



**Benton County Planning Board
Public Hearing
Technical Advisory Committee Meeting**

June 15, 2016
6:00 p.m.
Benton County Administration Building
215 East Central Avenue, Bentonville AR 72712

**Planning
Board
Approval:**

MC
7/7/16

Meeting Minutes

PUBLIC HEARING:

Call to Order: The meeting was convened at 6:00 p.m. by Planning Board Chair, Mark Curtis.

Roll Call: Mark Curtis, Ron Homeyer, Starr Leyva, Ashley Tucker and Rick Williams were present. Jim Cole and Sean Collyge were absent.

Staff present: John Sudduth – Administrator of General Services, Glenn Tracy – Building Official, Kevin Gambrill – Planning Director, Taylor Reamer - Planning Manager, Derek Linn – Senior County Planner and Tracy Backs – County Planner, were present.

Public Present: There were three members of the public present.

Disposition of Minutes: 06-01-2016

Mr. Tucker moved to approve the June 1, 2016 Planning Board Meeting minutes. The motion was seconded by Ms. Leyva. The motion carried 5-0.

General Public Comment: None

Old Business: None

New Business – Items for Public Hearing:

- I. **Williams Waiver, #16-086, 2555 Williams Way, Bentonville, 15-12403-003 + p/o 15-12403-000.**

No representative, *project moved back on agenda.*

- II. **Byrnes [Flint Creek Woodworks] Site Plan Review, #16-090, 18958 Jackson Road, Gentry, 18-13598-002**

Applicant: Don Johnston, 8173 Ironwood Court, Rogers, representing the Byrnes family.

Staff gave a presentation on the Byrnes (Flint Creek Woodworks) Site Plan Review, #16-090, 18958 Jackson Road, Gentry, 18-13598-002

Comments from Mr. Johnston:

I mentioned the last time I was here that the road was crooked. We have straightened that up.

We did take a water sample and we failed. So we (*Mr. Byrnes and Mr. Johnston*) will just hook up to county water supply on Jackson Road. We have a letter to that affect with us. He (*Mr. Byrnes*) is going to put in a gas line so we will have gas and water and will try to “act like city folks.”

Those are the comments that I have.

Board Comments:

Ms. Leyva: I see a typo where you are showing your septic tank. It says a 1,000-gallon gas tank. Just update that.

Mr. Tucker: Last week we talked about two things: (1) visibility from the house. Will you be able to see this addition from the residence? (2) the second was I asked about whether you thought about splitting the parcel into residential and commercial.

Mr. Johnston passed the question on to Mr. Byrnes. Can you see the house that is to the south of you?

Mr. Curtis: Will you come and speak to the Board? Are you saying the house is lower than the shop building or the shop building is lower than the house?

Mr. Byrnes: The shop is lower. With the existing tree line, in the summer time, you can't see the house. In the winter time, you might be able to look up the hill and see the house.

Mr. Tucker: Okay. Thank you.

Mr. Johnston: (*The residential/commercial split...*) That's a lot of money compared to hopefully getting the waiver for the septic tanks. I realize if you don't give us the waiver, that would be the only option we have. We would have to resurvey it.

Mr. Curtis: In the long haul, the tax bill is the question and might be something to consider. It's an accounting thing not an engineering thing.

Public Comment: None

Board Comments:

Mr. Tucker: Could we set the waiver (16-127) to self-extinguish if the parcel is ever subdivided?

Mr. Gambrill: This is a non-dimensional aspect. The variances that we usually apply for are dimensional. Because this is a quasi-judicial board and not an administrative hearing [officer], it doesn't run with land. It runs with the use.

Mr. Tucker: So it wouldn't run with the land, it would run with the use?

Mr. Gambrill: I believe so. If you want to extrapolate how we grant variances, in the same way that you would grant a waiver. I don't have our legal representation here; but that is how I would interpret it.

Mr. Tucker: That is what I was thinking.

Ms. Leyva: The waiver is for these two specific septic systems too. Not for two on this property. So, I think it would dissolve if we separated it.

Mr. Tucker moved to approve the septic waiver as it is written in the Staff's report (16-127). The motion was seconded by Ms. Leyva. The motion carried 5-0.

Mr. Williams moved to approve the site plan review. The motion was seconded by Mr. Tucker.

Mr. Homeyer: Item 3 has already been satisfied, correct?

Ms. Leyva: Sort of, because once they hook up to the water, they will get an inspection from the city water department saying that it has been done correctly. So, yes.

Mr. Tucker: I think the way it is written it says adequate potable water.

Mr. Homeyer: The potable water supply they are trying to has already been approved by the health department.

Mr. Gambrill: If you want to remove that as a condition of your approval, you can. It's up to you.

Mr. Curtis: Do you want to amend the motion to....

Mr. Reamer: Number 3 could be removed and then the third condition would then become, prior to the building permit, or a condition of the Certificate of Occupancy, adequate accessibility to city of Gentry water would have to be fulfilled.

Mr. Curtis: Mr. Johnston, is that okay with you?

Mr. Johnston: That's fine with me.

Mr. Curtis: Alright, so be it.

