

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, March 26, 2015

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
Lance Robbins

Absent: Cindy Bowne
Vacant Seat

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

Minutes of the December 4, 2014 meeting were approved by acclamation.

REQUEST

1. Case Number 2015-001

Request by Tom McBride for a variance from the minimum lot depth in the A-2 (Agriculture) zoning district on 13.5 acres located at 555 W Hwy NN, Sturgeon (**Subdivision Regulations Appendix B, 1.8.2, Table A**).

The applicants stated they wished to continue with the hearing tonight having only three Board members present.

Planner, Uriah Mach gave the following staff report:

The property is zoned A-2 as is all surrounding property. The site is located on State Highway NN approximately 2/3 mile west of Highway 63. The subject site is vacant with some areas wooded and some open area, the open area has been used for hay.

A 1998 survey of the property to the immediate east of the subject tract indicates that the east property line extends 214.28 feet from the road right-of-way. When measured the perpendicularly from the right-of-way the distance is about 232.5 feet. The lot depth increases as the property extends to the west. A minimum lot depth of 250 feet is required for all lots 2.5 acres and larger.

The original zoning for this area is A-2. In 2013 a variance request was submitted for the parent parcel. That request was withdrawn prior to the request being considered by the Board. The requested variance is from Subdivision regulations, Appendix B, 1.8.2, Lot Specifications, Table A which states that lots shall have a minimum lot depth of 250 feet. Staff notified 10 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 subject tract is part of a larger parcel that is divided by State Highway NN. Previous surveys of the properties to the east indicate that the east property line of this tract is 214.28 feet from the state right-of-way (North side of NN). The perpendicular measurement from the right-of-way line gives a lot depth of approximately 232.5 feet. The lot depth increases to the west of the boundary line. Appendix B 1.8.2, Lot Specification and Table A of the subdivision regulations requires that lots have a minimum lot depth of 250 feet.

- a.) The applicant will incur unnecessary hardship if this variance is not granted. Compliance with the subdivision design requirements would require that the applicant obtain additional land from the adjoining property owner to the north. The location and construction of State Highway NN divided the parent parcel thus creating the situation at hand.
- b.) Granting this variance will no endanger the health, safety or welfare of the public.
- 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:

Don Bormann, 101 W Singleton, Centralia
Tom McBride, 26550 W 199th St, Gardner, KS

Mr. Bormann stated that Mr. McBride contacted him about surveying this parcel of land. When Mr. McBride made a call to Planning and Zoning he was not told that he needed a survey at that time. He later found out that he did need a survey in order to meet the requirements and contacted Mr. Bormann to do that. A concept review was held with staff and Mr. Yonke informed him that there was a problem on the east line. Mr. Bormann was the surveyor who did the survey on the property to the east. This is not something that was created by Mr. McBride, the highway cut through the property creating this parcel. If the setback was to the center of the road it would meet the requirements but there is a road right of way. The only other way to fix the property is to purchase land from the property owner to the north but that land is not for sale.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Thomas asked what the land will be used for

Mr. Bormann stated a single family residence will be built there.

Member Thomas asked where the home will be constructed.

Mr. Bormann stated it will be built on the west side of the property.

Member Thomas made and Member Robbins seconded a motion to **approve** the request by Tom McBride for a variance from the minimum lot depth in the A-2 (Agriculture) zoning district on 13.5 acres located at 555 W Hwy NN, Sturgeon:

Member Thomas	Yes	Member Robbins	Yes
Member Lightfoot	Yes		

Motion to approve the request carries unanimously

2. Case Number 2015-002

- a. Request by Thelma Jane Willis Trust for a variance from the 50-foot front setback for an existing single family dwelling in the A-2 (Agriculture) zoning district located at 17190 N Thomas Hill Rd, Sturgeon (**Zoning Regulations Section 10.A**)

The applicants stated they wished to continue with the hearing tonight having only three Board members present.

Planner Uriah Mach gave the following staff report:

The property is zoned A-2 as is the surrounding property. The site is located on Thomas Hill Road, approximately five miles southwest of Sturgeon. There is a single family dwelling and several accessory structures on this property. Surveying of the subject property shows that the existing house encroaches into the front setback of 50 feet. The original zoning for this tract is A-2. According to the Boone County Assessor's records, the existing house was built in 1958 prior to county zoning regulations. Zoning Regulations 10.A stipulates that structures must be at least 50 feet from the front property line. Staff notified 8 property owners.

Present representing the request:

David Butcher, Crockett Engineering, 2608 N. Stadium Blvd, Columbia

Mr. Butcher stated he will present all of the sub-cases together.

Mr. Butcher presented a survey of the three properties.

