

LEE'S SUMMIT BOARD OF ZONING ADJUSTMENTS ACTION LETTER

Thursday, February 22, 2018

Chairman Shawn Geraghty called the February 22, 2018 Board of Zoning Adjustments meeting to order at 6:05 p.m.

OPENING ROLL CALL:

Mr. Shawn Geraghty, Chair	Present	Mr. Joseph Towns	Present
Mr. William Wilson, Vice Chair	Absent	Mr. Joe Sauter (A)	Absent
Mr. Mike Atcheson	Present	Mr. Chris Campbell	Present

City staff present were Christina Stanton, Senior Planner; Nancy Yendes, Chief Counsel of Infrastructure and Planning; George Binger, Deputy Director of Public Works/City Engineering; Tracy Deister, Codes Administration Manager; and Ryan Elam, Director of Development Services.

Also present were Jeremy Cover, legal counsel for the Board of Zoning Adjustments; and a number of property owners from the Prairie Lee Lake area.

APPROVAL OF AGENDA:

BOARD OF ZONING ADJUSTMENTS ACTION: On motion of Mr. Atcheson and seconded by Mr. Towns, the Board of Zoning Adjustments voted unanimously by voice vote to **APPROVE** the Agenda as published.

MINUTES: An Action Letter for the January 25, 2018, Board of Adjustment meeting.

BOARD OF ZONING ADJUSTMENTS ACTION: On motion of Mr. Towns and seconded by Mr. Atcheson, the Board of Zoning Adjustments voted unanimously by voice vote to **APPROVE** the Minutes as published.

PUBLIC HEARINGS: None.

OTHER ITEMS: Continued discussion regarding the status of and compliance with the Decision in Application #PL2016-031.

Mr. Geraghty began the discussion by asking Mr. Binger whether Mr. Hinkley had submitted the required permit documents by the January 31st deadline that Mr. Binger had given him. Mr. Binger stated that no action had taken place on Mr. Hinkley's part. A discussion ensued over what was and was not currently permitted and under whose jurisdiction each item was. Mr. Binger reiterated that one of the two docks has a permit, the other does not, and these fall under the jurisdiction of Jackson County because the County owns the lake. The floodplain permit falls under FEMA and the City's Public Works' jurisdiction. The earthmoving that occurred within the property boundaries of 1621 NE Lake Shore Drive falls under the City's Public Works' jurisdiction.

Mr. Geraghty, Mr. Deister, and Mr. Atcheson discussed property maintenance and nuisances. Mr. Deister explained that an HOA (homeowners' association) would have additional restrictions in place—he referenced Lakewood and Raintree Lake—but Prairie Lee Lake doesn't have an HOA. Mr. Deister also reminded the Board that the City does not enforce HOA restrictions those are enforced by the HOA. Mr. Atcheson inquired about permits for the dock and Mr. Deister stated that the City doesn't permit docks. Mr. Deister did state that if Mr. Hinkley had installed electrical on his dock he would have had to obtain an electrical permit from the City.

Mrs. and Mr. Tammi and Mike Bowman stated that Mr. Hinkley had been sent to court and fined, but nothing has changed. A discussion ensued between Mrs. Bowman and Mr. Cover. Ms. Yendes stated that the Law Department had emailed the Prosecutor and requested her to consider filing charges again. Ms. Yendes states she had not yet received a reply.

Mr. Binger referred to the 1316 FEMA process which provides a "procedure to deny flood insurance to structures in violation of state or local floodplain management ordinances." Mr. Binger stated this process specifically denies insurance on a structure, which indirectly limits the sale of a house on the property. However, Mr. Binger had discussed this with the State Emergency Management Agency (SEMA) National Flood Insurance Program (NFIP) coordinator and learned that this process could not be used here because there is no insurable structure. Mr. Binger also stated that the 1316 process must first be initiated by the City, approved by City Council, and then submitted to FEMA for FEMA's review and approval in order to block insurance. He further stated that FEMA guidelines specifically state: "communities should exhaust all other enforcement procedures (fines and stop work orders) before pursuing the 1316 process with FEMA."

The Board further discussed what actions the property owners might be able to take to rectify the situation. Mr. Atcheson and Mr. Binger discussed that any of the property owners could submit the required paper work, in conjunction with the County, to dredge the lake. The Board questioned whether there was any way for the City to come in and rip-out the docks or remove the berm. It was discussed that the dock is on the County's property. Ms. Yendes stated that under pages 2-3 of Chapter 54—Building Code of the Jackson County Code of Ordinances it states: "...the code of Jackson County for regulating the erection, construction, occupancy, equipment, use, height, area, and maintenance of all buildings or structures in the unincorporated area of Jackson County *and on all Jackson County-owned real property, without regard to its location within the County...*" The County is a charter county and therefore has asserted its authority over its property whether in a city or not. If the docks were on the lots instead of the lake, the City could take nuisance actions against them in their current state. The City is not the correct jurisdiction to deal with the conditions of the docks.

It was asked of staff what the process would be for any of the property owners to earthwork on their respective properties. Mr. Elam answered that the first thing that would need to occur would be a pre-application meeting, and they would need to apply for a land disturbance permit and a floodplain development permit. The Board's legal counsel, Mr. Jeremy Cover, advised the Board that they could only inquire as to the status of compliance and discuss the matter; no further action could be taken as the Board no longer held any legal authority. There being nothing more for the Board to do with respect to the matter, the Board ended its discussion on this issue.

ROUNDTABLE: None.

ADJOURNMENT – On motion of Mr. Atcheson and seconded by Mr. Campbell, the Board of Zoning Adjustments voted unanimously by voice vote to adjourn the meeting at 6:48 p.m.