

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, April 25, 2013

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
Rhonda Lightfoot
David Butcher
Lance Robbins

Absent: None

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

Minutes of the March 28, 2013 meeting were approved by acclamation.

REQUEST

1. Case Number 2013-003

- a. Request by James E. Crane Sr. for a variance from the 50-foot setback in the A-1 (Agriculture) zoning district for an existing house on 4.13 acres located at 12501 S Easley River Rd., Columbia (**Zoning Regulations 10.A**).
- b. Request by James E. Crane Sr. for a variance from the minimum lot depth for an existing house on 4.13 acres located at 12501 S Easley River Rd., Columbia (**Subdivision Regulations, Table A**).

Planner Uriah Mach gave the following staff report:

The property is zoned A-1, adjacent zoning to the north and south is also A-, to the east is A-2, and to the west is the Missouri River. The property is located southwest of Columbia just north of Easley and the end of State Highway N; there is a small house on the property. The applicant would like to be able to subdivide the property to include the house. The existing house is situated such that it would lie within the setback if the land is subdivided in accordance with Boone County subdivision regulations. The tract of land is situated between the public road and the Missouri River and is too narrow to meet the lot depth requirements of the regulations. The original zoning for this tract is A-1; the existing dwelling appears to have been built prior to the adoption of zoning regulations. Public records indicate that the structure is owned by someone other than the applicant and is on leased ground. Staff notified 21 property owners.

Section 1.9.2 of the subdivision regulations requires that the Director make a recommendation on requests for variance from the provisions of the regulations. The Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the criteria for grant of a variance required by these regulations. No variance from any requirement contained within Appendix A or B of these regulations shall be granted unless the Board finds: (a) the applicant will incur unreasonable and unnecessary hardship if a variance is not granted and the variance is not sought primarily to avoid financial expense in complying with the requirements of these regulations (b) grant of a variance will not endanger the health, safety or welfare of the public, and (c) grant of a variance will not hinder, thwart or circumvent the general intent or any specific purpose of these regulations. All applications for variances shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the application and state the reasons for his recommendation.

The applicant, James E. Crane, Sr., owns 15.4 acres located southwest of Columbia on Easley River Road just north of Easley and near the end of State Highway N. The property is zoned A-1. The applicant would like to subdivide the property which includes a small house. The existing house appears to have been built prior to the adoption of County zoning regulations. The tract of land the house is situated on lies between the county road and the Missouri River; the tract is very narrow. Appendix B 1.8.2 and Table A of the subdivision regulations requires that lots have a minimum lot depth of 250 feet. It does not appear that this tract of land can meet the minimum lot depth at any point.

- a. The applicant will incur unnecessary hardship if this variance is not granted.
- b. Granting this variance will not endanger the health, safety or welfare of the public. This house appears to have been here for at least 40 years.
- c. Granting this variance will not thwart or circumvent the general intent of the regulations.

Staff recommends that this variance be granted.

Present representing the request:

Steve Proctor, surveyor, 7001 W. Stidham Rd., Harrisburg
James Crane, 2393 E Highway MM, Ashland

Steve Proctor: As you can see on the map the property is very limited to the east and west; the north line is where the section line is. Mr. Crane wanted to keep a boat ramp to the south for his use.

James Crane: My father bought this property in 1951, they used to have some fishing cabins along there and the floods got rid of most of them. My brother-in-law built that cabin on stilts and eventually he and my sister divorced and he sold the building to someone else who has lived there for many years paying me a lease on the ground and I finally determined that it is time for me to sell the property to that gentleman and give him free reign of it. I can't grow any crops on it because it floods so often so I really get nothing from the ground.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Bowne: This subdivision is all on one end of this narrow strip of land?

Steve Proctor: It is really hard to say without really getting into a real extensive survey. Due to the river it may be naturally divided again. I think he owns land to the north and south but it is going to be narrow and the river could cut it off again.

Member Bowne: Right now the applicant wants to sell one tract but whenever you do that there is going to be a split between the property to the north and south.

James Crane: There will still be about thirteen acres to the south of Easley, the DNR/Katy Trail cut it off from this piece of ground.

Member Robbins: Is that where the cabins are now? Is that area still owned by the applicant?

James Crane: There are three buildings there but the Katy Trail said it was on their side so they claimed the property and people are leasing it from them.

Steve Proctor: Mr. Crane owns several acres on the east side of the trail.

Member Bowne: I was just talking about his fifteen acre piece; we are splitting it into three sections now?

Steve Proctor: The other will still stay with the original deed. If the structure wasn't there he wouldn't have any interest in selling it.

James Crane: It is a situation that needs to be corrected so the gentleman will have control over where his building is.

Member Bowne: I would be willing to approve this with the as is where is condition.

Member Butcher: If they end up creating a legal lot they won't be able to build anything on this again if that structure is destroyed. It would be an unbuildable lot.