Mr. Tucker moved to amend item number 3 to read: "prior to the issuance of a building permit, a potable water source shall be obtained." The amended motion was seconded by Ms. Leyva for potable water. Show of hands was unanimous. Amendment was approved 5-0.

Mr. Curtis: we have a motion on the floor to approve the site plan with number 3 changed. That has already been approved. Any further discussion?

Site plan motion was carried 5-0.

I. Williams Waiver, #16-086, 2555 Williams Way, Bentonville, 15-12403-003 + p/o 15-12403-000.

Mr. Curtis: Jumping back to item I., the Williams waiver, is there anyone in the audience for the Williams waiver?

Applicant: John Herzik, 8874 LaBonna Vie Dr., Springdale, AR

Mr. Curtis: Welcome to Bentonville traffic but we're glad you made it.

Mr. Herzik: Me too!

Staff gave a presentation on the Williams Waiver, #16-086, 2555 Williams Way, Bentonville, 15-12403-003 + p/o 15-12403-000.

Comments from Mr. Herzik: None

Board Comments:

Mr. Tucker: Am I understanding it correctly that it is the alternate field that is not on the subject property?

[Staff note: Alternate field located on 0.35 acres of parcel 15-12403-000)

Mr. Herzik: That is correct. The primary is still within the boundary lines of the lot.

Board Comments: None

Ms. Leyva moved to approve the Williams waiver as stated. Mr. Homeyer seconded the motion. Motion carried 5-0.

Mr. Curtis: Special case but we appreciate you coming in and getting it taken care of. It is now on record. When the property changes hands everybody will know what is going on. So, thank you!

III. Butler Variance, #16-084, 21751 Vista Shores Dr., Garfield 15-02042-000 + 15-02043-000

Applicant/Owner: Ryan Butler, 13122 Shaffer Road, Garfield, AR.

Staff gave a presentation on the Butler Variance, #16-084, 21751 Vista Shores Dr., Garfield 15-02042-000 + 15-02043-00.

Mr. Curtis: Mr. Butler, any comments from our discussion from before? This is still what you want to do?

Comments from Mr. Butler: Yes. My only comments would be thanks for taking the time last time. The survey calls the building a storage shed and I want to make it clear that's it's a metal building on a concrete slab. The previous owner put the building there. I did not. I am trying to stay ahead of the requirements.

Board Comments:

Mr. Tucker: We had talked about the high water mark and the Corps boundary last week. Is the entire parcel, or the buildable portion of Lot 7, outside that high water mark?

Mr. Linn: The lot is outside the high water mark.

Mr. Gambrell: That should clear it up.

Public Comments: None

Mr. Curtis: It seems that combining the properties would be the ideal solution which then deprives you of one of your lots but it brings everything into compliance. That is the only way I see it coming into compliance.

Mr. Tucker: It would still be below the minimum lot size.

Mr. Curtis: Right.

Mr. Gambrell: Section 4.4 of the planning regulations allows for noncompliance anything that pre-dates the existing regulations of February 2014. There is no illegality. It's all non-conforming but not illegal as is.

Mr. Curtis: I guess I am concerned about in the future, when Mr. Butler sells the lot with no frontage, or whichever lot you would sell, putting a septic on it will be nearly impossible without adding some additional lots to it. I am not so concerned about your [Mr. Butler's] ownership. I am looking down the road. Someone may buy a piece of property, thinking that they can do xyz with it when they can't. That's why we are here.

Ms. Leyva: I just want to make sure I am 100 percent sure of what this variance is. We are adjusting the lot lines due to a temporary building. Correct? It's not a house even though it has a concrete pad. It's just a metal, walled building. That's why you are adjusting it. To get that (*building*) into one parcel.

Mr. Butler: Right. I am trying to remove the encroachment. I believe this would be defined as a permanent structure. This isn't a temporary structure by any means.

Ms. Leyva: I would assume the person who built it owned the three properties that you own now.

Mr. Butler: Yes.

Mr. Gambrill: The building that you see there, has been there, according to aerial photos, at least since 2001 and probably prior to that.

Mr. Tucker: We are looking at two things: dimensional criteria for frontage and a lot size.

Mr. Gambrill: Just for the record, the regulations state that a two-thirds vote of the attending members (*is necessary*). Since we are missing two Board members tonight, the approving vote needs to come from all five of the members for this variance to pass.

Mr. Butler: One thing that struck me after the last meeting was that you guys are dealing with a lot of these one septic, one parcel issues. That may be more easily solved than my encroachment issue. In every case, they could just divide their lots. We have seen repeated approval of those variances.

Mr. Curtis: Thank you for your observation.

Mr. Tucker: Honestly, I don't see that it is dramatically different in the presented form than it exists today except for the frontage issue. We go down to a 30-foot frontage. We can get a minimum size driveway within 30 feet.

Mr. Gambrill: In terms of the criteria for variances, the regulations say, "The variance, if granted, will not adversely affect the use and/or enjoyment of the adjacent property as permitted under this ordinance. I don't know who the future owners will be. If you are prognosticating out to the future, perhaps enjoyment means, "build a building." It's how you define enjoyment. That's essentially what the regulations say.

