

MEMBERS PRESENT

Todd Hildebrand, Chairman
Bob Jordan, Vice Chair
Harry Averett, Member
Kurt Siebenaler, Member

MEMBERS ABSENT

Marc Matlick Member

STAFF MEMBERS PRESENT

Megan Nelms, Planner and Zoning Administrator
Clark Melinkovich, Senior Engineer & County Recorder

The meeting was brought to order by Chairman Hildebrand at 7:00 p.m.

Election of Officers for 2020-2021 Planning Commission Term

Chairman Hildebrand opened the meeting by stating the Commission needed to elect officers for the 2020-2021 term. He first asked for a motion for Vice-Chair.

Chairman Hildebrand nominated Bob Jordan to serve as Vice-Chair for the 2020-2021 Planning Commission term. Harry Averett seconded. All voted aye. Motion carried.

Chairman Hildebrand then asked for nominations for Chairman. Bob Jordan nominated Todd Hildebrand to serve as Chairman for the 2020-2021 Planning Commission term. Kurt Siebenaler seconded. All voted aye. Motion carried.

Approval of Minutes

Chairman Hildebrand called for a motion for the approval of the minutes from the June 18, 2020 County Planning Commission meeting. Kurt Siebenaler motioned; Bob Jordan seconded. All voted aye. Motion carried.

**Case No. 20.02 COZ – Standley Rezoning
David Standley/Nick Dillinger, Lubnau Law**

Chairman Hildebrand introduced the case and asked staff to present. Megan Nelms presented the case, and stated staff is recommending denial of the rezoning request.

Chairman Hildebrand asked if there were any public comments received for the case? Nickalaus Dillinger, the applicant's representative stated he agrees with staff that the non-conforming use on the property has been terminated, Mr. Standley purchased the property after the fact, and wishes to re-establish the non-conforming use. As stated in the application, Mr. Standley is disabled but wishes to remain in his own home. Allowing a second home on the property for Mr. Standley to live in, while his granddaughter can live in another home on the same lot would allow him more independence. Mr. Dillinger stated

he understands the County's land use map calls for this area to be low-density, but even with a second home, if divided, each home parcel would be approximately 1.5-acres in size, which is still above the minimum lot size for the R-R zoning district, which is 1-acre. He noted that as stated in the staff report, Mr. Standley purchased this property in March of 2020 and unfortunately, they did not do their due diligence to see if their intended purpose was allowed on this lot. That is what brings us here tonight. Mr. Standley would like to remain in his own home and near his family, while getting assistance because of his disability.

Commissioner Siebenaler asked Mr. Dillinger what he meant by saying Mr. Standley wants to remain independent in his home? And where is Mr. Standley living now? Mr. Dillinger replied that the second mobile home has already been placed on the lot and Mr. Standley is staying in it, however it has no utilities hooked up. He is using the facilities at his granddaughter's home, the other home on the lot. They have expended money in moving the trailer and getting a gas hook up, prior to finding out they were not allowed to place a second home on the property. However, come winter, the home will no longer be habitable without utilities.

Mr. Siebenaler then asked what his plan was for the sewerage system. Mr. Dillinger stated he believed they would hook-up to the existing system, but deferred to Mr. Dillinger's granddaughter, as they are more informed about the current infrastructure situation on the property.

Heather Huntley, Mr. Standley's granddaughter addressed the Commission and stated that the lot was originally set up as 34A & 34B that had water and sewer. Each home site is supposed to have its own septic and water connection. She also mentioned that the County had granted a gas permit and came out and inspected it and gave it a green tag. They were then denied an electrical permit. Mr. Hildebrand then asked if they were sure the sewer system is functional, as often abandoned systems, or ones that have not been used in a long time. Ms. Huntley stated yes.

