

## **BOONE COUNTY BOARD OF ADJUSTMENT**

**BOONE COUNTY GOVERNMENT CENTER**

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

**Thursday, April 28, 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  
Matthew Thomas, Vice-Chairperson  
William Hatfield

Absent: Gregory Bier  
Frank Thomas

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

Minutes of the February 24, 2005 meeting were approved with no corrections.

### **REQUEST**

1. Case Number 2005-003

Request by Kenneth and Josanne Gettman for a variance from the front setback of 50' as required in the A-2 District on property located at 2001 W. Botner Rd., Columbia (**Zoning Regulations, Section 10. A**).

Chairperson Bowne asked Mr. Gettman if he wished to continue with his request tonight.

Mr. Gettman stated yes.

Mr. Yonke gave the staff report stating that the current zoning of the property is A-2, the adjacent zoning to the north, east and west is A-2; the adjacent zoning to the south is A-R. The property is located on Botner Road approximately 6 miles north of Columbia. There is a single family dwelling on the lot. The requested variance is that the applicants would like to build a detached garage on their property; they would like to place the structure 25-feet from the edge of the right of way due to the topography on their property. The original zoning is A-2; Rabbit's Foot Tracts subdivision was platted in 1980. The requested variance is from the zoning regulations section 10.A. which requires a front setback of 50-foot in the A-2 zoning district. Staff notified 16 property owners.

Present: Kenneth Gettman, 2001 W. Botner Rd., Columbia.

Mr. Gettman stated that because of a severe slope on the back of his land he wants to build the garage and rather than hauling in major loads of dirt to fill it in he requests a setback variance so it doesn't have to be as far back from the road so it will be more reasonable to build a garage.

Chairperson Bowne asked where the garage would be located.

Mr. Gettman stated that it would be east of the house.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition:

Scott Brundage, 2231 Bluff Blvd., Columbia.

Virginia Brundage, 2231 Bluff Blvd., Columbia.

Mr. Brundage stated he owned the property immediately to the south of the applicants. The Brundage's have 133 acres. That particular area is like a 10-acre tract that does adjoin his property. Since the Brundage's bought the property and before that, it has been a Christmas Tree farm which has been out there since 1976. Mr. Brundage met with Mr. Gettman on Sunday and he showed the proposed location of the garage. Mr. Brundage was surprised because it is a separate building from the home. This building will be located separate from the home, it will be a metal building and it is a rather large metal building. It will hold two vehicles and Mr. Gettman says it is a garage but it is a metal building. With Mr. Brundage's tract to the south, Mr. Brundage checked with appraisers that he works with and they assured Mr. Brundage that a large building of this type set forward from the house near the road, which this adjustment would allow, would devalue the property of Mr. Brundage's property across the road whenever that is developed. Since this would adversely affect his property, Mr. Brundage requests that that the Board of Adjustment abide by the present zoning and request that the garage be back the full 75-feet from the right of way.

Chairperson Bowne stated that it would be required to be 50-feet from the right of way.

Mr. Brundage stated regardless, he would like the applicants to abide by the present regulations that are in place to protect the value of his property.

Closed to public hearing.

Member Hatfield asked if the applicant got any kind of a bid on what it would cost to fill in and build the garage where it would be appropriate according to the specifications.

Mr. Gettman stated no; he can tell by the slope of the land it would be beyond his ability to do it. The property slopes very severely on the back edge of where the garage would be.

Member Hatfield asked the type of the construction of the home.

Mr. Gettman stated that it is a wood frame, brick front, wood sides.

Chairperson Bowne asked how far the current home sets back.

Mr. Gettman stated that he believed the closest corner is right a 77-feet from the center of the road.

Chairperson Bowne stated that the home is within the setback.

Chairperson Bowne stated that Mr. Brundage indicated that the garage was going to be placed in front of the home and asked what size the garage was going to be.

Mr. Gettman stated that he is planning on a 30 by 40 foot garage; it will basically be the same size as his house. The corner of it will be placed at an angle, the front corner will be very close to the corner of his house then it will come out at an angle.

Chairperson Bowne asked staff if they received any calls about this request.

Mr. Yonke stated that he didn't speak with anyone about this. Mr. Shawver spoke with the Brundage's.

Member Hatfield asked if the new garage was going to be different construction.

Mr. Gettman stated yes, metal.

Member Hatfield asked if there was any reason it was metal and not wood.

Mr. Gettman stated that the main reason was that it was less expensive. But it will be a manufactured building; they are nice looking and painted metal building. It is nothing that would detract from the land.

Chairperson Bowne stated that 40-foot is awful long for a 2 car garage.

Mr. Gettman stated that he planned on having a workshop in one end of it. It will be a 3 bay garage, 2 will be for vehicles and storage and the other bay will be the workshop.

Member Thomas asked if there is some reason why the applicant chose to set the building at an angle instead of kicking it around square and pulling it a little closer to the current home.