Mr. Tucker: I think Mark (*Curtis*) is right. We don't want to create an unbuildable lot by our action tonight. I don't know that it is any different in its presented form than it is today.

Mr. Gambrell: Again, you have situations today where you have existing lots of record at a time when there were no existing planning and development regulations. There were no minimum lot sizes. There continues to be no public sewer. So, you have existing conditions that are noncompliant which are essentially nonconforming and legal today. Changes to those noncompliant situations on the ground trigger a review against today's regulations. That is what we are wrestling with.

Ms. Leyva: When it comes to the septic system, we have already talked about that. It is even in the notes. He can get a septic system on there. An alternate system may be able to go on there. You don't know until you actually apply for the permit. They have other ones go out there. They let them know that there is shallow bedrock and poor soils out there. The lot line configuration as with any lot, it doesn't matter, even when you have plenty of acreage (i.e. I have seen five-acre lots.) get turned down due to poor soil. So until you apply for a septic system, they don't know whether it is buildable.

Mr. Williams moved to approve. The motion was seconded by Mr. Tucker. The motion carried 5-0.

IV. Maris Variance, #16-085, 23525 Lin Z Way, Gravette, 18-16374-003

Applicant: Adam Maris, 23525 Lin Z Way, Gravette, AR 72736.

Staff gave a presentation on the Maris Variance, #16-085, 23525 Lin Z Way, Gravette, 18-16374-003.

Comments from Mr. Maris: None.

Board Comments:

Ms. Leyva: So we are approving a variance to the southern property line that you will hopefully own very soon.

Mr. Tucker: Is there any intent to combine those two parcels?

Mr. Maris: No.

Ms. Leyva: How many acres is the parcel to the south?

Mr. Maris: Roughly 150.

Public Comments: None.

Ms. Leyva moved to approve the Maris setback variance (Item #1). The motion was seconded by Mr. Tucker. The motion carried 5-0.

Mr. Tucker: So we have to do Item #2 in order to do the administrative tract split, correct?

Mr. Curtis: Right.

Mr. Tucker: Could we just do the tract split here?

Mr. Linn: That question came up today. It is Staff's feeling that this should go through the typical IDR (*interdepartmental review*) process. The variance has gone through that. The actual tract split has not.

Mr. Gambrill: There are multiple dwelling units...one septic one parcel...that predate the regulations. It does not meet the minimum requirement for administrative review for tract splits that we would normally go through so we simply need to bring it before you all just to let you know. If you would like it to go through an interdepartmental review, that is fine. We needed to make the Planning Board aware that technically it is not a straight administrative review. It is not an administrative review by Staff. We just can't do it.

Mr. Tucker: So we are essentially approving the tract split tonight.

Mr. Curtis: Yes.

Mr. Gambrill: Without an interdepartmental review, you are allowing Staff to move forward with an administrative review through interdepartmental because it does not meet the minimum requirements otherwise.

Mr. Tucker: But I thought if it did meet, it had to come before us.

Mr. Curtis: Right. And we are waiving that.

Mr. Tucker: So this is a waiver of the requirement, not an approval of the tract split.

Mr. Curtis: Right.

Mr. Gambrill: That would be the correct verbiage. We are sorry we didn't put it that way.

Mr. Curtis: Mr. Maris, let us work our squabble out. It has nothing to do with you.

Mr. Tucker: Okay. I understand what we are doing now.

Mr. Tucker moved to waive the requirements for Planning Board approval of the minor subdivision for the multiple dwelling units shown on the parcel.

Ms. Leyva: I have a question for Staff. This Staff approval (IDR) timeframe for the applicant.... are we going to require more things from this applicant? He has pretty much shown everything.

Mr. Reamer: There is going to be a handful of minor revisions (i.e. showing the septic systems, we send it to the assessor's office, GIS, etc.). It comes back. It shows some

encroachments on the proposed survey. Minor things like that will change. Materially, the survey will stay essentially the same.

Ms. Leyva: Okay. So we are lacking some information.

Mr. Gambrell: Right. It will go through the same review that we send everything else through. We haven't done this yet.

Mr. Linn: The timeframe on that is a one-week comment period.

The motion was seconded by Ms. Leyva. The motion carried 5-0.

TECHNICAL ADVISORY COMMITTEE

1. **Call to Order:** 6:50 p.m.
2. **Old Business / Ongoing Applications:** None
3. **New Business:**

I. Shankle Waiver, #16-091 & 16-092 through 16-104, Heagerty and Sears Road, Bentonville 18-09210-000

Applicant: Ben Shankle, 6064 Yosemite Falls Cove, Springdale, AR 72762

Staff gave a presentation on the Shankle Waiver, #16-091 & 16-092 through 16-104, Heagerty and Sears Road, Bentonville 18-09210-000

Comments from Mr. Shankle: The purpose of this is certainly not to provide another primary dwelling. The first lot owner that is beginning to build his house, also wanted to build a pool house with an apartment dwelling and a bathroom. So, that would not work because we would need to have two systems per dwelling. That is the reason for the variance. Meeting with Planning, we discussed the possibility of going for the variance for the entire subdivision. Many of the lot owners want to do something similar with mother-in-law's quarters or a shop building with an apartment upstairs. That is the reasoning for wanting to do two. We have written into our covenants that the lots could not be subdivided so there is no possible way that this secondary dwelling could be sold as a separate dwelling.

