

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, January 27, 2005

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
Gregory Bier
Frank Thomas

Absent: Matthew Thomas, Vice-Chairperson
William Hatfield

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

Minutes of the October 28, 2004 meeting were approved with one correction.

REQUEST

1. Case Number 2004-011

Request by James Abernathy for a variance to allow an existing duplex to remain within the required front setback on property located at 7400 E. St. Charles Rd., Columbia (Zoning Regulations, Section 10. A).

Chairperson Bowne asked the applicants if they wished to be heard tonight.

The applicants stated yes.

Planner, Thad Yonke gave the staff report stating that the current zoning is R-S with an R-SP pending. The adjacent zoning is R-S. The site is located on St. Charles Road approximately ½ mile east of Columbia. There are currently two single family dwellings and two duplexes on the property. The requested variance is that this property is in the process of being developed as a planned development. One of the duplexes on the lot will be located within the front setback once the land is platted. This property carries the original 1973 zoning, the planned residential development was approved in December 1995 at that time the existing duplex was a non-conforming use. After approval of the development plan a single family dwelling was built in December 1995 and the second duplex was built in July 1996. The current review plan was approved in October 2004. This is a requested variance of the zoning regulations, section 10A requirement of a front setback of 25-feet in an R-S zoning district. Staff notified 13 property owners.

Present: Tim Crockett, Crockett Engineering, 2608 N. Stadium Blvd., Columbia.

Mr. Crockett presented an enlarged copy of the plat for Golf View Acres.

Mr. Crockett stated that this is an existing duplex sitting back in an approved PRD plan in the County. Several years back when St. Charles Road was improved it was slightly slid over a little bit. Additional right of way was given by means of an easement. This building was not in conflict with that easement at that time. However, with the remaining portion of this property now being developed the applicants are required to grant additional right of way instead of means of an easement along with the right of way dedication comes a building line.

Open to public hearing.

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

Closed to public hearing.

Chairperson Bowne asked staff if they received any response from neighbors.

Mr. Yonke stated no. Mr. Yonke stated that when this was approved in 1995 there was no proposal for it to be subdivided. This issue was not an issue when it first got approved because the dedicating of right of way is a requirement of the subdivision regulations so since there was no subdividing of the land it was a rezoning request at that time for the planned development and all of them are going to be on a single tract, there was no requirement to dedicate that additional right of way, which is why the subsequent road easement was obtained by public works. The fact that the property is being subdivided is what is triggering the need for the variance at this time.

Chairperson Bowne asked if there was any response from Public Works.

Mr. Yonke stated no. No formal response was received.

Chairperson Bowne asked what the non-conforming use.

Mr. Yonke stated that it wasn't really a non-conforming use; it was a non-compliant use in that a duplex requires a conditional use permit in an R-S zoning district. It wasn't compliant with the zoning because it didn't have the non-conforming use status that would be attributed to something that wasn't eligible for a conditional use nor did it have the conditional use.

Chairperson Bowne asked if it had a conditional use permit now.

Mr. Yonke stated it no longer needs it. Under the regulations once you get a planned development approved the fact that it says R-S simply sets the density the R-S district has a certain density base. What you are doing is setting the number of units on a property when you go to a planned development. In those residential categories you are allowed to mix and match. As soon as the planned development was approved it rendered that compliant with the zoning regulations at that time.

Member Bier asked how old the structure was.

Mr. Crockett stated he believes it was built in 1994.

Member Bier asked if the structure was in a good state of repair.

Mr. Crockett stated that he had discussed with staff that if it ever becomes unable to be occupied it would be reconstructed within the limited setbacks.

Member Bier made and Member F. Thomas seconded a motion to **approve** a request by James Abernathy for a variance to allow an existing duplex to remain within the required front setback on property located at 7400 E. St. Charles Rd., Columbia (Zoning Regulations, Section 10. A) with the following condition:

- **The existing building maintain the same location, footprint, and square footage. If the existing building has been damaged, by any cause, equal to more than seventy-five percent of the actual value of the structure immediately prior to the damage then any replacement structure must be built in compliance with the required setback.**

Chairperson Bowen	Yes	Member F. Thomas	Yes
Member Bier	Yes		

Motion to approve request with condition carries.	3 Yes	0 No
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2. Case Number 2004-012

Request by John McGraw and Brenda Woods to allow a detached garage to be built in front of the main structure and within the front setback on property located at 7250 North Shore Dr., Hartsburg (Zoning Regulations, Sections 7.A.(5) and 10. A.).

Chairperson Bowne asked the applicants if they wished to proceed.

The applicants stated yes.

