



**BOARD OF ZONING ADJUSTMENTS**  
**August 1, 2023 @ 6:00 PM**  
**AGENDA**

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*Public comment period after the introduction of each agenda item*

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF MINUTES –**
4. **RATIFICATION OF ADMINISTRATIVE APPROVALS**
5. **OLD BUSINESS**
6. **NEW BUSINESS**
  - A. **Variance Requests for Elegance At Kinyon Subdivision - Kinyon Rd**
    - **VAR23-01 Exterior Side Building Setback** - Reduction of exterior side BSB between buildings from 25- ft to 20- ft (Zoned RTH-MF12/) Owner: Kinyon, LLC (Planner: Dianne Morrison Lloyd)
    - **VAR23-02 - Lot Size** – Reduction in Lot Area from 3,000 SF to Minimum of 2,850 for seven (7) lots (Zoned RTH-MF12/ Owner: Kinyon, LLC (Planner: Dianne Morrison Lloyd)
    - **VAR23-03 - Lot Depth** – Reduction of Lot Depth from 100-ft to up to 95-ft for 13 lots (Zoned RTH-MF12/ Owner: Kinyon, LLC (Planner: Dianne Morrison Lloyd)
7. **OTHER BUSINESS**
8. **ANNOUNCEMENTS**
  - A. **Next Council Meeting: 08/08/2023 @ 6:00 PM**
  - B. **Next PC/BZA Meeting: 08/15/23 @ 6:00 PM**
  - C. **Next Tech Review Meeting: 08/24/23 @ 2:00 PM (Zoom)**
9. **ADJOURN**

**NOTE:** Although every effort on the part of the Planning Dept. is made to assure every Agenda is accurate and precise, periodically, for unforeseen circumstances out of our control, items and/or public hearings appearing on this agenda may become withdrawn, request to be tabled/moved to the next agenda, or subject to change with little to no notice. Citizens are encouraged to call City Hall/Planning Dept. (479-795-2750-option 4) to verify if an item of interest remains scheduled to be heard on this date.



**BOARD OF ZONING AND ADJUSTMENTS  
MINUTES OF MEETING  
AUGUST 1, 2023**

**1. CALL TO ORDER**

The Meeting of the Centerton Planning Commission was called to order by Planning Chairman Jeff Seyfarth at 6:00 P.M.

**2. ROLL CALL**

Those present and answering Roll Call were Jeff Seyfarth, Joey Ingle, Tony Davis, John Sessoms, Ben Lewis, Devin Murphy, Jerry Harris, and Brandon Swoboda. Others in attendance for the city were: City Planning Director Lorene Burns, City Planner 1 Erik Nystrom, City Engineer Alan Craighead, City Clerk Todd Wright, City Attorney Brian Rabal, and Planning Assistant/ Recorder Samantha Hartman.

**3. NEW BUSINESS**

**A. Variance Requests for Elegance At Kinyon Subdivision- Kinyon**

- **VAR23-01 Exterior Side Building Setback-** Reduction of exterior side BSB between building from 25 ft to 20 ft (Zoned RTH- MF12) Owner: Kinyon, LLC (Planner: Dianne Morrison Lloyd)
  - Tim Lemons from Lemons Engineering was present as the project Engineer.
    - He believes the assessment that was done by his staff says it all and no further explanation is needed.
  - Beth Oaks and Jessica Goedereis representing TriStar were present.
    - 204 lots, limited to max of 5 connected units.
    - 40 feet between structures instead of 50 feet
  - Lorene Burns gives staff update.
    - Proposed to be 204 lots of town homes that are zoned MTH MF-12 (12 units per acre). Zoning limits five connected single-family units
    - Zoning Code written in 2006 requires 25 feet on each adjacent lot at the end of the connected structures therefore putting 50 feet between the buildings. The residential townhome duplex is 20 feet which allows 40 feet between the structures.

- They are requesting to allow 20 feet so it would be allowing 40 feet between the structures.
- Beth Oaks said they would lose essentially 15 lots if they moved the structures to 25 feet. Tim Lemons counted 16 lots.
- The staff's opinion is the 25 feet required is a bit excessive and the code should be reevaluated.
- With 20 feet it allows them to evenly space their town homes and get the five units connected and laid out well with their development and its still 6.78 units per Ac which is still below the 12 units per Ac.

