



**CENTERTON BOARD OF
ZONING ADJUSTMENTS
July 5, 2022 @ 6:00 PM
AGENDA**

Public comment period after the introduction of each agenda item

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
 - A. N/A
- 4. OLD BUSINESS**
- 5. NEW BUSINESS**
 - A. **VAR22-07 Buttle -Building Setback**-1050 Sawtooth Ct- (Zoned R2 / 1.39 Ac / up to a 5-ft reduction in side BSB from 7-ft to 2-ft) *Owner: Kirk & Kelly Buttle (Planner: Donna Wonsower)*
- 6. OTHER BUSINESS**
- 7. ANNOUNCEMENTS**
- 8. 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for unforeseen circumstances out of our control, items and/or public hearings appearing on this agenda may become withdrawn, request to be tabled/moved to the next agenda, or subject to change with little to no notice.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.



**CENTERTON BOARD OF
ZONING ADJUSTMENTS
MINUTES OF MEETING
July 5, 2022**

1. CALL TO ORDER

The Meeting of the Centerton Planning Commission was called to order by Planning Commission Chairman Jeff Seyfarth at 6:01 p.m.

2. ROLL CALL

Those Present and answering to Roll Call were Jeff Seyfarth, Joey Ingle, Devin Murphy, Jerry Harris, John Sessoms, Ben Lewis, Tony Davis, and Brandon Swoboda. Craig Langford was absent. Others in attendance for the city were City Attorney Brian Rabal, Planning Director Lorene Burns, Sr. Planner Dianne Morrison Lloyd, City Planner Donna Wonsower, City Planner Erik Nystrom, City Planning Assistant/Recorder Kayla Craft, City Engineer Alan Craighead, Fire Marshal Paul Higginbotham, and Mayor Bill Edwards.

3. APPROVAL OF MINUTES- NONE

4. OLD BUSINESS – NONE

5. NEW BUSINESS

A. VAR22-07 Buttle -Building Setback-1050 Sawtooth Ct-Oaktree Subdivision (Zoned R2 / 1.39 Ac / up to a 5-ft reduction in BSB from 7-ft to 2-ft) *Owner: Kirk & Kelly Buttle (Planner: Donna Wonsower)*

- Jeff Seyfarth introduced the item then recused himself from this item. Joey Ingle proceeded and called Kirk and Kelly Buttle to speak on their request.
- The couple plans to move here when Kirk retires. Due to Kirk's hobby, woodworking, they would like to build a 1050 sq ft shop to reduce the mess in their main garage. The architect specified the square footage to be 1936 which includes an attic space that will not be used as a living space. They intend to build a half-bath. Their intent is to build the shop to fit the home design, POA requirements and request of their neighbors. They face the challenge of matching the architectural style and slope of the current home's roof.

- Kirk addressed the staff notes Planner Donna Wonsower made regarding the 7-ft setback requirement including creating space between structures and to create space for drainage and utilities. They pointed out there is approximately 150 feet away from any of their neighbors' structures and to their knowledge there are no utilities in that area. Without the 5 feet that goes over the setback, the back wall of the shop would be at an awkward angle, and they mentioned their lot is sloped which has impacted the design. In the future, the garage would not be a functioning garage that could house cars. They stated the comments made by the Building Department, and Fire Department will be addressed and brought to code during the project outside of the 5-ft variance and vacation to be addressed in the Planning Commission meeting to follow. Kirk did offer to play drone footage of the area; however, Joey Ingle stated for the purposes of this meeting the Planning Commission is focused on the 5-foot encroachment on the setbacks.
- City Planner Donna Wonsower stated this request included a vacation and a variance. Oak Tree subdivision did dedicate all the setbacks for drainage and utility easements. Donna did acknowledge the architect's square footage does include the attic space. Responses were summarized due to the length of the narrative.
- The City Planning Department has received approval from POA pending the City's approval. All public hearing notices have been met. Request is for the Side Building Setback to be reduced from 7-ft to 2-ft. A correction was made regarding the size of the current attached garage as the garage is a 4-car garage instead of the aforementioned 3.
- As of 07/05/2022, the Planning Department has not received notification that there are utilities present in the requested area; however, there are still a few utility companies the department has not heard from.
- Joey Ingles entertained the motion to open to the public hearing. John Sessoms made a motion to open the Public Hearing for **VAR22-07 Buttle - Building Setback-1050 Sawtooth Ct- Oaktree Subdivision** with a second from Devin Murphy.

