

# BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, May 26, 2016

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.

The following procedure will be followed: The agenda item will be announced, followed by a report from the Resource Management Department staff. At that time, the applicant or the applicant's representative may make a presentation to the commission. The Board may request additional information at that time, or later following the public hearing.

After the applicant's presentation, the floor will be opened for a public hearing to allow anyone wishing to speak in support of the request. Next, the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the Board and please restrict your comments to the matter under discussion. Please give your name and mailing address when you address the Board and sign the sheet on the table after you testify. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the Board. The Board will then discuss the matter and may ask questions of anyone present during the discussion. Also, we ask that you turn off your cell phones.

Any materials that are presented to the Board, such as photographs, written statements or other materials will become a part of the record for these proceedings. If you would like to recover original material, please see the staff during regular business hours after they have had an opportunity to make a copy of your submission.

Roll call was taken:

Present: Frank Thomas  
Rhonda Lightfoot  
Cindy Bowne  
Lance Robbins

Denny Stephenson

Absent: None

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

Minutes of the April 28, 2016 meeting were approved by acclamation.

## **REQUEST**

1. Case Number 2016-004

Request by Boone County for a variance to allow two existing accessory structures to remain within the required setback on 6.24 acres located at 4221 E Hwy 124, Hallsville.  
**(Zoning Regulations 10.A & 6.6.4)**

Planner Thad Yonke gave the following staff report:

The current zoning of the property is A-2 (Agriculture), zoning to the north is M-LP (Planned Light Industrial), to the east and west is A-2 (Agriculture), and to the south is A-1 (Agriculture). The site is located 1.5 miles west of Hallsville and 3.25 miles east of Highway 63 on the northeast corner of State Highway 124 and Barnes School Rd. This site is owned by Boone County and has been used for equipment and material storage and as a satellite office for the Boone County Sheriff's Department. There are two structures that encroach into the required setback. One structure encroaches into the future right-of-way. The original zoning for this site is A-2. This property was owned by the Missouri Department of Transportation (MoDot) when Boone County adopted zoning regulations in 1973. MoDot used the site as a regional maintenance facility for equipment, trucks and material storage. When the property became surplus it was sold to Boone County in 2010. The Boone County Public Works department used it for the same purpose. The property is now surplus and the County Commission plans to offer it for sale. Prior to sale, the County will seek to rezone the property to M-LP (Planned Light Industrial) and plat the land. The requested variance is from Zoning Regulations Section 10.A. M-LP zoning has a 25-foot front and rear setback and Zoning Regulations Section 6.6.4 - planned developments are required to provide a minimum front setback around the entire perimeter of the site. Staff notified 13 property owners.

Present representing the request:

Ron Sweet, Assistant Boone County Counselor, 801 E Walnut, Columbia, MO

Ron Sweet: The Commission seeks a variance on this property. The facility has been in place for quite some time. The County is now preparing to sell this property because it is surplus and they wish to rezone it to M-LP. While preparing the zoning application we noticed two existing buildings on the property encroached into the setback. One building is a 30 x 30, 3-sided, 8" poured concrete walls that is used for rock salt storage. The other building is an 18 x 18 concrete pole

structure with a metal roof supported by 4 x 4's which contains a fuel tank and pump. It is 17.3 feet from the east property line and 7.7 feet within the setback. The County Commission seeks a variance so the buildings can stay on the property. The buildings will be valuable to a prospective buyer. Right now there is no dedicated right of way along Barnes School Road so there is a statutory 30 foot right of way. We believe the Commission intends to dedicate a 33 foot half width right of way when they sell the property. The property north of this was platted in 2001 with a dedicated 33 foot half width right of way. The Board may remember a similar surplus state road maintenance facility at Highway 124 and Route E near Harrisburg that became private property. In 2011 the property was granted a certificate of occupancy for non-conforming use for M-L zoning on that site.

Open to public hearing.

Walt McVay, 14450 N Barnes School Rd, Hallsville, MO

Walt McVay: I understand the County plans to sell this property and the problem is the two buildings?

