

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, July 26, 2007

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

Member 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.

Member Bowne stated that there are not five members on the Board right now; there is a vacancy.

Roll call was taken:

Present: Cindy Bowne
 John Schultz
 David Butcher
 William Hatfield

Absent: Vacant Seat

Also present: Thad Yonke, Staff
 Uriah Mach, Staff
 Paula Evans, Secretary

Minutes of the July 27, 2006 meeting were approved by acclamation.

NEW BUSINESS

Annual Election of Officers.

Member Bowne was elected Chairperson.

Member Hatfield was elected Vice-Chairperson.

REQUEST

Case Number 2007-001

Request by Thomas Forney for a variance from **Zoning Regulations Section 7.A.5**. “No accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall” on 3.42 acres zoned A-2 (agricultural) property located at 10900 Alexander Dr., Rocheport.

Planner Uriah Mach gave the staff report stating the property is located on the south side of Interstate 70, approximately ¼ mile west of the State Highway O/J interchange. There is a single family dwelling on the property. The applicant is requesting a variance from zoning regulations 7.A.5 which states that no accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall. The applicant would like to build an accessory building between the house and Alexander Drive. The original zoning for this property is A-2, there have been no previous requests for rezoning or activity for this tract. Staff notified 15 property owners about this request.

Present: Thomas Forney, 10900 Alexander Dr., Rocheport.

Mr. Forney stated that on June 21, 2007 the applicant obtained a building permit to put a new structure, a garage, on the property. Mr. Forney did some dirt work and bought the trusses. On June 28, the applicant got a call from the Planning and Building Department that said that the building permit has been refused because it would cause a violation of the zoning regulations.

Mr. Forney presented a drawing and pictures of the property as well as the proposed location of the garage.

Photo 1 – Was taken standing across Alexander across from the subject property shooting directly toward the house.

Photo 2 – Was taken slightly to the west and shows the driveway.

Photo 3 – Was taken after you step in to the drive.

Photo 4 – Applicant didn't identify

Photo 4.1 – Applicant didn't identify

Photo 5 – Applicant didn't identify

Photo 6 – Applicant didn't identify

Photo 6.1 – Applicant didn't identify

Photo 7 – Applicant didn't identify

Photo 8 – Applicant didn't identify

Mr. Forney stated the drawing itself in the cayenne lines shows the ravines that come from the road and you come to a peninsula back on the property. At the point of the peninsula is where the home is. The property is all wooded.

Mr. Forney showed aerial photos of the property showing that the property is virtually all wooded.

Mr. Forney stated he hated to take any timber out to build this but he had no clear spot so he had a dozer come in and prepare the job site. The reason Mr. Forney had been told that this regulation was in affect turned out to be two-fold. One was if a fireman or police officer were to come to this address they wouldn't be able to see the house if the building was in front of it. The trees prohibit that view anyway. The second was that it may affect the property values of the neighbors. To put a machine shed in front of a house could easily detract the property values of the neighbors. In this case you would not be able to see this garage anyway because of the trees. For those reasons, the applicant is asking the Board to grant a variance and let him proceed with the construction of this garage.

Open to public hearing.

Present, speaking in favor of the request:

Jane Vanderham, co-owner of the property, 10900 Alexander Dr., Rocheport.

Ms. Vanderham stated she would like to speak in favor of the project.

Chairperson Bowne asked if Ms. Vanderham also lived at the site.

Ms. Vanderham stated yes.

No one spoke in opposition to the request.

Closed to public hearing.

Chairperson Bowne asked the purpose for the building.

Mr. Forney stated it will be a garage. Mr. Forney is soon to retire and his hobby is working on old Jeeps and that is what he will use the garage for.

Chairperson Bowne asked the type and size of the building.

Mr. Forney stated it is a combination of wood/steel frame with wooden purlins and metal siding. The color is intended to blend with the natural harmony of what we've got. The size will be 40 by 42.