In meeting with Planning, we also discussed the possibility of providing two 911 addresses per lot so that emergency services could identify which lot was which. I have received the 911 Administration letters for a couple of the lots that are under construction and got two addresses per lot. The primary and secondary dwelling would each have a separate 911 address.

Additionally, because of the way this subdivision was done, subdividing a separate lot would not be possible with the city of Bentonville because each lot has to be over five acres. Otherwise, this could have been classified as a full, large-scale subdivision. So it created somewhat of a rock and a hard place. We could have just subdivided off the secondary dwelling but that did not make sense for the overall development. *Mr. Shankle offered photos/site plan of one of the lots that is now underway.* I have received many of the receipts from the certified mail. I have just been getting them daily.

My personal lot is lot #9 and lot #14. Lot #14 is not technically part of the subdivision. Lot #9 is where my primary future house will be. Right now we are building a shop building on Lot #14 and finishing out a portion of the inside to live in. That's why we went with lots 1 – 13. Lot 14, really does not have anything to do with it.

Board Comments:

Mr. Tucker: This is in the Illinois River watershed so we are pretty sensitive to that, especially with the density of these lots. How far is sewer from this location?

Mr. Shankle: There is a 36" main transmission line but there is no way to tie in to it. They don't allow taps or services for that. Several miles. We are talking about 120 acres, 14 houses. I think this would be low density.

Mr. Tucker: Yes, but you are asking us to approve 28 houses on 14 lots which is double the density. Since our minimum lot size is one acre, it is above the minimum requirement for lot size even if you broke it up. Was the city of Bentonville aware that each lot would contain two dwellings?

Mr. Shankle: We are not technically calling it a dwelling. There is not going to be more than one family living there. We wrote into the covenants that that would not be allowed. It's a single owner. So, no, to answer your question. They knew they were approving five-acre lots with single family homes. There is no plan for there to be two primary dwellings especially since it will be specifically restricted for one family.

Mr. Tucker: You have restricted in your covenants the ability to rent?

Mr. Shankle: Yes.

Mr. Tucker: To me, that makes this a little more feasible.

Mr. Shankle: The purpose of this wasn't really a development. It was a group of friends and family members that wanted some space and land. I just happened to be the one to put it all together. That's not what we want at all. We want the opportunity to live in the county and have some land and live in close community with people around us. They (*rentals*) are mentioned specifically in the covenants as not allowed.

Mr. Tucker: How are you maintaining the roads within your covenants?

Mr. Shankle: It's all private access asphalt road and will be maintained by the POA board, budget, fees, etc.

Mr. Tucker: The POA, among other duties, will monitor pool discharge and things like that?

Mr. Shankle: Yes.

Ms. Leyva: Is this city of Bentonville water or will this all be on wells?

Mr. Shankle: All on wells.

Ms. Leyva: So lot #3 is your first lot. Have you actually had it taken to the septic system (i.e. wells and septic (primary/alternates) with their setbacks). Have you done all that?

Mr. Shankle: Yes, we did all that and got approvals from the Health Department. There is so much space. With the five acres, there is plenty of room. I believe it's 50 feet for the separation between any septic and well; and we are well over it.

Ms. Leyva: It's 100 feet. And then you have to be so far from your neighbor's well. So it's every single well out there. Say you put your well on lot #3 at the bottom right hand corner. That means that lot #4 and lot #8 cannot stick their septic systems within 100 feet of it. Did you look into a multi-structure permit with the state so it would be two houses, two dwelling units on one septic system? Since these are proposed items, and they are going to be on the same lot, did you look at multi-structure septic system so that you could have one septic system serving multiple buildings?

Mr. Shankle: No, I didn't know that. Our septic engineer made it clear that we would have to have one per dwelling. That has not been mentioned to me. The space of the other ones and the way that they were designed, are so much smaller and typically 1-1/2 bath or 2 bath. So what we did, for example on lot #3, the well is in the front and the septic systems are in the back.

Mr. Tucker: This may be an oversimplification but you may be able to add 50 feet of pipe to the primary system. That would take care of both of them and we'd only have one septic system.

Mr. Shankle: That was not communicated to me that that was possible. I can certainly look into that. I would rather do that. This option needs two tanks, two full systems and all of this. If that is an option, I will call tomorrow.

Mr. Tucker: For us, the covenant that you have written, would simplify this approval and not set a precedent. One of the things that we wrote that Ordinance for, was to prevent multiple dwelling units from suddenly occurring and doubling the density. You

have taken care of that on the private level with your covenant but there is still the opportunity to just avoid the whole process altogether.

Mr. Shankle: We were specific to make sure this waiver protected us from that happening. More than just the blanket variance.

Mr. Tucker: I actually like the way it was worded.

Mr. Curtis: On your covenants, what is the threshold for changing the covenants?

Mr. Shankle: It would be a majority vote for the covenant board, the members of the POA board.

Mr. Curtis: So you are saying 50+1 would be able to change the covenants?

Mr. Shankle: Yes, sir.