Mr. Butcher stated he was contacted by a lender from New York, they were having some difficulty defining the property and the assessor's lines indicated that the home was crossing the property line so the lender hired Mr. Butcher to survey the property. In doing so the lender found out it was going to be difficult to get insurance on the property and they weren't going to be able to liquidate the asset due to the fact that there is a trespass issue and a title issue with multiple owners. The bank can't leverage half of a house so this became a big problem for a lot of people. The gentleman that decided to fix this asked what options they had. Mr. Butcher thought one of the options was to slide the property down and over top of the house and quit claim back and forth between the neighbors, the unfortunate action is that we don't have that provision in the subdivision regulations to do it, there is no way to fix the property other than creating a subdivision plat. In order to create a lot under 10 acres a subdivision plat has to be created. The original property owners are relatives. In creating the subdivision plat the property owners didn't like where the property lines were either so they asked Mr. Butcher to fix those problems as well.

Mr. Butcher stated the only option available to fix the property is to create a subdivision plat and redefine all the boundary lines and create new lots. The creation of the property predates the subdivision regulations, the area that was granted to the property owners is too small to meet today's current standards with the zoning regulations so the applicants are asking for a variance from the lot size requirement. In order to create the subdivision plat additional right of way has to be granted, there are structures within the new building line. There is an accessory structure in front of a house as well as a lot depth issue. The only saving grace is that we've got all the property owners on board so we will be cleaning up this mess all at once.

Open to public hearing.

Mr. Mach stated that he received one phone call inquiring about the request; the caller didn't have a problem with the request. Staff also received an email in support of the request.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Thomas stated, regarding the middle tract wrapping around the other lot, wrapping property around another lot seems to be a bad thing. You have two variances to take care of. Can the applicants extend the property line all the way back?

Mr. Butcher stated the land is not for sale. Mr. Butcher is trying to fix what was conveyed and in doing so we've worked out a reasonable exchange, one piece of land for another piece. The owner of the property that wraps around the other lot is happy with leaving the property the way it is if he has to, you can see what kind of hardship that creates for the other property owner. The land is not for sale but the property owner is willing to give the same amount of area and same amount of space to include the entire house rather than extending the property line through and losing his land.

Mr. Yonke stated staff had asked the same questions. The reason that staff doesn't object to the proposed layout is that nothing being requested tonight makes the situation worse than it already was.

Mr. Butcher stated that if this request is denied then he is unable to do anything to help the applicants. There are no other options to fix the property.

Member Thomas made and Member Lightfoot seconded a motion to **approve** the request by Thelma Jane Willis Trust for a variance from the 50-foot front setback for an existing single family dwelling in the A-2 (Agriculture) zoning district located at 17190 N Thomas Hill Rd, Sturgeon 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 Thomas	Yes	Member Robbins	Yes
Member Lightfoot	Yes		

- b. Requests by Willis Joint Living Trust in the A-2 (Agriculture) zoning district located at 18000 N Thomas Hill Rd, Sturgeon for:
- i. Variance from the 50-foot front setback for an existing single family dwelling (**Zoning Regulations Section 10.A**)
 - ii. Variance from the minimum lot width (**Subdivision Regulations, Appendix B 1.8.2, Table A**)
 - iii. Variance from the minimum lot depth (**Subdivision Regulations, Appendix B 1.8.2, Table A**)

The applicants stated they wished to continue with the hearing tonight with having only three Board members present.

Planner Uriah Mach gave the following staff report:

The property is zoned A-2 as is the surrounding zoning. The site is located on Thomas Hill Road, approximately five miles southwest of Sturgeon, there is a single family dwelling and several accessory structures on this property. Surveying of the subject property shows that the existing house encroaches into the front setback of 50 feet; that the part of the tract is unable to meet the required minimum lot depth of 250 feet; and part of the lot does not meet the minimum lot width.

The original zoning for this tract is A-2. According to the Boone County Assessor's records, the existing house was built in 1965 prior to county zoning regulations. In 1984 a two acre tract was taken out of the parent parcel as a Family Transfer (currently owned by Market Ready LLC - BOA Case Number 2015-002c). At that time Boone County did not require that a family transfer meet the minimum lot size or be surveyed. A house was built on the lot at that time, which appears to be located on the south property line. The requested variances are from Zoning Regulations 10.A which stipulates that structures must be at least 50 feet from the front property line; Subdivision Regulations, Appendix B.1.8.2 Lot Specifications, Table A - lots shall have a minimum lot depth of 250 feet; and Subdivision Regulations, Appendix B.1.8.2 Lot Specifications, Table A - lots shall have a minimum lot width of 150 feet. Staff notified 8 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 unusual configuration of this tract is the result of a tract created through the Family Transfer provisions of the regulations that was completed in 1984. At that time, tracts created for Family Transfer were not subject to the county subdivision regulation design standards. The applicant and adjoining property owners are trying to resolve several problems with the configuration of the lot and improvements while honoring the original intent of the land division.

