



ATTENDANCE: K. Stinebaugh, Chair; J. Kosko; J. Falls E. Harris; G. Wilkins; H. Peckham and J. Perry were present.

STAFF: Pat Toth, Planning Director; Deann Farrell, Administrative Coordinator

COMMISSIONERS: None.

CO COUNSEL: None.

PUBLIC: Two (2) people signed in. Sign-in list is part of the official file copy located in the Planning Office.

NOTES: Chair called the meeting to order at 6:30 p.m.

ADOPTION OF THE AGENDA: February 4, 2025 Public Meeting

NOTES: Chair asked if there were any amendments to the February 4, 2025 Agenda. There were none. Chair asked for a motion. G. Wilkins made a motion to approve the agenda as presented. The motion was seconded by J. Falls. Chair called for a voice vote. All voted in favor. The minutes were approved 7-0 as presented.

APPROVAL OF MINUTES: December 3, 2024 Public Meeting

NOTES: Chair asked if there were any corrections to December 3, 2024 minutes. There were none. Chair asked for a motion. H. Peckham made a motion to approve the minutes of the December 3, 2024 Public Hearing as written. The motion was seconded by G. Wilkins. Chair called for a voice vote. All voted in favor. The minutes were approved 7-0 as written.

COMMUNICATIONS:

PUBLIC MEETING ITEMS:

1. Application #000004-2024 (Lamm) for a Variance to Article 25, Section 25-1.05 to allow for a second dwelling unit on one lot or tract of land. Said property is commonly known as 3281 K-68 Hwy. and is located on the North side of K-68 Hwy., approximately one-half (1/2)) mile East of Nebraska Ter., in the West Half (W ½) of the East Half (E ½) of the Southeast Quarter (SE ¼) of Section 29, Township 16 South, Range 20 East.

Staff Presentation: The Chair opened Staff Presentation.

P Toth presented the staff report for consideration of an application for a variance to Article 25, Section 25-1.05 to allow for a second dwelling unit on one lot or tract of land. The subject property is commonly known as 3281 K-68 Hwy. and is located on the North side of K-68 Hwy., approximately one-half (1/2)) mile East of Nebraska Ter., in the West Half (W ½) of the East Half (E ½) of the Southeast Quarter (SE ¼) of Section 29, Township 16 South, Range 20 East. The Applicant is requesting approval of a variance Article 25, Section 25-1.05 to allow for a second dwelling unit on one lot or tract of land in an R-E, Residential Estate Zoning District. In looking at the overall County, the idea is to keep within the rural way of life and atmosphere. Allowing more than one home per lot or tract of land may not seem too much in a one-off situation, however if allowed on other properties could compromise the entire premise of keeping with a rural lifestyle. Also, approving this variance once could set a precedence for this type of variance to be requested again. The principles through which we create lots is to ensure that once an area is maximizing what is considered capacity by default of which we cannot properly create conforming lots for the area, the creation of new homesteads in that area ceases and it is not until a city annexes that land or a developer creates a subdivision development does that area go back into rotation for further expansion of population. This property is considered a "piano key" piece of land. These types of tracts have minimum road frontage to allow for the maximum amount the lots could sell for at that time. The minimum lot length-to-width ratio is 4:1 to be in compliance with the current regulations. After Staff confirmed with KDOT that a new entrance would not be allowed onto K-68 Highway, and the tract could not be split into two (2) separate tracts because neither tract would comply with the lot length-to-width ratio, a variance to allow a second dwelling was the only option the applicant had. The second dwelling would utilize the same entrance as the primary dwelling. The second dwelling would have to obtain its own utilities such as a second water meter. The applicant stated we need to build a residence that is large enough in size for them and their four (4) minor children. Their grandfather still lives in the existing residence by himself and when their grandmother died in August of 2023, we realized the need for them to live closer to their grandfather. When the time comes their grandfather can no longer care for himself, the plan is to move him into their home. The applicant is requesting the variance for the second dwelling unit instead of applying for an ADU because the applicant is requesting to place the second dwelling in the back 5.00 acres of the 10.00-acre tract. The regulations for an ADU state it must be located a minimum of 10 feet from the PDU (primary dwelling unit) and no greater than 75 feet from the PDU. Another reason is because the applicant has four (4) minor children, themselves and in the future their grandfather so we would be constructing a residence with five (5) bedrooms and two (2) to three (3) bathrooms and approximately 2,000 to 2,200 square feet. There are no plans for a basement, however, if budget allows, we would like to construct a garage. The regulations for an ADU state we are limited to two (2) bedrooms and the maximum square footage shall be 1,200 sq. ft. The applicant did state that once the occupant no longer resided in the existing residence it would be demolished.

