

## MINUTES OF REGULAR MEETING

### ST. CHARLES COUNTY BOARD OF ZONING ADJUSTMENT

**DATE:** AUGUST 6, 2020

**TIME:** 7:00 P.M.

**PLACE:** COUNTY EXECUTIVE BUILDING  
100 NORTH THIRD ST.  
EXECUTIVE COUNCIL CHAMBERS  
ST. CHARLES, MO 63301

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**MEMBERS PRESENT:** Gerry Prinster, Chairman; Kevin DeSain, Secretary; Dave Bauer, Vice-Chairman; Leslie Gross; and Vicki LaRose

**MEMBERS ABSENT:** John Matlick; and Robert Boschert, Alternate Board Member

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

**SPEAKERS:** **VAR 20-02:** Lisa Johnson from Smith Amundsen, owner's representative, 120 S. Central Avenue, St. Louis, MO

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#### 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 Prinster introduced the Unified Development Ordinance (UDO) and Zoning Maps of St. Charles County into the record.

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#### CHANGES TO THE AGENDA

**NONE**

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## PUBLIC HEARINGS

### I. VARIANCE REQUEST - 1936 DUELLO ROAD

Application Number: VAR20-02  
Property Owner: James W. Clemens and Jill Bryant Clemens  
Living Trust dated January 15, 2015  
Applicant: SmithAmundsen LLC  
Variance Requested: Section 405.095.D.2 - A request to vary the  
required front yard setback in the R2, Two-  
Family Residential District from 25 feet to 21  
feet (Nutual Court right-of-way)  
Property Zoning: R2, Two-Family Residential District  
Parcel Area: 1.10 acres  
Location: On the north side of Duello Road, approximately  
430 feet east of Charity Drive; adjacent to the  
City of Lake St. Louis  
Council District: 2  
Parcel Account No.: T132300003

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.

Lisa Johnson, the owner's representative, was sworn in. Ms. Johnson provided a description of the proposed preliminary plat and explained why a variance to seek a reduction of the front yard setback from 25 feet to 21 feet is being requested. She stated that several options have been explored for this subdivision plat, including reducing the area of the front yard setback and placing the five driveways for this development onto Duello Road. This would not require a variance, but it is not a viable option. Ms. Johnson stated that the Planning & Zoning staff initially had some concerns regarding the development meeting the County's tree preservation requirements. The applicant's plat will meet those requirements, including preserving existing trees that would shield the subdivision interior. She stated that the requested variance meets the criteria in Section 450.590 of St. Charles County's Ordinances for the Board of Zoning Adjustment to grant this variance the following reasons:

1. There are unique circumstances inherent to the subject property which create the need for a variance, not personal considerations of the owner, which circumstances were created by the County Duello Road Project.
  - a) The tract in question contains 1.1 acres and is zoned R-2 allowing single family and two-family attached homes. The property was reduced in area to allow for public improvements made by the County to Duello Road resulting in this narrow tract of ground with a maximum 100 feet in depth.
  - b) Building an interior road so that lots front on that interior street rather than Duello leaves no buildable area after providing for setbacks. Two setbacks of 25 feet each, a 26 foot road, 2 feet on east and west boundaries = 80 feet. This leaves only a 12 foot to 20 foot maximum buildable area. The variance of a front yard setback to the interior road creates a buildable area that provides a benefit consistent with other similarly situated owners.
  - c) The difficulty, narrowness of the lot, and placement of New Duello Road along the lot was created by the County's Duello Road Project, not an affirmative act of the property owner. The Duello Road Project was an improvement for the general public good.

- d) The topography of the site slopes toward New Duello Road and utility poles are located along New Duello. The requested variance of only 4 feet is the minimum required to make the property buildable and is minimal.
  - e) Granting of this variance would not substantially impair the intent, purpose, or integrity of the zoning regulations of the UDO because the property was zoned by the County for R-2 use, and without approval of this variance, the property cannot be used as zoned.
2. The need for the variance is not the result of any act of the owner that could have been avoided by a different course of action, which alternatives were presented to and denied by the Planning and Zoning Commission.
- a) Five homes (two attached and one single) may be built on the property under the R2 classification and meet the lot size and all setbacks if the lots obtain access from Duello Road, which is not permitted by the County.
  - b) Building an interior road so that lots front on that interior street rather than Duello leaves no buildable area after providing for setbacks. Two setbacks of 25 feet each, a 26 foot road, 2 feet on east and west boundaries = 80 feet. This leaves only 12' to 20' maximum buildable area. The variance of a front yard setback to the interior road creates a buildable area that provides a benefit consistent with other similarly situated owners.
  - c) The difficulty, narrowness of the lot and placement of New Duello Road along the lot was created by the County's Duello Road Project, not an affirmative act of the property owner. The Duello Road Project was an improvement for the general public good.
  - d) The applicant's proposal to Planning and Zoning for an interior road in a private easement was denied, requiring a separate right of way on the lot.
  - e) The variance may not be avoided. Moving the houses away from the road would violate the rear yard setback.
  - f) The topography of the site slopes toward New Duello Road and utility poles are located along New Duello. The requested variance of only 4' is the minimum required to make the property buildable and is minimal.
3. The variance would not grant a special benefit to the property beyond that enjoyed by other similarly situated property but would instead permit this property to enjoy the same benefits as properties zoned R2.
- a) Building an interior road so that lots front on that interior street rather than Duello leaves no buildable area after providing for setbacks. Two setbacks of 25 feet each, a 26 foot road, 2 feet on east and west boundaries = 80 feet. This leaves only 12 foot to 20 foot maximum buildable area. The variance of a front yard setback to the interior road creates a buildable area that provides a benefit consistent with other similarly situated owners.
  - b) The applicant's proposal to Planning and Zoning for an interior road in a private easement was denied, requiring a separate right of way on the lot.
  - c) The variance does not give the subject property a special benefit beyond that enjoyed by other properties in R-2 Zoning Districts. The planned lot area, home size, density, and all other setbacks and lot design will comply with the R-2 Zoning requirements. Granting the variance will allow the applicant to use the subject property in the same manner as all other owners of property located in R-2 Zoning Districts.
  - d) If no variance to the 25 foot front yard setback from the required interior street is granted, practical difficulties will occur in that the applicant will not have use of the property for residential dwellings and the property will be unbuildable. Failing to grant the variance would deprive Applicant of the economic value of his property as it is zoned under the R-2 Zoning classification.