Mr. Curtis: Okay. That is a huge concern in my mind on this project. You are saying you have written things in to make sure this can't happen but what you just told me was that it can happen with majority (eight) votes.

Mr. Shankle: I didn't think about that. My goal is to make sure that that doesn't happen as well. I am on the same page as you are. I had my attorney put the covenants all together.

Mr. Curtis: Because this is the technical advisory part of the meeting, let me just tell you an instance that has happened in Benton County where in order to change the covenants, you have to have as little as 50+1 or as much as 100 percent. Both of them allow for future problems. That's my concern with a blanket waiver for you. We don't have any idea what is going to happen in the future. You have heard me say that on more than one occasion tonight. Our concern is not so much about Mr. Shankle and what your plans are for your neighborhood. That's all wonderful. But Mr. Shankle's heirs and other people become involved. That does cause a question in my mind about a waiver like this.

Mr. Shankle: That would be my concern as well. What is the fear? Would it be that someone using that secondary dwelling as a rent house or a full-time dwelling?

Mr. Curtis: That is a concern. With what you are proposing, it allows maybe domestic help to live in the other parcel and that becomes someone's permanent dwelling down the road. There are all kinds of scenarios I can bring up in my mind. None of them would allow me to okay this project to be very blunt with you. I don't know how you work that out in the covenant parts because the 100 percent thing doesn't help either. If something needs to be changed, how are you going to get 13 people to agree? It's almost impossible. That is why I am saying you are between a rock and a hard place.

I would be a lot more amenable to the individual lot owners coming in front of us and asking for a waiver than trying to do it on a blanket scale. I am just one person on this Board.

Mr. Shankle: That makes sense. That's why I am here.

Mr. Curtis: That is why it was important for you to be in front of us so that we could talk with you about this.

Mr. Shankle: You may be seeing someone every couple of months to get a variance. That's perfectly okay too. We certainly don't want to split lots. If we split these lots off, that opens the door to an even greater chance of that lot being sold.

Mr. Curtis: And I don't deny that. I can't speak for the other Board members. But on an individual level, I am more in favor of the individuals, after they make the purchase, they get their plans, we get to see what they want to do, they come in front of us, they spend an hour or two of their time, but I think it is well worth it.

Mr. Shankle: Okay. If that's the direction we end up going in the next two weeks, would it be possible to substitute between now and two weeks from now to just go for lot #3 rather than the blanket?

Mr. Curtis: That's a Staff question, not a Board question.

Mr. Gambrill: You want to change the context of what you are applying for. Staff doesn't take any major issue with that as long as the Planning Board doesn't take any issue with that.

Mr. Reamer: It was written to include lots 1 through 13. If the waiver request was amended to say lot #3 or lot #3 and #7, then we would bring that to the Board for a decision.

Mr. Tucker: It would automatically exclude the others.

Mr. Reamer: You would be deciding on the Staff's report and what was put in front of you that night.

Mr. Gambrill: You can amend that consideration however you see fit.

Mr. Homeyer: So it's too late to actually amend the application?

Mr. Gambrill: Without going through another four-week cycle, yes.

Mr. Shankle: Lot #3 would be more pressing. In two weeks, I would be appreciative to have the ability to come before the Board to discuss lot #3.

Ms. Leyva: What are the two structures. I can tell one is a house. What is the second structure?

Mr. Shankle: It's a metal shop building with a small, two-bedroom apartment.

Ms. Leyva: It's a shop with living quarters.

Mr. Shankle: Yes.

Ms. Leyva: When it comes to septic design and multi-structures, having a house with a true shop (not a shop with living quarters) with some water/bathroom, is not considered a multi-structure. A traditional pool house that just has a bathroom, maybe just three walls with a cook area in the middle, with a restroom...those have traditionally not had to have the multi-structure permit to tie two buildings on to it. Keep that in mind if you choose to separate this out and do by individuals.

Mr. Sudduth: I have a question primarily for Staff. Is there any legal notification that would have to be offered to the surrounding property owners to clarify the changes (one lot versus all 13 lots)?

Mr. Gambrill: If we apply the buffer that we used for the entire piece relative to one lot, does that reduce or increase the number of letters required?

Mr. Reamer: The only concern there is that I don't think lot #3 is a legitimate tax parcel yet.

Mr. Gambrill: Staff would have no way to alter the notification whether it's for the single lot in question versus the entire piece that we have before us. Notice would be served identically. It would be the context that would change.

Mr. Sudduth: Context, legally, is what the notification is about. You have a half a dozen or better that are looking at what is being presented versus what the Board is going to be reviewing. They have notification that it was going into TAC so they could be in on that conversation. I just have a little concern about the notification being altered. It may not be a requirement since they did receive notification via certified mail that there was a meeting tonight. So technically, legally, they should be involved so that they are aware of what the Board is deciding. I am just bringing that up for discussion.

Mr. Curtis: I appreciate that.

Mr. Gambrill: How does Form G read at the moment?

Mr. Reamer: That it is inclusive of all 13 lots.

Mr. Shankle: Yes, they would think that it was for everyone.