**The commission had no questions and Jeff Seyfarth entertained a motion. John Sessoms made a motion to open the public hearing with a second from Craig Langford. No members were opposed, and the public hearing was opened.**

The public didn't have any comments or concerns.

**Joey Ingle made a motion to close the public hearing with a second from John Sessoms. No members were opposed, and the motion was carried out.**

- Tony Davis questioned if we allowed other homes to go through with less.
- Lorene Burns said yes but it's typically with PUD to reduce the spacing.
- Joey Ingle asked if Fire had any comments. They didn't have any concerns.

**The Planning Commission considered the following:**

- **Preservation of Intent**
  - The applicant's response was "If granted it would be consistent with the current zoning.
  - The Staffs findings- The reduction of the exterior side building setback does not change the use of the property and still allows for sufficient spacing between building of a total of 40 feet. The development will remain By Right Use. It will provide for a better use of the property.
    - No objection by the Commission
- **Exceptional Circumstances**
  - Applicant's Response- This development was originally designed for the Sewer to connect into the future lift station that the city was going to install on Highway 279. The city needed property adjacent to this for the future lift station. We dedicated the easement at no cost understanding that it would provide the needed sewer connectivity for this development. It is their understanding that the lift station on 279 is being put on hold with no timeline with if or when the project will be completed.

- Staff Finding's- With the unexpected lift station, the lots needed to shift therefore reducing the side setbacks from 25 to 20 feet between the building as well as minimally impacting the area requirements on 10 lots and a lot of depth on 12 lots.
  - If this is approved, it will also reduce the amount of potentially non-buildable areas where there is little room for site elements while maintaining the RTH MF- 12 density requirements.
  - Staff's Finding- The applicant is also developing Crystal Cove PH 4 to the East and Kinyon Springs Valley to the West. The sewer Easement provided by the applicant is located on the Kinyon Springs Valley Properties. It is adjacent to the detention pond, and it does not appear to impact the exterior side setback. Although the redesign due to the sewer easement did impact the design of Kinyon Springs Valley. No exceptional circumstance found to exist however the existing RTH MF-12 is required to have what may be considered an excessive 50-foot between 5 single family structures.
  - Jess Seyfarth responses with there is no exceptional circumstances in this particular case.
    - The commission agreed.
- **Hardship Not Grounds for Variance**
- Applicant's Response- Hardship is imposed by the originally agreed upon sewer connectivity being on hold.
  - Staff's Findings-
    - Commission Agrees that there is no hardship.
    - It is known from the bigger that 50 feet was needed before planning.
- **Preservation of Property Rights**
- Applicant's Response- Property rights of the applicant are preserved because of the reduction of side setback with the minimal reduction to area requirements.
  - Staff's Findings- The literal interpretation of the ordinance will deprive the applicant of any rights developing the property however 25-foot required setback does limit the developer and the ability to maximize the allowed units yielded 12 units an acre as allowed by the zoning district of the RTH MF-12
  - Jeff Seyfarth believes this is the hardest question.
    - The Commission disagrees.
- **Absence of Detriment**
- Applicant's Response- Will not compromise any other surrounding areas of the development.

- Staff Findings- Requested setbacks from 25 to 20 feet will not impact any of the properties for the health, safety, welfare of the community.
  - Jeff Seyfarth agrees that it wouldn't have any impact on the surrounding area.

