

## **BOONE COUNTY BOARD OF ADJUSTMENT**

**BOONE COUNTY GOVERNMENT CENTER**

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

**Thursday, September 27, 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:     Stan Shawver, Director  
                      Paula Evans, Secretary

Minutes of the August 23, 2007 meeting were approved by acclamation.

## **REQUEST**

1. Case Number 2007-005

Request by J. Donna and Ronald White and Kim Evans for a variance from the 50' setback (**Zoning Regulations Section 10.A.** "Minimum Yard Requirement") on 10.04 acres in the A-2 (Agricultural) zoning district for an existing house to remain within the new building line established by minor plat located at 2990 E Fox Hollow Rd., Ashland.

Director, Stan Shawver gave the staff report stating the property is zoned A-2 and is located at the intersection of Fox Hollow Road and Route M about 1 ½ miles west of Ashland. There is an existing single family dwelling on the property. The property owners would like to split the property in to three tracts; 2 – 2 ½ acre tracts and a 5 acre tract. By doing so the existing house will lie within the front building setback. The request is from Zoning Regulations, section 10.A. The request is to allow the existing house to remain within the front setback.

Chairperson Bowne asked if staff heard from any of the neighbors.

Mr. Shawver stated yes; staff received quite a few calls on this request. They were all calls of inquiry asking what was planned. Everyone had acknowledged the house had been there for several years and they didn't see any reason why the variance should not be granted. Staff notified 23 property owners and received about 6 calls.

Present: Gene Basinger, Basinger Surveying, 300 St. James Street, Columbia.

Mr. Basinger stated Kim Evans is the one who is really buying the property. Mr. Basinger believes the White's are helping Ms. Evans purchase the property. It is Ms. Evans' desire to make the property in to three tracts. The existing house appears to be a fairly older home. It looks nice on the outside; Ms. Evans says it is nice on the inside as well but Mr. Basinger has not seen inside the home himself. Ms. Evans wishes to sell the house and 2 ½ acres and create a second tract and sell it and she will keep the third tract.

Chairperson Bowne asked Mr. Basinger if he knew the age of the house.

Mr. Basinger stated no. Mr. Basinger guessed the building was constructed in the 1940's or 1950's. You can't tell by looking at it; it has new vinyl siding and a new wrap around porch.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Ed Avery, 2600 Fox Hollow Rd., Ashland.

Mr. Avery stated he would like to know what the applicants are going to do with the property. Mr. Avery heard they were going to put trailers in there. Mr. Avery stated he has a modular home but it sits on 10 acres and doesn't want to see a trailer park going in there. There is enough traffic on Fox Hollow Road and they drive like they are crazy. There doesn't need to be any more traffic on that road. People don't follow the speed limit on the road. Homes are fine but Mr. Avery doesn't want a trailer park going in as he doesn't want the value of his property to go down.

Chairperson Bowne asked what Mr. Avery's property was zoned.

Mr. Avery stated he believes it is A-2. Mr. Avery's property is about 2 driveways down from the applicant's property. Mr. Avery stated he would just like to know what the applicants are doing.

Chairperson Bowne stated that Mr. Avery's concerns were the type of buildings going on the property and the amount of traffic.

Mr. Avery stated that is correct. The driveways will probably not come off of Highway M because it is kind of bad right there so access will probably come off of Fox Hollow. But the real main concern is that Mr. Avery doesn't want a trailer park.

Closed to public hearing.

Chairperson Bowne asked Mr. Shawver to address Mr. Avery's concerns with regard to the types of homes that will be allowed on the property and the location of the drives.

Mr. Shawver stated if the property is not split the applicants are at the density they are allowed. The applicants propose to split the property in to three tracts, one five acre tract located to the west, 2 ½ acres which includes the house being addressed tonight and 2 ½ acres to the south of that. 2 ½ acres is too small for a singlewide home to be placed. They could have a modular home on a 2 ½ acre tract but you couldn't have singlewide mobile homes.