- e) Granting of this variance would not substantially impair the intent, purpose, or integrity of the zoning regulations of the UDO because the property was zoned by the County for R-2 use, and without approval of this variance, the property cannot be used as zoned.
4. Failure to grant the variance would result in practical difficulties to the property owner, including inability to develop the property.
- a) If no variance to the 25 foot front yard setback from the required interior street is granted, practical difficulties will occur in that the applicant will not have use of the property for residential dwellings and the property will be unbuildable. Failing to grant the variance would deprive Applicant of the economic value of his property as it is zoned under the R-2 Zoning classification.
  - b) The topography of the site slopes toward New Duello Road and utility poles are located along New Duello. The requested variance of only 4 feet is the minimum required to make the property buildable and is minimal.
  - c) Granting the variance will not cause substantial detriment to the public good. Storm water that now runs off the property without treatment will receive water quality treatment before leaving the property as required by County ordinances. The storm water will not impact Wyndstone Subdivision to the west because the water will not flow in that direction, but away from that subdivision.
  - d) Trees preserved to the north and at the entrance in the proposed plan as required by County ordinances serve as a visual buffer between this Plan's five homes and Wyndstone. Wyndstone neighbors expressed concerns about storm water and tree preservation at the Planning and Zoning Commission meeting, and in response, this project was redesigned to assure that all of the trees were preserved and storm water, as noted above, flows away from Wyndstone, resulting in no detriment to those owners.
  - e) Granting of this variance would not substantially impair the intent, purpose, or integrity of the zoning regulations of the UDO because the property was zoned by the County for R-2 use, and without approval of this variance, the property cannot be used as zoned.
5. Granting the variance would not pose a substantial detriment to the public good.

Chairman Gerry Prinster asked staff if they would like to provide any information regarding this variance request.

Mark Price, County Planner, responded that he had no further information to provide.

Chairman Gerry Prinster asked the Board if they had any questions for the owner's representative.

Dave Bauer asked Lisa Johnson if this was the "final" preliminary plat, or if additional changes expected to be made.

Ms. Johnson responded that the preliminary plat presented to the Board of Zoning Adjustment reflects changes to accommodate all of the County's Ordinance requirements. Should the requested variance be granted by the BZA, this plat will then be submitted to the County Council for final approval.

Dave Bauer asked if the variance should be treated as one property, or as a for five separate individual lots.

Mark Price responded that the property is currently considered one lot.

Lisa Johnson stated that the property is currently one lot because it has not yet been platted.

Gerry Prinster asked what would be built on the property.

Lisa Johnson responded that there will be two attached homes and one detached home built on the property.

Gerry Prinster stated that he was surprised that this area was zoned R2, Two-Family Residential District. He stated that this seems like "spot zoning".

Chairman Prinster asked if any written communications regarding this variance request were received.

Mark Price responded that staff did not receive any written communications regarding this variance request.

There being no further questions for the owner's representative, Chairman Prinster asked if there was anyone in the audience who would like to speak for or against this application.

There were no audience speakers.

Chairman Prinster closed the public hearing and asked for discussion from the Board members.

Gerry Prinster asked if the County road improvements to this area may have created the situation on this property with the lot being so narrow.

Mark Price responded that to his understanding, the County Highway Department purchased a portion of this property to use for the road improvements, which would have created the shallowness of this lot.

For the record, Mark Price stated the County staff recommends the Board of Zoning Adjustment approve the requested variance with the following condition:

- The front yard setback variance shall apply only to the right-of-way for the internal street (Nutual Court) and shall not apply to Duello Road.

There being no further discussion, Chairman Prinster asked if there was a motion on the floor to approve this variance.

Dave Bauer made a motion to approve application VAR20-02, subject to the staff recommended condition(s). The motion was seconded by Kevin DeSain.

The vote on the motion was as follows:

Gerry Prinster	- Yes	Kevin DeSain	- Yes	Dave Bauer	- Yes
Vicki LaRose	- Yes	Leslie Gross	- Yes		

Application VAR20-02 was unanimously **Approved**.

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

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## **APPROVAL OF THE MINUTES FROM THE FEBRUARY 6, 2020 REGULAR MEETING**

Chairman Prinster asked for a motion to approve the minutes from the February 6, 2020 regular

meeting.

Vicki LaRose stated that she did not attend the February 6, 2020 meeting, and asked that the minutes be amended to reflect as such.

Kevin DeSain made the motion to approve to the minutes as amended. The motion was seconded by Dave Bauer.

The minutes were approved by unanimous voice acclamation.

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**OTHER BUSINESS**

- 1) Robert Myers asked Dave Bauer and Vicki LaRose to remain after the meeting adjourns in order to be sworn in for another term to the Board of Zoning Adjustment.
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**ADJOURNMENT OF MEETING**

Chairman Gerry Prinster called for a motion to adjourn the meeting.

The motion was made by Kevin DeSain and was seconded by Vicki LaRose.

The motion was approved by unanimous voice acclamation, and the meeting adjourned at 7:24 PM.

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Respectfully submitted by:

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Gerry Prinster, Chairman

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Date