Megan then stated that the second home was last set on the property in 2009. There is no record of a second septic on the property, so it was assumed it was unpermitted. At that time, County staff allowed the second home to be placed if the owner pumped the tank of the unpermitted system to try to verify the tank size. Once they do that, the County has previously allowed owners to utilize unpermitted septic systems until they fail. However, as stated in the staff report, the second home was removed in 2011 and the system has probably not been used in the time since then.

Commissioner Jordan asked if we had any idea about the size of the leach field of the system. Megan stated no, there are no records of the system in the address file. Mr. Siebenaler asked Ms. Huntley if she had any idea on the size of the leach field. She stated no, but she could find out.

Mr. Sibenaler then asked about the water connection and if they had separate taps. Ms. Huntley said yes, it was from Quail Meadows. Megan clarified that the American Road Water District serves the subdivisions in the area, so a tap would be granted by the district.

Mr. Jordan asked about the gas service and when it was installed. Megan then clarified that the permit was inadvertently issued. It was during a time of staff transition in the office and the new administrative assistant was not familiar with the process to issue new permits. The permit was requested under the address of 34 Quail Meadows, which is a valid address in the system. Since this is a new home, a new address should have been requested, and then a flag would have been raised in the workflow process. However, since the applicants provided the existing address, the permit issuer was not aware of the second home placement on the lot and was not informed it was a new home.

Mr. Averett then asked Ms. Huntley about the property purchase and her intent. She bought this property with one existing home on it, with the intent of putting another home on it to house her grandfather. He asked if the people who sold it to her gave her any information about the lot or the subdivision or where to go to get it? Ms. Huntley stated that Sharon Anton, the seller and previous owner of the property told her she could have a second home. Mr. Averett asked if it was the realtor who said that? Ms. Huntley stated yes, everyone told her she could do it.

Mr. Hildebrand then stated that this situation is not something the Commission is unfamiliar with, not even theirs specifically. They have had multiple cases in recent years where misinformation is provided to a purchaser, or a lack of information. And unfortunately, the Commission ends up backed into a corner. In this case, they are asking to rezone a parcel in the middle of the subdivision. If they grant that, they have now set a precedent and anyone that comes before them in the future, they either must allow them to rezone or they look like hypocrites. And if they start doing it for everyone, then what is the point of zoning. He sympathizes with the situation, but it puts them in a hard spot.

Mr. Averett inquired about expanding or adding on to the existing home on the lot? Then her grandfather could still have his own area and they wouldn't be faced with the issue we have now. Ms. Huntley replied that she is a single mom with two children, and they have already spent the money buying the lot and moving the mobile home out there. Mr. Averett stated that he really sympathizes and wants to allow this, but there are many issues. He knows from history in Campbell County that when you put two leach fields this close together, one day, you will have problems. Mr. Averett gave an example of people he has known in town that have had issues with leach fields that were too close together. He just doesn't feel comfortable granting the exception, because when does it stop? Next there will be requests for third homes on these lots because of someone's latest hardship.

Mr. Jordan stated he understands the situation, but as you look at the lot, there is barely room for one system, let alone two. Megan then stated that she is reviewing the original address file and that the original system was permitted in 1984. She also corrected that the

previous owner had the second system's tank pumped in 2004, not 2009. She reiterated that the pumping only verifies the tank size, not the functionality of the system.

Mr. Jordan pointed out that the original system was permitted in 1984, it is over 35 years old.

Mr. Dillinger then stated that he understands where the Commission is coming from in that they don't want to set a precedent or seem arbitrary and capricious in their decision making process, however he thinks this request is a little different and doesn't have that danger because it was a previous non-conforming use. He understands that the non-conforming status was terminated, but that it was not through any fault of Mr. Standley or Ms. Huntley. As far as the septic concerns, they can look at alternative avenues, such as tying into a joint system, but at this point in his life, Mr. Standley would like to retain as much independence as possible. He doesn't necessarily need assistance hourly, but he does throughout the day, and that was the purpose of bringing the second home there.