Chairperson Bowne asked if there were any other accessory structures on the property.

Mr. Forney stated no.

Member Butcher stated he visited the site; the proposed building is very large. As big as the building is going to be and as narrow as the driveway is fire trucks would have a little difficulty getting on the property. Member Butcher asked if there was a possibility of downsizing the building.

Mr. Forney stated the trees that the applicants have not taken out would prohibit enlarging the driveway. Does the Board want the applicants to take some trees out?

Member Butcher stated no; the applicant has stated he already purchased trusses but it seems like that is a very big structure. The site is very beautiful but with the building so big it doesn't seem to fit.

Mr. Forney stated he moved to this area from Macon three months ago. The garage the applicant had in Macon is 40 by 100; the applicant is downsizing substantially. In order to downsize the building and provide any more room for fire trucks he would have to doze some trees out because the building will sit behind the trees.

Member Butcher stated the reason he is asking about the size of the building is not only for fire trucks but if this property were to have to be platted for any reason the applicant would have to have a 50-foot building line on the front of this because it is adjacent to the interstate. Which means as close as the building is to the property line the applicant would probably need to move it south toward the house at least 30 feet in order not to be in violation of something in the future. If the applicant were to ever come back before the Board again Member Butcher doesn't want it to be like the next applicants and have to have a variance for something we can probably settle right now.

Mr. Forney stated he really made an effort to locate this.

Member Butcher stated in photo number 8 it looks like the applicants are going to have to remove some trees in order to move it 30-foot south.

Mr. Forney stated they would have to move some trees and also have to relocate the driveway.

Chairperson Bowne stated the trees that are there now; the driveway served the house before the shed was even proposed so the trees that are there now that would prohibit a fire truck to get down there or not really has nothing to do with whether a building is placed at the site or not. The driveway is the driveway and if the applicant doesn't put a building there the driveway is still the driveway and it would still be the same size. The property is 3.42 acres and future subdivision, there is really no need to bring that in to the context of this request either. 3.42 acres can not be divided as it is zoned now and there is no need to look in to the future. If it had been a large tract it may have been considered but it is such a small tract that can't be divided anyway then there is no reason to bring that in to the discussion.

Member Butcher stated if they had transferred to an adjacent owner they may possibly have to plat it.

Chairperson Bowne stated the applicants may not be able to attach this to the next property. If they want to bad enough they may have to tear the building down. That is just part of the process. Chairperson Bowne stated she is not hearing any plans of selling the property or anything like that it sounds like the applicant is wanting to build a garage in order to retire there.

Member Butcher stated as far as the structure in front of the house it fits okay there because it is adjacent to the interstate; property values are not going to be too much of an issue. The property is very heavily

wooded; there are large ravines on both sides. The trees wouldn't be removed even if the neighbors cleared their land the lagoon would still remain in place with the trees.

Chairperson Bowne stated she believes this fits very well in to the conditions we have. One of the things we consider is topography and it fits in to that case. There is really no place else for the applicants to place the building; if the applicant is going to build it that is the place for it.

Member Hatfield asked staff if they heard anything from the property owners.

Mr. Mach stated no.

Member Butcher asked the applicant if they notified the neighbors.

Mr. Forney stated the neighbors were notified by staff.

Member Butcher asked if the applicant himself notified the neighbors.

Mr. Forney stated no.

Chairperson Bowne stated that is part of the process; staff contacts the neighbors.

Mr. Yonke stated that on rezoning requests staff recommends the applicants talk to their neighbors. The neighbors will get a letter from the county and that usually generally agitates neighbors. The neighbors call staff or come to the meeting and speak in opposition because they don't really know what is going on. Staff usually recommends that applicants notify their neighbors themselves so they can mitigate the amount of opposition. It is much harder to get people to come to the meetings in support, it is pretty easy for someone to come in opposition.

Member Schultz asked staff about the building process. The applicant got the permit and a week later they were denied.

