

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, October 22, 2015

The meeting was called to order at 7:00 p.m. in the Boone County Commission Chambers having a quorum present.

Member Robbins 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: Lance Robbins
Rhonda Lightfoot
Cindy Bowne

Absent: Frank Thomas
Vacant Seat

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

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

REQUEST

1. Case Number 2015-012

Request by Ronald and Vicci Brandel for a variance to allow creation of a platted lot having a stem in excess of 250 feet in length located at 2148 E Breedlove Dr., Sturgeon

Member Robbins 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:

This 15 acre tract is zoned A-2 as is the surrounding property. The site is approximately 5 miles south of Sturgeon and 1.5 miles east of Highway 63, there is a house and several accessory dwellings on this property. The applicants would like to plat a 2.55 acre lot using the existing driveway connection to Breedlove Drive. The driveway is situated on a stem connection that is more than 250 feet long. The applicant proposes a 260 foot stem. This is considered a tier lot by the subdivision regulations. The original zoning for this tract is A-2. This 15 acre tract was part of a 78.93 acre tract surveyed in 1981. The survey shows the stem connecting to Breedlove Drive which is allowed on tracts not subject to the subdivision regulations. According to the Assessor's files, the house on the tract was built in 1985. The requested variance is from subdivision regulations, Appendix B.1.8.1 which states the stem of a tier lot shall not be longer than 250 feet in length. Staff notified 13 property owners about this request.

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 stem of the subject tract appears to have been created when it was shown on a survey for a 78.93 tract filed in 1981. In 1981 the subdivision regulations only applied to tracts smaller than 5 acres in size. The stem shown on that survey is 304.93 feet in length. If a 2.55 acre lot is platted the owner will be required to dedicate a 33 foot right of way for Breedlove Drive. Appendix B 1.8.1 Tier lots...shall not be less than 20 feet nor more than 59 feet in width and not shorter 25 feet nor longer than 250 feet in length.

- 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 east or west.
- b. Granting this variance will not endanger the health, safety or welfare of the public. This configuration has been in place since 1981.
- 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:

Ron Brandel, 2336 Hayden Way, Normal, IL
Vicci Brandel, 2336 Hayden Way, Normal, IL

Mr. Brandel stated the applicants want to section 2.55 acres off of the 15 acres so it can be sold, the remaining 12.5 acres would be added to the 25 acres to the south which the applicants also own.

Mrs. Brandel stated that part of the reason the applicants want to do this is because they are building a home on the 25 acres that is on Tucker School Road and the 15 acres is adjacent to the 25 acres. There is a house on the 15 acres and the applicants don't need two houses.

Mr. Brandel stated that once the new house is finished the applicants want to sell the other house but would like to keep as much land as they can for themselves.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Bowne stated there was a difference in the stem length between what was on the application at 260 feet and what was mentioned in the staff report.

Mr. Yonke stated he is sure that is based on when you give the 33 foot half width right of way for Breedlove Drive, it also depends on the part of the stem that is measured.

Member Robbins asked if that affects the integrity of what the Board was asked to approve.

Mr. Yonke stated no the applicants are asking for a length in excess of 250 feet.

Member Bowne asked the intent of the regulation regarding the stems.

Mr. Yonke stated it is to make sure that the stem is not a significantly long piece. You can't count the stem in the acreage, it is purely for access, it is not counted toward the acreage because it is an unbuildable area, you can't put a waste water system in it, it is only for access to the road right of way. If you allow it to be more than 250 feet you start allowing for configurations where you have lots with these long, thin strips and those tend to be put side by side and people start to use them. It is a very poor way of dividing land and it doesn't have a minimum frontage.

Mr. Yonke stated staff heard from two neighbors who were both in favor of the request.

Member Bowne stated the carport sits in front of the house.

Mr. Brandel stated yes but it is also movable so if you don't like the carport there it can be moved, it is not a permanent structure.

Member Bowne asked staff if it is considered a structure.

Mr. Yonke stated if it is a mobile structure then it can be moved. What was requested was the variance on the length of the stem but a variance would be required to allow the carport to be in front of the primary structure if the applicants didn't want to move it.

Member Bowne stated she didn't want the applicants to have to come back.

Mr. Yonke stated the applicants will have to come back because the stem request was the only thing advertised. Staff didn't get an application for the buildings being too close to the front property line. For the applicants to move forward with the lot division they will have to request an additional variance.

Mr. Brandel stated he didn't know that was going to be an issue.

Mr. Yonke stated that staff talked to the surveyor about it.

Mrs. Brandel asked which buildings were in the setback.

Mr. Yonke stated all three buildings look to be in the setback.

Mrs. Brandel stated the applicants need to submit the second variance for the carport being in front of the primary residence and then all three buildings need a variance for being too close to the front property line.

Mr. Yonke stated yes, the next deadline is Monday, October 26 for the December 3, 2015 meeting.

Member Bowne made and Member Lightfoot seconded a motion to **approve** the request by Ronald and Vicci Brandel for a variance to allow creation of a platted lot having a stem in excess of 250 feet in length located at 2148 E Breedlove Dr., Sturgeon

Member Robbins	Yes	Member Lightfoot	Yes
Member Bowne	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

- a. Certificate of Decision - Case Number 2015-010 Roderic and Christina Dablemont
- b. Certificate of Decision - Case Number 2015-011 Brad Underhill

Vice Chairperson Robbins approved and signed the certificates of decision.

NEW BUSINESS

Annual election of officers

This item was tabled until the next regularly scheduled meeting or until all members are present.

ADJOURN

Meeting adjourned at 7:38 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 3rd day of December, 2015