P. Toth briefly addressed each of the findings of fact solely based upon the evidence present that support the conclusions required by K.S.A. 12-759 as enumerated in the staff report for use by the Board of Zoning Appeals in making the findings necessary to approve or deny the requested variance. This included discussion on whether the request does or does not rise from a condition which is unique to the property in question; whether denial of the variance would constitute an unnecessary hardship on the applicant and if granting of the variance would be opposed to the general spirit and intent of the Franklin County Zoning Regulations. Staff does find the applicant's request is caused by actions of the applicant by wanting to place the new residence in the back portion of the property. With the fact we would have to extend the water line and electrical lines to the new residence Staff finds this isn't the most cost-effective option. Staff finds that the variance requested does not constitute an unnecessary hardship upon the property owner as other options are available such as an ADU that would comply with the regulations. The applicant could construct the new residence closer to the existing residence with the approval of a Temporary Use Permit and a bond to remove the existing residence within 30 days of the granting of a Certificate of Occupancy for the new residence. Since their grandfather would eventually live with them and the existing residence would be torn down this would be the best option for the applicant. It does not appear that granting the variance will adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. However, the granting of the variance could

possibly open the door for more people requesting this type of variance. The County adopted regulations for ADUs to assist the public in these types of cases. Based on this, Staff does recommend denial of the variance request. If the board decides to approve the variance request, staff recommends a condition requiring the applicant post a \$10,000 bond to ensure that once the current occupant no longer resides in the existing residence that existing residence would be torn down within sixty (60) days or the County would cash the bond to pay for the removal. Overall, staff does not find that adding a second primary residence complies with the policies set forth in the County Comprehensive Plan or the current County Zoning Regulations. Approving the variance could contribute to potential future problems as it could set a precedent for future applications for similar requests.

P. Toth had nothing further to add unless the Board of Zoning Appeals had any questions.

The Chair closed Staff Presentation.

Applicant Presentation: The Chair opened Applicant Presentation.

Brandi Lamm, the applicant, was present and stated the reason we are wanting to build a new residence on this property is because her grandfather is 83 years old. He is currently still able to do daily tasks on his own, however tasks like maintaining the property and stuff like that are getting more difficult for him. An extra set of eyes out there with him would be more ideal. We currently live in town. Her husband Chuck, who is also present this evening, and her have four children. We originally talked with Staff about the possibility of rezoning the property because we didn't know where to begin in the process. In those discussions, we found out we couldn't rezone the property because of the lot length-to-width ratio issue. We then discussed the possibility of doing an ADU. We weren't opposed to doing the ADU, however we do have four children. Traditionally, when you have a family member taking care of an elderly person, it's the child taking care of a parent. However, that's not an option for us. Her mom doesn't live in town. She has two uncles, one is addicted to drugs, and one has a wife in the Philippines, so all the funds that he has goes overseas. For the house, we weren't opposed to filing for an ADU, the only problem with that is the maximum square footage allowed for the ADU. With four children and themselves, the 1,200 square foot and 2 bedrooms maximum wouldn't work for their family. The only reason, as shown on the site plan that was submitted, we were proposing to build the new residence on the back ten (10) acres, was because we were under the impression that it couldn't be built next to the existing residence. Their intentions would be to build the new residence and then get rid of the existing residence after her grandpa moved in with them.

Chuck Lamm stated we aren't attempting to take grandpa's independence away from him immediately. We want to allow him to stay in his comfort zone as long as possible. Grandpa has always had a shop and always been able to tinker with stuff and move around his property to do his own thing. Him being reduced to live with them immediately isn't going to fit his lifestyle or good for his mental well-being.

Mrs. Lamm stated we also think it would be best for their kids to move grandpa into the home slowly rather than all at once and piling everyone into the house.

Mr. Lamm stated earlier staff stated that KDOT wouldn't allow a second entrance off K-68 Hwy. That is not what KDOT told them. He spoke with Sean at KDOT, and he said it isn't necessary to have the second entrance to the property if we were going to build a house further back on the property or even in front of the existing one because there are shared entrances and driveways throughout the County. The KDOT guy said it wasn't we couldn't have a second entrance it was the fact we didn't need one.

Mrs. Lamm asked if the board had any questions for them?

