

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, July 2, 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 May 28, 2015 meeting were approved by acclamation.

REQUEST

1. Case Number 2015-006

Request by Donn and Judith Benish for a variance from the 50-foot front setback in the A-2 zoning district for an existing single family dwelling on 24.32 acres located at 8953 N Phillipe Rd., Hallsville. (Zoning Regulations Section 10.A).

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

The applicants stated they wished to be heard tonight.

Planner, Thad Yonke gave the following staff report:

The property is zoned A-2 as is all adjacent zoning. The site is located 2.5 miles northeast of Columbia and 2/3 mile north of State Highway HH, there is a single family residence and accessory structures on this property. The applicant would like to subdivide a lot that will include the house. The initial survey shows that after providing the required right of way the existing house will be located within the setback. The original zoning for this tract is A-2, there have been no previous requests submitted for this property. The requested variance is from Zoning Regulations 10.A which stipulates that structures must be at least 50 feet from the front property line. Staff notified 15 property owners.

Present representing the request:

Kevin Schweikert, Brush & Associates, 506 Nichols St, Columbia
Donn Benish, 8953 N Phillipe Rd, Hallsville

Mr. Schweikert stated Mr. Benish is living in the house which is over 100 years old, the applicants plan to subdivide a lot to include the house and accessory structure. The house will be within the 50 foot setback.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Robbins asked how far the house is from the property line.

Mr. Schweikert stated the building line goes through the middle of the house.

Chairperson Thomas asked how the property was being divided.

Mr. Benish stated the land behind the house is for running livestock; the property line will run behind the house.

Mr. Schweikert showed a copy of the survey.

Mr. Yonke asked if the applicant measured the front property line to the front of the house.

Mr. Mach stated it is about 25 to 30 feet. If there was no loss of right of way the house would probably comply.

Member Robbins made and Member Thomas seconded a motion to **approve** the request by Donn and Judith Benish for a variance from the 50-foot front setback in the A-2 zoning district for an existing single family dwelling on 24.32 acres located at 8953 N Phillipe Rd., Hallsville **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 Lightfoot	Yes
Member Robbins	Yes		

Motion to approve the request carries unanimously

2. Case Number 2015-007

Request by Patrick W. Lee Revocable Trust for a variance from the 50-foot front setback in the A-2 zoning district for an existing single family dwelling and two accessory structures on 31.21 acres located at 1351 E Nashville Church Rd., Ashland. (Zoning Regulations Section 10.A).

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

The applicants stated they wished to be heard tonight.

Planner Thad Yonke gave the following staff report:

The property is zoned A-2 as is all adjacent property. The site is approximately 4 miles northwest of Ashland and there is a single family residence and several accessory structures on the property. The applicant would like to subdivide a lot that will include the house. The initial survey shows that after providing the required right of way the existing house will be located within the setback. The original zoning for this property is A-2. The requested variance is from Zoning Regulations 10.A which stipulates that structures must be at least 50 feet from the front property line. Staff notified 11 property owners.

Present representing the request:

Steve Heying, surveyor, 1202 Madison St, Columbia
Patrick Lee, 1351 E Nashville Church Rd Ashland

Mr. Heying stated the barn in the middle of the field to the east is 67 feet back so it meets the requirements. The older house and garage is what needs the variance. The house is 36.5 and 38.5 feet from the property line which would put it beyond the 50 foot setback on a statute right of way and the garage is 24.6 feet and the other corner is at 34.8 feet. Both buildings are existing and have been there for many years.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas asked how many feet the house within the setback?

Mr. Heying stated 10 to 15 feet.

Chairperson Thomas asked if most of the garage was in the setback.

Mr. Heying stated the building line runs through the garage.

Chairperson Thomas asked how old the buildings were.

Mr. Lee stated the house was built in 1925 and the garage was built about seven years ago but it was built on the footprint of an older garage that was in the exact same spot which was built in the 1970's.

Chairperson Thomas asked staff if they heard from any of the neighbors.

Mr. Yonke stated no.

Chairperson Thomas stated the applicants are dividing 5 acres of the 31 acres.

Mr. Heying stated five acres will stay with the house and the 10 acre administrative survey that was done to the east will be divided in half.

Member Lightfoot made and Member Thomas seconded a motion to **approve** the request by Patrick W. Lee Revocable Trust for a variance from the 50-foot front setback in the A-2 zoning district for an existing single family dwelling and an existing garage on 31.21 acres located at 1351 E Nashville Church Rd., Ashland **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 Lightfoot	Yes
Member Robbins	Yes		

Motion to approve the request carries unanimously

3. Case Number 2015-008

Request by Alexis Booska for a variance from the 25-foot front setback in the R-S zoning district for an existing single family dwelling located at 7376 E St. Charles Rd., Columbia (Zoning Regulations Section 10.A).

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

The applicants stated they wished to be heard tonight.

Planner Thad Yonke gave the following staff report:

The property is zoned R-S, property to the north is zoned O-P which is a City of Columbia zoning designation, property to the east, south, and west is zoned R-S. This site is located just outside of Columbia near Battle High School, there is a single family dwelling on the property. The applicant would like to subdivide the tract into two lots in order to create an additional building site. The initial survey of the lot indicates that the existing house is too close to Frank Stanton Drive. The subject tract is part of Frank Stanton subdivision which was platted in 1973 and 1974. Subsequent to the creation of the original plat, the previous owners of Lot 1 and Lot 2 (the subject tract) acquired the lot to the south (Lot 3) and divided it between them. The requested variance is from Zoning Regulations 10.A which stipulates that structures must be at least 25 foot from the front property line. Corner lots are required to provide a front setback on both streets. Staff notified 21 property owners.

Mr. Yonke stated that staff did receive some phone calls regarding this request but the callers were only asking for clarification.

Present representing the request:

Cody Darr, A Civil Group, 3401 Broadway Business Park Ct, Columbia

Mr. Darr stated that the property owner bought the house a year ago and decided to split the lot. The owner has an aging mother and she wants to build a house for her on the new lot. Originally there were three lots and through some quit claims it became two lots. Through the lot to the west is not changing. The lot line adjustment survey that the applicants are intending to file we figured out that the house was going to be over the setback.

Mr. Darr presented a copy of the lot line adjustment survey and stated that the house was going to be 17.1 feet from the right of way.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Mr. Darr stated the house was built in the 1970's. With the road being as narrow as it is and not being centered in the right of way the building is actually a good ways away from the road.

Chairperson Thomas asked if 17 feet was as close as the building was going to be to the property line.

Mr. Darr stated yes.

Member Robbins made and Member Thomas seconded a motion to **approve** the request by Alexis Booska for a variance from the 25-foot front setback in the R-S zoning district for an existing single family dwelling located at 7376 E St. Charles Rd., Columbia **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 Lightfoot	Yes
Member Robbins	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

- a. Certificate of Decision - Case # 2015-005 Michael and Marla Fuller

Chairperson Thomas approved and signed the certificate of decision.

NEW BUSINESS

ADJOURN

Meeting adjourned at 7:40 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 23rd day of July, 2015