

SOUTHWEST CONSOLIDATED ZONING BOARD

Zoom Webinar

<https://www.jocogov.org/dept/planning-and-codes/pln/home>

MINUTES

Wednesday, February 24, 2021

6:31 p.m.

I. CALL TO ORDER

A regular meeting of the Southwest Consolidated Zoning Board of Johnson County, Kansas, was convened at 6:31 p.m. on Wednesday, February 24, 2021, and was called to order by Randy Hutchins, Vice Chair, with the following members present and participating; to-wit: John DeGrande, Teri Atwell, David Wolf and Jason Cooper. Darren Shafer and Dustin Calvin were absent. Also in attendance were Jay Leipzig, Sean Pendley, Pamela Hayhow and Leslie Davis, Johnson County Planning Department.

Vice Chair Hutchins: I'd like to welcome everybody who is participating tonight in this remote environment. I'd like to read our virtual meeting statement:

To reduce the spread of COVID-19, the Southeast Consolidated Zoning Board meeting will be conducted online using Zoom Webinar. The Board members will not be physically present in the board meeting room.

*If you are using Zoom, you may participate in the meeting using your computer, phone or other electronic device. If you e-mailed the Planning department in advance of this evening's meeting and signed up to speak at the public hearing cases, your name will be called by the moderator in the order received. If you are unable to sign up in advance and you would like to speak, then prior to the start of the case that you want to speak on, click the "raise hand" function in the Zoom app. By phone, you may raise your hand by dialing *9.*

All speakers will be limited to three minutes, unless the Chair designates a different time period in order to accommodate all the speakers desiring to speak. When your name is called by the moderator, your microphone will be unmuted. Please state your name and address for the record, followed by you comments. With respect to all Board members and presenters, please state your name every time you begin talking, so the notes can be transcribed accurately for the record. This is a public hearing. We are presenting live and recording the meeting. Thank you.

Vice Chair Hutchins: With that being said, Leslie, would you mind sharing the agenda with us this evening?

Ms. Davis: Give me one second. Would you like me to also take roll?

Vice Chair Hutchins: That would be an excellent idea.

II. AGENDA ITEMS:

- A. Add, Delete, or Revise, and Approve Agenda Items [None]

Motion by Mr. Wolf, seconded by Mr. Cooper, to approve the agenda. Motion passed unanimously.

- B. Disclosure of conflicts of interest [None]
- C. Disclosure of external contacts/discussions [None]

III. APPROVAL OF MINUTES

Motion by Ms. Atwell, seconded by Mr. DeGrande, to approve the minutes from the January 27, 2021, Zoning Board meeting. Motion passed unanimously.

IV. BOARD REPORTS

Vice Chair Hutchins: Who do we have to speak to the Board of County Commissioners actions?

Ms. Hayhow: That would be me. Last month this Board recommended approval of a CUP for an accessory building prior to a residence at 35835 West 146th Street, and also you recommended approval of a Preliminary and Final Plat for two lots on 80 acres on the northwest corner of 199th and Edgerton Road. Both of those applications are scheduled for action by the Board of County Commissioners tomorrow, so we'll need to give you an update at your meeting next month.

Vice Chair Hutchins: Next item on the agenda would be the Planning Commission activities. I participated in last night's session, so I can provide an update on that. We heard presentations put together by two gentlemen regarding climate change and sustainability within the County. We were educated in terms of what that meant and how, at a County level, we could potentially have an influence in that regard. I did bring up the fact that I felt like we missed the boat from a Planning and Development Commission when it came to the Southwest Johnson County Planning, for the Edgerton/Gardner development areas. I felt as if the Planning and Development Commission should have been taking the lead on that, and we were never engaged whatsoever to do so. So, I shared that concern. Frankly, there were no real comments coming from the Board, other concerns from any other members, so unfortunately, I think it fell on deaf ears. But that was pretty much the sum of the Planning and Commission activities from last night. Any questions in that regard? [None]

BUSINESS BEFORE THE BOARD

A. Application Nos. SW 20-100-CUP and 20-101-CUP (GA) –Conditional Use Permits–25000 W. 210thStreet

Rick L. Riley, applicant, and Michaela Riley, Deborah Hodge, and Rick L. Riley, landowners, requesting Conditional Use Permit for 1) an oversized accessory building, and 2) keeping more horses than allowed, on 8.5 acres, on property zoned RUR, Rural District, in Section 17, Township 15, Range 23.

Vice Chair Hutchins: Pam, are you here to discuss the Application No. SW 20-100-CUP?

Ms. Hayhow: I am. This item, the applicant has requested to continue it until your next meeting. He provided information to me last week, but it wasn't in time to make a complete agricultural determination, so we'll have that for you next month. The action tonight that he's requested is that we just continue it from tonight until the next meeting.

Vice Chair Hutchins: Very good.

Ms. Hayhow: I don't have that next meeting date in front of me. Oh, it's on the agenda, right?

Ms. Atwell: Yeah, I think it's the 24th.

Mr. Pendley: March 24th. That's correct.

Ms. Atwell: So, if we don't have any discussion, Randy, I'll make the motion to continue it.