Mr. Reamer: The notice has been served for a decision to be made on July 6 by the Board. What decision is actually made is up to the Board because conditions are created that night, things are added and taken away. As far as the public hearing, a notice has been served that the property owner/applicant will have some sort of decision made on the project on the 6th.

Mr. Curtis: You had a question or comment.

Mr. Reamer: The only question I have is for the plumbing code. I know it has been brought up before. As far as building safety, can two dwelling units hook to one septic system? By definition of dwelling unit being living quarters, cooking area, hot/cold water, etc. Can they connect both dwelling units to a single septic system or do they have to have individual systems servicing each dwelling unit?

Ms. Leyva: That's a multi-structure permit. It is not your individual sewage permit.

Mr. Reamer: But what about a structure compared to a dwelling unit or a residence? So a shop, with maybe a bathroom and a shower in it, connected to the house...

Ms. Leyva: That's traditionally not been considered a multi-structure. Multi-structures have a different approval process. They don't get approved by the local health unit. They are usually done regionally or by the state. So there is a totally different approval process.

Mr. Reamer: So the feasibility to connect two dwelling units on the state's end as far as septic is engineering it...making it work...as far as pumps and tanks, fixtures and water usage.

Ms. Leyva: I've seen tanks pump to a tank that pumps to the lines.

Mr. Tracy: In the building code, if it has any plumbing in it, it has to be hooked up to prior public system.

Mr. Reamer: It doesn't have to be an individual system.

Mr. Curtis: I wanted to move this along but want to make sure we get all the information possible. You can look into the one septic unit or a multi, adding 50 feet of pipe or the simplification process, working on the covenants to try to come to some sort of point where you are sure things are going to stay the way you want them to.

Mr. Shankle: We actually notified everyone twice.

Mr. Gambrill: This is the second TAC.

Mr. Curtis: That's all good. That will put you in good stead down the road if anyone questions this. We love Benton County entrepreneurs. We are here to serve them. That is the Staff's task.

II. Allison Waiver, #16-109, 13786 + 13816 Apache Trail, Garfield 15-03928-000 + 15-03929-000

Applicant: Chris Allison, 1800 North Spruce, Little Rock, AR 72207

Staff gave a presentation on the Allison Waiver, #16-109, 13786 + 13816 Apache Trail, Garfield 15-03928-000 + 15-03929-000

Comments from Mr. Allison:

We are looking to combine the two lots to build our retirement house. Moving up from Little Rock.

Board Comments:

Ms. Leyva: This is an expensive system you are putting in for that septic. Pretty impressed! You have a good view from that lot?

Mr. Allison: It is. I am not too happy about that. Yes, I do. Both of those lots have been in our family.

Mr. Curtis: This is pretty straight forward and something we love to see happen. This is the best that could be done for the lake and for planning purposes. I am sorry to have you wait two weeks. We have to do the noticing and it is important for the public to have their say. That is the reason you have to come back one more time. See you in July.

Mr. Allison: Not a problem.

III. Corner Post Cowboy Church Site Plan Review, #16-111, 18200 Old Highway 68, Siloam Springs, 18-10464-001

Mr. Homeyer: Time for me to recuse [*myself*].

Applicant: Ron Homeyer, 701 South Mt. Olive Street, Siloam Springs, AR 72761

Staff gave a presentation on the Corner Post Cowboy Church Site Plan Review, #16-111, 18200 Old Highway 68, Siloam Springs, 18-10464-001

Comments from Mr. Homeyer:

The driveway was reviewed and approved by the Benton County Road Department before it was installed. That is a new driveway. That may be why they did not comment.

The well...everything is put together and submitted down in Little Rock. Other than needing to put in an oversized pressure tank probably, because of the low volume of the well itself and a chlorination system, I think we got that resolved. It is just a matter of getting the letter.

Not sure we know where the lights would go for the arena in the future. I'll see if I can figure that out. That (the arena) just might happen in the future. They don't anticipate doing anything soon.

We can handle the rest of it [*outstanding issues*].

The owner is working on the service letters. I just have not received them yet.

Board Comments:

Mr. Tucker: Probably bringing in horse trailers? Are you going to use this existing driveway and park in the grass between the parking lot and the building?

Mr. Homeyer: Yes. They will be parking all around the arena area. They are overbuilding the pad for the arena area so there is room for the vehicles to park.

Ms. Leyva: So they are going to drive across or is there a driveway for the arena too?

Mr. Homeyer: There is not a second driveway. They will be driving across. I should have shown a gravel driveway going over to that.

Ms. Leyva: You don't want to be driving over the well so....

Mr. Homeyer: I'd rather they not do that.

Ms. Leyva: I know we have these kind churches...commercial operations... out there but I don't know anything about them. So I go to church on Sunday morning and take my horse with me? I am trying to understand the arena use. Are we going to have a rodeo out there?

Mr. Homeyer: They will have rodeo events out there not necessarily the same day as church. There will be roping events that they will schedule initially probably only four or five times a year during daylight hours. Probably four or five-hour events. It's just one of the things the church does to reach out to that community.

Ms. Leyva: Normally we don't want to know hours of operations of a church because it's kind of given as a 24/7 type of thing. With the arena attached, I did not know what was going on there.

