

## BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, December 4, 2003

The November 2003 Board of Adjustment meeting took place on December 4, 2003 due to the holiday's.

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

Chairperson Bowne 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: Cindy Bowne, Chairperson  
Matthew Thomas, Vice-Chairperson  
Linda Rootes  
Gregory Bier  
Frank Thomas

Absent: None.

Also present: Thad Yonke, Staff  
Bill Florea, Staff  
Paula Evans, Secretary

Minutes of the October 23, 2003 meeting were approved with the following corrections:  
Correct the date on page one. On page five in the third full paragraph, eighth line, correct the repetition of words "a location". Minutes approved as corrected.

## **REQUEST**

1. Case Number 2003-017

Request by Blue Acres, Inc. to allow use of existing right-of-way instead of the required 50' on property located at 5481 E. St. Charles Rd., Columbia (**Subdivision Regulations Appendix B 2.2**).

Planner Bill Florea gave the staff report stating that section 1.9.2 of the subdivision regulations requires that the Director make a recommendation on requests for variance from the provisions of the regulations. The Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the criteria for grant of a variance required by these regulations. No variance from any requirement contained within Appendix A or B of these regulations shall be granted unless the Board finds: (a) the applicant will incur unreasonable and unnecessary hardship if a variance is not granted and the variance is not sought primarily to avoid financial expense in complying with the requirements of these regulations (b) grant of a variance will not endanger the health, safety or welfare of the public, and (c) grant of a variance will not hinder, thwart or circumvent the general intent or any specific purpose of these regulations. All applications for variances shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the application and state the reasons for his recommendation.

The applicant owns the Little General convenience store located at the Lake of the Woods exit and is in the process of replatting that lot and an adjacent lot. Appendix B, Section 2.2 requires that property owners who are platting property dedicate right of way along the frontage of adjacent public roads. The width of the right of way dedication is dependant upon the functional classification of the road. St. Charles Road is classified as an arterial, which requires a 50-foot half-width right of way dedication.

The development of Eastport lies north of the subject property across St. Charles Road. The developers of Eastport have been required to improve St. Charles at this location. Construction plans have been approved by Missouri Department of Transportation, The City of Columbia and Boone County. All right of way necessary for the construction of these improvements has been obtained. The right of way width at this location is approximately 42-feet measured from the centerline.

The gas pump islands and canopy on the property are approximately 38-feet from the existing property line. This provides for adequate vehicular circulation. If the additional right of way dedication is required, vehicular circulation will be inhibited causing a hardship on the property owner. It is unlikely that additional right of way will be required in the future. The Boone County Public Works Department has stated that they have no objection to the granting of this variance.

- a) The applicant will incur unreasonable and unnecessary hardship if this variance is not granted; sufficient right-of-way has already been dedicated for road improvements.
- b) Granting this variance will not endanger the health, safety or welfare of the public as the recently completed road improvements raise the safety level of this road.
- c) Granting this variance will not thwart or circumvent the general intent of the regulations.

Staff recommends that this variance be granted.

Present: Ron Shy, 5600 S. Highway KK, Columbia.

Mr. Shy stated that he is here on behalf of Mr. Eddie Sachs who is one of the owners of Little General Store. Mr. Shy stated that the only thing he would add is that this his company worked on both ends of this project;

the platting of the property and also the road improvement. The location of the road and all the constraints with Mr. Sachs and his existing property, those were all taken in to account when that road was constructed. All the right of way that Mr. Sachs granted was granted free for this project so it is not like he hasn't cooperated because he did and nothing was condemned. If the operation wasn't gas based it would have worked he wouldn't have minded giving this but, but it was a situation where it would inhibit some of the traffic flow in and out of those bays. Mr. Shy asked that the variance be granted.

Open to public hearing.

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

Closed to public hearing.

Chairperson Bowne asked if the applicants intended to expand on the new lot.

Mr. Shy stated no. Mr. Sachs owns the land already, what he is planning on doing is separating the Blue General from the other part of the undeveloped lot. With that he does have a tenant that has expressed interest in that lot and that is basically why the applicant is breaking it off.

Member M. Thomas asked if the applicant knew where the underground storage tanks are in relation to the right of way.

Mr. Shy stated that they are between the building and gas pumps, they are not between the gas pumps and the right of way.

Member M. Thomas stated that he just wanted to make sure that it was not going to be a hindrance in the future.

Mr. Shy stated that he has seen the fill caps out there and they are between the building and pumps.

Chairperson Bowne asked if this variance is granted it would only be granted for the existing property and the development that is already there; it does not grant a variance for the second lot.

Mr. Florea stated that the variance would apply on the second lot as well.

Mr. Florea showed the Board Members a plat of the property. Mr. Florea stated that the right of way would be consistent along the strip.

Chairperson Bowne stated that it would continue from the existing use to the second lot that is being divided off and the variance, if granted, would go to the new owner with the second lot.

Mr. Florea stated that is correct.

Mr. Yonke stated that the building would still have to meet the required setback but once the lot is created by plat whatever right of way is attained there is all the right of way that would be attained.

Member M. Thomas made and Member Bier seconded a motion to **approve** a request by Blue Acres, Inc. to allow use of existing right-of-way instead of the required 50' on property located at 5481 E. St. Charles Rd., Columbia.

Chairperson Bowne	Yes	Member Rootes	Yes
Member M. Thomas	Yes	Member Bier	Yes
Member F. Thomas	Yes		

Motion to approve request carries.      5 Yes      0 No

### **NEW BUSINESS**

None.

### **OLD BUSINESS**

None.

### **ADJOURN**

Meeting adjourned at 7:14 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 8th day of January 2004.