Mr. Yonke stated that is not technically correct. The applicant applied for a permit; applicants do not get a building permit until after it is reviewed. The applicant can start work under the application but they are not granted a permit until the application is processed. It was during this process that the violation was discovered.

Member Hatfield stated the permit was not issued.

Mr. Yonke stated it is currently on hold until a decision is made by the Board.

Member Hatfield made and Member Schultz seconded a motion to **approve** a request by Thomas Forney for a variance from **Zoning Regulations Section 7.A.5.** for a proposed building on 3.42 acres located at 10900 Alexander Dr., Rocheport:

Member Bowne	Yes	Member Schultz	Yes
Member Hatfield	Yes	Member Butcher	Yes

Motion to approve request carries unanimously.

Mr. Yonke stated the hold will be taken off of the application and the applicant can continue construction.



Case Number 2007-002

Request by Harvey Strothmann for a variance from the 50' setback (**Zoning Regulations Section 10.A.** "Minimum Yard Requirement") on 4.1 acres in the A-2 (agricultural) zoning district for an existing shed to remain within the new building line established by minor plat (**Amended to include** a request for a variance from Zoning Regulations Section 7.A.5. "No accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall") located at 2340 Roby Farm Road, Rocheport.

Planner, Uriah Mach gave the staff report stating the property is 4.1 acres approximately 3 miles south of the State Route O/J interchange with Interstate 70. There is currently a house and outbuilding on the site as identified by the plat. The applicants are requesting a variance from Zoning regulations Section 10.A and also Section 7.A.5. A subdivision plat has been submitted for this property. Platting the property will establish a 50-foot setback from the required road right-of-way. The outbuilding mentioned is 37.5 feet from the edge of the 66-foot required right-of-way. The applicant would like a variance to allow that building to remain in place. The shed currently complies with the regulations as it is 70.5 feet from the center of the road, given that there is a 30-foot statutory right-of-way at this location and a 50-foot setback. The applicant is requesting a variance of 12.5 feet. The other portion of this from zoning regulations 7.A.5. no accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall. Staff notified 11 property owners and received no calls or contact with any neighbors.

Present: Harvey Strothmann, applicant, 2340 Roby Farm Rd., Rocheport.
Glen Strothmann, representative, 33 E. Broadway, Columbia.

Mr. G. Strothmann stated this is a property that is adjacent to the applicant's property on Roby Farm Road; it is to the south. He purchased the property from Mr. Coleman who had the property his entire life. The applicant's desire was to replat this so that the northern portion of this property would be attached to the applicant's existing property. The replatting only affected the northern portion of the property; nothing was done on the portion that the Board is looking at. By virtue of creating the plat what was a grandfathered condition pops up as a non-conforming use and actually Mr. Coleman gave the county the center of the road over and that is what actually made the shed become too close to the road. If that had not been quit claimed over to the County we wouldn't be here today. The action the applicants have taken was to take a strip off of the north side of the property. The applicants didn't do anything on the side of the property where the shed is. The applicants were told by staff that they had to come in and have the Board grant a variance even though no shed has been moved, no property line on that side of the property has been moved. The house hasn't been moved, nothing has changed on that side of the property it is only on the other side of the property that is changing.

Mr. Yonke stated that is not correct. When you plat a piece of property you have to plat it in compliance with the regulations. The property line was at the center of the road and an easement was granted will now be by default by the plat is now a 33 half width easement. That changes that property line just by the virtue of the platting. That is the reason the applicant needed the variance. Had this property been able to stand as

its original piece the applicants wouldn't have needed the variance. The reason the variance is needed is to allow the plat to go forward.

Mr. Mach stated the property was surveyed many years ago; since the applicants are creating a piece of property it has to be done under the current regulations.

Mr. G. Strothmann stated the building has been there for 50 years and is now not in compliance. The applicants don't want to have to move the shed because it has been there for years. People will still drive down the road the same way they have for years.

