

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, October 25, 2012

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

Member 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: Frank Thomas
Cindy Bowne
David Butcher
Lance Robbins
Rhonda Lightfoot

Absent: None

Staff: Bill Florea, Senior Planner
Thad Yonke, Senior Planner
Uriah Mach, Planner
Paula Evans, Secretary

Minutes of the August 23, 2012 meeting were approved by acclamation.

REQUEST

1. Case Number 2012-005

- a. Request by Linda Bonebrake for a variance from the front 50-foot setback in the A-2 (agriculture) zoning district for a detached garage with loft on 1.2 acres located at 7950 W Stidham Rd., Harrisburg (**Zoning Regulations 10.A**).
- b. Request by Linda Bonebrake for a variance so that the detached garage mentioned in (a) may be built in front of the front plane of the house located at 7950 W Stidham Rd. Harrisburg (**Zoning Regulations Section 7.A.5**).

Planner Uriah Mach gave the following staff report:

The tract is 1.2 acres in size and it is split by a section line. The applicant owns a total of 2.5 acres. The current zoning is A-2 as is the property to the north, east and west, the property to the south is zoned A-R, the southern part of the applicants property is also zoned A-R; this is all original 1973 zoning. The site is located approximately ¼ mile north of the Harrisburg municipal limits and 350 feet from State Highway F. There is a single family dwelling on the property. The applicant is requesting a variance to build a detached garage with a storage loft to the east and in front of the existing house. The original zoning for this tract is A-2, in 1989 a survey was prepared that rearranged the original lot alignment to the north and south. The requested variances are from zoning regulations, section 10.A which requires a minimum 50 foot front setback and from zoning regulations 7.A(5) an accessory building in front of a house. Staff notified 10 property owners about this request; staff has received a phone call from a neighbor indicating she had no objections to the request.

Mr. Mach stated he had a phone conversation with a neighbor on October 16th, the neighbor indicated that while he had no personal problems with the location of the proposed building he was uncertain of the location of Stidham Road and whether it is in the right place. If the county ever did realign or do any work on Stidham road it is only going to get closer to the proposed location; the caller had no personal objections to the request, just an observation on the future of the county's interest.

Present representing the request:

Linda Bonebrake, 7950 W Stidham Rd., Harrisburg

The applicant presented the following:

- photographs of the property
- a copy of a topographical map from the county's website
- a survey
- an email from Kerry Graham to Ms. Bonebrake
- a drawing of the proposed building
- a floor plan
- statement from contractor

Linda Bonebrake: The reason I am asking for a variance is because of the topography of the land; it is between a 15 and 20 degree slope going downward.

Ms. Bonebrake approached the Commission table and showed photographs.

Linda Bonebrake: I measured it out with a tape measure and it is 44 ½ feet from the center of the road rather than the required 50 feet.

Thad Yonke informed Ms. Bonebrake that the 50 foot setback requirement is not measured from the center of the road.

Linda Bonebrake: The proposed building would be a detached garage with a loft for storage and a work area in the basement. I looked into building on the opposite side of the house but the land is worse on that side; it would also have made it too close to the neighbor's property. The property has sinkholes in a few spots on the property; that is another reason the contractor said that would be the best place. They just redid a section of the road, they put in a new culvert and made the ditch wider and that was before I did the measuring.

Member Bowne asked the applicant to show on the photographs where the sinkholes are located.

Ms. Bonebrake pointed out areas on the map.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Dorothy Fenton, 15670 N. Route F, Harrisburg

Dorothy Fenton: My property is located south of the applicants property and below their lagoon. I don't have an objection to the building itself but the use of the building now and in the future; what happens with the wastewater? The property is not big enough for a separate lagoon and if the building is to be used as living quarters in the future, you cannot have two dwellings on the same lagoon.

Chairperson Thomas: The Board is just addressing the variance that is put before them.

Bill Florea: It would be illegal to convert the proposed building into a dwelling unit. There can only be one dwelling unit on this property and there is already one.

Dorothy Fenton: The existing lagoon has been upgraded; we originally built the applicants house as a two bedroom house; it has been sold four times since then and now it is claimed by the realtor to be a four or five bedroom house.

Closed to public hearing.

Thad Yonke asked the applicant if she meant to say the building was a basement.

Linda Bonebrake: I meant the lower level.

Thad Yonke: So there won't be a basement?

Linda Bonebrake: That is correct.

Member Robbins: Is it going to be a walkout garage?

Linda Bonebrake: Yes.

Member Butcher: (to staff) Is the property identified as a karst area?

Bill Florea: No.

Member Butcher: Does it show up on the map?

Bill Florea: No.

Thad Yonke: There are karst features on the property.

