

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, May 28, 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: Bill Florea, Senior Planner
Thad Yonke, Senior Planner
Uriah Mach, Planner
Paula Evans, Secretary

Minutes of the April 23, 2015 meeting were approved by acclamation.

REQUEST

1. Case Number 2015-004

Request by Mark Kuhn on behalf of SBA Towers V, LLC for a variance from the requirement to provide a 190' setback from the property line for a proposed telecommunications tower on 5.84 acres located at 3200 N Billie Jean Dr., Columbia

Planner Bill Florea gave the following staff report:

The current zoning of the property is A-2 as is all adjacent property. This site is located northeast of the Columbia municipal limits south of Mexico Gravel Road. The property is currently vacant. The applicant would like to place a transmission facility with a 190 foot tall tower on this site. The zoning regulations require that a tower be set back from the property lines by a distance equal to the tower height. The tower will have a height of 190 feet including antennas and lightning rod, but will be 139 feet from the closest property line. The original zoning for this site is A-2. This 5.84 acre tract was created by survey in June 1995. A singlewide mobile home was placed upon the property in 1995. A modular house replaced the mobile home in 1998 and an accessory structure was added in 2003. The requested variance is from Zoning Regulations Section 15.B (4)(c):

Transmission facilities shall be setback from abutting property or roads sufficient to:

(c) 1. Substantially contain on-site ice-fall or debris from tower failure:

(c) 2. Protect the general public from NIER (Nonionizing Electromagnetic Radiation Standards) in excess of that allowed in Section (6)

(c) 3. Create open spaces for public safety purposes. A site is of sufficient size to comply with this requirement if:

(c) 3.1 Accessory structure and guy wire anchors shall comply with the setback standard in the underlying zoning district;

(c) 3.2 A tower base is set back from property lines or roads by a distance equal to the tower height.

Staff notified 46 property owners.

Present representing the request:

Joe Markus, Black & Veach, 204 Mattina Ct, St. Peters

Member Thomas asked the applicants if they wished to continue with the hearing tonight having only three members present.

Mr. Markus stated yes.

Mr. Markus presented a power point presentation showing the proposed location of the tower. The applicants are requesting a variance from the property setback. The required setback is equal to the height of the tower, in this case the tower is 180 feet tall plus a 10 foot lightning rod. The north side setback is 139 feet at its lowest point and the east, west, and south setbacks all exceed the minimum requirement. The tower will be a monopole design and there will be no light. The extra height will not require a substantially larger tower. The applicants are requesting a variance due to the topography, the topography consists of wetlands, floodplain and a large variance in terrain height and because of this it denies the applicant the ability to meet the required setbacks because they couldn't get far enough into the property to meet the setbacks that are required. The tower can't be moved farther south or east because of the floodplain. Moving the tower south or east could bring the setback into compliance but it cannot be moved south or east because of the terrain, there is a severe drop off. The applicant's had environmental engineers map the wetlands, the map

presented shows the wetlands area and the applicants can't build in that area either. Receiving a variance from the setback will not cause safety concerns. Towers do not fall over, they are well designed and are just like buildings, buildings don't fall over either. If there is a failure the tower is designed to crumple and it falls down on itself inside the compound. Ice will also fall into its own compound. Tower setbacks vary by jurisdiction but are commonly half the distance required by Boone County. Approval of this variance does not give approval to build the tower, it only permits shortening the setback. The applicants still have to obtain a conditional use permit and go through public hearings with the Planning and Zoning and County Commissions.

Open to public hearing.

Present speaking in support of the request:

Thomas Gallihugh, 6501 E Martin Ct, Columbia

Mr. Gallihugh stated he works for Verizon Wireless and is familiar with cellular towers and what they do. The monopole is a good design however it will need to be fenced to keep kids from climbing it. Mr. Gallihugh stated his main concern was lowering property values and also safety in the case of a tornado. Mr. Gallihugh stated that towers like these usually go on properties that are five acres or larger in an area away from homes.

Matt Peterson, 6503 E Martin Ct, Columbia

Mr. Peterson stated he had the same concerns as Mr. Gallihugh regarding property values. Mr. Peterson asked why the tower had to be placed there.

Member Thomas asked Mr. Peterson if he was speaking for or against the request.

Mr. Peterson stated he is speaking against it.

Member Thomas informed Mr. Peterson that this portion of the hearing is for people to speak in support of the request.

Present speaking in opposition:

Juanita Brown, 6150 Billie Jean Dr, Columbia

Ms. Brown stated she lives right next door to the property in question. Ms. Brown also mentioned concerns for lowering property values and stated that the lot is too small for the tower. Ms. Brown stated she is afraid of what is going to fall off the tower. The applicants can't prove that the towers don't just fall over. Ice falling off the tower could fall on her barn. Ms. Brown also spoke about aesthetics and stated the area is a landfill and questioned why it had to be placed so close to houses in the area.

Robert Clements, 3106 N Lawrence, Columbia

Mr. Clements stated he doesn't understand why it has to be down in the hole, it is not far from Mr. Clements property and he doesn't want to see it there.