Chairperson Bowne stated right now, at this point in time, the shed is in compliance.

Mr. Yonke stated it is in compliance as long as the property doesn't change.

Chairperson Bowne stated it is in compliance, there is nothing wrong with the way it is right now.

Mr. Mach stated it is by the execution of land division that it becomes a problem.

Mr. Schultz asked if that would also apply to the accessory building being in front of the house because it was built before the regulations.

Mr. Yonke stated yes.

Chairperson Bowne stated as of now everything is in compliance.

Mr. Yonke stated yes; if the Board is going to grant a variance they should hear both requests now.

Open to public hearing.

Present speaking in support of the request:

Harvey Strothmann, owner, 2340 Roby Farm Road, Rocheport.

Mr. H. Strothmann stated he has lived at the property for 35 years and one of the neighbors called him and asked if the applicant wanted the neighbor to come to the meeting. The neighbor told the applicant that the shed has been grandfathered. The neighbor doesn't understand what the big stir is about Mr. H. Strothmann stated he didn't either.

Mr. G. Strothmann stated the people who live on Roby Farm Road are a very close neighborhood if they thought there was going to be a change along the roadway, they would be at the meeting. They don't like it when people come and trim the trees back from the road; it is a scenic roadway. The applicants realize now, even better, why this kicked in. The applicants want the Board to know that the reason the applicants are doing this is to switch one property over to another.

No one spoke in opposition to the request.

Closed to public hearing.

Member Butcher asked if the home on the property was vacant.

Mr. G. Strothmann stated at the present time it is. The applicants are being held up from being able to sell the property.

Member Butcher asked if the shed had a concrete floor.

Mr. G. Strothmann stated no; it is gravel.

Chairperson Bowne asked the age of the structure.

Mr. G. Strothmann stated at least 30 years.

Mr. H. Strothmann stated it is older than that because he has lived out there for 30 years and it was there then.

Member Hatfield asked what the shed is used for.

Mr. G. Strothmann stated it had been used for tractors, lawn mowers, and things like that.

Member Hatfield asked if it was being used now.

Mr. G. Strothmann stated yes, some, just for whatever. Most of the equipment is back further down.

Member Hatfield stated it would be difficult to move the building.

Member Butcher asked why a 50-foot building line is required instead of 25-feet.

Mr. Yonke stated the property is zoned A-2, (Agriculture) which requires a 50-foot building setback.

Chairperson Bowne stated she doesn't understand why this was preventing the applicants from using their property. This is already a small tract, it is 4.1 acres, it is a small tract anyway. The applicant wants to combine it with the property to the north so that it can be further subdivided.

Mr. G. Strothmann stated no; this is becoming a little bit smaller and the applicant's property is becoming a little larger and it would be the applicants desire to sell the property off to someone who might want to buy it and use the shed if they want to.

Chairperson Bowne asked what is preventing the applicants from selling the 4.1 acres; it is all in compliance right now, it could be sold today.

Mr. G. Strothmann stated the applicant wants the extra land on his property not on the property to be sold.

Chairperson Bowne stated what she hears is that in order for the applicants to maximize the northern property they want the Board to grant a variance for a building that would no longer meet the regulations in order to make the applicants a bigger piece of property in order to be able to sell it for more money.

Mr. G. Strothmann stated it wouldn't really be selling the property for more money.

Chairperson Bowne stated the northern property.

Mr. G. Strothmann stated the northern property is acreage. There are some terraces in there, there are some field in there. The applicant wants to have the property along that side of the driveway so he can maintain it the way he wants to. The applicant doesn't want to keep all the property, he wants to go ahead and sell it. The applicant doesn't care if he loses money on the deal he just wants to straighten the boundary line that has been bugging him for about 45 years. Mr. Coleman offered the applicant first right of refusal and the family granted it. This is not a case of the applicant selling the property, the applicant wants to retire there.