Chairperson Thomas: That is correct.

Walt McVay: I don't have a problem with the County selling the property or with the two buildings, the only thing that I am concerned about is the County owns it they need to take care of the property a little better. Keep it mowed and the area cleaned up. The buildings need to be properly maintained; the roof is coming off the three sided building.

Closed to public hearing.

Member Bowne: What did the applicant mean by re-plat? Will the property be divided up in to smaller pieces?

Ron Sweet: I don't recall saying that.

Member Bowne: The staff report states that prior to sell the county will seek to rezone the property to M-LP and plat the land.

Thad Yonke: The property is not currently platted; they would be creating a plat.

Member Bowne: Of the entire property?

Thad Yonke: Yes.

Member Bowne: Just one parcel?

Bill Florea: It is staff's understanding that the County Commission will probably offer it for sale either the whole piece or they may subdivide it depending on what type of offers they receive.

Member Bowne: What acreage can an M-LP be platted down to?

Bill Florea: There is no minimum lot size in M-LP however wastewater would be an issue so if they wanted an onsite wastewater system 2.5 acres is the minimum.

Member Robbins: The rock salt building is within the right of way?

Thad Yonke: If the property is platted the rock salt building will be encroaching in the right of way.

Chairperson Thomas: How much in the right of way?

Bill Florea: One foot.

Member Bowne: Of the future 33 foot or the existing right of way?

Bill Florea: The 33 foot.

Member Bowne: That we don't know for sure is going to happen.

Bill Florea: Correct.

Member Bowne: So it is not in the right of way right now. If we grant a variance and allow it and then they change it and put a 33 foot right of way does that automatically grandfather it in as being a variance or do they come back for a variance?

Thad Yonke: They have not requested a variance for that, all they are asking is to be in the setback.

Chairperson Thomas: But in the report it says one structure encroaches into the future right of way.

Thad Yonke: That is probably worth knowing but the County did not request a variance for that so I would assume they would have to come back.

Denny Stephenson: Currently both structures encroach into the required setback.

Ron Sweet: Yes.

Member Bowne: Mr. McVay had a concern that the lean to that is used for the fuel storage was in poor shape.

Member Robbins: I believe it was the rock salt storage building. I can contact Greg Edington at Public Works and let him know that it came up and see if they can repair it.

Member Bowne: I don't really consider the shelter that is over the fuel storage as a structure for granting a variance except it has the short wall and that to me is not a structure wall that is a fuel containment wall.

Member Robbins: But it is a permanent structure in that it can't be moved.

Bill Florea: It is a structure that would be subject to setbacks.

Member Robbins: Does staff have any concerns with granting the variance, what it means now or in the future?

Thad Yonke: The intent is to sell the property to a private entity to utilize as anyone else would utilize it. With the buildings being as close as they are utility easements are going to be difficult to plat, there is no room for one of them to end up platting. I guess there are some concerns about that but it complies as a governmental unit but being we have to dispose of it we have a quandary.

Member Bowne: Where are the utilities that serve the property currently? Are they on the other side of the road?

Ron Sweet: I believe they are on the west side of Barnes School Road.

Thad Yonke: They almost have to be just because of how close those buildings are. They are either there or in the right of way.

Walt McVay: The water is on the west side.

Member Bowne: What about phone service?

Uriah Mach: Fiber-optics is shown on the east side in the right of way.

Member Bowne: It sounds like utilities already serve the property so it is not like someone will be moving in a utility.

Member Robbins: What would the remedy be if the variance was not granted?

Thad Yonke: They would have to tear the building down.

Member Bowne: Not the main structure, these are the two accessory buildings.

Member Robbins: It would be a potentially significant issue in the future if the property is platted.

Thad Yonke: If the property is platted then there are other issues.

Member Robbins: What is being considered is within the norm of what this Board has done before for residentially owned properties.