Appendix B 1.8.2 Lot Specification and Table A of the subdivision regulation requires that lots have a minimum lot depth of 250 feet. The configuration in the attached plan shows that the area east of the family transfer lot will have a depth of 130 feet.

Appendix B 1.8.2 Lot Specification and Table A of the subdivision regulation requires that lots have a minimum lot width of 150 feet. The configuration in the attached plan shows that the area north of the family transfer lot will have a width of 115 feet.

- a.) The applicant will incur unnecessary hardship if this variance is not granted.
Compliance with the subdivision design requirements would require further changes to the configuration of the lots than can be reasonably accomplished due to the location of buildings and the lagoon.
- b.) Granting this variance will not endanger the health, safety or welfare of the public.
This lot and improvements have existed for 31 years.

- c.) Granting this variance will not thwart or circumvent the general intent of the regulations.

Staff recommends that these variances be granted.

See public hearing under case 2015-002 a.

Member Lightfoot made and Member Robbins seconded a motion to **approve** the following requests by Tom McBride in the A-2 (Agriculture) zoning district on 13.5 acres located at 555 W Hwy NN, Sturgeon:

A variance from the 50-foot front setback for an existing single family dwelling with the condition that 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.

A variance from the minimum lot width

A variance from the minimum lot depth

Member Thomas	Yes	Member Robbins	Yes
Member Lightfoot	Yes		

- c. Requests by Market Ready LLC in the A-2 (Agriculture) zoning district located at 18010 N Thomas Hill Rd, Sturgeon, for:
 - i. Variance from the minimum lot size (**Zoning Regulations Section 11.A**)
 - ii. Variance to allow an accessory structure to remain in the front plane of a house (**Zoning Regulations Section 7.A.5**)
 - iii. Variance from the minimum lot depth (**Subdivision Regulations, Appendix B 1.8.2, Table A**)

The applicants stated they wished to continue with the hearing tonight with having only three Board members present.

Planner Uriah Mach gave the following staff report:

The current zoning of the property is A-2 as is the surrounding property. The site is located on Thomas Hill Road, approximately five miles southwest of Sturgeon. There is a single family dwelling on the property. The lot does not meet the minimum lot size for the zoning district; the accessory structure is situated in the front plane of the house; the lot does not meet minimum lot depth. The original zoning for this tract is A-2. This tract was created as a Family Transfer in 1984. At that time Boone County did not require that a family transfer meet the minimum lot size or be surveyed. The house built on the property in 1984 was apparently built on the south property line. The requested variances are from Zoning Regulations Section 11.A, the minimum lot size in the A-2 district is 2.5 acres; Zoning Regulations 7.A(5) - accessory building in front of a house; and Subdivision Regulations Appendix B 1.8.2 Lot Specifications, Table A - lots shall have a minimum lot depth of 250 feet. Staff notified 8 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, Market Ready LLC recently acquired the subject property. This tract was created as a family transfer in 1984. At that time, tracts created for Family Transfer were not subject to the county subdivision regulation design standards. The applicant is trying to resolve several problems with the configuration of the lot and improvements while honoring the original intent of the land division. Appendix B 1.8.2 Lot Specification and Table A of the subdivision regulations requires that lots have a minimum lot depth of 250 feet. The proposed configuration indicates that a survey of this lot will provide 220 feet of depth at the narrowest point.

- a.) The applicant will incur unnecessary hardship of this variance is not granted. This lot was originally described in 1984 as a family transfer lot. Family Transfer lots were not subject to all of the subdivision regulations. Compliance with the subdivision design requirements would require that the applicant obtain additional land from the adjoining property owner.
- b.) Granting this variance will not endanger the health, safety or welfare of the public. This lot and improvements have existed for 31 years.
- c.) Granting this variance will not thwart or circumvent the general intent of the regulations.

Staff recommends that this variance be granted.

See public hearing under case 2015-002 a.

Member Robbins made and Member Thomas seconded a motion to **approve** the following requests by Market Ready LLC in the A-2 zoning district located at 18010 N Thomas Hill Rd, Sturgeon:

A variance from the minimum lot size

A variance to allow an accessory structure to remain in the front plane of a house with the condition that 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

A variance from the minimum lot depth

Member Thomas

Yes

Member Robbins

Yes

Member Lightfoot Yes

Motion to approve the request carries unanimously

OLD BUSINESS

- Certificates of Decision – Case 2014-007 Ryan Stone

The certificates of decision for Ryan Stone were accepted and signed by the Chairperson.

NEW BUSINESS

None.

ADJOURN

Meeting adjourned at 7:33 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this day of , 2015