

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, March 23, 2017

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
Paul Zullo

Absent: Frank Thomas
Cindy Bowne

Staff: Bill Florea, Acting-Director 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 December 22, 2016 meeting were approved by acclamation.

REQUEST

1. Case Number 2017-001

Request by C and Do Property Management for a variance to allow an existing single family dwelling to remain within the front setback located at 802 W County Line Rd, Clark (Zoning Regulations Section 10.A)

Bill Florea gave the following staff report:

This 37.49 acres is zoned A-2; property to the east, west and south are also zoned A-2. Property to the north is Randolph County. This site is 2 ¾ miles west of the municipal limits of Sturgeon at the Boone county/Randolph County line. There is a single family dwelling and several accessory buildings on the property. The applicant is seeking to subdivide the property. County Line road has a statutory right-of-way that is generally accepted to be 30 feet wide and more specifically 15 feet on each side of the existing road centerline. Subdivision of the property will require that a ½ right of way of 33 feet be provided. Preliminary measurements indicate that the house will be within the required front setback of 50 feet from the new right of way. The original zoning for this site is A-2. There have been no previous requests submitted for this site. The requested variance is from Zoning Regulation Section 10.A which requires that structures in the A-2 district provide a minimum 50 foot setback from the front property line. Two variances are required, one for the existing house and another for the existing garage. Staff notified 12 property owners about this request.

Present representing the request:

Steve Proctor, 7001 Stidham Rd, Harrisburg
Phil Orf, County Road 2980, Clark

Steve Proctor: Mr. Orf purchased the property for row crops. He wants to subdivide the property and sell 2.5 to 5 acres with the house and keep the rest for row crops. The amount of property to be sold will depend on the setbacks required for the onsite lagoon. When the property is subdivided the applicants will dedicate right of way which will put the existing house and garage in the front setback.

Open to public hearing.

No one spoke in favor or opposition to the request:

Closed to public hearing.

Member Stephenson made and Member Zullo seconded a motion to **approve** the request by C and Do Property Management for a variance to allow an existing single family dwelling and garage to

remain within the front setback located at 802 W County Line Rd, Clark 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 Stephenson	Yes
Member Zullo	Yes		

Motion to approve the request carries unanimously

2. Case Number 2017-002

Request by Drake Enochs for a variance from the minimum lot depth located at 4951 W Wolfe Rd, Harrisburg (Subdivision Regulations, Appendix B, Table A)

Bill Florea gave the following staff report:

This 10.7 acre tract is zoned A-2 as is the surrounding property. The site is located on Wolfe Road approximately 5 miles northwest of the municipal limits of the City of Columbia, there is a single family dwelling and accessory structure on the property. The applicant is purchasing property from the neighboring property, the lot does not meet the minimum lot depth requirement. The original zoning for this tract is A-2. This tract was created prior to 1995 when the subdivision regulation threshold for review was 5 acres. The County Assessor's office estimates the original house was built around 1920 and has since burned down. An existing accessory structure was found to encroach on a neighboring property. In order to solve the encroachment, additional property is being acquired and must be surveyed into the overall parcel. The requested variance is from Subdivision Regulations Appendix B, 1.8.2 Lot Specifications, Table A which states lots shall have a minimum lot depth of 250 feet. Staff notified 8 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 applicant, Drake Enochs recently acquired the subject property. This tract was created prior to 1995 when the subdivision regulation threshold for review was five acres. The Assessor's office estimates the house that recently burned was built around 1920. The applicant is trying to resolve several problems with the configuration of the lot and improvements while honoring the original intent of the land division by acquiring additional land to add to the tract.

Appendix B 1.8.2 Lot Specification and Table A of the subdivision regulations requires that lots have a minimum lot depth of 250 feet. The proposed configuration indicates that a survey of this lot will provide 109 feet of depth at the narrowest point.

- 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 north. The applicant is acquiring additional land to solve the encroachment issue but the additional land does not help the depth issue. Any additional land acquired to meet the depth issue would fall across the creek making the additional depth of no practical value and leaving the effective depth of the lot the same as it is now.
- b. Granting this variance will not endanger the health, safety or welfare of the public. This lot was created prior to 1995 and is becoming larger with the addition of the property to be acquired from the neighbor. This additional land is being acquired from the neighbor. This additional land is being acquired to solve a problem of a building encroaching onto a neighboring property.
- c. Granting this variance will not thwart or circumvent the general intent of the regulations. So long as it is recognized that the variance from the minimum lot depth of 250 feet is granted solely to allow the surveying of the original tract along with the small portion of the adjoining tract into a single lot, the integrity of the regulations is maintained. The variance is not granted to allow the property to be divided into more lots.