Mr. Lamm stated grandpa's residence is an older mobile home on a foundation. It is approximately 45 years old and he has resided one side of it because the weather got to the one side of the residence. It is not the best and at some point, we do intend to tear it down as soon as grandpa is no longer living in it. However, we don't know how long that will be because he is 83 years old and don't know how long he will be able to maintain living by himself now that grandma is gone. Grandma passed away 1-1/2 years ago and we found this to be a difficult situation because we are the grandkids and not his kids. We have been left to deal with all this stuff. When grandma was alive, we let her stay in the home because she didn't want to be in a nursing home. We were there daily trying to care for her, and it was a big strain on their family having to drive back and forth to town and had to break up their schedule. It seems more

appropriate for them to live on the property. Grandpa's residence isn't big enough for everyone to live in. Even if we decided to remodel the existing residence, or add an addition, the house is so old now and we don't know the condition of the foundation that is underneath to build on top of it. This is why we are requesting the approval to build the second residence on the property. We looked buying a new mobile home and placing it over the existing foundation but not sure what condition the foundation is in. The house we are proposing is only a couple hundred square feet bigger than what exists. We are not opposed to building the new residence in front of the existing residence, but it obviously can't be 1,200 square foot in size with only 2 bedrooms when there are going to be 6 people living there and eventually grandpa. Their kids are 10, 14, 15 and 16 right now that currently live in the home. At some point a couple of them will hopefully go to college in the future. That would then allow grandpa to move in at that point. We are just hoping he won't have to live with them immediately. But if it is then the bedrooms in the house are big enough that the 2 boys can share the bigger bedroom and give grandpa his own bedroom and his own bathroom, so he still has his own space. Then at that point we would remove the old mobile home and flatten the ground out.

J. Falls asked, so there is no issue with tearing down the existing house once it must be torn down?

Mr. Lamm stated there is no issue with tearing down the existing residence once grandpa is no longer living in it. The existing residence has a fairly new roof on it because he tried to maintain it as much as possible for grandpa and grandma. He also remodeled the bathroom by putting in a shower because grandma couldn't get into the. We have done what we can to keep grandma and grandpa in the existing residence, but it's still an old single family modular home. At some point it's going to need to come down and we don't have an issue with that. That's why we really don't want to try to add on to the existing residence because it really won't be financially worthy to try to fix it and add on to it so the entire family can fit in it. Or would it be better to have the new residence and then later on, once grandpa is living with them, get rid of the existing residence and give them more yard space.

J. Falls asked if we had any issue with posting a bond?

Mr. Lamm stated we don't fully understand what the bond is all about. This is a new process for them.

P. Toth stated the bond costs around \$100.00 a year and it is good for the entire year. Every year the existing residence is on the property, the bond must be renewed by paying the \$100.00 fee and bringing the new bond into our office. Once we are notified that the existing residence has been torn down and no longer being lived in, they would be allowed 60 days to remove the existing residence. If after 60 days the existing residence hasn't been removed or torn down, the County would cash the bond in order to pay to have the existing residence removed.

Mr. Lamm stated we wouldn't be opposed to posting a bond.

J. Kosko stated the bond is more of an insurance policy to ensure the existing residence is removed.

P. Toth stated the bond itself is really insurance for the County so that we can make this whole process work. The applicant can build their new home, and the existing residence can remain for a period of time. Once that period of time is over, the bond would ensure that the existing residence would get removed or torn down. The insurance company nor the applicant would want the County to cash in that \$10,000 bond when they are able to remove or tear it down themselves. It would be a lot cheaper for the applicant to do it themselves. The bond is just a guarantee that the existing residence would be removed or torn down because the applicant definitely won't want the County to cash the bond to do it. The bond has been posted most often when we would issue temporary use permits for hardship mobile homes. The County Regulations were changed when the ADU regulations were adopted and now we no longer issue temporary use permits for hardship mobiles because mobile homes are unsafe. A single wide is typically an unsafe structure over a long period of time unless they are kept up well. In this application Staff based on all the findings in the staff report on the fundamentals of the adopted comprehensive plan and zoning regulations, which don't fit everybody's intent or need. This is why we have the Board of Zoning Appeals to make decisions based on the applicant's request and presentation and Staff's presentation and recommendation.

J. Perry asked what is the length of a bond?

P. Toth stated each bond lasts for one calendar year and must be renewed every year. If staff doesn't receive the

renewed bond, we would send them a letter reminding them the bond needs to be renewed before it expires.

Chair asked when your grandpa gets to the point where he would have to move into your home, would you then remove or tear down the existing residence even if he is still alive?

