mark Price stated that F.E.M.A. provides County staff with guidelines to use when documenting damage to structures after a flood event. Staff is instructed to only use the value of the home, and to enter the information about the building into F.E.M.A.’s Substantial Damage Estimator, as shown on the items included in the Board’s agenda packet.

Kevin DeSair stated that the value of the land and other structures on the property is not going to change the damage determination, and the Board should only be concerned about the value of the home.

Tom Adams responded that he believes that the value of his home is significantly greater than the value calculated by St. Charles County.

Andrew Koor stated that the owner’s repair estimate differs from St. Charles County’s repair estimates. He stated that they received their estimate from James Sullivan with Sullivan Contracting, and his estimate to make repairs the home would be $31,995. He stated that Mr. Sullivan’s bid for the necessary electrical work is $3,800, compared to the County’s estimate of $8,900. He stated that the estimate to repair the flooring is $5,465.37, compared to the County’s estimate of $13,201.19.

Gerry Prinster stated that the applicant’s estimates don’t seem to coincide with the information provided by County Staff. The estimate from Building Element for electrical repairs done by the applicant shows $4,100, and the County’s estimate shows $4,115. The estimate for flooring done by the applicant shows $4,200 and the County’s estimate shows $13,201.

Andrew Koor responded that this is all a part of the total estimate of $31,995 from Sullivan Contracting. He stated that St. Charles County’s flooring estimate is $9,000 more than Sullivan Contracting’s estimate. The total estimated cost of repairs is approximately $32,000 and not $160,000. Mr. Koor also stated that he has an engineer’s report that indicates there are no damages to the foundation, the superstructure, the exterior finish, or the windows. There are missing doors, which are allotted for in the estimate from Sullivan Contracting. He believes that the appraisal of $165,000 is accurate, which makes his total cost of repairs well below the 50%. Since none of the structural components of the house need to be repaired, it supports the estimate from Sullivan Contracting.

David Bauer asked if they repaired or replaced the septic system, and what the cost was.

Andrew Koor responded in the affirmative, and stated that the property owner paid $1,400 to repair the septic system.

David Bauer asked why the property owner did not obtain a building permit to repair the septic system.

Tom Adams responded that he replaced the septic system himself in order to save money.

David Bauer asked if the new septic system has been inspected by the County.

Tom Adams responded that it has not. He stated that he has photos showing the repairs that he made.
Andrew Koor stated that his client is waiting for the Board of Zoning Adjustment to grant them permission before moving forward with any further repairs.

Gerry Prinster asked if the photos of the damage to the home were taken by County staff.

Mark Price responded in the affirmative.

Gerry Prinster stated that there appears to be significant foundation cracks throughout the entire basement of the house. The information presented by the applicant stating that there are no structural damages does not coincide with the photos of the house that were taken by County staff.

Tom Adams responded that there are some cracks in the foundation of the basement and garage, but they are a result of aging which is expected with any home. He stated that new homes also have cracks in the foundation. The Structural Engineer's report states that the cracks will not negatively affect the house.

David Bauer asked how long the property owner has lived at this residence.

Tom Adams responded that he has lived there since 1996.

David Bauer asked if the property had frequently flooded in the past.

Tom Adams responded in the negative. In the past there was flooding in his yard and around his house, but not inside of the house. He rebuilt his entire house in 2008 and obtained all of the proper building permits from the County, so he considers his house to be only 12 years old instead of 30 years old. He stated that he would just like to move back into his house.

Gerry Prinster stated that he noticed that the house next door has new plywood on the lower level. He asked Mr. Adams if the neighbor's house had as much flood damage as his house.

Tom Adams responded that the neighboring house was elevated prior to the updated County Ordinance. In 1994 there was water on the second floor of that house, but it is a stick-frame house so it would have to have been rebuilt. His neighbor's house was determined to be 19% damaged and nine feet of water on the first level, whereas his house was determined to be 100% damaged with 42 inches of water in the house. He stated that the County completed their damage assessment on his house when it was unkempt, and they refused to come back to reinspect the property.

Gerry Prinster stated that County staff provided several photos of the property.

