

## **BOONE COUNTY BOARD OF ADJUSTMENT**

**BOONE COUNTY GOVERNMENT CENTER**

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

**Thursday, September 22, 2005**

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

Chairperson 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, Chairperson  
Gregory Bier, Vice-Chairperson  
Frank Thomas  
William Hatfield

Absent: Cindy Bowne

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

Minutes of the August 25, 2005 meeting were approved with no corrections

### **REQUEST**

1. Case Number 2005-011

Variance request by the Sapp Joint Living Trust to allow an existing house to remain within the proposed front setback on 11.02 acres located at 8550 Clatterbuck Rd., Ashland (**Zoning Regulations Section 10.**).

Planner, Thad Yonke gave the staff report stating that the current zoning of the property is A-2. The adjacent property to the north is A-1, to the east, south and west is A-2. This site is located 2.5 miles east of Ashland approximately ¼ mile east of Rangeline Road. There are two single family dwellings on this tract as well as several accessory structures. The applicants would like to split the tract in to two lots with one house on each lot. The house on the west side of the property will be in the front setback area when the land is platted. The original zoning for this area is A-1. In 1974, this tract was part of a 70 plus acre tract rezoned to A-2. The requested variance is from the Zoning Regulations, Section 10.A which requires a front setback of 50 feet. Staff notified 14 property owners.

Chairperson Thomas asked if staff received any responses from the neighbors.

Mr. Yonke stated no.

Present: Gene Basinger, Marshall Engineering, 300 St. James St., Columbia.  
Diane Sapp, 8550 Clatterbuck, Ashland.

Mr. Basinger stated the reason the applicants wish to divide the property is because Mr. and Mrs. Sapp are in the process of a divorce, both are on disability and therefore they want to divide their property in two pieces, each one of them ending up with a home. Mrs. Sapp will be residing in her residence which is on the east part of the property. Mr. Basinger stated he didn't know what Mr. Sapp's plans are but assumes he is going to live in the other house. The road itself as it exists today, Mr. Sapp is retired from the Boone County Road and Bridge Department. Some years ago, looking at old surveys, at one time this road had a very bad curve in it, it came from the east and made a 90 degree turn to the south and then swung back to the west and out to Rangeline Road. The County desired to straighten that road out and the Sapp's gave permission for them to re do the road. They cut the road banks back, moved the road, and pulled it further south. Mr. Basinger stated he doesn't have any surveys that actually show the road but he has one old survey that shows the hook in the road but can't tell a lot about it. All the surveys, for whatever reason, left the road out of the surveys, that is not normally common but in this case it happened. The road is now encroaching just a small amount on the property the Sapp's own but it has been moved to the south but Mr. Basinger doesn't know how much. Just for a matter of reference for the Board to know that the road was moved and it was moved at the request of the County with the permission of the Sapp's some years back. Because of that they probably didn't help themselves on this problem they've got but I don't know if it would have totally taken care of it.

Open to public hearing.

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

Closed to public hearing.

Member Bier asked who holds the deed to the property.

Mr. Basinger stated it is in a living trust so it is still the property of Mr. and Mrs. Sapp.

Member Bier asked if we commonly do this. If two people own the trust and we've only got the request from half the owners is that an issue?

Mr. Yonke stated not really because if the variance is granted the plat will have to be signed by all of the legal owners. They can't start the process of platting unless they know the Board is going to approve the variance. If both parties won't sign the plat it will never actually count anyway.

Mr. Basinger stated Mr. Sapp is aware of it and agreeable to it. Mr. Basinger has been in touch with Mr. Sapp, he is not here tonight mainly due to health reasons. Mr. Basinger stated he could have got Mr. Sapp here but it is not a problem with him, he is agreeable to everything we've done.

Member Bier asked how old the house is.

Mr. Basinger stated it is relatively old.

Ms. Sapp stated the children who grew up in the house are her age.

Mr. Basinger stated it is an older home and if you look at it, it is in need of repair it is actually being repaired now. Looking at the age of the home, and the home is occupied and has been all along, Mr. Basinger suspects its not going to be too many years before the house is gone.

Chairperson Thomas asked if the deed calls out the centerline of the road as part of the description or is it just meets and bounds around it.

Mr. Basinger stated just meets and bounds. There is a survey on part of the property they own and the other part is just a deed with exceptions. The good thing is the north part along the road is actually from an old survey.

Member Bier made and Member F. Thomas seconded a motion to **approve** a request by the Sapp Joint Living Trust to allow an existing house to remain within the proposed front setback on 11.02 acres located at 8550 Clatterbuck Rd., Ashland (**Zoning Regulations Section 10.**), with the following condition:

- The existing structure maintain the same location, footprint, and square footage. If the existing structure 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.

Member M. Thomas	Yes	Member F. Thomas	Yes
Member Bier	Yes	Member Hatfield	Yes

Motion to approve request with condition carries.      4 Yes      0 No

**OLD BUSINESS**

Signing of Certificates of Decision for the I-70 LLC request. Hearing date August 25, 2005.

**NEW BUSINESS**

None.

**ADJOURN**

Meeting adjourned at 7:15 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 27th day of October, 2005.