Chairperson Bowne asked about the driveway issue.

Mr. Shawver stated the existing house fronts on Fox Hollow Road; the five acre tract fronts on Fox Hollow Road and the third tract south of the existing house fronts Route M. They would have to obtain a driveway permit from the State Highway Department.

Member Butcher stated the Board is not here to decide whether or not the applicants can divide the property. The applicants have every right to divide their property in the fashion they choose. It is zoned A-2 and they can divide the property without even coming to this Board. The request is to keep the house in place and to keep it in its current location and still be allowed to subdivide it. Mr. Avery is asking the Board not to allow trailers so in essence he wants the house to stay in place so at least one tract will not have a trailer on it. The building line that is being created by the subdivision plat; they can destroy the house if they choose to and still divide the property; that is one option the Board has to decide. The Board is not here to decide if the applicants can divide the property or determine what can be put on the property. The Board is here to decide if the existing house can stay there when they divide the property.

Member Schultz asked which tract the applicant was going to keep.

Mr. Basinger stated the applicant was going to keep the 5 acre tract on the west side of the property. That is what the applicant relayed to Mr. Basinger.

Chairperson Bowne asked if the home is occupied.

Mr. Basinger stated the applicants closed on the property around the first of the month and the house was occupied at that time.

Member Butcher asked about the current wastewater system on the property.

Mr. Basinger stated there is a lagoon.

Member Butcher asked if there were adequate setbacks to meet with the existing lagoon.

Mr. Basinger stated yes.

Member Butcher asked if it was the same with the existing outbuildings; they are the minimum away from the property lines.

Mr. Basinger stated yes.

Chairperson Bowne stated the Board is just looking at the existing house. It is good to consider what we know to be the proposed plans; whether they become reality or not we don't know. The applicant stated the house had been inhabited but Mr. Basinger also stated he had not been in the house so he doesn't know the condition of the house to know if it is truly inhabitable.

Mr. Basinger stated he has not personally been in the house. All he knows is what Ms. Evans told him. There were people living there. It has just been redone.

Member Hatfield asked how long Ms. Evans has owned the house.

Mr. Basinger stated they just closed on it at the end of August. They have owned it for less than a month. Ms. Evans is buying the property with the White's. Mr. Basinger believes the Whites are helping Ms. Evans get financing but that is only Mr. Basinger's assumption. Ms. Evans bought the property so she could sell it off and keep the five acre tract.

Member Hatfield asked the value of the house.

Mr. Basinger stated \$125,000.

Member Hatfield asked if the house could be moved.

Mr. Basinger stated no. Mr. Basinger suspects it has wood flooring, not a concrete slab.

Member Butcher made and Member Schultz seconded a motion to **approve** a request by J. Donna and Ronald White and Kim Evans for a variance from the 50' setback on 10.04 acres in the A-2 zoning district for an existing house to remain within the new building line established by minor plat located at 2990 E Fox Hollow Rd., Ashland **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 Bowne	Yes	Member Schultz	Yes
Member Hatfield	Yes	Member Butcher	Yes

Motion to approve request carries unanimously

Member Schultz asked if there was a way for the condition to be communicated properly to whoever buys the house from the applicants to make sure they are aware of it.

Mr. Shawver stated there are two safeguards; the certificate of decision is recorded so it becomes a matter of record and any structure that is damaged to that extent requires a building permit so the Department would keep records as well so it would be flagged.

Member Butcher made and Member Schultz seconded a motion to **amend the motion** approving the request by J. Donna and Ronald White and Kim Evans to **add the following condition**:

- Condition to be noted on the subdivision plat.

