

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, June 27, 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
Rhonda Lightfoot
David Butcher
Lance Robbins

Absent: Cindy Bowne

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

Minutes of the April 25, 2013 meeting were approved by acclamation.

REQUEST

1. Case Number 2013-004

Request by Broadway Business Park, Inc. for a Certificate of Occupancy for a nonconforming sign on 3.29 acres, located at 4250 E Broadway, Columbia (**Zoning Regulations 8.6.1**).

Planner Thad Yonke gave the following staff report:

The property is described as lot 2 of El Chaparral Plat 7; the tract is 3.29 acres and zoned C-G. Adjacent zoning to the north is A-R, to the east is C-G, and to the south and west is R-S. The site is located east of Columbia on Highway WW at El Chaparral subdivision; this is a commercial business site. The nonconforming sign is the marquee sign for the business site. The applicant would like a certificate of occupancy for a nonconforming sign that was placed prior to the adoption of the sign regulations. The original zoning for this area is C-G, the development of El Chaparral subdivision began in 1972. The requested variance is from zoning regulations section 8.6.1. Staff notified 124 property owners.

Present representing the request:

Kevin Murphy, A Civil Group, 3401 Broadway Bus Park Ct. Columbia
Tom McNabb, partner, Broadway Business Park, 104 Clinkscapes # 600, Columbia

Kevin Murphy: This development has been here for a good while, the commercial properties up front were originally platted in 1978 and development began around 1982. They had a business sign out and as time went on Mr. McNabb and his partners bought this property, it was a little run down and they've sunk a lot of money into it trying to keep it up. The sign was there when the applicants purchased the property; they've taken down roughly 2/3 of the sign and the last 1/3 is deteriorating. In 2002 the Casey's store was redeveloped and rebuilt; they replatted for some additional land at that time along Highway WW; additional right of way was required. The right of way now comes up to the face of where we want to put the sign. We want to replace what is there as it stands now even though the foundation from where it was previously still remains.

Kevin Murphy submitted photos.

Kevin Murphy: The new sign will not be wider but it will be taller. The signage will have the occupant's names and the address of the property which will help people going down Highway WW with orientation of where they are and for emergency purposes as well.

Tom McNabb: We started to repair the sign and after thinking ahead we decided we would rather have something new. The new sign will look cleaner and fit the building better and will enhance the building, there will be landscaping around it.

Open to public hearing.

Present:

Mary Nesladek, 1365 S Mesa Dr., Columbia

Mary Nesladek asked what the sign looks like and what it would be made out of.

Kevin Murphy showed Ms. Nesladek.

Mary Nesladek: As different businesses come in would the sign be changed?

Tom McNabb: The sign has various spaces for individual tenant names; that part could be changed out but the frame and balance of it would remain the same.

Thad Yonke: Staff received one letter in support.

Uriah Mach: We also took about a dozen phone calls, mostly just curious about what was getting requested, none appeared to have a problem with the request.

Closed to public hearing.

Member Butcher: Are there any intentions of illuminating the sign?

Tom McNabb: It is not illuminated at this time; I don't have any intention to light it.

Member Butcher: So it is not going to broadcast any light? No internal illumination?

Tom McNabb: It is a solid surface; I don't have any intentions of having lights on the ground either.

Member Butcher: Are there currently lights?

Tom McNabb: There were lights at one time; currently there are not. They were just two flood lights coming up from the ground.

Member Butcher: What is the applicant's back up plan if this request is denied?

Tom McNabb: There needs to be a sign to identify the businesses. We felt this was a fairly tasteful sign and it can be changed without a lot of expense.

Member Robbins: The new sign looks like it is going to be taller.

Tom McNabb: It is.

Member Robbins: Are there going to be any line of sight problems with people coming out of El Chaparral to eastbound traffic on Highway WW with the increased height of the sign?

Kevin Murphy: The highway side of the sign is about 50 feet back from the centerline of Highway WW.

Member Robbins: It is about twice as tall; I just wanted to make sure there were no line of sight problems.

Tom McNabb: There is quite a distance from El Chaparral to where the sign would go. It sits down lower than the intersection of El Chaparral and East Broadway; it is a few feet lower in elevation.

Member Butcher: Is the sign currently built or is the exhibit the rendition of what it would look like?

Tom McNabb: The exhibit is a photo shop; Columbia Sign has it and it is partially constructed and they have stopped on it. When we first called down we were told that we had to set back so many feet from the center line and we could comply with that. Then given the sale to Casey's of

additional ground that made the State Highway Department want more right of way so that increased the setback.