Mr. H. Strothmann stated Mr. Coleman was an avid fisherman and when he had that 4 acres he had built a pond behind the house. It didn't hold water so he dozed it shut and ended up with big acreage that he had to keep mowing. Mr. Coleman mentioned that he wished he didn't have this much to mow; it is just too much land. Mr. H. Strothmann told Mr. Coleman he would buy a strip of it.

Mr. G. Strothmann stated the applicants property is about 50 acres of pasture and woods he likes to keep the fields mowed well and this left over piece which would be about 2.5 acres would be much better managed in a smaller piece anyway.

Chairperson Bowne stated if the Board doesn't grant this variance the applicant won't be deprived of any use of the shed because he is not using the shed and does not intend to use the shed. This is a piece of property that the applicant wants to get rid of.

Mr. G. Strothmann stated it would devalue the property. The house only has one very small garage and there is no place for equipment. The applicants want to be in a friendly situation with the County. The applicants were dumbstruck. The property that the applicant has right now includes the driveway. This property comes to the center of the road. By doing this the applicants have voluntarily given up the road easement that the county wants. On one hand the County wants the road easement for the future right of way in case they make the road this big so they want to straighten that out. The County is requiring the condition of 33 feet; it seems to the applicants that this is what is causing the nonconforming use not the fact that someone wants to change the boundary line on the other side of the property.

Chairperson Bowne stated at some point we have to update the way we do things. Years ago we did things on a much narrower basis and now we have things in place that allow us to make that expansion in order to make our roads bigger and our utility areas wider and all of that. Chairperson Bowne stated she does not see how denying this variance is hurting the applicant.

Mr. G. Strothmann stated if the variance wasn't granted the applicants would have to tear down the shed.

Chairperson Bowne stated the applicants aren't using the shed.

Mr. G. Strothmann stated the shed is a valuable part of the real estate

Chairperson Bowne stated by dividing it up the applicants are still going to be able to sell the property. This is the cost of doing business. The applicants can leave the property like it is and never have to tear it down.

Member Butcher stated if the Board granted this variance it would be in effect forever.

Mr. Yonke stated unless the Board conditions the variance.

Mr. G. Strothmann stated the applicants would accept the condition that if something would happen to the shed it couldn't be rebuilt in that spot.

Chairperson Bowne stated that option is available and the Board has used many times when ever there is an existing building that is an intricate part of that person's livelihood; this is a vacant house, a vacant shed and is not a part of the applicant's day-to-day life. This is in order to facilitate this for the applicant to sell the property. When you sell property there is a cost of doing business. In order to meet the new requirements the applicants may have to take it down if the variance isn't granted. If the variance isn't granted and the applicants don't choose to take the shed down then this piece of land will stay just the way it is. It will stay at 4.1 acres and the buildings will be allowed to stay there just like they are. Whatever happens in the future then at that rebuild time the applicants would have to meet new regulations if they applied to this property.

Mr. Yonke stated that was correct.

Mr. G. Strothmann stated this is not about economic benefit to the applicant but it certainly doesn't need to be about economic loss. If you look at it from just the property owner's point of view and property rights point of view basically what we've got is the applicant owns two pieces of property, he is straightening out the north side of the property. In doing so the applicant has to give up road right of way and they are giving it up for free. If the property stays like it is now and no one plats this property and some day the County wanted that additional right of way then they would probably have to pay for it. The applicants believe this to be a fair trade off. The County gets what it wants in the way of road easement. That is the real motive of the County - to compel the property owner in the replatting so that the County doesn't have to go and purchase easement after easement. In this process the County gets their extra wide roadway easement and the property owner should at least get to keep his shed. If the applicant had rented this property to a tenant or sold the property and someone was actually living on the property would the County say that there is an important value to the shed because someone is using it. The applicants have agreed to sell the property but they can't convey it like this. Without the shed and extra barn it de-values the property; it takes away a good value of the property. It is a fair trade off in that the County gets what they want, it doesn't change the day to day business of the road in any way; all you would have done is helped the applicant be able to straighten out a piece of property on the back side.