Tom Adams responded that County staff took those photos at the initial inspection. Mr. Adams stated that he made County staff aware of his Structural Engineer’s Report, showing that his structure was not substantially damaged. He stated that Connie Faherty, Code Enforcement Inspector is great at her job, but does not have the expertise of his Structural Engineer.

James E. Sullivan, the applicant's contractor, was sworn in. Mr. Sullivan stated that he understands County's staff procedure, but he does not agree with their estimates. He stated that the County’s flooring estimate of $13,201 is unnecessary for a 1,300 square foot structure. He stated that he could have the carpet installed for $2 per foot. He stated that the County’s interior finish estimate of $16,761 for is too expensive. He stated that the structure is needing the drywall, walls, mud, paint, and trim completed. He stated that Mr. Adams gutted out his house after the water evaporated from the flood event. He stated that his estimates are the actual cost to repair the structure.

Chairman Prinster asked if the roof was damaged.

James Sullivan responded in the negative. Mr. Sullivan stated that The County's estimate for Roof Covering is $0, but $22,802 for Superstructure (sheathing, wall studs, floor joists, roof structure). He stated
that there is no damage to the exterior of this house, and it had vinyl siding. He stated that the house could be rewired, insulated and drywalled to function the way that it used to. He believes his estimates are realistic and considers that the house is less than 50% substantially damaged.

Kevin DeSain stated that County staff requested the applicant to have three estimates and asked if they had adequate time to get those estimates.

Mark Price responded in the affirmative and stated that County staff’s request was made on August 13, 2019 during an appeal meeting held in Planning and Zoning Division office.

Tom Adams stated that they had an informal meeting and had the information for County staff to review, but he was told that his structure was substantially damaged. He stated that County staff did not inform him that he needed to have three estimates. He stated that if he had known that, then he would have sought out two other contractors. He believes that their estimates would also be more affordable compared to County staff’s estimates.

David Bauer asked how the F.E.M.A. program determines the numbers for the I Damage Estimates.

Mark Price responded that the program that County staff uses is the Substantial Damage Estimator 3.0, and it asks to input a number for replacement value per square foot. County staff referred to the Marshall & Swift book and it stated that on the average replacement cost for a Single-Family Home in St. Charles County is $122.46 per square foot. He stated that the estimates are shown on page 4 of the Substantial Damage Estimator packet. F.E.M.A. determined the percentages of the replacement value that each system cost. County staff entered the percent damage column based upon the applicant’s table they submitted. It then takes County staff’s percentage multiplied by the element cost, which determines the damage value.

Chairman Prinster asked how the County staff’s estimates and the applicant’s estimates are significantly different.

Mark Price responded that F.E.M.A. requires a Substantial Damage Estimate packet for every structure. Mr. Price stated that is their controlling document, unless there are other documents provided that can counter it. The applicant provided the insurance damage estimate is at $91,000 and the engineer’s estimate at approximately $68,000. The contractor’s estimate is approximately $32,000. County staff did request the applicant to have three contractor estimates, but they failed to provide that information.

Andrew Koor responded that they still have an appraisal at $165,000.

Kevin DeSain stated that appraisal is for the entire property and includes the value of the land.

Robert Myers stated that in reviewing the new Residential Appraisal Report, the indicated value by cost approach is $254,047. He stated that is the total value of everything on the property. He stated that the breakdown shows that the house is 60% of the value equating to $99,000. The County Assessor’s appraisal was $101,023, which is about a $1,000 difference.

John Matlick asked if they could refer to Marshal & Swift for what the applicant intends to repair.

Mark Price responded that the damage assessment is of the actual damage to the structure. County staff is not determining replacement and repair costs but what loss occurred.

Robert Myers stated that County staff appreciates the contractor’s estimate but is concerned that it is incomplete. He stated that a septic system for a small lot like the subject property is typically expensive. He believes it is impossible to replace it for $1,400. The average cost ranges from $10,000 to $12,000. He stated that the cost for smaller lots can cost up to $25,000. He stated that those are some of the concerns County staff had with the contractor’s total repair estimate of $31,000.
Tom Adams stated that the tanks have been 4-feet underground since 1993 and asked how his septic system is considered damaged by the 2019 flood event.