Planner, Thad Yonke gave the staff report stating that the property is zoned A-R as is the surrounding zoning. Champetra Lake Subdivision is located in southern Boone County, approximately 6 miles south of Ashland. There is a single family dwelling on this tract. The requested variance is that the applicants would like to rebuild a garage within the front setback due to the extreme elevation of the lot. The building site is located in front of and separate from the house. The original zoning for this area is A-R and Champetra Lake Subdivision was platted in 1974. The requested variance is from the zoning regulations section 7 A.5 which does not permit an accessory structure to be located in front of the main structure and section 10.A. which requires a front setback of 25-feet in an A-R district. Staff notified 28 property owners about this request.

Present: John McGraw, 7250 North Shore Drive, Hartsburg.
Brenda Woods, 7250 North Shore Drive, Hartsburg.

Mr. McGraw stated that the terrain around Lake Champetra is very steep; it slopes down to the lake and the garage that was there before was built separate from the house. The driveway coming down to the garage is very steep and it becomes unusable in the winter time. In addition in the summer time when you try to make the turn it is a very tight turning radius there and it is somewhat unusable or inconvenient to park in the garage.

Ms. Woods stated that the purpose was to build it in stories to drive in to the top in addition to the bottom. The garage was slated to be 23-feet from the road edge; it is a privately owned road in which the association maintains. The applicants brought a photograph to show that the presence of the garage would not block any view of the roads in any direction.

The applicants presented the photographs to the Board.

Mr. McGraw stated he bought the property in 1990 and the garage was existing.

Chairperson Bowne asked if the proposed garage is the same size.

Mr. McGraw stated that it would be larger; taller. There will be a third story; you will be able to drive along the road and turn in to it.

Chairperson Bowne asked if the floor area would be the same size as the old one.

Ms. Woods stated that the floor area would be slightly bigger because it is sloped.

Mr. McGraw stated that it would move 12-foot toward the road to fit in to the terrain.

Open to public hearing

Present speaking in favor of the request:

Steve Mahfood, 7311 North Shore Drive, Hartsburg.
Kathleen Mahfood, 7311 North Shore Drive, Hartsburg.

Mr. Mahfood stated that he owns the property directly across the applicants. Mr. Mahfood stated that from his perspective this request is not a problem; it is an asset to the applicant's property. From a runoff perspective any other location for a garage on that property, whether one story or two story, would have been inappropriate. Anything built next to the house or further down would have been a problem from a storm water perspective. Keeping the garage where it was is the appropriate spot. Their addition to the garage is a convenience that would be safer. Roads out there get pretty rough; it is privately cleared in the winter. From a safety standpoint and a runoff standpoint the location of the garage and what the applicants want to do is appropriate. Mr. Mahfood stated that he is happy with the design and the applicant's intentions.

Ms. Mahfood stated that the plans were approved by the Board of Directors prior to this meeting. There was no opposition from the Board members when the plans were submitted. Ms. Mahfood stated that she has no objections to the request.

Also present speaking in favor:

Bill Troth, 7316 North Shore Drive, Hartsburg.

Mr. Troth stated that he is speaking in favor of the request mainly for the safety reasons. Mr. Troth stated that he has no objections.

Chairperson Bowne asked Mr. Troth if he believed this would be an improvement.

Mr. Troth stated yes.

Also present speaking in favor:

Jerold Wade, Wade and Company Builders, 4061 E. Highway 163, Columbia.

Mr. Wade stated that he is a general contractor. In the past Mr. Wade had done an addition for the applicants on their home. As Mr. McGraw stated the roof of the house sits level with the road or maybe a little below. With the existing garage you had to go down a steep driveway and there was no where to turn to enter the garage. If you were down in the driveway and company came they would have to back out of a steep bank. The applicant's intentions are to add an additional level and go closer to the road to accommodate two vehicles and have a stairwell going down inside the building for safety reasons in the winter time. The structure itself would conform to the house. The proposed height of the garage is not excessive. The garage is a little closer to the road but the applicants weren't aware of that when they started the project. As far as appearance, before there was a roof there that as below street level. The design of the garage will match the home.

No one spoke in opposition to the request.

Closed to public hearing.

Chairperson Bowne asked staff if there was any response from the public.

Mr. Yonke stated that staff received two positive phone calls, no negative.

Chairperson Bowne asked where the applicants are in the building permit process.

Mr. McGraw stated that the building permit was issued to Mr. Wade about December 3, 2004. Later that day it was put on hold.

Mr. Yonke stated that is correct.

Member Bier asked the applicants about the picture of the location.

Mr. McGraw stated that the photos show that the garage will not obstruct the view of the road.

Mr. McGraw showed the Board the proposed location of the garage on the photo.

Chairperson Bowne asked if the road was a private road.

Mr. McGraw stated yes; it is about a three mile road. The association maintains the road.

Member Bier asked staff if the fact that the road is a private drive has any bearing on what the Board does.