Mr. Gettman stated that is how the land lays. The slope of the land angles that way so the back of the building would go right along the edge of the slope.

Chairperson Bowne asked if the applicant had to excavate and haul in or haul out dirt when the home was built.

Mr. Gettman stated he doesn't know; the home was already built when he bought it. It looks like some was done.

Member Hatfield asked Mr. Brundage if it would make any difference if the building was built with something other than metal.

Mr. Brundage stated no; it would still be a problem. The house is 77-feet from the right of way; the applicant is requesting 50-feet from the right of way and the large building, no matter what it is built out of is going to be very obtrusive. The metal building is a problem but even if it was built out of wood and the same material as the house, it wouldn't be quite as bad but it would be the predominate item out there. The only recourse is that the applicants abide by the 75-foot setback and if it is built back there then Mr. Brundage has nothing to say about it.

Chairperson Bowne stated that the regulations say that no accessory building may be built in front of a main building. Chairperson Bowne asked how that is defined.

Mr. Yonke stated that what the applicant is asking for needs a variance for that too technically. Staff will consider it to be part of the same variance.

Chairperson Bowne stated that is the intent of this regulation also.

Mr. Gettman asked if they were talking about the front.

Chairperson Bowne stated that the regulations section 7.A.5. says no accessory building may be erected in front of a main building unless the accessory building is attached to the building by a common wall.

Mr. Gettman stated that this will not be in front of the house.

Chairperson Bowne stated that is why she asked staff what "in front of" means. It doesn't mean that it has to be directly in front, it can't be between that line of the house and the building line.

Mr. Yonke stated that it can't project in to the front yard area. The yard area is defined as taking the primary structure on the lot and you run a line parallel to the front plain of that. Anything forward from that is the front yard area. An accessory structure is not supposed to be in the front yard area. That is what that is addressing. If the accessory structure is within 10-feet of the primary structure it is technically looked at as if it was attached. If it is attached it can project forward because it is then not an accessory structure, it is part of the main structure, it is just an "L" shaped structure. The yard variance as well as the setback variance cover the same thing in this instance.

Chairperson Bowne asked the applicant the planned distance between the home and the garage.

Mr. Gettman stated that the front part would be at an angle, the front corner would be approximately 10-feet and the back corner would be about 16-feet from the house.

Chairperson Bowne stated that she pulled the topography maps for the site. That house and the road itself is on a ridge, those contour lines are 20-feet apart, that means between the back contour line which runs approximately along the back third of the property there can be a 20-foot variation. A 10-foot variation could be significant but again, this is as flat as it is going to get out there. Chairperson Bowne stated that she has a problem with accessory structures not meeting the regulations for County Planning, whenever you are building an accessory structure you need to meet the regulations and stay within the setback. Those were created for a reason. It is an added expense to make those adjustments whether you cut it and level it or you fill it and level it, one way or the other that is an adjustment. A 30 by 40 structure is very large; it is the same size as the existing house. That is a hilly area and it takes some extra expense to do some developments in that area; that is part of being a homeowner.

Member M. Thomas stated that he would probably have an easier time with it if it was a primary structure as opposed to an accessory structure.

Member M. Thomas made and Member Hatfield seconded a motion to deny a request by Kenneth and Josanne Gettman for a variance from the front setback of 50' as required in the A-2 District on property located at 2001 W. Botner Rd., Columbia (Zoning Regulations, Section 10. A).

Chairperson Bowne	Yes	Member M. Thomas	Yes
Member Hatfield	Yes		

Motion to deny request carries.                      3 Yes                      0 No

Variance not granted.

Chairperson Bowne informed the applicant that his request has been denied for this particular structure. If there is another proposal that the applicant wants to come up with the applicant needs to work with the County staff to see what they can come up with there.

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2. Case Number 2005-004

Request by Jeffrey and Denise Stotler for a second dwelling for a family member on 5.57 acres located at 3980 Mt. Zion Church Rd., Hallsville (**Zoning Regulations, Section 15.C. 4. (d).**)

Planner, Bill Florea gave the staff report stating that the property is zoned A-2; all the adjacent property is also zoned A-2. The site is located 3 miles southwest of Hallsville, west of State Highway B. There is a single family on the tract. The applicant would like permission to place a 18 by 60 foot manufactured home on the property. The dwelling will be occupied by the applicant's father. The original zoning for this tract is A-2, there have been no previous requests submitted for this tract. The request is from Section 15.C.4.(d). To permit in case of practical difficulty or unnecessary hardship for a period of two years, the location of a mobile home on a lot. Staff notified 9 property owners about this request.

Present: Jeff Stotler, 3980 Mr. Zion Church Road, Hallsville.

