

## **BOONE COUNTY BOARD OF ADJUSTMENT**

**BOONE COUNTY GOVERNMENT CENTER**

**801 E. WALNUT ST., COLUMBIA, MO.**

**Thursday, July 24, 2003**

Chairperson Rootes called the meeting to order at 7:00 p.m. in the Boone County Commission Chambers having a quorum present.

Chairperson Rootes read the procedural statement stating that this Board is appointed by the Boone County Commission to consider specific application of the zoning and subdivision regulations. The Board is empowered to enter rulings that may give relief to a property owner from the specific application of the Zoning and Subdivision regulations. Generally, variances can only be granted in situations where by reason of shape, topography or other extraordinary or exceptional situation or condition of a specific ordinance would result in peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use as relating to the property. A variance from the strict application of this ordinance can be granted provided the relief requested will not substantially impair the intent, purpose and integrity of the zoning regulations.

Notice of this meeting has been published in accordance with our by-laws for the proper number of days. All decisions of the Board are based on the zoning or subdivision regulations for Boone County, Missouri, and they are hereby made a part of the record of this meeting.

This Board is comprised of five members, with three members constituting a quorum. An applicant must receive at least three votes in order to receive the relief that they have requested from the Board. Any applicant appearing before this Board has the right to be heard by all five members. At times that all five members are not present, the applicant, and only the applicant, may choose to wait until such time as all five members are present to hear their request.

Roll call was taken:

Present: Linda Rootes, Chairperson  
Tom Trabue  
Gregory Bier  
Matthew Thomas

Absent: Cindy Bowne

Also present: Thad Yonke, Staff  
Paula Evans, Secretary

Minutes of the June 26, 2003 meeting were approved with no corrections.

### **REQUEST**

1. Case Number 2003-010

Request by Toni & Andrew James for a variance from the 50' building setback for a manufactured home to be placed at 9301 N. Brown Station Road, Columbia. (**Zoning Regulations, Section 10.A.**)

Planner Thad Yonke gave the staff report stating that the current zoning is A-2; adjacent zoning is also A-2. The site is located approximately 2 miles north of Columbia on Brown Station Road, which is old Route B. There is a manufactured home and a kennel on the property now. The applicants want to replace the manufactured home with a newer unit. They would like to place the new unit on the site of the kennel building, which will be demolished. The kennel was built before zoning regulations were enacted and is located within the front setback area. The original zoning for this site is A-2. There have been no previous requests submitted for the subject tract. The requested variance is from zoning regulations section 10.A. Staff notified 20 property owners.

Present: Toni James, 9301 N. Brown Station Road, Columbia.

Ms. James stated that she bought the property 14 years ago and at the time it had been reposed by Boatmans Bank. Some of the information the bank had gotten from the previous owner was in error but at the time the property had an older home on it and Ms. James replaced that with a newer home in the same spot. The newer home which is less than 14 years old, is being demolished by the topography of the area and the wildlife. Ms. James stated that she had to put a new roof on the home last year because of all the trees around it. The contractor who did the roof told her that she is going to have to do it again in another five years if another house is put there.

Ms. James stated that during the rains the gravel from the driveway has been washed away. Ms. James had the driveway terraced thinking that it would fix the problem and it hasn't. Something under the house snapped and now the beams are coming up through the floor.

Ms. James presented photos of the home and of the topography.

Ms. James stated that raccoons came in the hole in the floor. The raccoons are part of the problem. Last year Ms. James stated that she heard noises in her walls. Ms. James stated that it was raccoons building nests in the walls and they tried to dig through the walls of the house. The raccoons started coming in the house through the dog door, they came in the living room and the bedroom. Ms. James stated that she called the sheriff's department and they told her to shoot the raccoons. Ms. James called the conservation department and they said that she could shoot them or trap them. Ms. James stated that she would come home after work in the morning and there would be a raccoon in the trap; she drove 20 miles to get rid of it. Ms. James stated that she caught 15 raccoons.

Ms. James stated that she has house dogs and one of them died last spring, not another dog is showing the same symptoms, the veterinarian believes it is distemper. Ms. James stated that her dogs have been vaccinated for this but it is of no value.

Ms. James stated that the contractor informed her that the only place that the home could be set and have the perimeter blocked which will keep the wildlife out from under the house is where the kennel is sitting. That is the only place the bricks will hold and not break down.

Chairperson Rootes asked if the building and dog runs would be removed.

Ms. James stated yes. Ms. James stated that she spoke with the neighbors and they are happy to see the building go.

Open to public hearing.

No one spoke in favor of or in opposition to the request.

Closed to public hearing.

Mr. Yonke stated that staff received a call from Roger Conklin. Mr. Conklin stated that he has no problem with the request and that he had talked to a number of people and no one had a problem with the request. Staff received no calls in opposition.