Member Bowne: That is why I asked the applicant to point out the sinkholes on the property because there is no indication of sinkholes.

Linda Bonebrake: The area of the previous lagoon was not filled in properly, it is a huge sinkhole and I can't mow that area; I am trying to fill it up.

Thad Yonke: Will this would be a slab structure?

Ms. Bonebrake: Yes. The contractor stated we may have to dig it out a little bit and there would be about a three foot retaining wall on the south side.

Member Bowne: Looking at the topographical map a three foot retaining wall is not extreme topography; it is fairly common to do a small amount of fill anywhere in Boone County. I believe extreme topography to be 8 to 10 feet or more.

Linda Bonebrake: If you go anywhere else on the property it would be that.

Member Bowne: Not according to the topographical map.

Member Butcher asked staff to measure how far the house was from the setback.

Uriah Mach: It is approximately 77 feet from the center of the road.

Member Butcher: It needs to be 83 feet.

Linda Bonebrake: They recently come out because they were doing all the upgrades on the road and they marked all the utilities along the road and there was nothing there.

Member Butcher: Typically when we see something that is an existing structure we place a condition on the approval that if 75% of the value of the building is destroyed then it must be rebuilt within the required setbacks. It seems unusual that this Board would approve something that doesn't appear to be extreme topography and allow it to be non-conforming when normally we would ask it to be moved if it were destroyed.

Member Thomas: How far within the setback will the building be?

Linda Bonebrake: 44 to 45 feet from the center of the road.

Member Butcher: The entire building would be within the setback.

Member Thomas: Is the purpose of putting it that far is so that the topography doesn't drop as much?

Linda Bonebrake: So it doesn't drop as much and because it goes down even steeper. It also allowed us to connect the driveway by curving the existing drive over to it.

Member Thomas: The house is outside the setback now and it looks like there is a drop of maybe four foot.

Member Butcher: This isn't extreme topography, this is gently rolling.

Member Thomas: It is pretty normal for the county.

Member Butcher: The fact that it is separated from the house adds another element; it is not like the building is needed for weather accessibility or for a handicap, it appears as though it is an ancillary structure that can be placed elsewhere on the property.

Linda Bonebrake: I would like to know where you think I can put the building.

Member Thomas: That is not something the Board would address, we address the variance. The applicant is asking to put it in a certain place and the Board will make a decision on that request. If the Board denies the request the applicant will have to go back with the contractor or surveyor for them to help her figure out where she can put the building.

Member Butcher made and Member Bowne seconded a motion to **deny** the request by Linda Bonebrake for a variance from the front 50-foot setback in the A-2 zoning district for a detached garage with loft on 1.2 acres located at 7950 W Stidham Rd., Harrisburg:

Member Thomas	Yes	Member Bowne	Yes
Member Butcher	Yes	Member Lightfoot	Yes
Member Robbins	Yes		

Motion to deny the request carries unanimously

Member Thomas made and Member Butcher seconded a motion to **deny** the request by Linda Bonebrake for a variance so that the detached garage mentioned in (a) may be built in front of the front plane of the house located at 7950 W Stidham Rd. Harrisburg:

Member Thomas	Yes	Member Bowne	Yes
Member Butcher	Yes	Member Lightfoot	Yes
Member Robbins	Yes		

Motion to deny the request carries unanimously

2. Case Number 2012-006

Request by Craig and Lucy Watts Trusts for a variance from the setback requirements in the A-R (agriculture-residential) zoning district for a detached garage located at 6995 E. South Shore Drive, Hartsburg (**Zoning Regulations 10.A**)

Planner Uriah Mach gave the following staff report:

The tract is three acres in size and is currently zoned A-R as is the property to the north, east, and west. The property to the south is zoned A-2. This tract is located approximately five miles south of Ashland and 3 ½ miles east of Hartsburg. Access to this site is from Westbrook Drive to Champetra to South Shore Drive. Neither Champetra nor South Shore Drive are county maintained roads. There is a single family dwelling on the north part of this tract which is separate from the proposed building site located on the south side of South Shore Drive. The applicants are requesting a variance from the setback requirements of the A-R district. The original zoning for this area is A-R, the site is part of Champetra Lake Section 4 which was platted in 1977. The variance requested is from Zoning Regulations 10.A which requires structures in the A-R zoning district provide at least a 25 foot setback from the front and rear property lines, and a 6 foot setback from the side property line. Staff notified 31 property owners about this request. Staff received two letters, one from a neighbor and one from the Lake Champetra Homeowners Association in support of the request.