David Bauer asked what the County is going to do to ensure that the septic system is up to standard, since they are not going to inspect the $1,400 repair.

Robert Myers responded that inspections for septic systems are required to be inspected by a licensed, third-party inspector with specific training in septic installation, and that was communicated in writing to the applicant.

Kevin DeSain asked if it was prior to getting an occupancy permit.

Robert Myers responded in the affirmative.

Chairman Prinster stated that there is a difference in replacement and repair.

Mark Price responded that in order for the County to participate in the National Flood Insurance program, County staff must abide by F.E.M.A. guidelines, which require that staff count the total cost of repairs in today’s currency and refer to Marshall & Swift values.

James Sullivan stated that he understands the County has to refer to Marshall & Swift, but he believes the applicant could find other contractors that have similar estimates to his that would be much lower than the County’s damage estimate.

For the record, the County did not receive any written communications regarding this variance request.

Chairman Gerry Prinster asked if there was anyone in the audience that would like to speak for or against this application.

Charles Lopanec, 101 Bowen Avenue, St. Charles MO, was sworn in. Mr. Lopanec stated that he lives across the street from Mr. Adams. He stated that Mr. Adams is noted as “Turkey”, and has helped the neighborhood on many occasions, and after a flood event. He stated that Mr. Adams uses his equipment to help his neighbors. He stated that Mr. Adams maintains his property and has fixed up his house. He believes that Mr. Adams should be able to move back into his house.

Arnie C. “AC” Dienoff, P.O. Box 1535, O’Fallon, MO, was sworn in. Mr. Dienoff stated that he sympathizes with the applicant, but flooding will continue due to upstream construction and with the U.S. Army Corps of Engineers redesigning the Mississippi River. He recommends that this application be tabled for 60 days or two months to let the applicant get two estimates from certified contractors. He stated that one estimate from a contractor is not fair in this case. He stated that the Planning and Zoning Commission has a responsibility as a Board to go above the administrative approval process to ensure the public health, safety, and welfare. He stated that this includes the homeowners and the applicant. He stated that the County ordinance has strict septic system requirements, and its purpose is to protect neighbors and well waters. He stated that he understands that the applicant would like to save money, however septic systems should obtain the proper permits. He stated that he values the County’s professional staff and their recommendation of this application. He believes that the property should be elevated to ensure and protect taxpayers from future F.E.M.A. payments or costs and insurance ratepayers. He asked the Planning and Zoning Commission to either table this application or support County staff’s recommendation. He stated that he does not want the County or taxpayers to suffer the loss of F.E.M.A. accreditation, cutting off the insurance for homeowners.

Robert Myers stated that the house next door to the subject property was not 19% damaged but 32.5% according to the Substantial Damage Estimate. Mr. Myers stated that it was not 50% damaged or more because the finished floor is raised, and a garage is located below. He stated that if the dwelling level was...
down below, then it would be a high chance of being 50% damaged or more. He stated that the photograph shows the interior of the house in July 2019. There is no tile on the floor and the flooring appears to be wavy. He stated that you can see damage to the stud on the outside wall. He stated that the report stating that there is 0% damage to the superstructure doesn’t coincide with this photograph. He stated that there is testimony that the interiors have been refinished since July, but that has been done without permits. He stated that the recent appraisal would not be a fair comparison to what was assessed by the County in July. He stated that the damage occurred between March and July during that flood event. Structures in this area were underwater for several weeks and a couple of months. He stated that the highwater mark, as shown in the photograph, is over 41 inches deep on the first-floor level. County staff uses that highwater mark to input the calculations to determine the percentage of the damage. He stated that there should be an opportunity for the property owner to provide alternative estimates and to provide an appraisal from a licensed appraiser. He stated that if the applicant would like this new evidence to be taken into consideration, County staff would need more time to review the information and prepare a new recommendation to the Board of Zoning Adjustment so that they could make a decision.

Chairman Prinster asked how much time County staff would need.