Megan then interjected and stated the only compromise she could think of in this situation, if the Commission and the Standleys are open to it, is to grant a Conditional Use Permit allowing the second home until such time that Mr. Standley no longer resides there. Then the permit would expire, and the second home would need to be removed. It would not be allowed to continue as a rental property or house another family member. Megan stated staff is generally not in favor of this type of condition on a permit, as it is difficult to regulate and enforce provisions regarding who is living in a house. But it could be allowed under the regulations.

There was general discussion regarding the approval process for a conditional use. Ms. Huntley stated that the only reason she is pushing for this is because she made a promise to her grandmother when she died that she would take care of her grandfather and this is her only way of doing that. Mr. Averett then asked Ms. Huntley if she realized that if that septic system starts giving her trouble, she could potentially be out a lot of money trying to fix it. She said she understands that.

There was further discussion by the Commission and the applicants regarding the availability of information to potential purchasers of property. Chairman Hildebrand stated that the commission gets very frustrated in these types of situations because all of this could have been avoided by some honesty upfront by the sellers of the property. He also stated that the public, before buying any piece of property, should always pick up the phone and call the County and find out the correct information and ensure that your desired use of the property is acceptable. That then avoids all of this.

Mr. Jordan asked how someone could find out exactly what the septic system is capable of? There was discussion on the fact that you cannot evaluate an existing, installed septic system. It would just be used until such time that it fails. There was general discussion about the length of time the septic system has been there, how much it has been used and functional, as well as the historical use of the property. Ms. Huntley stated that they have

cleaned up a lot of the property; there was a lot of junk on the property when they purchased it.

Mr. Jordan asked what provisions the county has for when or if the septic fails? Megan stated that generally, the county allows people to use unpermitted systems until they fail and when they do, the use ceases. They are generally not allowed to install a new system, and if they are, it must be permitted. Megan stated that is probably something that needs to be addressed in a conditional use permit; if the septic fails while Mr. Standley is still living in the home, what would they do to replace it? Engineer Melinkovich addressed some of the comments regarding the system and stated that if the tank was still functional, it could be re-routed to a new leach field. There was discussion about the layout of the property and where replacement leach fields could be placed. Megan also noted there is a 30' drainage easement along the eastern boundary of the property.

There was further discussion on the historical site plans in the address file and where all the infrastructure is located. Chairman Hildebrand stated he had serious concerns about a 30-year-old septic system, especially being located next to a 30' drainage easement.

James Slattery, 32 Willow St. approached the Board. He stated he had been kind of following this because about three years ago, he came into the Public Works Office to request a separate service for a mobile home/RV for his parents to live in on his parcel and was denied. He said that there are multiple people in the area who have moved stuff off their property and were not aware they would lose the ability to bring it back. He stated he knows of other people in the area who have had leach field issues and solutions they came up with. There was further discussion by the Board and staff about the costs of replacing a leach field, different potential solutions and what types of septic systems can be permitted in the County.

Chairman Hildebrand stated that if they decide to apply for a conditional use permit, they should be prepared to turn in a detailed, highly accurate site plan completed by a licensed surveyor or engineer. He stated there are multiple site plans in the current file that show the septic in different locations on each one; none of them seem to accurately depict what is on the ground.

Chairman Hildebrand then stated he would be willing to review an application for a Conditional Use Permit and advised the Mr. Standley and Ms. Huntley to work with the Planning Office to do so. He then asked if there were any further questions or comments on the zoning case. There were none.

With that, Chairman Hildebrand asked for a motion. Commissioner Siebenaler moved to approve case number 20.02 COZ the Standley rezoning request. Commissioner Jordan seconded.

Voting was as follows:

Bob Jordan	No
Todd Hildebrand	No
Kurt Siebenaler	No
Harry Averett	No
Motion Fails	4/0.

Adjournment

There being no further business to come before the Board, Chairman Hildebrand adjourned the meeting at 7:52 p.m.

Todd Hildebrand, Planning Commission Chairman
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NOTE: Campbell County Planning Commission meeting minutes contain a summary of discussions and are not intended to be verbatim.