Larry Day, 3100 N Lawrence Dr, Columbia

Mr. Day stated he will see the tower from his back door.

James Dawdy, 3150 Billie Jean Dr., Columbia

Mr. Dawdy stated the tower may be a good design but he disagrees with the location. The ground is unstable; there is a vacant 50 acre piece of property behind this lot where the tower can be placed and it is owned by the same property owner.

Mr. Yonke stated that staff received a letter in opposition from Boyd Harris.

Closed to public hearing.

Member Thomas stated that this Board is only looking at the variance for the setback. The other concerns are for a different Board to address if the applicants move forward with the tower.

Member Robbins asked if there was no flood plain on the property is there anywhere on the property that this tower could be placed and meet the required setback.

Mr. Markus stated they could get within 176 feet for setbacks.

Member Thomas stated there is no way the applicants could meet the setbacks anywhere on the property.

Mr. Markus stated he could come within four feet.

Mr. Florea stated it is actually 14 feet. The lightening rod is included in the tower height.

Member Robbins stated the topography on the property doesn't present an issue because the applicants can't meet the setbacks regardless of the topography.

Mr. Markus stated the Board could restrict the tower to a height of 176 feet.

Member Thomas asked the applicants if they approached other property owners in the area.

Mr. Markus stated yes; the applicants approached many property owners. Mr. Markus stated he has been working on this project for two years and this was the only property the applicants could find that was big enough to come close to meeting the setbacks and that had a willing owner.

Member Lightfoot asked if the tower is a normal height or is it taller because it is in a hole.

Mr. Markus stated the applicants try to keep their towers under 200 feet so they don't have to light them. It is a pretty normal height.

Member Lightfoot stated there is really no where on the property that would meet the setbacks.

Mr. Markus stated it wouldn't meet the 190 feet but the applicants will accept a restriction of 176 feet.

Member Lightfoot stated the request was for a 190 foot tower.

Member Thomas asked staff if the city had different requirements.

Mr. Yonke stated yes.

Member Robbins asked staff if there were plans to build a tower on school property as was stated in the public hearing.

Mr. Florea stated yes, one is proposed at the new elementary school site.

Member Thomas stated he didn't believe the Board can grant a variance because topography isn't an issue; the applicants can't place the tower anywhere on the property and meet the setback requirement.

Member Lightfoot made and Member Robbins seconded a motion to **deny** the request by Mark Kuhn on behalf of SBA Towers V, LLC for a variance from the requirement to provide a 190' setback from the property line for a proposed telecommunications tower on 5.84 acres located at 3200 N Billie Jean Dr., Columbia:

Member Thomas	Yes	Member Robbins	Yes
Member Lightfoot	Yes		

Motion to deny the request carries unanimously

2. Case Number 2015-005

Request by Michael and Marla J. Fuller for a variance from the rear setback of 50' in the A-2 zoning district on 4.0 acres located at 19501 N Hwy 124, Centralia

Planner Uriah Mach gave the following staff report:

This property is zoned A-2 as is all adjacent property. This site is located about 1.5 miles south of Centralia on State Highway 124, there is a single family dwelling on the property. The house is 34 feet from the rear lot line. The original zoning for this site is A-2. The lot was created by survey in 1973 and there have been no previous requests submitted for the subject tract. The requested variance is from Zoning Regulations Section 10.A. The A-2 zoning district requires residential structures to be at least 50 feet from the rear lot line. Staff notified 20 property owners about this request.

Present representing the request:

Don Bormann, 101 W Singleton, Centralia

Mr. Bormann stated the lot was created in the early 1970's, the applicants didn't build the house and they've owned the home for two years, there have been 3 or 4 owners before the applicants. The applicants didn't realize there was a problem until they wanted to do something with their property; the applicants own the lot just to the north which was recently subdivided and they want

to do some adjustments with the property line. The applicants didn't create the problem. The house was built at a time when the county didn't check the setbacks on rural property. It was legally built and no one had a problem with it but the regulations are such that as soon as the applicants want to do something with their property they have to have a variance to move forward.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Mr. Yonke stated that staff received a letter in support of the request from Boyd Harris.

Member Robbins stated the letter indicates that the applicants want to build a new house.

Mr. Bormann stated the applicants are going to build a new house on the property to the north.

Member Robbins asked if the applicants are going to subdivide the property.

Mr. Bormann stated the applicants are going to re-subdivide the lot to the north and the lot in question so they can keep the pond with the property that the applicants purchased. All they are doing is changing the lot configuration.

Member Thomas asked about the accessory structure on the property.

Mr. Yonke stated the accessory structure is in compliance. There is an exception for accessory structures in the zoning regulations.

Member Robbins made and Member Lightfoot seconded a motion to **approve** the request by Michael and Marla J. Fuller for a variance from the rear setback of 50' in the A-2 zoning district on 4.0 acres located at 19501 N Hwy 124, Centralia **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		

Motion to approve the request carries unanimously

Mr. Bormann stated he believes that the zoning regulations should be changed so that requests like these can be approved administratively. The applicants didn't cause the problem and shouldn't have to be penalized.

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURN

Meeting adjourned at p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 25th day of June, 2015