Kevin Murphy: The original picture which shows about 1/3 of what was there before. Even though this sign is taller the previous sign stuck out further toward the road at a height that would have conflicted.

Member Butcher: What remains of the sign today is what is in the picture?

Kevin Murphy: It is taller to make up for the space that was lost. The regulations say that as long as 1/3 of the structure is standing you can still use it; Mr. McNabb removed 2/3 of it before he realized it.

Member Butcher: How much smaller would the sign have to be in order to comply?

Thad Yonke: It is not a matter of the size of the sign; it is the placement. They could put the sign on the property to comply but it would be in the middle of the parking lot. You can't get a variance for a nonconforming use and then expand a nonconforming use. The applicants are making the argument that they would like the nonconforming status based on the size and they are reorienting the square feet vertically instead of horizontally but it is going to be less square feet than the original sign and that is how they are justifying the nonconforming use.

Kevin Murphy: We are trying to make it less nonconforming by the fact that it is not intruding further towards Highway WW.

Member Butcher: So the request is to allow them to have occupancy.

Kevin Murphy: For placement of the sign.

Tom McNabb: I think it will reduce the clutter along the road and be more attractive and functional.

Kevin Murphy: This has become nonconforming over the years because there were no sign regulations when the sign was put up. The sign regulations came into effect after we replatted and lost right of way; it made the sign nonconforming.

Thad Yonke: These are the only types of nonconforming uses that can come before the Board anymore because sign regulations are relatively new. All the other stuff is from 1973 and that window was closed because it is virtually impossible to prove.

Tom McNabb: When I bought this property Casey's was already there; I believe the building faced Broadway at that time; they wanted to expand the store and make it larger. Their gas truck had torn up some pavement on the property and in the contract to sell them some additional ground around their existing lot they would build the building back with compatible brick that came closer to what the rest of the building was and make it more aesthetically pleasing plus they would repair some of the concrete that they had torn up over the years. That is what prompted the sale to Casey's, which in turn prompted the additional easement.

Kevin Murphy: It wasn't only the right of way that changed at that time; on the previous plat we only had a 25-foot building setback, the new regulations required a 50-foot building setback. The sign is supposed to sit behind the building line so technically we lost 40-feet of ground. This

building faces El Chaparral Avenue and Highway WW so as you are coming east up the hill towards El Chaparral this is really your first notification of any businesses.

Member Thomas: (to staff) The variance is for the placement?

Thad Yonke: We are going to need a little guidance because the sign regulations state that the Board will specify exactly what is and isn't in conformance. You can't get a nonconforming to replace an existing sign with a new sign that doesn't comply because it isn't conforming at that point because they have replaced it.

Member Butcher: They've presented evidence and I think you could easily skirt the old sign with new material.

Thad Yonke: But it wouldn't be able to be that tall.

Member Butcher: Why?

Thad Yonke: Because this is a 6-foot tall sign now and you aren't allowed to expand a nonconforming use; if you have a nonconforming building you can't make an addition to it. It cannot occupy any more footprint than the footprint it already has.

Kevin Murphy: Typically they are talking about the sign area; we are complying with the same area in that. Does the County have height regulations?

Thad Yonke: We have height regulations and placement regulations that would say if you want to have the sign up to 35 foot in height, which is the height regulations, but it also has to be set back behind the 50-foot line. You can meet the regulations there but it is not a desirable place on the site. The question becomes a nonconforming use is certifying what was there that can stay there. Those are very tightly regulated because you are not supposed to expand them. When you do something new on it you only get to repair them, you don't get to make them bigger. I am not saying that they can't tell you that the area of this whole sign is less than what they had before so if they grant it that way and say it is based on the area, they've taken 2/3 down and you are putting it back, if they want to see it that way that is alright but staff wants some clarification because we can't allow an expansion on the building permit.

Member Thomas: Is it two variances?

Thad Yonke: It is the sign; you are issuing a certificate of occupancy for nonconforming use.

Member Thomas: But we can say it is the same amount of area or less.

Thad Yonke: Yes.

Member Butcher: What is the height requirement?

Thad Yonke: 35- feet but it would also have to be behind the 50-foot setback.

Member Butcher: But if we allow it to be in front of the setback what is the height requirement?

Thad Yonke: It has never been 35-feet; the argument is that it has been 6-feet off the ground since it has been there.

Member Butcher: But if we allow them to build a sign in front of the building line.