Robert Myers stated that he doesn’t like the idea of delaying the decision because he understands that the applicant needs the decision to be finalized, however County staff would need several days to review the new information submitted at tonight’s meeting. He stated that the next scheduled regular meeting would provide staff with enough time to provide sufficient feedback to the Board.

David Bauer asked when the applicant would need to submit two additional estimates before the December regular meeting.

Robert Myers responded that the appeal is based on the information County staff had at that time and determining if the decision was correct or in error. Mr. Myers stated that the new information presented by the applicant will restart the process over with a new point.

Chairman Prinster asked if the new information should not be taken into consideration and stated that if it was his house he doesn’t know if he would agree with that.

Robert Myers responded that County staff could newly consider that, but the appeal is based on if an incorrect determination was made throughout this process.

Mark Price stated that the applicant can come to County staff tomorrow with a new appraisal and new estimates, and County staff can reconsider if the structure is substantially damaged. Mr. Price stated that the Board is determining if the Director made an error of his decision based on the information that County staff had at that time.

Andrew Koor stated that the wall studs and flooring shown in the photographs do not appear damaged. Mr. Koor stated that the substantial damage of the structure is less than 50% and would cost $32,000 to repair it. He stated that he would be unable to attend the December regular meeting.

Tom Adams stated that he has photographs that were taken on Tuesday following the appraisal.

Chairman Prinster stated that the Board will determine if the Director’s decision is right or wrong. He stated that the photographs are irrelevant because County staff did not have that information for their conclusion.

Andrew Koor stated that if the Board decides to uphold the Director of Planning and Zoning’s damage determination, they will then file an appeal to the County Council. Mr. Koor stated that they can provide County staff with additional appraisals and estimates, but his client would like to move back into his house and finish the repairs.
Chairman Prinster stated that the Board can be sympathetic with that, but they have guidelines that they must adhere to.

Andrew Koor responded that he understands and asked when the next meeting will be held.

Mark Price responded that the next meeting is scheduled for December 5, 2019.

David Bauer asked if the applicant submitted a new appeal would County staff reinspect and re-evaluate their substantial damage estimates.

Robert Myers responded that County staff is looking at the condition of the structure to determine if it was damaged more than 50% between March and July. To add, County staff keeps a record of damages of 50% and repairs over a 5-year period per County ordinance. If the repairs are greater than 50% of the value of that building, then additional repairs require the structure to be elevated.

Chairman Prinster stated that the Staff report stated that the subject property had no previous history with the County and asked if there were any permits from the Community Development Department for repairs.

Robert Myers responded in the negative and stated that the permits go through the Community Development Department, but the subject property does not have a history of repairs on the structure within the past five years. There was more than $200 million worth of damages done in St. Charles County in the 2019 flooding. According to F.E.M.A., in order to qualify for disaster assistance, County staff has to abide by the Federal Government’s development requirements.

Andrew Koor asked the Board to abide by the elements and stated that their estimates does not put them over 50% of the value of the house.

Cheryl Lopanec, 101 Bowen Avenue, St. Charles MO, was sworn in. Ms. Lopanec stated that she would like for Mr. Adams to be able to move back into his house. She stated that she experienced having to repair her home after the 1993 flood event. She stated that Mr. Adams takes care of his property and believes he is being treated unfair.

There being no further speakers from the audience, Chairman Gerry Prinster closed the public hearing and called for discussion from the Board members.

John Matlick asked if the Board placed a condition on this request by having the applicant provide two more estimates and involved Sandy May, Waste Water System Inspector, involved, how that would affect the County’s disaster assistance program with F.E.M.A..

Ardita Roark responded that it would not bear on the decision whether the Director’s determination was erroneous or not, given the information he had. Ms. Roark stated that this is a non-use regulation Board, and the conditions upon the next steps are not a part of the standard of review for this specific Appeal.

John Matlick asked if the Board upheld Staff’s findings could the applicant come back with new information.

Ardita Roark responded in the affirmative.

David Bauer asked if their motion would be that the Planning and Zoning Division Director made a proper determination.

Ardita Roark responded that the Board will vote on whether his determination is affirmed or reversed, based upon whether an error was found.

