

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

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

Roll call was taken:

Present: Rhonda Lightfoot
Dennis Stephenson
Cindy Bowne
Paul Zullo

Absent: Frank Thomas

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

Vice Chairperson Lightfoot 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.

Minutes of the September 22, 2016 meeting were approved by acclamation.

REQUEST

1. Case Number 2016-011
 - a. Request by Nellie J. Branson Trust for a variance to allow an existing single family dwelling to remain within the front setback located at 14860 S Henry Ln., Ashland (**Zoning Regulations Section 10.A**)
 - b. Request by Nellie J. Branson Trust for a variance to allow an existing accessory structure to remain with the front setback located at 14860 S Henry Ln., Ashland (**Zoning Regulations Section 10.A**)
 - c. Request by Nellie J Branson Trust for a variance from the requirements for a 20-foot utility easement due to an existing accessory structure located at 14860 S Henry Ln., Ashland (**Subdivision Regulations Appendix B.7.1**)

Thad Yonke gave the following staff report:

The site is $\frac{3}{4}$ mile west of Ashland at the intersection of State Highway M and Henry Lane. There is a single family dwelling and shop on the property. The applicant is seeking to subdivide the property; Henry Lane has a statutory right of way of 30 feet. Subdivision of the property will require that at $\frac{1}{2}$ right of way of 33 feet be provided. Preliminary measurements indicate that the house and shop will be within the required front setback of 50 feet from the new right of way. Additionally the shop location will be within an area that should be reserved for utility easement. The original zoning for this site is A-2, there have been no previous requests submitted for this site. The requested variances are from zoning regulations Section 10 a which requires that structures in the A-2 district provide at least a 50 foot setback from the front and rear property lines, and a 15 foot setback from the side property line; and from subdivision regulations appendix B.7.1 which requires utility easements including easements for future use shall be required as deemed necessary by the utility service providers and a minimum of a ten foot utility easement shall be provided along all roads and streets. Staff notified 26 property owners.

Present representing the request:

Ron Lueck, surveyor, 914 N. College, Columbia

Ron Lueck: We are dividing off a corner off the 72 acre tract that the applicants own. There is a house and shed on the property. The shed is in the proposed easement for Henry Lane and the utility easement along side it.

Mr. Lueck presented photos of the shop and house.

Ron Lueck: Henry Lane which is on the west side of the property is basically a driveway to what was Carl Henry's property and two other dwellings along this road. The county has a blanket water line easement on the property and there is a water line on the east side of Henry Lane. We were going to divide the 72 acres into about seven tracts and by default we created the 10 acre piece in question.

Mr. Lueck presented a copy of the survey.

Ron Lueck: The survey shows the pond area and the house and accessory structure on the west side. Due to the location of the shop it is close to the road and off the road about 20 feet but with the regulations requiring the road and utility easement the property line would go through the building. The building is not a pole barn, it is a finished garage. There is already a water line in place somewhere between the house and the roadway.

Member Zullo: How far does the water line go? Does it go to the next house?

Ron Lueck: I don't think it goes all the way to Liberty Lane.

Member Zullo: Do all the lots have access from the highway?

Ron Lueck: All but the center lot on the south. That will require an easement from Palis Nichols Road on the east side. This layout is what we started with, one couple is buying four of those seven lots so we scrapped the idea of the individual 10 acre lots and made it just one 40 acre piece which created the 10 acre piece with the house and accessory structure.

Member Zullo: How does the water line get to the other lots?

Ron Lueck: There is another water line along Palis Nichols Road for two lots.

Member Stephenson: How will the southwest lot be accessed?

Ron Lueck: Off of Henry Lane.

Member Stephenson: If it goes that far down and a new house is built will Henry Lane have to be improved to get to it and will that cause a widening of the road?

Ron Lueck: I doubt it; that is going to be part of the 40 acre piece.

Member Bowne: How far does the existing shop sit in the right of way?

Ron Lueck: It is about 20 feet from the existing road surface but it is only about ½ foot off the proposed road right of way.

Thad Yonke: It is not in the dedicated road right of way.

Member Bowne: So it is only in the utility easement. Is there public sewer in the area?

Ron Lueck: No, it will be an on site system.

Member Bowne: There are no phone lines run in the area?

Ron Lueck: Phone lines run down the road and the poles are on the west side of Henry Lane.

Member Bowne: There are no fiber-optics in this area?

Ron Lueck: None that I know of.

Member Zullo: Is the existing road going to become a driveway?

Ron Lueck: Past the house it turns to dirt.

Member Zullo: And that is the way it will stay, all it will be is access for the three homes.

Member Bowne: Until they choose to subdivide the 40 acres.