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

Motion to approve amendment carries unanimously



## **OLD BUSINESS**

### Case Number 2005-012

Review request by Danny and Debra Crutchfield to permit a mobile home as a second dwelling on 10.57 acres, located at 7630 Hwy VV, Columbia (**Zoning Regulations Section 15.C.4.d.**) – issued 10/27/2005

Director, Stan Shawver gave the staff report stating the property is located on Highway VV west of the Prathersville area. The property is zoned A-R the applicants are on a 10.57 acre tract and they own the adjoining tract of land which is a 5.03 acre tract and there is a singlewide mobile home on that tract which is occupied by a family member. Their request was heard originally in 2005, they asked permission to place a singlewide mobile home on the property to be occupied by the applicant's mother and sister for the purpose of helping to provide care for a family member that resided in the house. The family members that lived on the property all worked outside the home and were not able to provide the full time care necessary and by having the mother and sister there provided other care givers and helped split up the care requirements amongst various family members. The Board heard the request in October 2005; there was some opposition to the request but the Board granted the request and asked that the review come back before the Board rather than being done administratively. Staff received some calls mostly inquiring to see what was going on and what the status was. Staff received a fax in opposition this afternoon and copies have been forwarded to the Members.

Present: Debra Crutchfield, 7630 Highway VV, Columbia.

Chairperson Bowne asked if the Members had the chance to read the minutes from the October 2005 meeting.

Members indicated they had.

Ms. Crutchfield stated the applicants have kept to the Boards decision and have placed a singlewide in a location where the opposition will not see it directly. It is not visible from the road. It has not affected any

of the rest of the property; it has been kept up and well maintained. The situation has only changed in that Mr. Crutchfield passed away in February so she has lost his support and depends that much more on her mother and sister-in-law.

Closed to public hearing.

No one spoke in favor to the request.

Present, speaking in opposition to the request:

Vicki Johnson, 7450 N. Highway VV, Columbia.

Ms. Johnson stated she has opposition to this request because it is very visible to her property and her neighbors have had their property on the market for about a year and feel that these trailers have been a detriment to the property value. Ms. Johnson is also purchasing some tracts from that property. Ms. Johnson stated she is not unsympathetic to the applicants cause. Ms. Johnson herself and her son have disabilities and she does her best to take care of her son. Ms. Johnson requests the Board fulfill the stated agreement made two years ago to allow the trailer only for two years. Ms. Johnson sees the backside of the mobile home that was placed and it is almost like a little triangle of mobile homes. They are visible from the Johnson's home. The Johnson's are afraid that if this trailer is allowed to stay then soon there will be another one and they will end up with a mobile home park. Ms. Johnson would like the mobile home removed. The applicants have a very large trailer with a basement and to Ms. Johnson's knowledge there are only two people living in it; there may be room in that home for more family. She asks the Board to really think about their decision tonight. Ms. Johnson stated she works very hard to keep their property up and is afraid if the trailer is allowed to stay it will become a permanent thing. With the added mobile home there are added people there. There is quite a noise factor there; there are dogs barking all night and motorcycles that run back and forth on the property. The noise has significantly increased in the past two years.

Chairperson Bowne read the fax letter in to the record as follows:

We regret that we are unable to attend this Board meeting due to previous commitments. We, Tad and Vicki Johnson, are writing to state our opposition of this mobile home permission to stay. We understand the original request was to allow for housing for the care of the disabled family member. We understand the problems that caring for a disabled family member can be because we also have two disabled family members, but there are currently three mobile homes in a very close proximity of each other on this site, and it appears as a mobile home park. We are requesting this mobile home be removed from the property as per the condition stated in the previous 2 year request for temporary approval. We are presently purchasing tracts of land from the Holsinger's and do not want this mobile home to decrease the value of our property. We request that the Board will uphold the previous agreement.

Closed to public hearing.

Member Schultz stated in the 2005 meeting it sounded like this was going to be a temporary measure until the applicants built a permanent home there. Is that still an option the applicants are considering?

Ms. Crutchfield stated the applicants have a mobile home there and brought in a trailer for the applicants mother and sister-in-law to help take care of the applicant's son. At this point the applicants can move the trailer but financially right now it would be a hardship. The applicant has given her other son where the old

mobile home is 5 acres and he is in the process of putting a modular home in. There are no plans to put anything other than a barn on the property in the distance future.