Chairman Prinster asked what the next step was if his determination is reversed.
Ardita Roark responded that County staff also has the right to appeal.

Chairman Prinster asked if the applicant is unable to attend the December regular meeting, could the Board table this item for the next subsequent meeting.

Robert Myers responded that if the applicant requests to table this application, the Board of Zoning Adjustment has 45 days from the date of this meeting to make a decision on the appeal.

Vicki LaRose asked how the F.E.M.A. assistance program would affect the County if the determination is reversed.

Mark Price responded that County staff could potentially be at risk of losing their F.E.M.A. accreditation if they allow a substantially damaged structure to be rebuilt in the floodplain.

Kevin DeSain asked of the 3,500 structures inspected by County staff during the flood event, what percentage of Substantial Damage Estimates were overturned.

Mark Price responded none of them.

Chairman Prinster stated that he does not believe that F.E.M.A. would discontinue the County's participation in the National Flood Insurance Program based on this applicant rebuilding a house on the property.

Andrew Koor stated that they would exercise their right to appeal if the Board affirms the Director's decision because his client has to protect his interest.

Chairman Prinster asked how long the applicant would have to make an appeal.

Robert Myers responded that the applicant has 14 days to appeal from the date of the decision.

Vicki LaRose asked if the damage is assessed by a photograph or Structural Engineer.

Mark Price responded that County staff does not have a Structural Engineer, but they use F.E.M.A.'s guidelines as provided to determine the amount of water that entered the structure.

Robert Myers stated that the applicant's claim of no damage to the superstructure does not appear to be credible. Mr. Myers stated that the photograph provided by County staff shows evidence of water stains and mold. County staff followed F.E.M.A. guidelines to determine the damage.

Andrew Koor does not agree F.E.M.A.'s Substantial Damage Estimator and believes it is not dispositive of the damages. Mr. Koor stated that there are exceptions, thus they can appeal to the Board or at the next level. He stated that the Structural Engineer's report is credible.

Vicki LaRose asked if the applicant needs a permit to complete any repairs on the house.

Robert Myers responded in the affirmative.

There being no further discussion from the Board, Chairman Prinster asked for a motion to affirm the Planning and Zoning Division Director's determination.

David Bauer made such motion, and the motion was seconded by John Matlick.

The vote on the motion was as follows:
The Board of Zoning Adjustment voted to uphold the decision of the Director of the Division of Planning and Zoning.

The vote count was 5 Yeas, 0 Nays, and 0 Abstentions.

**TABLED ITEMS**

**I. VARIANCE REQUEST - 1414 HIGHWAY Z**

- **Application:** VAR19-04
- **Owner:** Wentzville Memorial VFW Post #5327
- **Applicant:** Michal Giunta
- **Variances Requested:**
  1. A request to vary Section 405.475.A.1 of the Ordinances of St. Charles County (OSCCMo); to allow for the display of an electronic sign in the A, Agricultural District, which is not permitted; and
  2. A request to vary Section 405.490.B of the Ordinances of St. Charles County (OSCCMo); to allow the sign to operate so that it is flashing, which is not permitted.

- **Property Zoning:** A, Agricultural District
- **Area:** 8.57 acres
- **Location:** Approximately 320 feet south of the intersection of Highway Z and Peruque Hills Parkway, adjacent to the City of Wentzville
- **Council District:** 2
- **Account No.:** 726270B000

**APPROVAL OF THE MINUTES FROM THE SEPTEMBER 5, 2019 REGULAR MEETING**

Chairman Gerry Prinster asked for a motion to approve the minutes from the September 5, 2019 regular meeting. John Matlick made the motion to approve, and the motion was seconded by Vicki LaRose.

Upon a vote, the minutes were approved by unanimous voice acclamation.

**OTHER BUSINESS**

**NONE**

**ADJOURNMENT OF MEETING**

Chairman Gerry Prinster called for a motion to adjourn the meeting.
The motion was made by David Bauer and was seconded by Vicki LaRose.

The motion to adjourn was approved by unanimous voice acclamation, and the meeting adjourned at 8:34 PM.

Respectfully submitted by:

__________________________  ________________________
Gerry Prinster, Chairman                  Date