

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, September 22, 2016

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

Chairperson Thomas read the following procedural statement:

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
Dennis Stephenson
Cindy Bowne
Lance Robbins

Absent: None

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

Minutes of the August 25, 2016 meeting were approved by acclamation.

REQUEST

1. Case Number 2016-009
 - a. Request by Freda Pennewell for a variance to allow an existing single family dwelling to remain within the front setback on 2.57 acres located at 6100 W. Gillespie Bridge Road **(Zoning Regulations Section 10.A)**
 - b. Request by Freda Pennewell for a variance to allow an existing accessory structure to remain within the front setback on 2.57 acres located at 6100 W. Gillespie Bridge Road **(Zoning Regulations Section 10.A)**
 - c. Request by Freda Pennewell for a variance to allow an existing accessory structure to remain in the front plane of a home on less than 5 acres located at 6100 W. Gillespie Bridge Road **(Zoning Regulations Section 7.5)**
 - d. Request by Freda Pennewell for a variance from granting the required right of way width along Gillespie Bridge Road on 2.57 acres located at 6100 W Gillespie Bridge Road **(Subdivision Regulations Appendix B 2.2)**

Bill Florea gave the following staff report:

The subject site is located on Gillespie Bridge Road approximately ½ mile west of the Columbia municipal limits. There is a single family dwelling and several accessory structures on the property. The applicant owns 99.6 acres and would like to split off a 2.7 acre tract. Gillespie Bridge Road is classified as an arterial road which requires a 100 foot right of way inside of the county urban service area. Providing a 50 foot half right of way will place the existing structures in violation of the zoning regulations.

- a. The existing house is within the front setback.
- b. The accessory structure at the west side of the property is in the front setback.
- c. The accessory structure is also in the front plane of the house on a proposed tract smaller than 5 acres.
- d. Gillespie Bridge Road is within the Urban Service Area requiring a 50 foot (half) right of way.

The original zoning for this site is A-2. There have been no previous requests submitted for this tract. The requested variances are from:

- a. Zoning Regulations Section 10.A - the minimum front setback in the A-2 district is 50 feet. Existing house.
- b. Zoning Regulations Section 10.A - the minimum front setback in the A-2 district is 50 feet. Existing accessory structure.
- c. Zoning Regulations Section 7(5) - an accessory structure cannot be in the front plane of the main structure.
- d. Subdivision Regulations Appendix B.2.2 - the right of way width for an arterial street inside the Urban Service Area is 100 feet (50 foot half right of way)

Staff notified 31 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 subject tract apparently has frontage on Gillespie Bridge Road which is classified as an arterial road. The subject site is located inside of the county designated Urban Service Area surrounding Columbia. Arterial streets inside the Urban Service Area are required to have a 100 foot right of way. The applicant seeks to subdivide a 2.7 acre tract from the parent parcel of 99 acres. The proposed 2.7 acre tract will include the house and several accessory structures. One accessory structure is located adjacent to the existing road. Providing the total required right of way will mean the accessory building will be within the right of way. Applicant is requesting that they not be required to provide the entire right of way adjacent to the structure so that it may remain. Appendix B 2.2 Right of Way Width - Arterial: Inside urban service area - 100 feet.

- a. The applicant will not incur unnecessary hardship if the variance is not granted. The accessory structure is at least 60 years old and appears to be in poor condition. The structure can be demolished easily. It may be possible to relocate the structure on the property.
- b. Granting this variance could pose a threat to the public as the structure is very close to the road. The most recent traffic count was conducted in 2014 and showed a vehicle county of 2026 vehicles per day. This road is a high speed road that serves as a detour to Interstate 70 when the highway is blocked.
- c. Granting this variance will thwart or circumvent the general intent of the regulations. The intent of the regulations is to acquire adequate, consistent right of way for public roads as the opportunity arises. The potential for additional development in this area is significant, suggesting that all developers be required to provide the required right of way.

Staff recommends that this variance be denied.

Present representing the request:

David Butcher, Crockett Engineering, 2608 N Stadium, Columbia

The applicant presented a power point presentation.