Mr. Homeyer: I will make sure I get a better clarification on that between now and three weeks from now. The church itself is probably just a one-day-a-week activity

for the foreseeable future. They won't have a daycare or school. They typically don't even have meals.

[*Regarding the well*] ...I asked how much [water] do horses consume when they are having these types of events? The response was, "none." People bring their own water for their horses if they consume any water at all. If the horses get too much water, they won't be able to perform. If it's strange water, they won't drink as much of it. Water is rationed out to the horses as needed.

Mr. Curtis: They [*the horses*] are trained athletes as well.

Ms. Leyva: Waste? How is the hay going to be taken care of?

Mr. Homeyer: The people bring their own feed and hay.

Ms. Leyva: Will it be a dirt arena? Is there going to be a water well spigot to spray the dirt down?

Mr. Homeyer: Yes, dirt. Excellent question. They will be controlling this by way of a trailer with a tank on it. They won't actually be using well water to control the dust in the arena.

Mr. Curtis: My big concern is the waiver for the screening. Can you give us some of your thoughts about why you want the waiver?

Mr. Homeyer: They went to a lot of trouble to find this particular piece of property because it is visible at this time from 412. It is elevated above 412. They bought it for that visibility. It seems like a waste to go to that much effort to find something that is highly visible from the highway and then screen it.

Mr. Curtis: I am not so concerned about screening from the highway but there are two houses there. Also, the possibility of the lights is a whole new ball game with the nearby residences.

Mr. Homeyer: There are two houses and then a commercial operation there. They will have to come back when they decide on lighting. We can address the screening at that time. Are you thinking of screening the arena more than the church?

Mr. Curtis: I am not a big fan of screening any church but the arena is something to consider.

Ms. Leyva: Is there any screening on the east?

Mr. Homeyer: There is an open field with an existing tree line.

Mr. Curtis: It looks as if the house across the street is a very nice house. And the second building that is closest to 412, do we have any idea what that is? The building south of there?

Mr. Homeyer: Per the Assessor's page, it says it's a commercial use.

Mr. Curtis: That is my only concern, Ron, is that one residence there. Looks like there is a chicken house to the west and already a tree line there.

Ms. Leyva: Is that a house with 20 cars?

Mr. Curtis: That is the other commercial use. It looks like car storage area.

Mr. Tucker: As a point of discussion, we have seen several churches and we've always called them general commercial. We don't have an "institutional" do we?

Mr. Reamer: Institutional land use per the table in planning and development regulations, takes into account schools and adult/childcare facilities. I believe that is the extent.

Mr. Tucker: We did not add churches.

Mr. Gambrill: Houses of worship aren't lumped in with institutional uses.

Mr. Curtis: Around here they seem to be commercial ventures anyway.

Mr. Gambrill: The fact that we don't have institutional use is curious; but no, we don't have it.

4. Other Business: None

5. Staff Updates:

I. Administrative Approvals:

- A. Helmich Minor Subdivision, #16-105: 15395 Roberts Loop, Garfield
- B. Brogan Minor Subdivision, #16-108: 8041 Ward Lane, Rogers

6. Discussion Items:

I. Old Wire Storage, LLC – Site Plan Review Major Amendment Sketch

Mr. Tucker: It's within the existing building pad?

Mr. Reamer: Yes. The newest building would be on the east, or far right. This is in an MS4 area. Stormwater regulations would be enforced. Drainage report, etc. would change. That was one of the main issues I had at the Staff intake level is that there are issues as far as runoff, drainage report and things like that would be required no matter what has submitted as far as a sketch or engineered site plans.

Mr. Tucker: Does it cross the threshold of a state-required seal as far as the value of the improvement?

Mr. Curtis: I would opt for engineered drawings.

Mr. Homeyer: I know it would be well within the property boundaries but if we require everyone else to provide these. We sure require them for this as well.

Ms. Leyva: Do they have engineered drawings from 2004?

Mr. Reamer: Yes.

Mr. Curtis: Engineers? Drawings, yes.

II. Michael Cabinet Shop: Home-Based Business vs. Site Plan Review

Staff gave a presentation on the specific case brought up at the June 8, 2016, Development Review Committee meeting.

Ms. Leyva: So a home-based business needs a total of two acres?

Mr. Reamer: Specifically, a cabinet shop is called out as...

Mr. Tucker: Was that in a list of other things?

Mr. Reamer: Yes.

Mr. Gambrill: There is home and rural family occupations and then under that there is a subsection A, Exempt Home and Rural Family Occupations-Allowed by Right. So there is that part of Home and Rural Occupations, the regulations siphon off a series of exempt home and family rural occupations criteria. You have to meet all of them. On this list, there is some that don't apply to this. There are some that are questionable. Would this particular proposal meet all the requirements? Probably not. But again, you are getting into a threshold of "hobby versus not." Chapter 7, page 34 of the Planning and Development regulations.

Ms. Leyva: How many acres do they have?

Mr. Reamer: 1.38

Mr. Gambrill: It says, "In rural areas of the county, lot sizes of two acres or more (which this is not) an accessory use that allows the operation of a business on the same property as one's residence is also classified as a home or rural family occupation" which is allowed by right. But that is two acres. This does not meet two acres. Is it rural? Probably.