There were no comments from the public in attendance. John Sessoms made the motion to close the Public Hearing for **VAR22-07 Buttle -Building Setback-1050 Sawtooth Ct- Oaktree Subdivision** with a 2nd from Devin Murphy.

- The planning commission considered the following items, reading both the Applicants Response and Staff Comments:
 - **PRESERVATION OF INTENT:** Joey Ingles brought up concerns about fire codes and the building of the exterior walls. Kirk Buttle said they would follow whatever code required. Paul Higginbotham from the Fire Department chimed in to confirm the fire code can be met, it will just cost more. After intense discussion by the Planning Commission, roll call was requested. **Joey Ingle, John Sessom and**

Ben Lewis stated they agree with staff that the addition is not consistent with preservation of intent. Tony Davis, Devin Murphy, Brandon Swoboda and Jerry Harris voted in favor of the Applicant, stating the addition does preserve intent.

- **EXCEPTIONAL CIRCUMSTANCE:** Staff findings stated there was not an exceptional circumstance as an addition could be created without the 5-foot encroachment in the setback. Joey Ingle stated he agreed with the staff findings. Tony Davis stated they agreed there was an exceptional circumstance that would impact the functionality of the addition due to the slope of the lot. Because there is a lot owned by the POA, there is not an exceptional circumstance but there is an opportunity. They could possibly buy part of the land from the POA to avoid the variance. **In roll call, Joey Ingle voted there was no exceptional circumstance. John Sessoms, Ben Lewis, Tony Davis, Devin Murphy, Brandon Swoboda and Jerry Harris voted there is an exceptional circumstance.**
- **HARDSHIP NOT GROUNDS FOR VARIANCE:** Applicant referred to previous responses to explain hardship. Staff findings stated the reduction of the width of the structure by 5-ft would allow for a 30-ft wide addition without the need for a variance or vacation. **All Planning Commission members agreed with staff that there is not a hardship that is grounds for a variance.**
- **PRESERVATION OF PROPERTY RIGHTS:** There were disagreements as to if denying this variance would deprive the applicant of substantial property rights. Tony Davis argued there would be a deprivation of substantial property rights as the applicant would not be able to use the land as they wanted if the variance was denied, and Jerry Harris agreed with Tony Davis. John Sessoms stated the setbacks were present when the lot was purchased so the applicant was aware of them and the regulations of the lot when it was purchased. The Planning Commission is not saying they cannot have an addition, they are just saying the addition needs to follow the coding regulations. **After discussion, Tony Davis and Jerry Harris stated denial of the variance would cause deprivation of substantial property rights. Joey Ingle, John Sessoms, Brandon Swoboda, Ben Lewis, Devin Murphy agreed the denial of the variance would not deprive the applicant of substantial property rights.**
- **ABSENCE OF DETRIMENT:** After discussion about the property relation to other plots of land. Staff brought up the possibility that approving this variance may set a precedent, John Sessoms and Tony Davis did not agree and stated the Planning

Commission handles each case independently. **All 7 members agreed there would be an absence of detriment if the variance was approved.**

- The Planning Commission asked Planning staff to explain the intent of a 7- ft setback. City Planner Donna Wonsower explained the 7-ft setback is intended to regulate how buildings are developed next to each other and to comply with fire code. Lorene Burns pointed out there is nothing stopping the POA from building on the land in the future other than the word of the POA currently. Paul Higginbotham explained the fire code requires a 5-ft allowance; however, the 5-ft does not consider any overhangs, so the number of 7-ft includes that consideration.
- With no further questions, Joey Ingle entertained a motion to approve or deny. Jerry Harris made the motion to approve **VAR22-07 Buttle -Building Setback-1050 Sawtooth Ct-Oaktree Subdivision** for up to a 5-ft reduction in the required 7-ft side building setback for the construction of a shop/garage on PID 06-01502-000 with Tony Davis as 2nd. Joey Ingles called for a roll call.
- In Roll Call vote, Brandon Swoboda and Joey Ingles voted no. Tony Davis, Ben Lewis, John Sessoms, Jerry Harris, and Devin Murphy voted yes. Jeff Seyfarth abstained from the vote. **With a 5-2 vote the motion passed and Kirk Buttle was advised to stay for hearing regarding the vacation request.**

6. OTHER BUSINESS-NONE

7. ANNOUNCEMENTS-NONE

8. ADJOURN

Joey Ingle entertained a motion to adjourn. Jerry Harris made a motion to close the Board of Zoning Adjustment meeting with Devin Murphy as 2nd. Meeting adjourned at 6:39 pm.



**Jeff Seyfarth – Planning Chair
Centerton Planning Commission**