Mr. Lamm stated when it gets to the point grandpa must live with us, he won't care too much about the old house at that point. Right now, he would definitely care if we went in and tore his house down. Another item he wanted to mention is that we aren't going after grandpa's property and building a new house and taking over. In the will, grandpa already established that we get the 10 acres on his passing. So, we would end up owning this property regardless and then have to figure out what to do with the old house at that point and build the new residence anyway. It is our intent to build on the property at some point, but this has all come to where we feel like we need to do it now rather than later.

Mrs. Lamm stated we were very unprepared when grandma got sick because it was literally one week she was in the kitchen doing her own thing and then bam she's in the hospital and then on to the nursing home and then she ended up passing.

Mr. Lamm stated in regards to the bond. Let's say five years from now we have paid all that money towards the bond, what happens when we call and say it is finally time to demolish the old house. What happens to that money that we have paid on the bond for the last 5 years? Does the County keep the money?

P. Toth stated the insurance company is the bond holder. The County is only allowed to cash in the bond, but the money is paid to the insurance company. It is lost money but that is part of the process and cost of business.

J. Kosko stated his questions are the logistics of installing a new septic system and being able to work around the existing residence. Do you know the setback requirement from the highway if the new residence was to be constructed in front of the existing residence?

P. Toth stated if the new residence was to be constructed in front of the existing residence, the K-68 Highway Corridor states all structures must be 100 feet from the property line and then there would be an additional 50-foot setback for a total of 150 feet from the front property line. KDOT has started the double lane K-68 Highway project in Louisburg and is heading towards Ottawa. The County extends the front setbacks so when the State gets to this area that new structure won't have to be torn down because it is within the state's setbacks. It's to keep the structure out of imminent domain for the future.

J. Kosko asked how far from the property line is the existing residence?

P. Toth stated he didn't measure from the front property line to the existing residence. When the applicant applies for a building permit the building official would look to ensure it meets the required setbacks. If the board decides to approve the variance request, the site plan that was proposed would probably work but we would have to extend the driveway to the proposed location. There's no reason the new residence couldn't be built behind or in front of the existing residence, it would just have to meet the same standards that any other building would meet other than we can't put it too close to other structures because it would need to keep the 5-foot fire separation.

J. Kosko asked if the driveway running along the side property line meets regulations?

P. Toth stated yes, the driveway can run along the side property line as long as it stays on their property.

Mr. Lamm stated we've actually drove back where we originally asked to put the house. We have no problem moving it further forward, in front of the pond. After the snow finally melted off, we walked back there and there's plenty of spots that we looked at in front of the pond, behind grandpa's house. There is enough area that could be cleared easily to build the residence there and not have to extend the driveway all the way to the back of the property or be all the way in front of the property. We've already looked at that and we're not opposed to building the new residence wherever it needs to go on the property. The section where the driveway would run, grandpa has driven back and forth in that area for 50 years now, so it is really packed down. We didn't really want to install a driveway all the way back on the opposite side of the property because grandpa wanted to see if we could use the same side because it is already

packed down and just need to put gravel it down.

Mr. Peckham stated he is looking at the overhead aerial photo and it appears there are diagonal lines going through the property. Are there gas pipelines on the property?

P. Toth stated yes there are gas pipelines going through the property. When they submit their building permit, staff would have to make sure they stay at least 30 to 33 feet from the center of the pipeline, on both sides, depending on which pipeline company owns the lines. So, the setbacks would be approximately 60-66 feet for the pipeline.

J. Kosko asked if they would be able to build a driveway over the pipelines?

P. Toth stated as long as they are only putting gravel down and not using concrete, or anything permanent, then they can build over the pipeline. If they were to concrete the driveway then they would have to get ahold of the pipeline company to get approval. The pipeline company does allow concrete over the pipeline but would have to coordinate with the pipeline company. Gravel isn't an issue because it can be dug up to access the pipeline with no problem.

G. Wilkins asked in regard to the additional structure, the County currently has a 1,200 square foot limit for an ADU, does that include the foundation? Could a person put another 1,200 square feet on top and build a two-story residence?

P. Toth stated the 1,200 square foot limit is living space. The ADU allows a 24' x 24' garage and then a lot of times there would be the living space directly on top of the garage to make it more square. Sometimes we want to build the garage to the side but would still be limited to the 24' x 24' size garage. That would be the only time you could get a second floor, if the living space was on top of the garage. The 1,200 square foot limit is living space and not square footage of the house.