Chairperson Rootes stated that the kennel would be going and there would be nothing left and the home that the applicant is now would be moved. A new doublewide would be placed on the property.

Ms. James stated that it would look like a regular home, it would have perimeter blocking.

Member Trabue asked how far it would be from the fence to where the home is going to be; it seems pretty close.

Ms. James stated that it is pretty close. The property goes about 6-feet past the fence. The contractor said that the closer it goes to the fence the better because there is a drop off on the other side and the contractor will have to do fill. The house will be much more stable the less fill the contractor has to do.

Member Trabue stated that the requirement is 50-foot from the front property line.

Mr. Yonke stated yes.

Ms. James stated that the address says North Route B which would make the front of the property the other side.

Mr. Yonke stated that any road frontage is considered a front setback.

Member Trabue stated that in general he doesn't see a problem with where the kennel was as a structure out there. It is not uncommon for the Board to grant variances for structures that are already within the setback areas. Member Trabue stated that he can not recall a time when the Board has granted for a new structure within the setback areas unless the topography absolutely didn't allow any other type of construction.

Ms. James stated that it is a series of ridges and there is nothing stable other than taking out the trees and bringing in 1000 tons of fill.

Member Trabue stated that he is very supportive of the problem but in looking at it; it doesn't look like the grades were that steep going down to the home as opposed to any other place in Boone County. member Trabue stated that he has a hard time believing that a contractor can not find a way to redirect that water around the home.

Ms. James stated that she had one contractor that did the work on the driveway and he was convinced that the solution would fix the problem and it didn't; the rain washed it away. Two contractors have been out in setting the home and both of them said that there is a big problem. They said that there has to be stable ground to set the blocks or they are not going to hold.

Member Trabue stated that he believes what Ms. James is saying but doesn't believe she is getting good advice. Member Trabue stated that a concrete wall along there is one very viable option.

Ms. James stated that the contractor said he could put a concrete wall in front of the house but he said that Ms. James will not be able to have concrete blocks behind it. The skirting behind the existing house is barely according to code, it is almost as tall as her because of the topography.

Regarding the roof Member Trabue stated that he believes the applicant will continue to have similar type things. The kennel area is a little more open but there is still a lot of tree cover.

Ms. James stated that most of those trees are coming out. They are only going to leave the big oaks in the front.

Member Trabue stated that the raccoons are going to continue to be a nuisance.

Ms. James stated that if she doesn't have the skirting the raccoons can't get under the house.

Member Trabue stated that he understands but is having a difficult time being in favor of granting this closer to the right of way in this particular case.

Chairperson Rootes stated that she assumes the kennel building has concrete floor.

Ms. James stated yes.

Chairperson Rootes stated that would remain.

Ms. James stated yes; the contractor will cut through the concrete and pour piers for the house to sit on. There would be piers past the concrete because the house is bigger than the kennel.

Chairperson Rootes stated that the concrete slab would stabilize the surface.

Ms. James stated yes and it is level.

Member Trabue asked staff what setbacks were for some other zoning categories.

Mr. Yonke stated that if this were R-S, R-D, or R-M zoning district the setback would only be 25-feet. The adjoining land may be A-2 but in the Brown Station area there are some smaller lots in the community approximate to this where there is only a 25-foot setback.

Chairperson Rootes asked the setback for the proposed home.

Member Trabue stated that based on what the applicant indicated that they would like to be as close to the fence as possible; the fence is about 6-feet from the right of way.

Ms. James stated that the kennel probably sits another 10-foot from the fence.

Mr. Bier stated that the kennel location would be within 25-feet.

Ms. James stated yes.

Mr. Yonke stated that even if this property were zoned residential the Board would still be seeing this as a variance request it would just be the same variance for a different amount of feet.

Mr. Trabue stated that he is inclined to move forward with a variance to allow 25-foot as opposed to 50-foot; recognizing that is not as much as the applicant would like but it will help.

Chairperson Rootes asked the applicant if she were interested in a 25-foot setback.

Ms. James stated that it would help her more than what she is looking at now.

Member Trabue stated that the contractor can work with the topography for the foundation for the home to make sure it is solidly supported and the Building Department will look for those types of things and assist as well. There are some creative solutions that can be done to minimize the amount of fill and also minimize the wall or skirting.

Member Trabue made and Member Thomas seconded a motion to **allow** a 25-foot setback for Toni & Andrew James for a manufactured home to be placed at 9301 N. Brown Station Road, Columbia.