**Jeff asks if there are any questions or comments from the commission before they vote.**

- Tim Lemons states the following:
  - Tract A has a pond for a Water detention that goes with multiple subdivisions.
  - 50 feet between structures is excessive and uncommon.
  - Tim Lemons admitted to making a mistake and thought he planned it for the 25- Foot setback.
  - The planned density is half of the allowance.
- Jeff Seyfarth asked what the applicants will offer for the 10 feet. Tim Replied that the Fire Marshall was more tied into this and if he had a problem, he would let us know and he approved.
- Joey Ingles said he has a hard time because there is no hardship.
- Beth Oaks mentioned that they donated an Easement through Kinyon Springs to run the Sewer Extension. Kinyon Springs, Elegance of Kinyon, and Crystal Cove all run together so Lapis Avenue couldn't get moved since they are all connected.
- Jeff Seyfarth asked if they can add extra greenspace. Tim Lemons responded with he believes there is already additional area.
- Jessica G from TriStar Contractors joined in and talked about the Hardship and that they donated the easement free of charge to the previous Administration left and the new administration tabled the project. Centerton was supposed to provide sewer for all 3 projects. Now we have the added cost of a lift station on these projects due to the land of the easement being donated.
- Tony Davis would like to see them come back with a PUD or another site plan, but the timing takes a toll.
- Lorene asked the Commission about Amending the Code this way it gives the Commission time to look into the side setbacks. Hopefully the Council would agree and they would meet code. The 1<sup>st</sup> meeting in September could be a public hearing.
- Brian Rabel may recommend the City Council to change the code. Theres a procedure that's dealing with several other individuals that will vote to amend it or not. You can't rely on change.
- If the Commission denies the variance, the applicant can't go to the Council Meeting to overturn it. The Circuit Court will make a decision.
- If the code was amended, we can vacate their request if the applicant tables the VAR.

- Jessica asked if tabling the setback, can we do the lot depth and area?
- After reviewing all 3 Variances, Jessica agrees to have the Commission vote on all 3.

**No other questions from the commissioners, Jeff Seyfarth entertained a motion. Joey Inge motions to deny the requestion by TriStar (VAR23-01) for Exterior Side Building Setback from 25- feet to 20- feet with a 2<sup>nd</sup> from John Sessoms. In a Roll Call, all commission members voted not in favor.**

- **VAR23-03 Lot Depth-** Reduction in Lot Depth from 100- Feet to up to 95- feet for thirteen lots (13) lots (Zoned RTH- MF12) Owner: Kinyon, LLC (Planner: Dianne Morrison Lloyd)
  - Largest variances are Lot 92 through Lot 99- Request a 5-foot reduction because of the property layout with the other properties meeting the 100 feet lot depth.
  - The other lots short on depth are on the SW corner. Adjacent Subdivision, Kinyon Springs valley has Lapis Dr. and Elegance of Kinyon is connecting to the adjacent lot. No minimal lot depth in a R3-MF12 (Kinyon Springs Valley). Therefore, the lot depth starts at 95.21 feet and then the road is curved in order to make conforming lots. They need a few lots in order to do that.
  - Joey Ingles noticed lot 83 needs to be added on Variance. 99.7 lot depth. Tim Lemons believes that is a typo. Alan Craighead says the properties go down by a 10<sup>th</sup>. After going over numbers, the lots are under by 3/8 of an inch according to Alan Craighead because of the property lines. The barriers are different than others.
  - Joey Ingle talked about rotating Lots 92 through 99 pacing them North South to fix the problem. Tim Lemons said they will lose 2 townhomes and we will be doing duplexes and not quadplexes. Allan added that if you do rotate the lots, you are decreasing the Lot Depths to about 185 by 175.
  - Tim Lemons said that all properties still will be at or above the minimal setback in the backyard.
  - Tim Lemons noted that they can adjust the boundary on the East side of Lot 58 and angle the property to meet the 100- feet minimum.
  - Tony doesn't see that most of these properties are a hardship.
  - Alan Craighead- No matter how you arrange the lots and R.O.W there is still a 90- foot.

**The commission had no questions and Jeff Seyfarth entertained a motion. Tony Davis made a motion to open the public hearing with a second from John Sessoms. No members were opposed, and the public hearing was opened.**

The public didn't have any comments or concerns.

**John Sessoms made a motion to close the public hearing with a second from Ben Lewis. No members were opposed, and the motion was carried.**

**The Planning Commission considered the following:**

- **Preservation of Intent**
  - Staff finding is that a change of 5- Feet Lot Depth on 15 Lots doesn't change the land use
    - The Commission doesn't Disagree.
  