Member Bowne: I would be willing to grant it as is where is but most of the cost of this is in the concrete so if the whole roof and sides came off it wouldn't meet the financial obligation so I think we would be correct in making that condition but the expense is in the concrete that is there.

Member Bowne made and Member Robbins seconded a motion to **approve** the request by Boone County for a variance to allow two existing accessory structures to remain within the required setback on 6.24 acres located at 4221 E Hwy 124, Hallsville with the following condition:

- The existing structures 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 Bowne	Yes
Member Lightfoot	Yes	Member Robbins	Yes
Member Stephenson	Yes		

Motion to approve the request carries unanimously

2. Case Number 2016-005

Request by Todd and Susan Twenter for a variance to allow an accessory structure to be constructed in the front plane of a future house on 4.04 acres located at 14005 N Old Number 7, Harrisburg. (**Zoning Regulations 7.A.5**)

Planner Bill Florea gave the following staff report:

The current zoning of the property is A-2 (Agriculture) as is all adjacent zoning. The site is located on Old Number 7 Road, approximately one mile south of State Highway 124; approximately 4.5 miles southeast of Harrisburg; approximately two miles west of Highway 63. Construction has begun on a single family dwelling. The requested variance is to construct a 60 x 24 foot accessory structure between the road and the home site due to topography of the site. The original zoning for this tract is A-2. The tract was originally lots 45, 46, and 47 of County View Acres subdivision which was platted in 1964. Country View Acres was vacated and re-platted as County Boys Subdivision in 2014. The applicants were issued a building permit for a house in April 2016. The requested variance is from Zoning Regulations Section 7.A.5. An accessory structure cannot be erected in front of a main building unless it is attached to the main building by a common wall. Staff notified 21 property owners about this request.

Present representing the request:

Todd Twenter, 4106 Congo Circle, Columbia, MO  
Susan Twenter, 4106 Congo Circle, Columbia, MO

The applicants presented a handout which included parcel information, site drawing, topography map, and photos of the property.

Todd Twenter: Page 3 of the handout shows the parcel information and it shows the property. The property was recently logged by the previous owner and in the logging process they created an opening on the northwest corner and it is generally flat in that area. Because of the corner it was my assumption that no house would be built in the corner because there wouldn't be adequate site distance for a driveway. It also falls fairly steeply at that point. The southeast corner was potentially a building site but it wasn't already cleared. The clearing is generally flat, it is long and narrow. The primary interest was the building site space so we marked that and started the building process regardless of what happens with the shed. There still remains some room that is flat between the building and the road. Anything to the west would be too close to the property line. The area to the east and south is too steep so I wouldn't try to build a pole barn in those areas because it drops too much. If I am down in the slope east of that site it falls into the ravine. The last page of the handout shows the location of the house and shed from the roadside view. The house is pretty substantial, it is about 5000 square foot and the shed will be quite a bit smaller than that.

Open to public hearing.

No one spoke in favor or opposition.

Closed to public hearing.

Chairperson Thomas: The shed that is planned is going to be far enough from the property lines?

Todd Twenter: Yes.

Chairperson Thomas: It is going to be directly in front of the house?

Todd Twenter: It won't be directly in front. The corners will be matched up so the shed is offset so you can see the house from the road without the shed blocking it.

Member Bowne: What direction does the front of the house face?

Todd Twenter: East.

Susan Twenter: It is really not in front of the house.

Member Bowne: Where does the drive come in?

Todd Twenter: From the north.

Chairperson Thomas: Where is the front of the house as far as staff is concerned?

Bill Florea: The front property line is the property line adjacent to Old Number 7.

Member Bowne: Doesn't Old Number 7 circle around the property?

Bill Florea: It is the north property line. It is not the orientation of the building that determines the front yard, it is the configuration of the lot.

Thad Yonke: When you have a corner lot there is a front setback along each road frontage but there is still only a single front of the lot for determining what is the front and what is the back.

Member Bowne: Why was it determined that the north property line is the front?

Bill Florea: Because the north is the most narrow.

Thad Yonke: The Zoning Regulations state that the most narrow side is the front property line.