Member Butcher stated taking away the shed is not taking away the applicant's option to do that.

Mr. G. Strothmann stated by moving the shed you are taking money out of the applicant's pocket.

Member Butcher stated he saw the shed; it is a single car garage, a steel structure that has some age and it has its own driveway access. It is not even next to the house like it is a necessity to the house. It is an accessory building that, in Member Butcher's opinion, is not going to detract much value from the property.

Mr. G. Strothmann stated anyone who purchases a large area of ground is going to want some sort of shed. The applicants disagree that a shed is not going to be a value to the property; it is what rural living is all about.

Member Butcher stated the shed is close to the street, it is a benefit to the applicant to sell the property with it on there but it can be relocated; it can be somewhere else. The applicant can still sell the property with a barn on it, it just may not be that existing barn or it may not be in that location.

Mr. G. Strothmann asked the distance from the shed to the street.

Mr. Mach stated it looked to be about 70 feet to the center of the road.

Mr. G. Strothmann stated that road can't be any more than 28-feet wide; it has been that way for decades. Mr. G. Strothmann stated he didn't want to argue with staff but this is the situation. In reality, that road is there and the shed is sitting far back from anybody's standards of a road, certainly more than 50-feet.

Mr. Mach stated he is not going to argue either as far as the analysis of the plat is concerned and the shed doesn't comply with the property with the ability to subdivide. The applicant's desire is to subdivide; that is why they are here.

Member Hatfield stated down the road we have the changes in ordinances; if the County were to widen the road they could do that. Is there any feeling that there is any possible widening of the road coming about?

Mr. Mach stated that is not a question he can answer.

Member Hatfield asked if any roads out there are being enlarged.

Mr. Yonke stated the County has enlarged most of the roads; they have done construction projects on Olivet Road. That road went from having a statutory 30-foot right-of-way to a 100-foot right-of-way corridor because it is an arterial road. Roby Farm is designated as a collector which is why it gets the 33 foot half width for 66-foot. What it really comes down to is the choice to plat brings the property to where it has to come in to compliance with the regulations or to get a variance.

Member Hatfield asked if the road was enlarged would there be any need for any utilities to come through on that side of the road where the shed might be.

Mr. Yonke stated there would be a 20-foot utility easement required on the plat along that as well.

Member Hatfield asked if the 20-foot utility easement would fit in between where the house is right now.

Mr. Yonke stated on the plat it shows 37.5 feet.

Member Hatfield stated it would fit then.

Mr. Yonke stated yes.

Chairperson Bowne stated the opening statement tells the conditions in which a variance can be granted. Variance can only be granted in situations where by reason of shape, topography, or other extraordinary or exceptional situation or condition of a specific ordinance. Or 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. Chairperson Bowne stated we have topography and we have deprivation of use.

Chairperson Bowne stated she is putting the discussion to an end and called for a motion.

Mr. G. Strothmann asked the Board to consider that even if in the future the County decided to widen this road, that is a designated scenic road; it is going to be a long time coming. It is the desire of the residents and the County in general.

Chairperson Bowne stated we have been over this; the Board has two things in which a variance can be granted.

Mr. G. Strothmann stated if the road is widened there is plenty of easement there for utilities. An undue hardship is if you remove an existing building that could be used for the property constitutes a hardship because he loses that building.

Chairperson Bowne stated that would be the applicant's choice. It is the applicant's choice to replat. Right now the applicant is talking about cleaning up property; that can be done without selling it; it is the applicant's choice to replat and sell that off. You are talking about a cost of doing business. If the applicant wants to sell the property and they want to leave the building there they will have to sell off the 4.61 acres without a variance. If the applicant is granted a variance then they can go through the platting process. Again we are talking about choices and the Board has to decide if this is an economic hardship or not.

