



**SALINE COUNTY PLANNING BOARD
MINUTES MAY 9, 2019**

Meeting Called to Order at the SALINE COUNTY COURTHOUSE, COURTROOM #1 AT 5:30 P.M.

ROLL CALL:

Layne Penfield	Present	Eric Krebs	Present
Sherry Spann	Not Present	Justin McCauley	Not Present
Kevin Barham	Not Present	Randy Ives	Present
Matt Nalley	Present		

NON-VOTING:

Audrey Villegas	Present	Clay Ford	Present
JR Walters	Present	Renee Richard	Not Present
John Wofford	Present	Judge Jeff Arey	Not Present

PRESENTATION OF MINUTES: April 11, 2019; Motion to approve by Randy, second by Matt and approved by all

OLD BUSINESS

NEW BUSINESS

• **DOGWOOD LOT 4, REPLAT**

-CLINT LANCASTER

Clint Lancaster is here to present the plat. They are wanting to split the lot so that there will be one residential dwelling per lot and instead of doing a pipe stem type lot they have split the lot in two and granted a twenty-five (25) foot easement for ingress and egress. The residents on the tract are existing and have been there for about fifteen (15) years. There is currently only one parcel number for both dwellings, but two addresses for the lot. Matt asked how they received utilities, they have two (2) addresses for one parcel. Clint stated that this issue is coming up now because Mr. Milam (neighbor) and his wife are suing the clients in circuit court because they state the clients are violating the restrictive covenants by having two (2) residents on one lot. Clint states that they are splitting the lot to abide by the restrictive covenants. Mr. Lancaster claims that there is one other lot that has multiple residences and there are many other lots violating other restrictive covenants such as waste or junk on the lots, unused structures, structure not meeting square footage requirements, etc. The persons who created the restrictive covenants divorced and the restrictive covenants were not being given out with the deeds originally. Mr. Lancaster brought the original certified receipts for the file. Mr. Milam states that there are no two trailers on a lot, Ms. Petz owns two lots and went about the legal means to have two mobile homes according to the restrictive covenants. There is a storage trailer on a lot that is not used or lived in and is used strictly for storage. Mr. Milam provided pictures to Staff Attorney Clay Ford and was sent out via e-mail to the Board. He claims they have sewer running in the yard, burning garbage, dumping rocks on their yard. He also claims they had an additional trailer hauled off Thursday morning that had another person living in it because of the meeting. He claims he has

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not sued them before due to the fact that he is on disability and did not have the financial means. Layne asked to keep the personal comments to a minimum and the Board is only looking at the replat and that it abides by the Rules and Regulations and restrictive covenants. Matt asked who told him initially that he could not have the second mobile and Mr. Milam said he told him that and the neighbor on the other side of Mr. Richards told him as well. There are other residents of the subdivision that are in the audience as well and Layne told them if they wanted to speak they were welcome to, but we are strictly looking at the replat. Mr. Milam also stated that all of the neighbors were to be notified via Certified Mail Receipt of the replat and he states he was not notified; Mr. Lancaster responded that in the Arkansas Rules of Professional Conduct, Mr. Lancaster could not communicate with Mr. Milam about the issue, therefore Mr. Lancaster sent the notification to Mr. Milam's attorney, Brandon Haubert, and it was signed for by Jessica Hall in the attorney's office. Clay agrees that was the appropriate way for notification to be given. Cheryl Petz (408 Apple Drive), she does not know why this is coming up now after the restrictive covenants have been this way since it has been enacted. Layne told her the Bill of Assurance is important, but the Board does not have the right to dictate what the Bill of Assurance says only to ensure that the replat follows the covenants set out in the Bill of Assurance. Eric asked if the Board was to grant the replat how that would affect their court case going forward. Clay stated that the majority of what Mr. Milam has stated would have to be addressed in the court case and is not within the Board's jurisdiction, if the Board grants the replat and the circuit judge determines that is wrong then we would have to reverse our decision. Granting the approval of the replat is not directly stopping the law suit. Randy asked if the Board should be making a decision on this before it goes before the circuit judge and Clay stated the Board could do that, but if the Judge says the replat is ok they would have to come back before the Board and replat the lot. Also, Mr. Lancaster is correct that if the restrictive covenants do not say you can do it, then you can do it. In Clay's opinion if there are no legal impediments in the Planning Board Rules that prevent the replat then the replat needs to be approved. Eric asked if there was a lot size restriction in the covenants and there is not. Clay addressed the audience and told them that if this is approved the lot would not be split the next day as there is a process to getting documents signed and filed. If the replat is granted Mr. Milam or his attorney can try to get the Judge to give an injunction to stop the replat, that has not been done as of yet. Clint stated someone asked if there was a lot size restriction in the covenants and there is not. Troylene Jones (126 Apple Drive) bought their land in 1971 and are not under the Dogwood Restrictions and neither are two of their neighbors and they are not necessarily involved in this issue. Mr. Milam wanted to say one more thing, there is no other lot in the subdivision that has 2 homes on the lot and never have been, Mr. Milam claims they have three (3) trailers on their lot. Matt stated in regards to what the Board is reviewing, he wants the Boards opinion on the easement. He states if this is going to be a legal lot it needs to have access to the road itself, not an easement. He would like to see that easement dedicated to the lot itself much like a pipe stem lot. Since this is a single residence and intended to only be a single residence lot then this application would apply in this situation and is not like what we typically enforce for pipe stem lots. Clay stated you could also do it as Fee title by having the easement part of Lot 4B or if there was a deed you could include an easement for ingress/egress. Matt would prefer the fee simple option out to Apple Drive. In regards to the split, Matt asked what the Board's stance has been in what the Health Department has been passing down to the Board in regards to the systems having two functional systems. The Board wants to see documentation of Health Department approval due to the fact that those who are in opposition of this split stated there was a possibility that sewer was on the ground and Matt would like to see that this was approved for primary and alternate options. Clint said the second system was approved when the system was installed. Mr. Milam

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asked if they could see the proof of Health Department approval as well, Clay stated that since that is public information once the staff is provided with that documentation they could have a copy as well. Matt recommended that the lot 4B have fee title out to Apple Drive and Health Department approval documentation be provided to the staff and a designated primary and alternate system for both dwellings and both lots within the confines of the replat they are submitting. Apple Drive is off of Congo Ferndale for the record. Randy stated that we have always fallen back on our Rules and based on the Bill of Assurance, while not a good one, does not prohibit them from a replat. Randy sees the point that if the intent of the developer was to only have one residence per lot, he could have done a better job in putting that in writing in the Bill of Assurance. Most new subdivisions have that stipulation in the Bill of Assurance and that you have to have 75% of the lot owners sign off on the replat, but this Bill of Assurance does not state that. By the rules as Randy reads them, the Board has no other option than to grant this because it doesn't say they can't. Even though there is a lawsuit ongoing, the Board's job is not to look at the lawsuit, our authority is just to look at this based on our rules. Clay stated that if the lawsuit does continue then our decision here today will not affect what happens in court. Clay stated if they grant the replat today and a Circuit Judge determines that was the wrong decision then the Board will follow what the Circuit Judge says. Matt made a motion for approval contingent upon lot 4B have a fee simple title for the twenty-five (25) foot access instead of an ingress/egress easement across 4A that is part of lot 4B, also contingent upon having documentation of an approved primary and alternate septic locations for lots 4A and 4B, second by Randy and approved by all.

OPEN DISCUSSION

MEETING ADJOURNMENT

- Eric made a motion to adjourn, second by Randy and approved by all. Adjourn 6:15 pm.