Mr. Pendley: I would just mention to Mr. Hutchins that we do have one person who is raising their hand, so I would just note that if the Board does recommend the continuance, we're not going to open the hearing. However, if there are comments, that certainly would be something that you could entertain and see if that weighs in any decision to continue or ask the question from anyone from the public.

Vice Chair Hutchins: All right. I think, following suit of what we did last meeting, I think we'll go ahead and open it up for public comment at this point. Just a reminder, if you could keep your comments to five minutes or less, and please state your name and address for the record, that would be wonderful.

Mr. Pendley: I think Rick Riley is the applicant. He is available, and then also there is Elaine Herme and Daniel Heim.

Ms. Davis: I wasn't sure. Did you want to hear from the applicant, or are we going straight to public comment?

Vice Chair Hutchins: Public comment, moving forward.

Ms. Davis: Daniel, you are now able to talk.

Daniel Heim, 24914 West 210th, Spring Hill, Kansas, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Heim: I'm here with Elaine Herme, representing our collective concerns. Elaine Herme's address, for the record, is 24976 West 210th Street, Spring Hill, Kansas. Just one comment, and I'll keep it brief. Basically, with respect to zoning and that decision, just wanted it to be part of public record that it is our mutual feeling that an agricultural zoning is contrary to the site and situation of the neighborhood and that we've previously had even a notice on the surrounding area and street nearby for other types of residential building and development, which is further evidence of momentum in that direction. So, just wanted that stated.

I did want to say that we are looking forward to the conditions under the previously-discussed Conditional Use Permit, and Mr. Riley's efforts to resolve the issue per previous complaints around manure and the smell and the insects. So, thank you, Rick, and thank you to the Board for looking into those different attributes to move us further to a peaceful resolution and for everybody to live harmoniously together. The other thing that we had were just questions around what happens next with respect to if a zoning determination is decided under an agricultural ruling. What conditions under the previously-discussed Conditional Use Permit remain in effect under a rezoning to agricultural? Thanks.

Vice Chair Hutchins: Pam, I'm not sure if you are prepared to answer those questions or if those need to be taken offline and responded to offline. I'll let you address that.

Ms. Hayhow: No. If it is determined to be an agricultural use, there are no zoning regulations that would apply. County Zoning Regulations that would apply to that use. We would encourage Mr. Riley to be a good neighbor and keep up with the manure disposal, but the County would not have any regulations on the use at all, if it is determined to be an agricultural use.

Ms. Atwell: Randy, just so that the two neighbors understand this, our Zoning Board does not, and cannot, make a determination or regulate agriculture. That is not what our Zoning Board does. That is strictly a State statute. So, I don't want them to get the impression that our Zoning Board is going to determine whether or not that is an agricultural use or not. We have no business being in that. That is not part of our job. That is strictly done through State statute.

Vice Chair Hutchins: Thank you, Ms. Atwell. Any other comments from the public at this point?

Mr. Pendley: There is no one else from the public who had raised their hands, besides Daniel and –

Ms. Davis: They've raised their hand again.

Mr. Heim: I understood and just would like to know, in regard to that clarification, what further recompense we have if future situations put us in similar undesirable situation that can't be resolved? To what government entity do we take our complaints to escalate?

Vice Chair Hutchins: I would say, at this point in time I would ask you to work with staff in that regard. In no way are we, as a Board, any experts in determining next steps of actions and interpreting legal law,

so I encourage you to work with Pamela. They're an excellent source of information, and they can help steer you in any proper direction from there.

Mr. Heim: Okay. Thank you for that.

Vice Chair Hutchins: Are there any others from the public community that would like to make a comment?

Ms. Davis: Nobody is raising their hand, and I believe we only have the property owners on.

Vice Chair Hutchins: Very good. I'd like to go ahead and ask the property owner at this point in time if they would like to make any comments. [none] Hearing none, I'd like to go ahead, Pamela, if you would, recommend next step here for the Board tonight.

Ms. Hayhow: The next step would be to make a motion to continue this until the March 24th meeting.

Motion by Ms. Atwell, seconded by Mr. DeGrande, to continue Application No. SW 20-100 CUP and 20-101 CUP(GA) Conditional Use Permit at 25000 West 210th Street, to the March 24, 2021 meeting.

Motion passed unanimously.

Vice Chair Hutchins: I think, Pam, you'll obviously follow up with regard to the next steps and the next meeting, and the information from that regard?

Ms. Hayhow: Yes, I will.

Vice Chair Hutchins: Very good.

VI. BUSINESS FROM THE FLOOR

Vice Chair Hutchins: Is there any business from the floor? [None]

VII. NEW BUSINESS

Vice Chair Hutchins: Is there any new business to be discussed? [None]

VIII. OTHER BUSINESS

Vice Chair Hutchins: Is there any other business? [None]

IX. OLD BUSINESS [None]

Ms. Atwell: Time to close.

Mr. Pendley: You covered all the bases.

X. ADJOURNMENT

Vice Chair Hutchins: Do we have a motion for adjournment?

Motion by Ms. Atwell, seconded by Mr. Cooper, to adjourn the meeting. Motion passed unanimously.

Thereupon, with no further business to come before the Johnson County Southwest Consolidated Zoning Board, Chairman Shafer, at 6:49 p.m. declared the meeting to be *Adjourned*.

Randy Hutchins, Vice Chair

ATTEST:

Secretary to the Board