Mr. Butcher stated that Ms. Pennewell no longer lives in the area and wants to sell a portion of the property with the house and barn; a subdivision plat was prepared. According to the CATSO plan Gillespie Bridge is an arterial street which requires a 100 foot right of way. The owner is conceding that she will give the right of way everywhere else except where the barn sits. It is an old barn and it is part of the heritage of the farm and an asset to the property. It has good site distance and is not in the way. When Gillespie Bridge Road was paved the County took 80 feet of right of way. The applicants are not asking to change anything out there other than a small section of right of way. Gillespie Bridge Road is well maintained and there are no trees next to the road that would encumber your vision or site distance. One of the other variance requests is to allow the house to stay within the setback and giving that right of way to the county puts the house in the setback by 1.5 feet. The applicants understand that the barn could be leveled but it could stay, it has been a part of the area for several years. The county or city have no immediate need for the right of way it would seem fair to allow the potential buyers to be allowed to keep it until the right of way is needed.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas asked the purpose of the structure.

Mr. Butcher stated it was used to house a tractor and hay; the current occupants are using it for their horse.

Chairperson Thomas asked if the barn had utilities.

Mr. Butcher stated it has hookups but they are not on right now.

Chairperson Thomas stated if this is subdivided to 2.5 acres it is not a working structure anymore. The purpose of a barn is to put tractors and hay in them but when you subdivide it down to 2.5 acre tract it loses its purpose.

Mr. Butcher stated not necessarily; it is still an agricultural property of 2.5 acres, you can still have hay and tractors.

Chairperson Thomas asked staff what would happen if the variance is granted and the county wanted to use the right of way.

Bill Florea stated the right of way would have to be purchased if the landowner was agreeable.

Chairperson Thomas asked if the variance caused any issues with the county doing anything in the future.

Bill Florea stated yes.

Thad Yonke stated staff sees this as a grant of special privilege rather than a variance; everyone else is required to dedicate right of way.

Mr. Butcher stated he didn't believe that most of the right of way granted doesn't result in the loss of a building.

Member Stephenson asked how long it has been since the building has been used.

Mr. Butcher stated the building was being used in 2015.

Member Stephenson stated he would question its usage with 20 year old trees growing into it.

Member Bowne asked the size of the structure.

Mr. Butcher stated he didn't know.

Member Bowne stated the applicant indicated there are utilities there but they are not hooked up.

Mr. Butcher stated there is electric run to it and a meter on front of the building so it could have electricity.

Chairperson Thomas stated it is not a very large structure; it is completely in the 50 foot setback.

Member Robbins asked staff the purpose of the setback.

Bill Florea stated safety is one primary purpose so there is adequate width on the side of the road but also aesthetics to maintain consistency.

Member Robbins stated the building looks like it is five feet from the physical roadway.

Mr. Butcher stated it is five feet from the existing boundary.

Member Robbins asked how far it was from the physical roadway.

Mr. Butcher stated he didn't know.

Member Robbins stated that the general safety of the public dictates we do certain things in these areas even though they may conflict with history of the area.

Mr. Butcher stated that is why he showed pictures of the barn; it has clearly not been destroyed and that road has been there a long time.

Member Robbins stated it is clearly not much of a barn. I don't see anything that will override public safety.

Mr. Butcher stated he is not sure there is an epidemic of cars crashing into it but I see the value of having setbacks.

Member Robbins stated he has worked an accident within a couple hundred of feet of that location within the past year.

Mr. Butcher stated if this were in any other part of the county it wouldn't be a problem.

Member Robbins made and Member Stephenson seconded a motion to **approve** the request by Freda Pennewell for a variance to allow an existing single family dwelling to remain within the front setback on 2.57 acres located at 6100 W. Gillespie Bridge Road:

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

Motion to approve the request carries unanimously

Member Robbins made and Member Lightfoot seconded a motion to **deny** the requests by Freda Pennewell for a variance to allow an existing accessory structure to remain within the front setback, for a variance to allow an existing accessory structure to remain in the front plane of a single family dwelling and a variance from granting the required right of way on 2.57 acres located at 6100 W. Gillespie Bridge Road:

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

Motion to deny the request carries unanimously

OLD BUSINESS

- Case Number 2016-006 Request by Boone County

The certificate of decision was accepted and signed by the Chairperson.

NEW BUSINESS

This will be Member Robbins' last meeting, the Board and staff thanked him for his service.

ADJOURN

Meeting adjourned at 7:30 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 22nd day of December, 2016