Member Thomas: We would specify the area.

Thad Yonke: You can't let them build a new sign. You are certifying a nonconforming use for the existing sign and the repair of the existing sign. To re-face and redo and add new structural pieces is pushing the limit to begin with; we are allowing that as a repair if the Board certifies the nonconforming use. When you start pushing the height it goes from a 6-foot sign that they could keep to a 35-foot sign in a place where you would not allow it anymore; I don't know how you could justify that as a nonconforming use when it has never been that way.

Member Thomas: If we grant the nonconforming use what keeps the applicant from putting it on a 30-foot pole when the sign has the same square footage?

Thad Yonke: We measure from the ground up. It is not just the sign area; it is the whole structure.

Kevin Murphy: We don't want to expand it up; we are doing our best to keep it out of the new right of way.

Thad Yonke: We don't have a problem with the Board granting this. If you granted a nonconforming use and they've got 1/3 of it left, he could go back and replace the 2/3 that he has already taken down as a repair and make the sign back; you could certify that as a nonconforming use. The issue is he would prefer to reconstruct that part in a different configuration; that is where it starts to get tricky but we recognize that it is better for it to be away from the driving surface as long as it is not any bigger than it was to begin with.

Member Butcher: They don't have access off of Highway WW so businesses here are difficult to find without some sort of identification; the sign that was there was ugly and outdated. I think this is clearly an attempt to try and improve the area and I think the Board should encourage that. We don't usually like to give them permission to do things in front of the building line however he has somewhat done us a favor in removing 2/3 of it to make it as best as he can. I think what he has presented here is very satisfactory for that intersection, site distance is an issue but it is more so on the other side of the road.

Member Lightfoot: I agree with the line of sight issue; it definitely doesn't need to be any taller than what they have proposed.

Member Butcher: They've given us a height of 13-feet.

Member Butcher made and Member Robbins seconded a motion to **approve** the location of the sign as presented adhering to the size as presented in exhibit B and the placement being in the back 1/3 of the existing footprint for Broadway Business Park, Inc. on 3.29 acres, located at 4250 E Broadway, Columbia:

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

Motion to approve the request carries unanimously

OLD BUSINESS

Case 1996-012

Review permit issued to Bryan and Melissa Pemberton for a mobile home as a second dwelling on 9.48 acres located at 14871 N Oak Grove School Rd., Harrisburg (first granted 9/96).

Planner, Uriah Mach gave the following staff report:

The property is zoned A-2 as is the adjacent zoning. The property is located approximately three miles east of Harrisburg just north of Highway 124. There is an existing house on the property; the mobile home approved for this request is the second dwelling on 9.48 acres. The applicants are requesting renewal of a permit to allow their grandparents to place a 1996 mobile home on their property. This permit was first granted in September 1996; the last review by the Board was conducted in 1999.

Melissa Pemberton, 14871 N Oak Grove School Rd., Harrisburg

Bryan Pemberton, 14871 N Oak Grove School Rd., Harrisburg

Bryan Pemberton: My grandmother still lives in the mobile home and she is still in the same shape, if not worse; she recently fell and broke her hip so she is going through rehab.

Member Thomas: The whole point of this hearing is the Board just wants to make sure the situation still exists.

Member Butcher: The grandmother still lives in the mobile home?

Melissa Pemberton: Yes, she is 89 years old and lives alone but needs assistance.

Member Lightfoot: Is it still the same trailer?

Melissa Pemberton: Yes.

Open to public hearing.

No one spoke in favor or opposition.

Closed to public hearing.

Member Butcher made and Member Thomas seconded a motion to **approve** for a period of two years the renewal of a mobile home as a second dwelling for Bryan and Melissa Pemberton on 9.48 acres located at 14871 N Oak Grove School Rd., Harrisburg to be reviewed administratively at the next renewal date:

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

Motion to approve the request carries unanimously

Case 2001-009

Review permit issued to Timothy and Angela Waller for a mobile home as a second dwelling on 5 acres located at 11150 N Rte B, Hallsville (first granted 9/27/01).

Planner Uriah Mach gave the following staff report:

The property is zoned A-2 as is the adjacent property. The site is located on Highway B approximately two miles south of Hallsville; there is a single family dwelling on the site. The applicants would like to place a mobile home on their property for their parents due to age and health reasons. The original zoning of this tract is A-2; it was platted as part of M & M Subdivision in 1987. The requested variance is from Section 15.C.4(d) "To permit in case of practical difficulty or unnecessary hardship, for a period of two years, the location of a mobile home on a lot". Staff notified 8 property owners. The request was first granted in September 2001.