Mr. Stotler stated that his father's health is failing; he lives in Houston, Missouri at this time. He needs to be moved closer so the applicants can take care of him. His health is failing fairly quickly. The applicants

spent a year looking for something within his price range, something affordable for his social security. Right now he is retired with his medication and everything the property that he can afford the applicants wouldn't put him on. The applicants have spent a lot of time looking for something for him. The applicants last availability is to put a trailer on the property adjacent to his house and let him live out his remaining years with the applicants.

Mr. Stotler stated that he does have a letter from his father's doctor, Doctor William Wright. Mr. Stotler read the letter which described his father's medical conditions. Dr. Wright wrote that he believed it would be important for Mr. Stotler to be able to live near his son so they could keep a close eye on him and help him with his multiple medical conditions. The letter also stated that Dr. Wright believes that Mr. Stotler living near his son would be a resolution to this problem. Dr. Wright requested the Board allow the variance.

Mr. Stotler stated that this would be for a limited amount of time. His father probably won't make it for another 5 years. He is on the most oxygen that you can currently be on right now. He was hospitalized earlier this year and the applicants have been running back and forth trying to take care of him and the applicants don't have any other options.

Open to public hearing.

No one spoke in favor of the request.

Present in opposition:

Matt McGrueder, 4100 Mt. Zion Church Road, Hallsville.

Mr. McGrueder stated that he owns the property directly east of the applicant and stated that he wanted to know where type of waste water system would be used for this trailer.

Mr. Stotler stated that he would need a lagoon and it would be located behind the house. Mr. Stotler explained to Mr. McGrueder where he would place the lagoon and trailer.

Jim Loveless, 6700 W. Route K, Columbia.

Mr. Loveless stated that he is the area manager for the Rocky Fork Lakes Conservation Area which is adjacent to this property. Mr. Loveless stated that he is sympathetic with the applicant's case in wanting his father there. There is concern about having a second residence on that property and the variance in place. Mr. Loveless asked if this variance could be predicated upon the life of the applicant's father. When the father passes away then it is no longer in force so this second dwelling has to be removed.

Chairperson Bowne stated that the way these work is that the request is for a trailer, specifically for a family member. That request is good for two years. If something should happen that the father was not living in the home then that is the end of the request.

Mr. Florea stated that was correct.

Chairperson Bowne stated that it could be terminated prior to the two years or at the end of the two years the applicant can come back and request another two years and that can continue as long as his need is there. Those are not automatic renewals; if the request is granted tonight it is good for two years and in two years the applicant can come back and request another two years and the Board will look at the situation again.

Mr. Loveless stated that he had no objections to this request.

Chairperson Bowne asked the applicant if a lagoon would be required and the placement of that and the placement of the trailer.

Mr. Stotler stated that the applicants have checked with the County and the regulations and the trailer can not use the lagoon that Mr. Stotler is using for his current home. There has to be a separate lagoon for the trailer. The lagoons are built to the size of the residence, if it is only a single person dwelling then the lagoon will reflect that.

Chairperson Bowne asked the placement of the trailer.

Mr. Stotler pointed out the location of the proposed trailer and the lagoon.

Chairperson Bowne stated that the placement of the trailer was going to be just south of the shed setback 50-feet from the property line and the lagoon would be back behind the trailer in what is now a wooded area.

Chairperson Bowne asked staff if they had received any calls about this request.

Mr. Florea stated no.

Chairperson Bowne stated that the father is a single person and the applicant understands if the variance it is granted for the father to live in the trailer not any other family members.

Mr. Stotler stated yes and understands it is also temporary.

Chairperson Bowne stated that it is a two year request and if something should happen that the father can not live there anymore then the trailer would have to be moved within those two years. If it is granted and at the end of the two years the need was still there the applicant would have the option of coming back and requesting another two years. If the applicant does not come back and request another two years then the permit terminates and the applicant would have to remove the trailer. It is a temporary thing.

Mr. Stotler stated he understood.

Chairperson Bowne asked Mr. Stotler the size of his family.

Mr. Stotler stated four.

Chairperson Bowne stated she asked that because she saw the size of the applicant's home was four bedrooms.

Mr. Stotler stated that he would have moved his father in with him because he has a large basement that is finished but due to his nervous condition, the applicants have a 3 year old and a 4 year old.

Chairperson Bowne stated that was understandable.

Chairperson Bowne stated that the placement of the trailer would have to meet all Boone County requirements as far as setbacks and things like that.

Mr. Stotler stated he understood.

Member M. Thomas made and Member Hatfield seconded a motion to **approve** a request by Jeffrey and Denise Stotler for a second dwelling for a family member on 5.57 acres located at 3980 Mt. Zion Church Rd., Hallsville (Zoning Regulations, Section 15.C. 4. (d).):

Chairperson Bowne	Yes	Member M. Thomas	Yes
Member Hatfield	Yes		

Motion to approve request carries.      3 Yes      0 No

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**OLD BUSINESS**

None.

**NEW BUSINESS**

None.

**ADJOURN**

Meeting adjourned at 7:35 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 24th day of May 26, 2005.