- **Exceptional Circumstances**
  - The applicant's response- This development was originally designed for the Sewer to connect into the future lift station that the city was going to install on Highway 279. The city needed property adjacent to this for the future lift station. We dedicated the easement at no cost understanding that it would provide the needed sewer connectivity for this development. It is their understanding that the lift station on 279 is being put on hold with no timeline with if or when the project will be completed.
  - Staff findings also developing Crystal Cove to the East and Kinyon Springs to the West. The Sewer Easement the applicant is located on the Kinyon Springs with no lot requirement.
    - Jeff Seyfarth and Tony Davis don't believe all they asked for were Exceptional Circumstances.
    - Joey Ingle doesn't believe the Sewer is enough of a Hardship. It's your job to make sure these lots have sewer.
  - Beth Oaks says we need these Variances to Recoup the money since the Sewer project fell through. We don't own the properties and if the owners can't make the numbers work, the properties won't develop.
    - Jeff Seyfarth believes that should have been their first answer.
    - Jeff wanted to confirm on the Southern lots that due to the road that they are ok with the request.
    - Tony Davis thinks the special circumstance is the connectivity to the other subdivisions.
    - Jeff Seyfarth agrees that the Exceptional Circumstance is the interconnectivity of the other neighborhoods.
    - Considering all lots and not breaking them to clusters
  
- **Hardship Not Grounds for Variance**
  - Applicant's Response- Hardship is Opposed by the originally agreed upon sewer connectivity being on hold.
  - Staff Findings- Lots 49-53 are impacted by the requirement for street connectivity between Crystal Cove PH 4 and Elegance at Kinyon, and Kinyon Springs and could be considered a hardship in order to make the connection between Elegance and Kinyon Spring Valley, which don't have a Lot Depth requirement. The lots needed to be adjusted in order to

march common property lines on Lots 93, 94, 97, and 98 or interior impacted by the measurement constraints due to the property dimensions and all other lots meeting the minimum lot depth of 100.

- Jeff Seyfarth agrees on the top part but agrees with Brandon that they could have planned it a bit better.

▪ **Preservation of Property Rights**

- Applicant Response- The owners rights are preserved because the reduction of side setbacks the minimal production of the lot depth on 7 lots and area requirements on 12 lots will result in the buildable lots conforming and all the other aspects to the RTH- MF12 zoning district
- Staff Findings- Do not believe that the literal interpretation of the ordinance will deprive the applicant of any rights for developing the property.
  - Jeff Seyfarth believes at the end of the day they can build this lot differently.

▪ **Absence of Detriment**

- Applicant's Response- The request will not impose a detriment to any additional property, and it will not materially impair the public interest.
- Staff Finding- It will not impact any of the properties for the health, safety, welfare of the community.
  - The commission doesn't disagree.

**Jeff asks if there are any questions or comments from the commission before they vote.**

- Brian Rabel said a motion can be made to separate the lots for approval.
- A discussion was had based off of how the Public Notice went out because of adding additional lots that were found with less lot depth. Ultimately Kayla Knight confirmed there was the amount of lots on the notices.

**With no other questions from the commissioners, Jeff Seyfarth entertained a motion. John Sessoms grants the request by Tri-Star Contractors for up to 5- foot reduction of lot depth for Lots 92 through 99 and 82 and 83 for the proposed Elegance of Kinyon Subdivision.**

After the commission had a quick conversation about wording with what they were wanting, the motion was resaid.

**MOTION REDO- Based upon the conclusion of each of our findings I moved to Grant and request TriStar Contractors for up to 5- foot reduction lot depth for Lots 49, 50 through 53, 82, 83 and deny 5- Foot lot reduction in Lots 92 through 99 for the proposed Elegance of Kinyon Subdivision with a 2<sup>nd</sup> from Tony Davis. In a Roll Call, eight (8) commission members voted in favor and one (1) commission member voted not in favor.**



- Alan read the zoning code and it reads the depth of the lot should be considered between midpoints of straight lines connecting the foremost points of the side lot lines. Therefore a few of the lots didn't need the approval.
- **VAR23-02 Lot Size-** Reduction in Lot Area from 3,000 SF to Minimum of 2,850 for seven (7) lots (Zoned RTH- MF12) Owner: Kinyon, LLC (Planner: Dianne Morrison Lloyd)
  - Requesting Lots 50 through 52 because of the Depth of the Lots. Area of square foot ranges from 58.56 to 126.48.
  - Lots 93, 94, 97 and 98 are no longer needed because VAR23-03 wasn't approved.