Member Hatfield asked if it was possible for the owner to agree that should the road ever be enlarged that they would tear down or move the shed at that time. Still grant the variance but the applicant has to agree to remove the shed if the road is widened.

Mr. Mach stated he would be reluctant to do that because it sets a precedent and we will see many requests before the Board.

Chairperson Bowne stated the Board can only grant a variance under two situations, topography or undue hardship.

Mr. Yonke stated an undue hardship has to be a unreasonable deprivation of use of the property. If there is a use of the property there is no deprivation of use. Mr. Yonke stated that hardship is a legal term in this case, not the general term. Deprivation of value is not deprivation of use.

Mr. G. Strothmann stated you can't use the shed if you don't have it.

Mr. Yonke stated if the property can be used for anything legal under the zoning district it is not a deprivation of use.

Chairperson Bowne stated she was drawing all discussion to a close.

Member Schultz made and Member Hatfield seconded a motion to **approve** a request by Harvey Strothmann for a variance from Zoning Regulations Section 10.A. and a variance from Zoning Regulations Section 7.A.5 for an existing shed to remain within the 50-foot front setback and to remain in front of the main building on 4.1 acres in the A-2 zoning district for an existing shed located at 2340 Roby Farm Road, Rocheport **with the following condition:**

1. The existing building maintain the same location, footprint, and square footage. If the existing building is 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 Bowne	NO	Member Butcher	NO
Member Hatfield	Yes	Member Schultz	Yes

Motion to approve request does not carry.	2	Yes	2	No
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Mr. H. Strothmann asked if the previous owner had not deeded the property to the County would this have still been an issue.

Mr. Mach stated if the previous owner had not given the easement by quit claim deed for the road right of way the surveyor would have been required to do so when the land was platted..

Mr. Yonke stated it is measured by the center of the existing road.

Mr. G. Strothmann stated he appreciated the Board's consideration and time. This is not a cost of doing business this is a person who lived on the property his whole life. None of the neighbors have a problem with this; this is not a business, no one is out there subdividing and turning this in to a subdivision. The applicants are just straightening out a property line. The road doesn't change and cars still drive up everyday and the only reason we are doing this is because of some notion that we decided to change the back property line because it is not a business but because people out in rural Missouri do things based on working on their land. It is pretty sad that people are going to go out there and try to redefine, when no one else on this road has a problem. No one else cares that the structure is still there like has been for 50 years. Nobody gives a darn whether or not Mr. Coleman owns the back it is still going to be a natural area with no new development and the Board denies it and makes a guy tear down a shed that is in perfectly good shape that could be there for many more years. That is pretty sad.

Chairperson Bowne stated the Board did not tell the applicants to tear down the shed and asked if the applicants understood.

Mr. G. Strothmann stated in order for people to live the lifestyle that they want and make common sense decisions on their property lines. What the Board has basically done is said to the applicants if they want to straighten out their property lines they have to tear down their shed. The applicants can't change the configuration unless they tear down the shed. The Board predicated that, not the applicants.

Chairperson Bowne stated the applicants do understand.

Mr. H. Strothmann stated this could be a very expensive decision for the County because he has enough influence in that area so that if the County ever decides to widen that road it is going to be damned expensive for the County to get the right of way. A lot of the neighbors own the easements right now.

Mr. G. Strothmann stated if the County isn't going to widen the road anyway why do the applicants have to tear down the shed just because he wants to change his boundary on the other side of the house? It doesn't make sense; this was a bad decision.

Mr. Yonke stated variances can not be granted for economic value. Loss of value is not a relevant reason. It has to be a deprivation of *use* of the property. As long as you can use the property for its primary purpose, which is a house, there is no deprivation of use therefore there is no grounds for a variance.

OLD BUSINESS

None.

ADJOURN

Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 23rd day of August, 2007.