H. Peckham asked if the existing residence is old mobile home or modular?

Mr. Lamm stated it is an old 80' x 16' double wide on a foundation.

H. Peckham asked the applicant if they intended on tearing down the old residence?

Mr. Lamm stated yes, we do intend on tearing down the old residence.

H. Peckham asked if they think grandpa would be opposed to moving in with them right now?

Mr. Lamm stated yes grandpa would be opposed to moving in with us right now. We have discussed it with grandpa, and he is not real keen on the idea of them taking his independence away from him right now. He is 83 years old but still functions daily by himself but there will be a time when he won't be able to.

J. Kosko asked where is the septic system to the existing residence?

P. Toth stated there hasn't been an inspection on the property yet but would figure all that out through the Environmental Health Department once a decision is made this evening. The decision this evening will then determine whether a building permit can be applied for or not. Then a soil profile would have to be conducted to determine what type of system can be installed on the property and would also find out where the existing system is at that time.

The Chair closed Applicant Presentation.

Public Comment: The Chair opened Public Comment. There were none. The Chair closed Public Comment.

Board Discussion: The Chair opened Board Discussion.

G Wilkins asked if staff received any comments from surrounding property owners?

P. Toth stated Mr. Evans came into the office asking what the variance was about. Mr. Evans didn't have anything he definitively he wanted to give us, was just curious as to what was being proposed.

G. Wilkins stated from her personal point of view. She is very sympathetic with their situation because she's taking care of aged parents as well. However, she thinks that given the regulations that are currently adopted, there are some other options available to the applicant and that kind of presents a bind for her to approve it. She thinks given that there are other options and there, albeit she understands they are not the applicants' choice of options, or preference, she would have to deny the variance request. She's also afraid that by approving the variance request that would set a precedent for other properties to request the same and she's not comfortable doing that.

H. Peckham asked staff to explain #2 under the findings to deny the variance? It states there are other locations on the property where the structure could be constructed and comply with the regulations.

P. Toth stated that finding fell more into the lines with the ADU being applied as a situation.

G. Wilkins stated other locations on the property would be if the applicant built between 10 and 75 feet from the existing structure they would be in compliance with the regulations. However, they still wouldn't comply with the maximum square footage or number of bedrooms allowed for an ADU.

P. Toth stated what staff was trying to state is that we aren't trying to build a structure so far out in the distance and wanting to keep everything kind of condensed to the area so that we are still utilizing the majority of the driveway and similar utilities. However, we are going into this variance request not knowing how long the existing structure is going to be on the property and what the applicant's personal situation was with it. So, staff looked at it that if we are going to have 2 residences on one lot or tract of land, we should be closer together rather than on opposite ends of the property.

H. Peckham stated then the new residence should probably be constructed right in front of the existing residence. Or either right beside or behind the existing residence.

P. Toth stated staff was looking at the East side of the property because of the existing driveway. The setbacks from side property lines is only 25 feet and if measure to where the shop is in the back, that is probably as far as the new residence would need to be from the East property line. That leaves a good amount of room to build to the East of the existing residence, however with all the trees you can't tell exactly where everything is. They would have to do some dirt work for the home and can remove some of the trees. The biggest concern was the new residence generally being on the property. If we build to the East, as long as the existing residence is removed staff has no concerns as to where they build the new residence. It is a perception type of situation where if there are 2 residences on one property for an extended period of time more people are going to notice and could potentially request a similar variance. Mr. Evans owns one of the properties to the rear of this tract and was concerned they would be encroaching onto his property. The further you go back on the property the more wooded it becomes. Keeping things condensed on the entire property wouldn't really change if the new residence was built close to the existing residence. The new residence would have its own septic system but with an ADU we would have it connect to the existing system. The applicant was able to get approval of an additional water meter.

G. Wilkins stated there are several lots in the County that are narrow like this property. She also doesn't believe the County wants to get into the business of having to remove structures. By approving this variance application, we are setting the County up to an additional issue.

P. Toth stated this request is similar to the temporary use permits that are issued to an applicant that has submitted a building permit for a new residence that has an existing residence on the property. Normally, the applicant would get approval of a temporary use permit to continue living in the existing residence while the new residence is under construction. A bond is required, assigned to Franklin County, insuring that existing residence is removed within 30 days of receiving the Certificate of Occupancy for the new home. Technically, this application is a more extreme case of the Temporary Use Permit. When asked about the second dwelling, staff could have the argument that this isn't a permanent situation. However, the biggest concern is that it isn't a permanent situation until it is a permanent situation because we don't have the personnel to go out and remove existing dwellings. Staff does what we can with the bond as a guarantee that the dwelling will be removed. The planning and building department issues about two to three

temporary use permits a year. Staff's recommendation is based on the current regulations and no personal feelings are involved in making the recommendation.