Chairperson Bowne asked who the occupants of the modular home are.

Ms. Crutchfield stated herself, her daughter who is expecting in November, her daughter's significant other, the applicant's son, and a part time care giver.

Chairperson Bowne asked who the disabled person in the household is.

Ms. Crutchfield stated her son, Jason.

Chairperson Bowne stated in the caregivers house is the applicant's mother and sister-in-law.

Ms. Crutchfield stated that is correct.

Chairperson Bowne asked if they were both able to take care of Jason.

Ms. Crutchfield stated yes.

Chairperson Bowne asked if they were both there full time.

Ms. Crutchfield stated no. The sister-in-law works full time and her mother works part-time. That is why there is another part time care giver.

Chairperson Bowne asked the applicant if she worked.

Ms. Crutchfield stated she works full time and so does her daughter.

Chairperson Bowne asked if Jason worked.

Ms. Crutchfield stated no, he is not able to attend school either because of health issues.

Chairperson Bowne stated the applicant has another family member living on the 5 acres. The applicant indicated she had given that 5 acres to her son; who else is on the property?

Ms. Crutchfield stated her son, his significant other and their five children. They have been there for years.

Member Butcher stated this request was approved to allow for a care giver to live on the property in the additional mobile home to help the applicant take care of her husband and son.

Ms. Crutchfield stated yes.

Member Butcher stated the applicant's husband has passed and the applicant just stated the care giver lives in the house with the applicant.

Ms. Crutchfield stated between the part time caregiver and her sister-in-law and the applicants mother, it takes all three of them to take care of him. It takes two people to get him in and out of bed. It is not a one person job.

Member Butcher stated the fact that care is no longer needed for the applicant's husband it hasn't changed the fact that a care giver is needed.

Ms. Crutchfield stated that is correct.

Chairperson Bowne stated she visited the property and understands that there is now a business on the property. When was that business established?

Ms. Crutchfield stated the applicants have had that business for years.

Chairperson Bowne stated if the business was in existence in 2005 it was not made a part of the record.

Ms. Crutchfield stated there is no business on the property the applicants put up the signs to honor her husband. The applicant had hoped the business would be ran full time.

Chairperson Bowne asked if there was a business being ran out there.

Ms. Crutchfield stated on the five acres.

Chairperson Bowne stated the Board had informed the applicants in 2005 that this is a temporary solution to a permanent problem. Jason's injuries are permanent. It was discussed at that time that this would be a temporary issue. The applicant has added another person who is a part time caregiver. There are more family members on the tract but there is not a lot of care giving production because they work outside jobs. Again, the applicant is looking for a temporary solution to permanent problem. Chairperson Bowne stated while she doesn't want to cause further burden the applicants aren't progressing anywhere in this situation.

Ms. Crutchfield asked if she could divide up the other 10.57 acres and put that home back there.

Chairperson Bowne stated that would take this away from the Board and they would have no say in it. Chairperson Bowne asked Mr. Shawver if that was a viable option.

Mr. Shawver stated it is possible to split the 10 acres.

Chairperson Bowne stated that would be a permanent solution to this problem. It would also eliminate the applicants from having to come in every two years for review. This type of request is typically for people who are looking for temporary care for a short period of time. Chairperson Bowne stated she does not see that in this case. The applicants need to look for something permanent.

Member Butcher asked if there was a life expectancy for her son.

Ms. Crutchfield stated the last time the applicant spoke with the doctor, he said 5 to 10 years.

Member Butcher asked Ms. Johnson if she had the ability to see the properties why she hasn't she put up screening.

Ms. Johnson stated they were waiting to see what the Board decided after two years.

Member Butcher stated he believed the situation is a true hardship. If Ms. Johnson came and asked for the same variance she would probably get it because she has a similar situation.



Member Schultz stated usually in these types of cases they usually come back to staff for review rather than the Board.