**The commission had no questions and Jeff Seyfarth entertained a motion. John Sessoms made a motion to open the public hearing with a second from Joey Ingles. No members were opposed, and the public hearing was opened.**

The public didn't have any comments or concerns.

**Ben Lewis made a motion to close the public hearing with a second from Joey Ingle. No members were opposed, and the motion was carried out.**

**The Planning Commission considered the following:**

- **Preservation of Intent**
  - Applicant's Response- If granted it would be consistent with the permitted uses allowed in the current zoning.
  - Staff Findings- The sizes for the 7 lots does not change the use of the property. The development will remain a buy right use in the RTH MF-12 Zoning
    - The Commission Agrees
- **Exceptional Circumstances**
  - Applicant's Response- This development was originally designed for the Sewer to connect into the future lift station that the city was going to install on Highway 279. The city needed property adjacent to this for the future lift station. We dedicated the easement at no cost understanding that it would provide the needed sewer connectivity for this development. It is their understanding that the lift station on 279 is being put on hold with no timeline with if or when the project will be completed.
  - Staff Finding- Developing Crystal Cove PH 4 to the East and Kinyon Springs to the West. The Sewer Easement for the applicant's property is located on the Kinyon Springs subdivision with no minimum lot depth.

- John Sessoms believes Lots 50, 51, and 52 are exceptional Circumstances for imposing the connectivity through 3 subdivisions.
- **Hardship Not Grounded for Variance**
  - Applicant's Response- Hardship is Opposed by the originally agreed upon sewer connectivity being put on hold.
  - Staff Findings- Lots 49-53 are impacted by the requirement for street connectivity between Crystal Cove PH 4 and Elegance at Kinyon, and Kinyon Springs and could be considered a hardship in order to make the connection between Elegance and Kinyon Spring Valley, which don't have a Lot Depth requirement. The lots needed to be adjusted in order to match common property lines on Lots 93, 94, 97, and 98 or interior impacted by the measurement constraints due to the property dimensions and all other lots meeting the minimum lot depth of 100.
    - Commission agrees to disagree.
- **Preservation of Property Rights**
  - Applicant's Response- The property rights are preserved because the reduction of side setbacks the minimal production of the lot depth on 7 lots and area requirements on 12 lots will result in the buildable lots conforming and all the other aspects to the RTH- MF12 zoning district.
  - Staff Findings- Do not believe that the literal interpretation of the ordinance will deprive the applicant of any rights for developing the property.
    - The commission agrees.
- **Absence of Detriment**
  - Applicant's Response- The request for sustain any detriment to the addition property or that it will materially impair the public interest.
  - Staff Findings- It will not impact any of the properties for the health, safety, welfare of the community. It is 5% of the required three thousand square feet area requirement.
    - The commission does agree.

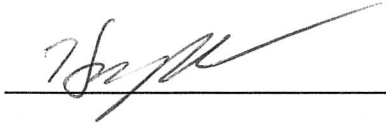
**With no other questions from the commissioners, Jeff Seyfarth entertained a motion. Joey Ingles motions to grant the request by TriStar (VAR23-02) for up to 150 square feet reduction of lot area for Lots 50, 51, 52, 93, 94, 97, and 98 in the Elegance at Kinyon Subdivision. In a Roll Call, all commission members voted not in favor.**

#### **4. ANNOUNCEMENTS**

- Next Council Meeting: 08/08/2023 @ 6:00 PM
- Next PC Meeting: 08/15/2023 @ 6:00 PM
- Next Tech Review Meeting: 08/24/23 @ 2:00 PM (Zoom)

**5. ADJOURN**

John Sessoms made a motion to adjourn the meeting at 9:20 PM, with a 2<sup>nd</sup> from Tony Davis. No commissioners were opposed, and the meeting was adjourned.

A handwritten signature in black ink, appearing to read "Jeff Seyfarth", is written over a solid horizontal line.

Jeff Seyfarth- Planning Chair  
Centeron Planning Commission

Minutes Prepared By: Samantha Hartman