Tim Waller, 11150 N Route B, Hallsville

Angela Waller, 11150 N Route B, Hallsville

Angela Waller: My parents still live there, Dad needs the most attention, he is 84 and has dementia now and we can't really leave him by himself for very long. Mom is pretty good except that she is slow; she has auto-immune arthritis. We've been through surgeries and kidney stones in the last 12 years; we are there to assist as needed.

Member Thomas: Is it the same mobile home?

Angela Waller: Yes. My parents have made a provision that when they are both deceased or it becomes necessary for them to live elsewhere that the mobile home will be removed.

Member Thomas: The variances are all temporary so once the situation changes it the mobile home is supposed to be removed.

Open to public hearing

No one spoke in favor or opposition.

Closed to public hearing.

Member Robbins made and Member Lightfoot seconded a motion to **approve** for a period of two years the renewal of a mobile home as a second dwelling for Timothy and Angela Waller on 5 acres located at 11150 N Rte B, Hallsville to be reviewed administratively at the next renewal date:

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

Motion to approve the request carries unanimously

Case 2006-003

Review permit issued to Bonnie Martin for a mobile home as a second dwelling on 5.0 acres, located at 10701 N Flynt Ln., Hallsville (first granted 4/06).

Planner Uriah Mach gave the following staff report:

The property is zoned A-R as is the adjacent zoning. The site is located 3.5 miles southeast of Hallsville and ½ mile south of Highway OO. There is currently a single family dwelling on the property, there also appears to be a singlewide mobile home on the property based on the internet tax parcel map. The applicant would like permission to place a mobile home on the property to be occupied by her disabled son. The original zoning for this area is A-R, there have been no previous requests submitted for this site. The requested variance is from Zoning Regulations Section 15.C.4.d “To permit in case of practical difficulty or unnecessary hardship, for a period of two years, the location of a mobile home on a lot”. Staff notified 14 property owners. This request was originally granted in April 2006.

Bonnie Martin, 10701 N Flynt Lane, Hallsville
Ms. Martin’s son, name and address not given

Bonnie Martin: There is no change; is there any way, if anything happens to me would he be assured to stay where he is because there is other family around?

Member Thomas: Other family around that needs assistance?

Bonnie Martin: No

Ms. Martin’s Son: The whole family lives in that neighborhood.

Bonnie Martin: He will still be there if anything happens to me.

Member Robbins: The application is because he is disabled; it was not granted for him to help her.

Uriah Mach: It is to allow a second dwelling to be placed. Another family member can move into the house to help assist with Ms. Martin’s son but the new property owners would need to request the variance in their names.

Member Butcher: I think the situation would change and we would have to visit this again.

Thad Yonke: The key here is that the permit was issued to the property owner but it is for her son to be there because he needs the help. If he needs the help and that doesn’t change, if only the caregiver changes because the property’s ownership changes hands we would need to change the name of the owner on the request so it can be tracked. It can still come back just like all the others. One of the concepts is if the applicant passes and her son is in the trailer then he could move in to the house and remove the trailer but if someone else moves in the house to help then nothing has really changed.

Member Thomas: What mobile home is there now?

Paula Evans: The building permit indicates it is a 1987 mobile home.

Open to public hearing.

No one spoke in favor or opposition.

Closed to public hearing.

Member Lightfoot made and Member Robbins seconded a motion to **approve** for a period of two years the renewal of a mobile home as a second dwelling for Bonnie Martin on 5.0 acres, located at 10701 N Flynt Ln., Hallsville to be reviewed administratively at the next renewal date:

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

Motion to approve the request carries unanimously

Thad Yonke reminded the Board that the certificates of decision need to be acknowledged for the record.

Certificate of Decision – Case 2013-003 James E. Crane Sr.

Chairperson Thomas accepted and signed the certificate of occupancy.

Discussion

New forms for temporary mobile home administrative renewals.

Paula Evans presented the Board with an updated renewal form and stated a place was added for the occupants names; also added as part of the disclaimer that the owner has to sign is a sentence that states the owner may have to appear before the Board at any time during the two year renewal period.

The Board reviewed and accepted the new form.

Paula Evans informed the Board that there are only a total of four temporary dwellings; three were heard tonight and one is not due to be heard until September 2014.

NEW BUSINESS

None.

ADJOURN

Meeting adjourned at 8:10 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this day of , 2013