Chair asked if the bond is required to be renewed every year?

P. Toth stated yes, the bond must be renewed every year. If it takes 2 years to build the new home, then you have to pay the \$100 fee every year. Then the bond must be brought into the office and staff files the bond. This process continues until the project is complete. If staff hasn't received the renewed bond then a letter would be sent out letting them know they need to renew the bond as soon as possible.

J. Kosko asked what happens if they don't renew the bond?

P. Toth stated if the bond isn't renewed then the County would threaten to cash the current bond.

J. Kosko stated he thinks it would cost more than \$10,000 to tear down an existing residence and dispose of all the materials.

P. Toth stated there is a precedence of issuing a bond for the removal of an existing residence that has come before the board with the Peter Clark variance application. There is an existing residence, that is occupied, on a property that is zoned C-2, Highway Commercial. In the current County Regulations residences are not allowed in the C-2 Zone so the board issued a variance to the zoning regulations to allow the residence to remain for 5 years and that a bond be issued every year until it is removed.

Chair asked if the board could add a condition that the residence be removed within certain time limit?

J. Falls asked if the condition could state that the residence must be removed within 10 years?

Mr. Lamm stated grandpa is 83 years old right now so in 10 years he would be 93 years old.

J. Falls stated at 93 he could still be independent, so there should be a condition stating in 10 years the residence must be removed. The applicant would still have to pay the \$100 bond fee every year for 10 years or until the existing residence is removed. That bond fee would be an incentive to get the residence removed as soon as possible.

H. Peckham asked the applicant if they would be opposed to building the new residence next to the existing residence?

Mr. Lamm stated we are not opposed to moving the new residence closer to the existing residence. The site plan showing the new residence on the back 5 acres was done when we thought we would have to rezone the property and do a lot split to create another parcel for the new residence. However, with the lot length-to-width issue we realized that a rezoning and lot split wouldn't be possible because we wouldn't be able to meet those requirements. He would rather build the new residence closer to the front of the property because that would leave a lot more room to ride 4 wheelers.

H. Peckham asked staff if they were to build the new residence closer to the existing residence then the variance wouldn't be required and they could just get the ADU?

P. Toth stated the original plan was to attempt to do a lot split with another variance to the lot length-to-width ratio. If we were to build the new residence closer to the existing residence that would be ideal because the lot split is no longer an option. The issue is that even if they build closer to the existing residence and meet the maximum separation distance for an ADU they still wouldn't meet the other ADU regulations because they are wanting to build a residence that won't meet the maximum square footage or number of bedrooms allowed.

H. Peckham asked if a variance could be approved for the square footage for the ADU?

P. Toth stated yes, the board could decide to approve a variance for the square footage of the ADU. However, we could say if they meet the separation distance requirements they could do a variance to the square footage of the new

home. This would just be replacing a primary structure with an accessory dwelling unit. So regardless of what the board decides, a variance to the regulations will have to be approved. It's just a matter of which one you want. Staff's opinion is if we are doing two primary structures, we don't have to be next to each other due to the fact one of them would eventually be removed and won't contribute to the location of the new residence. The new residence would then become the primary dwelling because the old residence would be removed and is back to only one residence on the property. The variance before the board this evening is for the regulation stating only one residence is allowed per lot or tract of land. The location and separation from the pipelines, etc. would be dealt with during the building permit process. If the board wants to consider the variance to the square footage for the ADU that is a possibility. However, since the square footage of the ADU would be larger than the primary dwelling unit then the new residence basically becomes the primary dwelling unit because the purpose for the ADU is for it to be an accessory dwelling to the primary dwelling. To answer the question asked earlier about the septic system for the existing residence. Staff attempted to find information about that septic system, but it must have been constructed prior to adopting the Sanitation Code and record keeping.

J. Kosko stated with the proposed house being bigger than the existing septic system a larger septic system would need to be constructed.

P. Toth stated a new system would most likely need to be installed and the soil profile would state what type and size of system would need to be installed based on the soil type for that property.

G. Wilkins asked if any building plans had been submitted for the proposed new residence? Any timeline been stated as to when construction would begin?