Member Bowne: So that is why the applicant is here because the rules say the narrow side is the front even though it is not sitting in front of their front door and it is going to meet all the other setbacks. There is a 25 foot setback from each corner?

Thad Yonke: It is a 50 foot setback.

Member Robbins: I am trying to get an idea of the drop off .

Uriah Mach: There looks to be a 10 feet drop.

Member Bowne: I want to see the southeast corner.

Uriah Mach: There is 12 feet of drop; it is not flat but it is not particularly steep on the southeast side.

Member Bowne: Why can't the applicants build the building on the southeast corner of the property?

Todd Twenter: It is a hobby shed.

Susan Twenter: It would be a long way from the house to that site. It is still all wooded.

Member Bowne: So the northwest corner is slightly more flat than the southeast corner.

Uriah Mach: There is a large flat area on the northwest corner; as you go southeast toward the creek it drops.

Member Bowne made and Member Lightfoot seconded a motion to **approve** the request by Todd and Susan Twenter for a variance to allow an accessory structure to be constructed in the front plane of a future house on 4.04 acres located at 14005 N Old Number 7, Harrisburg.

Member Thomas	Yes	Member Bowne	Yes
Member Lightfoot	Yes	Member Robbins	Yes
Member Stephenson	Yes		

Motion to approve the request carries unanimously

3. Case Number 2016-006

Request by CMT Construction LLC for a variance to allow an accessory structure to remain in the front setback located at 11201 E Timmons Rd., Hallsville. (**Zoning Regulations Section 10.A.**)

Planner Thad Yonke gave the following staff report:

The property is zoned A-1 (Agriculture). Property to the north, east, and south are zoned A-1 (Agriculture), property to the west is zoned A-2 (Agriculture). This site is located 3.6 miles southeast of Hallsville at the intersection of State Highway Z and Timmons Road/Mt. Zion Church Road; approximately 9 miles south of Centralia and approximately 8 miles north of Interstate 70. There is a house and accessory structure on the property. A detached garage encroaches into the front setback. The requested variance is from Zoning Regulations Section 10.A. A-1 zoning has a 50-foot front setback. Staff notified 21 property owners.

Present representing the request:

Kevin Schweikert, Brush and Associates, 506 Nichols St. Columbia, MO  
Chris Teel, 4301 E Keil Rd, Sturgeon, MO

The applicant presented pictures of the garage.

Kevin Schweikert: We have a garage that was originally built in the 1950's. It is 2 or 3 feet across the building line. We are doing an administrative survey on this property and I think the garage is in the building setback; it is 65 feet from the center line of the road. The applicants are not creating a problem it is an existing problem. The house was updated in the early 1990's and was originally built in the 1890's.

Open to public hearing.

No one spoke in favor or opposition.

Closed to public hearing.

Member Robbins: The drawing shows 2.8 feet in one corner and 3.1 feet; is that how far the building is into the setback?

Kevin Schweikert: Yes.

Member Robbins: Does staff have any issues?

Thad Yonke: It is a minor encroachment; there is still plenty of room.

Member Bowne: Where is the shed in relation to the house?

Kevin Schweikert: It is to the right of the house.

Member Robbins made and Member Lightfoot seconded a motion to **approve** the request by Michael Covington for a variance from the minimum lot width in the R-S (single family residential) zoning district located at 6481 S Old Village Road, 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 Bowne	Yes
Member Lightfoot	Yes	Member Robbins	Yes
Member Stephenson	Yes		

Motion to approve the request carries unanimously

## **OLD BUSINESS**

1. Certificate of Decision - Case Number 2016-002 Request by John & Amy Welch  
Case Number 2016-003 Request by Michael Covington  
Case Number 2015-013 Request by Seth Reynolds

The Certificates of Decision were accepted and signed by the Chairperson.

## **NEW BUSINESS**

None

## **ADJOURN**

Meeting adjourned at 7:44 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 28<sup>th</sup> day of July, 2016