Mr. Yonke stated that the applicants are correct in that the road is private. The likelihood that the road will ever become publicly maintained is very slim.

Chairperson Bowne stated that she believes this request falls well within the reason for the Board granting variances for unusual topography. Chairperson Bowne stated that the applicants are requesting a two-part variance. The first part is a variance to allow the structure to be placed in front of the property. The second part is a variance from the setback requirement.

Mr. Yonke stated that is correct.

Member Bier made and Member F. Thomas seconded a motion to **approve** a request by John McGraw and Brenda Woods to allow a detached garage to be built in front of the main structure and within the front setback on property located at 7250 North Shore Dr., Hartsburg (Zoning Regulations, Sections 7.A.(5) and 10. A.).

Chairperson Bowen	Yes	Member F. Thomas	Yes
Member Bier	Yes		

Motion to approve request carries. 3 Yes 0 No

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3. Case Number 2005-001

Request by David Biggs for a variance from the minimum lot size of 10 acres in the A-1 zoning district, creating a 7.61 acre tract, located at 11900 Hwy DD, Ashland (Zoning Regulations, Section 11. A.)

Chairperson Bowne asked the applicants if they wished to proceed with their request tonight.

Mr. Biggs stated yes.

Mr. Florea gave the staff report stating that the current zoning of the property is A-1 as is the adjacent zoning. The site is located 2 miles northwest of Ashland and 2 ½ miles north of the intersection of State Highways M and DD. The property is wooded but it is otherwise vacant. State Highway DD separates this 7.61 acres from the balance of land located on the west side of the road, which is approximately 130 acres. The applicant would like to sell this piece as it is physically separated from the remainder of the land that he owns. The original zoning for this area is A-1; there have been no previous requests submitted for this site. The requested variance is from the zoning regulations section 11.A. which requires a minimum lot size of 10 acres in the A-1 district. This will create a separate 7.61 acre tract after subdivided. Staff notified 11 property owners.

Present: David Biggs, 12021 S. Highway DD, Ashland.
C. Stephen Heying, Surveyor, 1202 Madison, Columbia.

Mr. Heying stated that this is a historic Biggs property; 4 generations. The actual road went further to the west on the other side of a barn and silo and a little branch further west. 50 years ago when they paved Highway DD for the first time they relocated it through the series of creeks in the area and moved it further east, thus cutting off this corner of the farm with a paved road and made the 7.61 acres a separate piece. On the east side is a major creek the owners between Mr. Biggs and Mr. Sapp further east was along a quarter section line and the creek is a physical barrier. They did a switch in the creeks so Mr. Sapp could own his front yard between the quarter section line and Highway DD and Mr. Biggs could own from the quarter section line down to the creek, the acreage remained exactly the same. There was no possibility to increase the acreage to 10 acres because the boundaries are physical; it is a topography situation that creates this 7.61 acres, not a line drawn on the ground.

Open to public hearing.

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

Closed to public hearing.

Chairperson Bowne asked when the land switch was done with the neighbor.

Mr. Heying stated last fall; it was square foot for square foot. The deal was that there was no purchase and no money involved and both pieces were exactly the same size. The neighbors piece is non usable; there is another creek in this along the quarter section line and Highway DD so it is physically impossible to build anything on this piece. Mr. Biggs only had 7.61 acres over there but the configuration is a little different.

Member F. Thomas asked if this 7 acres is usable.

Mr. Heying stated yes, there is a place for an onsite sewage lagoon and the water lines along Highway DD, there are power lines available. It will make a nice house site. It has never been usable for farming or agricultural use, some of the trees are rather substantial in size.

Chairperson Bowne asked staff if they received any response from the public.

Mr. Florea stated yes; one phone call was received wanting information. The caller had no problem with the request.

Chairperson Bowne asked the applicant if he was aware that if this request is granted and the applicant sold the property there could be a house placed or it could be anything allowed in an A-1 district.

Mr. Biggs stated that he is aware of this.

Member F. Thomas made and Member Bier seconded a motion to **approve** a request by David Biggs for a variance from the minimum lot size of 10 acres in the A-1 zoning district, creating a 7.61 acre tract, located at 11900 Hwy DD, Ashland (Zoning Regulations, Section 11. A.).

Chairperson Bowen	Yes	Member F. Thomas	Yes
Member Bier	Yes		

Motion to approve request carries. 3 Yes 0 No

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OLD BUSINESS

Certificate of decision for Danny & Betty DeYoung.

Mr. Yonke read the certificate in to the record.

Chairperson Bowne stated that there was a condition on the approval that the applicants get a building permit. Chairperson Bowne asked staff to correct the certificate of decision and bring it back to the Board at the next meeting for certification.

NEW BUSINESS

None.

ADJOURN

Meeting adjourned at 7:42 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 24th day of February 2005.