Member Butcher made and Member Thomas seconded a motion to **approve** the request by James E. Crane Sr. for a variance from the 50-foot setback in the A-1 (Agriculture) zoning district for an existing house on 4.13 acres located at 12501 S Easley River Rd., Columbia with the following condition:

1. 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 Thomas	Yes	Member Robbins	Yes
Member Butcher	Yes	Member Lightfoot	Yes
Member Bowne	Yes		

Motion to approve the request carries unanimously

Member Butcher made and Member Thomas seconded a motion to **approve** the Request by James E. Crane Sr. for a variance from the minimum lot depth for an existing house on 4.13 acres located at 12501 S Easley River Rd., Columbia:

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

Motion to approve the request carries unanimously

OLD BUSINESS

- Certificate of Decision – Case # 2012-007 James and Vicki Brocksmitth
- Certificate of Decision – Case #2013-001 by Charlotte Pisarek
- Certificate of Decision – Case #2013-002 by William and Mary Whites

Chairperson Thomas accepted and signed the certificates of occupancy.

NEW BUSINESS

Review of mobile home permits

Bill Florea: For the new Board members who have not seen a case like this the Board does have the authority under the zoning regulations to allow a mobile home to be placed on a lot when there are circumstances of unnecessary hardship or practical difficulty. Typically that is when there is a medical issue but there have been other issues over time that the Board has approved. So when there is already an existing home on the property, perhaps there are elderly parents living in the home and they want to have a child or grandchild living on the property they can come to the Board and get a permit to place a mobile home temporarily on the property as long as that situation exists. You can grant it for two years and then they have to get it renewed at that point in time. The Board, in the past, have gotten tired of seeing these things come back every two years, sometimes these situations last for a decade or more so we started doing administrative reviews and we are getting a little uncomfortable with doing them administratively, they really should come back to the Board so we wanted to open this up for discussion tonight. What staff is thinking is since they are granted for two years, after the first two years staff does an administrative review and report those findings back to the Board and then every other two year period have the applicant come back before the Board and recertify that the situation continues to exist. It has been staff's finding that the longer these go without coming back before the Board, the more these families feel like this is a matter of right for them and it gets difficult to tell them they have to remove it; that is why we would like them to come back before the Board.

Member Bowne: Aren't they always supposed to come back? If you have two parents, one which was ill, and you move in a mobile home for that reason and that parent dies isn't it supposed to come back for the other parent to continue to stay there even if that parent now needs care?

Bill Florea: It really should because that wasn't the condition in which the variance was granted. That would be something at the two year review that we should be able to get those facts.

Member Butcher: When you do the administrative review at the two year review what exactly do you do?

Paula Evans: We send them a questionnaire asking if the need is still present, if it is still being used for the reason it was granted, and if their situation has changed.

Member Bowne: Is the reason stated?

Paula Evans: No. We also check the obituaries in the newspapers and things like that.

Member Butcher: One thing that would be good is if they were sent a letter that says "under our review we have allowed this variance to continue for another two years" at least it spells out that they have two years.

Paula Evans: We do that.

Member Butcher: Another thing that would be prudent is if you did report back, even if we don't need another hearing, at least we can get it on public record that staff did their part.

Member Bowne: We haven't been getting that report.

Member Butcher: I think every other review period.

Member Bowne: Have we granted any in the past two years?

Paula Evans: I have two up for review and I spoke with Stan about having a discussion with the Board on how they would like to continue. I brought two as examples.

Member Butcher: Didn't we have a review not that long ago?

Paula Evans: Yes, we had found that the situation had changed so we had it brought back before the Board.

Member Butcher: So then what happens when you send out the survey and you get no response?

Paula Evans: We would send them another notice; I haven't had any problem with people not responding.

Member Butcher: And of course they are all saying that they still need the variance.

Paula Evans: Most of them yes; one of them actually responded that the home was removed.

Member Butcher: Is it strictly done by that survey?

Paula Evans: We send them a letter also saying that just because your situation hasn't changed does not mean you won't have to appear before the Board. So it is still in there that even everything is still the same they may need to have to come before the Board anyway.

Member Bowne: Especially if you know that something has changed.

Bill Florea: We have also talked about modifying the form; we would like to ask a more open ended question. The problem with doing that is if you make people write something you may not get as many responses.

Member Butcher: If they don't reply they would have to report back to the Board anyway.

Member Thomas: I don't have a problem with changing the form. As long as the Board is doing them every four years.

Member Bowne: Right now, everything that is out there, except for the one we just did, everyone else should be coming back. I think we probably need to get a handle on this again.

Member Robbins: If they were to come before the Board what do they have to show?

Member Bowne: I would like the questionnaire that goes out to be a little more specific. Is "Mary Smith" still living in the home and still in need of care? We need to get on record that the mobile home has been granted because of a need of Mary Smith, the mother of James Smith whose property they will move the trailer on.

Thad Yonke: It would probably be worthwhile to also make sure that the mobile home that was placed is the same mobile home that was placed and hasn't been swapped out for something else.

Member Bowne made and Member Butcher seconded a motion that all current mobile home variances come back for review that are over two years old and that staff prepare another survey form for review at the next meeting.

Member Thomas

Yes

Member Robbins

Yes

Member Butcher	Yes	Member Lightfoot	Yes
Member Bowne	Yes		

Motion to approve the request carries unanimously

Member Butcher made and Member Thomas seconded a motion that all mobile home applicants if they haven't been in front of this Board in no more than two years.

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

Motion to approve the request carries unanimously

ADJOURN

Meeting adjourned at 7:43 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 23rd day of May, 2013