Chairperson Bowne	Yes	Member Trabue	Yes
Member Rootes	Yes	Member Thomas	Yes

Motion to approve request carries.      4    Yes      0      NO

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2. Case Number 2003-013

Request by Edwin Quinn for a variance from the required 50-foot building setback for an existing home located at 5000 E. Soft Pit Hill Road, Hartsburg. (**Zoning Regulations Section 10. A.**)

Planner, Thad Yonke gave the staff report stating that the current zoning is A-2; the adjacent zoning is also A-2. The site is located approximately 3 miles northeast of Columbia on Phillippe Road. There is a house and accessory structures on this site. The applicants would like to build a barn behind an existing barn on site which is located 30-feet from the front property line. The original zoning for this site is A-2. There have been no previous requests submitted for the subject tract. The requested variance is from zoning regulations section10.A. Staff notified 8 property owners.

Present: Terry Beatty, 9501 N. Phillippe Road, Hallsville.

Ms. Beatty stated that when she built the existing barn 17 years ago she had to have dirt hauled in. Ms. Beatty stated that while the equipment was there she had the contractor go ahead and build a flat pad because she thought she may build an indoor ring sometime in the future. This is what the pole barn is going to be. The pad is just wide enough for the 60-foot wide and 80-foot long. The existing barn is 30-feet from the center of the road and she would like to put her new barn at the same distance. Ms. Beatty stated that she can not come in anymore off that pad because at the end of the pad there is a drop off of over 6-foot and it continues on down to the lake. 17-years ago it cost her #3500 to put the dirt in and the contractor says it would be considerably more up to \$10,000. Ms. Beatty stated that she only has enough money to build the barn.

Ms. Beatty stated that she has an outdoor ring and the applicant would like to teach lessons for extra income.

Mr. Yonke asked the applicant if she wanted to teach riding lessons.

Ms. Beatty stated yes.

Mr. Yonke asked the applicant if she had a conditional use permit for a training facility.

Ms. Beatty stated that she is not training.

Mr. Yonke stated that the applicant would be training people to ride horses.

Ms. Beatty stated that she doesn't have a conditional use permit.

Mr. Yonke stated that if the applicant wanted to teach lessons a conditional use permit would be required which are granted by the Planning and Zoning Commission. Mr. Yonke asked the applicant to come to the Planning office for more information.

Ms. Beatty asked if they only boarded horses would a permit be required.

Mr. Yonke stated yes; it becomes a commercial business.

Joan Love, sister to Ms. Beatty, 232 Boonville Road, Jefferson City.

Ms. Love stated that this has been her sister's home for many years and has had a difficult time economically and this means a great deal to her in terms of supporting her family.

Chairperson Rootes stated that the property is well kept. Chairperson Rootes asked how far the new barn would be from the nearest structure.

Member Trabue stated about 30-feet.

Chairperson Rootes stated that there is no problem with distances.

Mr. Yonke stated that as long as the structures are more than 10-feet apart there are no firewall issues.

Member Trabue stated that the location is past the house and around the corner; the existing barn is there, if you continue past that along the roadway there is another building site that is the same distance away from the road. There have been some references that the existing barn is 30-feet from the center line of the road. Member Trabue asked what the regulation was.

Mr. Yonke stated that it depends on the road. Mr. Yonke stated that he believes the portion of the road if it is a public road, if it is a statutory right of way, the measurement would be from the 15-foot right of way.

Member Trabue stated that the topography is very difficult there, it would be possible to extend and build additional building pad for a building but it would be at a great expense. There are some topographic features that really don't lend themselves to a building. This request falls within the categories in the regulation to allow the granting of a variance. It is an agricultural area, putting this structure in the same location from the roadway as the existing structure would be very appropriate, it would be within the character of the area. Member Trabue asked the applicant if the new barn would be about the same height as the existing barn.

Present: Eric Matthews, contractor, 8401 County Road 425, Fulton.

Mr. Matthews stated that the eave would be the same; the trusses are bigger so it is similar.

Member Trabue stated that he believed that it would work very well within the character of the area.

Open to public hearing.

No one spoke in favor of or in opposition to the request.

Closed to public hearing.

Mr. Yonke stated that staff received no calls about this request.

Ms. Beatty stated that she went to her neighbors and they had stated that they had no problem. Two of the neighbors want to use the barn to ride their horses in.

Member Thomas made and Member Trabue seconded a motion to **approve** a request by Terry Beatty and Joan Love for a variance from the 50' building setback for a proposed pole barn to be located at 9501 N. Phillipe Road, Hallsville.

Chairperson Bowne	Yes	Member Trabue	Yes
Member Rootes	Yes	Member Thomas	Yes

Motion to approve request carries.      4   YES      0   NO

Member Trabue informed the applicant to speak with staff regarding a conditional use permit.

## **NEW BUSINESS**

Annual Election of Officers.

Member Rootes nominated Member Bowne for the office of Chairperson.

Members elected Member Bowne for the office Chairperson by acclamation.

Member Trabue nominated Member Thomas for the office of Vice-Chairperson.

Members elected Member Thomas for the office of Vice-Chairperson by acclamation

## **OLD BUSINESS**

None.

## **ADJOURN**

Meeting adjourned at 8:05 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 28th day of August 2003.