

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, February 26, 2004

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

Vice-Chairperson M. Thomas 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: Matthew Thomas, Vice-Chairperson
Linda Rootes
Gregory Bier
Frank Thomas

Absent: Cindy Bowne, Chairperson

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

Minutes of the January 8, 2004 meeting were approved with no corrections.

REQUEST

1. Case Number 2004-001

Request by Gary and Cathy Nowlin for a variance from the front and side setback requirements for an existing house located at 6985 E Guy Nowlin Rd., Columbia (**Zoning Regulations, Section 10. A.**)

Planner, Thad Yonke gave the staff report stating that the property is zoned A-2 as is adjacent property. The site is located approximately 1 mile northeast of the Columbia municipal limits on Guy Nowlin Road, a private road that extends west from Kircher road. There is a single family dwelling and a lake on the tract. The applicants are in the process of subdividing their land. The survey information indicates that the house is located too close to the front and side property lines. The original zoning for this area is A-2. The original tract was split in to a number of parcels using the family transfer process of the subdivision regulations. The requested variance is from the zoning regulations, section 10 A. which requires a front setback of 50-feet and a side setback of 15-feet in the A-2 zoning district. Staff notified 29 property owners.

Present: Gary & Cathy Nowlin, 6985 E. Guy Nowlin Road, Columbia.
Jim Patchett, surveyor, 1206 A Business Loop 70 W, Columbia.

Mr. Patchett stated that he wanted to give some background information of how this occurred. Mr. Nowlin's father owned this whole tract at one time which was 60 acres. At one time their house was the only one on the entire 60 acres. In 1984 it was split in to 10 acre plus tracts and their residence happened to be on one of those tracts. When one of those tracts was sold (referring to the survey) the little dashed lines, the long skinny portion was cut off of one of the tracts and that is the parcel of ground that they ended up with along with the house when the remainder of tract 6 was sold off. In 1989 the little parcels were surveyed, Mr. Patchett stated that he didn't know if they were part of a family transfer or transfers between adjoining owners or how it all came about. Last year Mr. Nowlin saw that the house on tract 6, which is the house to the north of theirs, became available and he saw an opportunity to improve his property by quite a bit so he purchased that and wanted to split it up so that he ends up with the lake that is in front of his house which looked like it went with his house anyway. That triggered the setback requirements. The road is a private road, it probably will never become a public road because each one of the original six tracts own 1/6 interest in that road. The house has always been in this particular configuration and the applicants are trying to do a little house cleaning and end up with two viable tracts of ground, each with a house on it.

Open to public hearing.

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

Closed to public hearing.

Mr. Yonke stated that as Mr. Patchett indicates, from reading through the history on it, it does seem like that is basically the way it happened and it is probably worthwhile to note that in 1984 the threshold for surveys that staff looked at was five acres. So even if someone walks in with a survey of 10 acres staff didn't look at it for any kind of a review so if the house wasn't located exactly at that time the property line could have easily been created on there near the property line. Even in 1989 we still hadn't changed it so if surveys were larger than 5 acres staff didn't have any review standards or ability to look at them. The parts that got transferred were done so as family transfers. There has been a property line fairly close to its current location since the tracts started being divided.

Member M. Thomas stated that the west lot line for lot 1 is coming awfully close to the existing house; that is an existing lot line; that is not newly created by the survey.

Mr. Patchett stated it was not created by his survey; that was existing.

Member M. Thomas stated that the original lot line is the one that actually lots off a portion of the house.

Mr. Patchett stated that it was a lot line of one of the original surveys.

Member Rootes asked Mr. Patchett to come forward and point out information on the survey.

Mr. Patchett pointed out lot lines on the survey.

Member Rootes stated that the applicants are not asking to change any lines, the house is already too close to the side property line and the street.

Mr. Patchett stated that it always has been.

Member Bier stated that there is a structure just west of the wooden fence; Member Bier asked what that structure is.

Mr. Patchett stated that there is another residence on the small portion.

Member Bier asked if that was the applicants son.

Mr. Patchett stated yes.

Member Bier stated that it looks pretty congested there.

Member Rootes asked staff if they heard from any of the neighbors.

Mr. Yonke stated that staff heard from 5 neighbors in total. One was concerned about the access road and where that was in proximity to it. Mr. Yonke stated that he didn't really understand all of the concerns. Staff tried to explain that the tract that the road was supposed to be in was not changing it's relative position to the house at all. The neighbor stated that the road is not necessarily in the road tract and that is a different issue too. Mr. Yonke stated that staff kind of logged that as an against but staff is not sure that the caller understood the request. The other calls, once they realized no new houses were being involved and the houses were going to stay exactly where they are and the applicants were just changing the lot lines between those two, they didn't care.

Member Rootes made and Member Bier seconded a motion to **approve** a request by Gary and Cathy Nowlin for a variance from the front and side setback requirements for an existing house located at 6985 E Guy Nowlin Rd., Columbia (**Zoning Regulations, Section 10. A.**)

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

Motion to approve request carries. 4 Yes 0 No

NEW BUSINESS

None.

OLD BUSINESS

None.

ADJOURN

Meeting adjourned at 7:15 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 25th day of March 2004.