Mr. Curtis: We went round and round with the Quorum Court with this deal to try to massage the system to make sure that we covered things but we left small business people without too much hassle. Because they are bringing someone on site to help them, that changes things as well in my mind. I am not so concerned about the two acres exactly. 1.3 is plenty of room to do it. It's a large garage basically.

Mr. Reamer: Also to clarify, in this section you have exempt home-based occupations which is the general home office, general contractor, accountant, etc. But you also have examples of non-exempt home occupations that include bed and breakfasts, kennels, etc. At the very end, it also says others that meet the threshold for site plan review.

A major question here from Staff is that if they are NOT an exempt home-based occupation, do they automatically go to site plan review or is there still an administrative level of home-based business review that we would do?

Mr. Tucker: I think if it's non-exempt, it comes in.

Mr. Homeyer: I agree. If it's not listed as exempt.

Mr. Gambrell: So if it's non-exempt, it's not administratively reviewed. The exemption is from Planning Board review. Okay.

Mr. Reamer: Is the scale the same as site plan review? Or would you review it under special development regulations, home-based occupations?

Mr. Curtis: I would think that it doesn't meet the threshold of a full, site plan review because it is a home-based business. That would be a place where a hand-drawn sketch, as long as they weren't in the MS4's and that sort of thing, would not be a problem.

Mr. Homeyer: I concur with that.

Mr. Gambrell: It's more for a vetting purpose.

Mr. Curtis: Right.

Ms. Leyva: They are currently building the building right now? Are we sure it is meeting all our codes? Does it have restrooms? Does it have water? A special system to keep dust down, etc.

Mr. Reamer: Based on our conversation, he does have dust collection. Is it commercial scale? No. He's doing more small scale, one project at a time.

Mr. Homeyer: Basically a shell building with electric service to it. No plumbing.

Mr. Tucker: It moves from hobby to profession when it is your primary source of income. Is this the primary source of income?

Mr. Reamer: As far as Staff knows, yes. Currently he rents a space in Siloam Springs.

Mr. Tucker: So he is moving a commercial space to this location?

Mr. Reamer: Yes.

Mr. Curtis: Some direction for the Staff please, from the Board.

Mr. Tucker: I think we review it as a non-exempt, home-based business. Unless when they come in it shows that it's not a home-based business, it's an actual, legitimate commercial operation. Then we will review it as a commercial operation. Sounds like a home-based business but it does not meet the criteria for exemption.

Mr. Reamer: It doesn't fit nicely into either avenue of site plan review or an exempt home-based business.

Mr. Tucker: There are exempt and non-exempt home-based businesses. This would be a non-exempt.

Mr. Gambrill: It would be clearer to say that it's a non-exempt home-based business that would need review from Planning Board. It's the degree of formalized application materials that is the other part which speaks to Mr. Curtis' prior comment.

Mr. Tucker: We reviewed a cabinet shop and an RV repair shop with hand-drawn sketches.

Mr. Curtis: I am comfortable with that.

Mr. Leyva: We still did public notices with those.

Mr. Gambrill: Information was shared. Meeting requirements were met.

Mr. Tucker: They have to fill out the application and tell us what they are doing but we don't review them under commercial development criteria.

Mr. Reamer: The two-meeting cycle, the TAC and a public hearing?

Mr. Curtis: Yes.

Mr. Sudduth: *Requested that the Planning Director read the note that he gave him (Mr. Sudduth) earlier on the vote.*

Mr. Gambrill: Yes, this had to do with the Butler and the Maris variances that were before us tonight. The regulations state that we need a two-thirds vote of the total membership of the Planning Board in order for variances to be approved. If two are not in attendance, like tonight, you round up to five votes to be approved.

Mr. Sudduth: The reason I bring this up, I would like permission from the Chair of the Board for my Staff to read this directly as a point of order from the start because it has legal implications to the applicant and they don't fully understand that. Before the Board hears the first case, we really need to read that up front because some may wish to ask for a continuance versus lowering their odds by 28 percent. I just wanted to bring this up as a point of order. Before the first is heard that ought to be read.

Mr. Curtis: Right. Without questions. Excellent point. Because of the two missing people tonight, it takes a unanimous vote. For the next meeting we need to start thinking about who's going to move up the chain because the chain is diminishing.

Mr. Gambrill: We have our letters of commitment from those members who have terms that are set to expire and those who have decided to move on. We do have two Planning Board members that we got in very early to the clerk's office. They weren't used to having things so early so they simply had a calendar reminder to put them on the Quorum Court's agenda. So we will follow up to see what the timetable is for that because they technically have to get affirmed before they can actually begin to serve.

Ms. Leyva: I know we have quite a few applicants. Correct?

Mr. Gambrill: We did and we have two of choice that haven't fallen through. They continue to be very interested. I followed up with them and kept them apprised of the process as stated.

Mr. Tucker: I think my term expires on the 14th of July technically.

Mr. Gambrill: Yes but you are going to continue on serving. We will confirm that with the clerk's office.

Meeting Adjourned: 8:07 p.m.

Next Meeting: Wednesday, July 6, 2016