P. Toth stated the decision of the board this evening would dictate when the building permit would be applied for. If the variance isn't approved, then the plans may change or may not happen at all. The size of the new residence isn't an issue to staff, it is whether the board wants to approve a variance to allow 2 primary residences on one tract of land. With the understanding that the existing residence is temporary, does the board want to add a condition that the existing residence must be removed in 10 years and that a \$10,000 bond be posted and renewed every year until the existing residence is removed?

Mr. Lamm stated we have been approved for a builders loan. We have also received approval for a second water meter from the rural water district. We have already contacted a builder for the new home and the septic system whether it is an inground system or a lagoon. We contacted the person that does the soil profiles and that would cost about \$1,200. We are ready to start the process within the next few months and move in within the next 8 to 9 months.

J. Perry stated a 10-year time limit for the removal of the existing residence should be a condition for approval. This would ensure that things don't get out of hand.

Chair stated she agrees that a 10-year time frame for the removal of the existing residence is fair.

J. Kosko stated he is worried about the \$10,000 value of the bond, especially with inflation in 9 years. \$10,000 is a small amount to work with in tearing down and removing a residence.

Chair asked if the applicant had a plan on tearing down or removing the existing residence?

Mr. Lamm stated he was thinking of tearing down the existing residence himself. We have trailers to haul it away with. We were originally going to get a couple of roll offs from the trash company and fill them and have them hauled off. However, the roll offs rent for \$400 apiece. We have equipment to knock a house down. He has built houses for 20 years and we did demolish and remodel work on new houses and older houses, so he has the skill set to demolish the old residence. His brother still builds houses for Chris George Custom Homes. Jeff Olivas, who also builds residences, and some other friends and his cousin Harley stated they would all come out and help them tear down and remove the old residence.

P. Toth stated if they just made the residence uninhabitable it would be better than attempting to move the old double wide. If they tear the old residence apart enough that nobody can live in it that would be acceptable and then it is the applicant's problem after that. A perfect clean-up wouldn't be required, just make it uninhabitable. He would get

approval from County Counselor on that but in his mind this would be acceptable. Staff doesn't know the exact cost to demolish and haul off an old residence. This is an old modular or double wide on chassis so that would make clean up even easier because they could just put the wheels back on and rip it out. That could end up costing more than \$10,000 just not sure.

J. Kosko stated he was thinking in a worst-case scenario of having to hire somebody to do the work of demolishing and hauling off the old residence.

P. Toth stated if the County has to do the work, the applicant is then out \$10,000 and that is scary enough that they would ensure the work is done.

J. Falls stated if the County cashed the bond the applicant would then have the insurance company after them because they would want to get their money back.

P. Toth stated sometimes when we issue the temporary use permits for them to live in the existing residence while they build a new one and they post the bond, we then tell them they have 60 days from when they receive the certificate of occupancy to remove the old one. Sometimes all they have to do is tear down enough walls to where it doesn't have the appearance of being a residence and it can't be inhabited. Sometimes they use the old residences for storage or garages or something like. So, the building official will go out and look at the old residence before issuing them a final occupancy just to make sure it can't be used as a second residence. So, sometimes we don't always require them to completely tear down and remove the old structure. What we require is for them to take out non-structural walls, remove kitchens, bathrooms, that kind of stuff. But that is if it's a stable structure that could be reused. However, the old residence on this property sounds pretty old. Staff hasn't physically been out there, but he knows how double wides and single wides fall apart over time on their own. Personally, he has no problem with moving forward with a consensus of adding the conditions of a time limit and a bond. He does approve of adding a time limit because that won't give other people the idea that they can come in and request the same type of variance without removing something. The County is not in the habit of adding multiple residences and crowding people together. That's not how our regulations are written. It is not the applicant's intent to turn the old residence into an Airbnb or an apartment. If we put a time limit and a bond as conditions for approval, then the applicants won't be able to utilize the old residence for something else. If Staff were to find out that the applicants were utilizing the existing residence for other purposes than for their grandpa, it would be taken to legal counsel to handle from there.

G. Wilkins asked how would staff track that timeline?

P. Toth stated if we receive the bond March 1st, then a reminder would be set in the calendar to send a letter reminding them their bond is due to expire March 1st.

G. Wilkins asked how would you track the 10-year period for removal? Would you create an Excel spreadsheet for 10 years and if we receive 20 or 30 others in the County that have the same variance, how would these be tracked?