Ron Lueck: That is not the impression I get from the potential buyers.

Member Bowne: There is also the 55 acre Sapp property on the west side of the road.

Member Bowne: I don't like the building that close to the road or in the utility easement. It is not like it was only encroaching two feet into the utility easement it is sitting in the easement. We are to the point of if you want to subdivide do you want to give up the shop in order to meet the requirement for the utility easement or do you want to leave the property as it is? To talk about a subdivision and adding houses in this area and to think that the neighbor won't also want to do the same thing and yet we are going to hamstring him by saying no utilities can go along that side so it will all have to come off the other side. The intention is for the easement is to be on both sides of the road. Generally we will grant a variance if it just encroaches into it a little bit and we can still use it but this is not going to be able to be used at all. While this subdivision may not need it the next one might and we will have prevented them from having the rights to do that.

Ron Lueck: I could do an easement around the building and when it gets to the shop it could divert into the road, 33 feet off the center of the road, and sometime if it is further divided they would probably remove that shop at that time. At that time the easement would not be usable but it would be in existence.

Member Bowne: How does that help to move the utility easement into the road easement?

Ron Lueck: The road is already a road and utility easement. The water line is already out there in the road easement, it is not going to be in the utility easement at all.

Member Bowne: The water isn't the only easement that the utility easement would serve. When you start subdividing and getting more houses then the next thing you know a cable company wants an easement, the telephone company wants to put in fiber-optics. We are hamstringing them. I don't

see how we can put a utility easement in the middle of the road easement because that would have them building a road over the top of the utility and that doesn't work.

Ron Lueck: The road easement on this plat will be extra wide due to the location of Henry Lane there property ownership is across the road and into the ditch on the western side of Henry Lane on the north end.

Member Bowne: Henry Lane serves another tract that you are also subdividing.

Ron Lueck: Yes. Since it is bigger than a 20 acre piece it doesn't require an easement down there.

Member Bowne: But again, we hamstringing them in the future and that is something we try to avoid doing.

Ron Lueck: It is not a movable shop, it has a concrete floor.

Member Zullo: Did staff hear from any of the neighbors?

Staff indicated they had not.

Member Bowne: The applicant indicated that if they did go ahead and subdivide they would probably remove the shop so the shop is removable.

Ron Lueck: If you were going to do something more intense than 10 acres they would probably do something. The people that are in the process of purchasing this are looking for a buffer. They are building a half-million dollar home.

Member Bowne: What is the age of the shop?

Ron Lueck: It was built in the late 1980's.

Member Bowne: Is Henry Lane a county road?

Thad Yonke: Yes.

Member Bowne: Does it have a sign up that says it dead ends?

Thad Yonke: I assume so.

Member Bowne: Does the county have a right to anything past where they maintain it now?

Thad Yonke: Probably not because that is the point of a 30 foot statutory right of way.

Open to public hearing

Present speaking in support of the request:

Cynthia Arendt, heir to property, 4701 Valhalla Ct., Columbia

Cynthia Arendt: My sister and I are co-trustees of this property. In order to settle the estate we are selling this property so we can come up with the funds we need. This building was built around 1991, it has a concrete foundation and was built a shed to house farm equipment. The potential buyers are going to build a half-million dollar home and they want it as a family area; they may also buy the existing house for their family. They are not planning on selling the property and making it into a subdivision. They run a business in Ashland and are part of the community. Moving the building would be a major undertaking, it would have to be torn down because it is on a concrete floor and it is insulated and heated.

No one spoke in opposition.

Member Bowne made and Member Stephenson seconded a motion to **approve** the by Nellie J. Branson Trust for a variance to allow an existing single family dwelling to remain within the front setback located at 14860 S Henry Ln., 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 Lightfoot	Yes	Member Bowne	Yes
Member Stephenson	Yes	Member Zullo	Yes

Motion to approve the request carries unanimously

Member Bowne made and Member Stephenson seconded a motion to **deny** the requests by Nellie J. Branson Trust for a variance to allow an existing accessory structure to remain with the front setback located at 14860 S Henry Ln., Ashland:

Member Lightfoot	Yes	Member Bowne	Yes
Member Stephenson	Yes	Member Zullo	Yes

Motion to deny the request carries unanimously

Member Bowne made and Member Stephenson seconded a motion to **deny** the by Nellie J Branson Trust for a variance from the requirements for a 20-foot utility easement due to an existing accessory structure located at 14860 S Henry Ln., Ashland:

Member Lightfoot	Yes	Member Bowne	Yes
Member Stephenson	Yes	Member Zullo	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 Vice Chairperson.

NEW BUSINESS

ADJOURN

Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 23rd day of March, 2017