Present representing the request:

Lucy Watts, 6991 South Shore Drive, Hartsburg
Craig Watts, 6991 South Shore Drive, Hartsburg

Lucy Watts: We are requesting a variance from the 25 foot setback from the property line. I have lived there for 13 years and had always known that we own lot 8 on Lake Champetra but thought that the road ran through the property. When the building inspector came to the property to approve the building site it was discovered that Lake Champetra Road was not owned by us. We found out we were in violation of the 25 foot setback; there is a 2.44 acre lot and we thought we owned where the road runs. We are requesting a variance from the setback because of the topography where the garage is being built. I have a video of what the topography looks like; it is along the hillside and the hill is about 20 feet tall, it would have to be taken out in order to put the garage there to meet the setback.

Open to public hearing.

Present, speaking in favor:

Barbara Conner, 7091 South Shore Dr., Hartsburg

Barbara Conner: Part of the hill is not just earth but limestone. I live two homes to the left of the applicants and the topography is the same; you have to do a lot of excavating to get through it.

Steve Meyer, contractor, 2506 Route NN, Centertown

Steve Meyer: When I purchased the permit I spoke with Mr. Mach. I believe there was a miscommunication as to the property line. It was penciled in on a plot where the building would be located; we thought everything was okay and poured footings the next day.

Closed to public hearing.

Lucy Watts: I am not the first one at Lake Champetra that has had a problem such as this. There have been variances granted for several neighbors because of the topography.

Member Butcher: Topography and shape are both an issue on this property however I am not sure there is a deprivation of use. Is it necessary to have a garage or accessory structure? I don't know but it is very meaningful to have a place to put things.

Member Bowne: Is the house in compliance?

Uriah Mach: By looking at the aerial it probably doesn't meet the setbacks. The subdivision was done in the 1970's and the subdivision regulations didn't exist in a meaningful manner at that time as they do now.

Member Bowne: Is the area between the house and lake a common area?

Uriah Mach: I believe so.

Member Robbins: There is a 10 foot swath around the lake that is owned by the Lake Association.

Member Bowne: What is the intended use of the structure?

Lucy Watts: It would be for our cars and other storage, our house is relatively small.

Member Bowne: Does the house have a garage attached?

Lucy Watts: Yes.

Member Bowne: What size is the attached garage?

Lucy Watts: It's a two car garage.

Member Butcher: How far off South Shore Drive will the structure be?

Lucy Watts: With the way the road curves there will be one point that it will be about 10 feet off the road; the rest will be about 12 feet off the road.

Member Butcher: Is there a place that the building could be moved to further off the road?

Lucy Watts: There is a 20 to 25 foot bluff there.

Member Robbins: I am familiar with the area because I have a relative that lives in the area; that it is a considerable slope.

Member Thomas: (to Steve Meyer) Did you hit rock when digging the footings?

Mr. Meyer: Yes.

Member Butcher: Both sides of the road are owned by the same person so if the County were to take over maintenance of this road in the future they would be dealing with one property owner.

Member Bowne: I don't like to approve something when there is no drawing of the location of the structure.

Mr. Yonke: A drawing was not provided by the applicant.

Member Bowne: Can the Board approve this without a specific location? We have no location at this time; we really need to have a drawing.

Member Robbins: If they already have something that's been started couldn't we stipulate that they've already started the footings and make the variance for where those footings are?

Member Thomas: There wouldn't be anything in the evidence.

Member Butcher: If the Board grants the variance for the property the applicants could put the building anywhere on that property. While topography would lend itself to probably only one location it would be better if we could pinpoint exactly where the Board is allowing the variance to happen.

Uriah Mach left the chambers to get a printout of the property.

Lucy Watts drew the proposed location of the garage on the printout and presented it the Board.

Member Butcher made and Member Thomas seconded a motion to **approve as presented** the request by Craig and Lucy Watts Trusts for a variance from the setback requirements in the A-R zoning district for a detached garage located at 6995 E. South Shore Drive, Hartsburg:

Member Thomas	Yes	Member Bowne	Yes
Member Butcher	Yes	Member Lightfoot	Yes
Member Robbins	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

1. Review permit issued to Betty Rippetto for a mobile home as a second dwelling on 2.0, located at 15505 Wren School Rd., Hartsburg (6/85, 1985-006)

Thad Yonke informed the Board that the second dwelling has been removed from the property and the property has been sold.

Member Thomas made and Member Butcher seconded a motion to **deny** the renewal of a permit issued to Betty Rippetto for a mobile home as a second dwelling on 2.0 acres, located at 15505 Wren School Rd., Hartsburg:

Member Thomas	Yes	Member Bowne	Yes
Member Butcher	Yes	Member Lightfoot	Yes
Member Robbins	Yes		

Motion to deny the request carries unanimously

NEW BUSINESS

None.

ADJOURN

Meeting adjourned at 8:00 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 29th day of November, 2012