P. Toth stated right now we get a paper copy of the bond and when we receive it, we put it in the folder. Although, this is only the second one where there would be a time frame for removal. There is one temporary hardship that they have been bringing in a renewed bond for 6 years or more. Since this was a temporary hardship mobile home for medical reasons, they just keep renewing their bond. We just put reminders in our calendar and then send a letter reminding them their bond is about to expire.

G. Wilkins stated she is looking at what might be created if this variance is approved. How is this going to be managed if we approve any more of these types of variances?

P. Toth stated it would definitely fall on our office to ensure these get completed as conditioned. Staff would have to figure out a process to track these because 10 years is a long time and people forget, and new staff are hired. With 1 or 2 of the kids moving out and going to college in 4 years, maybe grandpa would move in before the 10-year time frame lapses.

H. Peckham stated he keeps going back to the statement that there are other locations on the property where the structure could be built and be in compliance with the regulations.

P. Toth stated that statement would be if they were to apply for an ADU and if they were to utilize the smaller home. That is the only way they are going to meet regulations. That statement is saying you can build an ADU on this property closer to the existing residence and if it is only 1,200 square feet.

G. Wilkins stated if they built a residence that was maximum 1,200 square feet and only 2 bedrooms and closer to the existing residence it would meet the regulations.

H. Peckham stated they are proposing a larger square foot home and at least 4 bedrooms.

P. Toth stated that is why we are considering a variance tonight is to allow another primary dwelling unit but there is an alternative, but the applicant would have to make the adjustment to make it work to be in compliance with the regulations.

H. Peckham asked if the existing residence is too big to be considered the ADU?

P. Toth stated yes, the existing residence is 80'x16' which makes it about 1,280 square feet. Also, it is a HUD constructed building, so it doesn't meet the adopted building codes. ADUs must be built to ICC standards, which are common stick-built structures. HUD standards do not fall into that category.

G. Wilkins asked would one option be to build a 1,200 square foot residence, within the ADU guidelines, at which point when the grandfather moved in then they could build an addition to the new residence and tear the old one down.

P. Toth stated the 1,200 square foot ADU residence would also be limited to only 2 bedrooms, so you'd have the parents in one bedroom and the 4 children in one bedroom. The existing home isn't in the best shape, however the grandpa that lives there is used to it. However, if you are wanting to move children into the existing home, you would want to update the structure.

G. Wilkins asked if you are allowed an unfinished basement under the ADU regulations?

H. Peckham asked if they could build a big garage and then attach to it for the kitchen and bedrooms?

P. Toth stated that is why we limited the garage to a 24'x24' so we wouldn't be creating barndominiums. Typically, the barndominium overtakes whatever the primary structure is. Although it is a shop, it is attached to the home. The whole premise of the ADU was to make it difficult to do an in-law suite.

H. Peckham stated that the ADU is supposed to be what grandpa lives in and they want to reverse the process.

P. Toth stated yes, the ADU would typically be meant for the grandpa and in this case the ADU would be for the grandkids.

The Chair closed Board Discussion.

Chair asked for a motion. J. Falls made a motion to approve variance application #000004-2024 (Lamm) to allow a second dwelling unit on one lot or tract of land based on Staff recommendations and the findings listed in the Staff Report and subject to the conditions that the applicant shall post a bond in the amount of \$10,000 to guarantee the existing residence would be removed within 30 days of no longer being occupied and that the existing residence must be removed within ten (10) years. J. Kosko seconded the motion. Chair called for roll call vote.

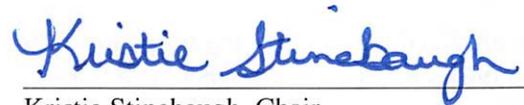
Peckham	Yes	Wilkins	No
Stinebaugh	Yes	Kosko	Yes
Harris	Yes	Falls	Yes
Perry	Yes		

Motion carried 6-1.

PUBLIC COMMENT SECTION: Chair opened Public Comment. There were none. Chair closed Public Comment.

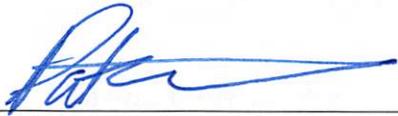
GENERAL BOARD DISCUSSION: Chair opened General Board Discussion. There were none. The Chair closed General Board Discussion.

ADJOURNMENT: With no further business to discuss, Chair asked for a motion for adjournment. J. Falls made a motion to adjourn. All voted in favor 7-0. The meeting was adjourned at 7:38 p.m.



Kristie Stinebaugh, Chair

Attest:



Pat Toth, Planning Director