Mr. Shawver stated when staff reviews these they check the area and contact the property owner to see if the situation is still the same. Staff also monitors media outlets and have had good success with that. If staff receives a complaint they will investigate.

Member Butcher stated if the applicants have to divide the property are we really gaining anything? The home will still be on the property; perhaps it is appropriate for staff to monitor this situation and if staff believes the situation has changed it can come back to the Board for further review.

Chairperson Bowne stated the Board had stated that this is a long term problem. Jason is a young man. At the time of the last request, Jason was in school and working part time. The Board stated this is a temporary solution to a permanent problem, the Board instructed the applicants to come back before the Board in two years and if they hadn't found a more permanent solution the Board would need to look at it again. If we continue to bring these back every two years it is a burden on the County system in that we have to address this every two years whether we do it as a Board or staff does it. There is the option of denying this and the applicants can set up a permanent solution and the Board will not be taking the time of the County and the system to address that. This is set up as a temporary solution, that is why it is done on a two year basis. Because we had objections the Board asked that it come back before them and not staff.

Member Hatfield asked the applicant if they had another two years what could they accomplish. What positive steps can be taken that haven't been taken in the past two to make this better for the neighbors and for the situation

Ms. Crutchfield stated before her husband died they had planned to divide the property and put a home there. The applicants hoped Jason would get better but her husband died in February.

Member Butcher asked if the Board could grant the variance for another two years with the condition that the applicants divide the property.

Ms. Crutchfield stated she hoped she would be able to do it.

Chairperson Bowne stated that is not a condition the Board could make.

Mr. Shawver stated the Board can approve the request for one or two years or they can deny the request but the Board can not require the applicants to divide their property.

Member Butcher stated the Board can make it a part of the public record now that the applicants are willing to work towards that and if this comes back in two years the Board has that to lean on.

Mr. Shawver stated it just can't be part of the motion.

Chairperson Bowne stated that the Boards options are to deny the request, or approve the request for one or two years with a review before the Board or staff.

Member Hatfield stated if it is renewed for one year and it goes back to staff then what happens.

Chairperson Bowne stated the Board will not see it in a year, the staff will handle the review process and it will continue to stay as a review with the staff.

Member Hatfield stated even if the staff reviews it can there be a change at that time.

Mr. Shawver stated the only change that could take place would be if the mobile home is removed from the property. Unless there is specific direction from the Board staff will be reviewing it to see if the conditions still apply. The conditions are if the son is still residing on the premises and still needs care that is the limit of the staffs review.

Member Hatfield stated if everything is the same and it was a year or two years and it was in staff's hands the Board would not see it again.

Member Butcher stated if the Board denies this request, how long does the applicant have to get the mobile home off the property.

Mr. Shawver stated there is no set time. Staff always tries to work with the property owners. If the applicants choose to divide their property they will have to have the plat prepared which usually takes 60 days and the applicants will have to make arrangements to move the mobile home. It would probably be a minimum of 3 to 6 months.

Member Butcher made and Member Schultz seconded a motion to **approve for a period of one year** a request by Danny and Debra Crutchfield to permit a mobile home as a second dwelling on 10.57 acres, located at 7630 Hwy VV, Columbia to be reviewed by the Board:

Member Bowne	NO	Member Butcher	Yes
Member Hatfield	Yes	Member Schultz	Yes
Motion to approve request carries.	3 YES	1 NO	

Chairperson Bowne informed the applicants that their request has been approved for a period of one year and will be reviewed again by the Board.

Member Butcher informed Ms. Crutchfield that she basically has one year to get rid of this mobile home and try to find a more permanent solution. Member Butcher stated he feels that this is a one year renewal and the applicants probably won't get this sort of treatment at the review next year.



#### Certificates of Decision

The certificates for G E M Property LLC and Adam and Kimberly Rosenfelder were accepted by the Board and signed by Chairperson Bowne.

#### **NEW BUSINESS**

None.

**ADJOURN**

Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 25<sup>th</sup> day of October, 2007.