Staff recommends that this variance be granted subject to the recognition that the variance allows the property to be surveyed into a single tract but does not allow the tract to be subdivided into more than one lot.

Present representing the request:

Steve Proctor, 7001 Stidham Rd, Harrisburg
Drake Enochs, 4951 Wolfe Rd, Harrisburg

Steve Proctor: If we weren't adding land to this we could have just surveyed the tract but when we altered the tract by clearing up the issue on the west end it triggered the depth issue. The property to the north is an old family farm and they wouldn't want to sell property to correct the depth issue, that property wouldn't be worth anything because it is all floodplain. To the south is also an old family farm, it abuts the road and it wouldn't make good sense for him to sell property either. There is a fence by the west property line which the property owner thought was the actual property line so he is selling property to the fence line, he thought it belonged to Enochs' anyway.

Member Stephenson: The Botners aren't interested in giving property?

Steve Proctor: I would assume not. They have several hundred acres and it has since been divided among some of the siblings.

Member Stephenson: The only thing that is changing is that a property line is being set where they always thought it was.

Steve Proctor: Correct, and that is just to meet the building setbacks.

Member Zullo: Did staff hear from any neighbors?

Bill Florea: No.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Lightfoot asked staff if they had any issues with this request.

Thad Yonke: No, as long as the recognition is that the property can't be divided.

Member Stephenson: Where is the house going?

Drake Enochs: Where the existing house was.

Member Lightfoot: Will that location meet the setbacks?

Thad Yonke: With the acquired property it will meet the required setback

Member Stephenson made and Member Zullo seconded a motion to **approve** the request by Drake Enochs for a variance from the minimum lot depth located at 4951 W Wolfe Rd, Harrisburg with the recognition that the variance allows the property to be surveyed into a single tract but does not allow the tract to be subdivided into more than one lot:

Member Lightfoot	Yes	Member Stephenson	Yes
Member Zullo	Yes		

Motion to approve the request carries unanimously

3. Case Number 2017-003

Request by GP Property Investments for a variance to allow an existing single family dwelling to remain within the front setback located at 8661 S. Rangeline Rd, Columbia. (Zoning Regulations Section 10.A)

Bill Florea gave the following staff report:

This two-acre property is zoned A-1; the adjacent zoning is also A-1. This site is approximately 5 miles north of the nearest municipal limits of Ashland near Columbia Regional Airport, there is a single family dwelling and accessory building on the property. The tract to the north of the subject property is proposed to be divided into two pieces. A 0.86-acre part will be added to the subject tract. The remaining part will be added to the tract north of the one being split. The combination of these properties must be done by plat. As part of the platting process the applicant is required to provide a ½ right of way of 33 feet for Rangeline Road. Preliminary measurements indicate that the house will be within the required front setback of 50 feet from the new right of way. It should be noted that the property will have to be rezoned to at least A-2 before it can be platted. The original zoning for this site is A-1, there have been no previous request submitted for this site. The tract was created by a survey from May of 1973 and is a legal lot of record if unaltered. The requested variance is from Zoning

Regulations Section 10.A which requires that structures in the A-1 or A-2 zoning district provide a minimum 50 foot setback from the front property line. Staff notified 10 property owners.

Present representing the request:

David Butcher, Crockett Engineering, 1000 W Nifong, Building 1, Columbia

The applicants presented aerials with the proposed configuration of the property.

David Butcher: There is a rectangular lot that has an existing house; that is a house that was constructed recently. The lots in green were zoned A-2 back in 1973. The lots were legally subdivided to meet the 2.5 acre requirement that is allowed in that zoning district. The lots to the north were legally created before the subdivision regulations took effect. These lots were created in the A-1 district. The applicants would like to split the middle lot in half and take one barn and put it with the new house and take the other barn and put it with the other existing house. Because this is A-1 if I leave it alone everything is fine but because it is A-1 the applicants can't divide anything less than 10 acres. In order to add this parcel of land to the other parcel the applicants need a variance.

Member Zullo: What is the distance between the two buildings?

Thad Yonke: Approximately 18 feet. The side yard setback only has to be 15 feet.

David Butcher: Currently the way the parcel is laid out we would be fixing what would be considered a violation already because these are accessory structures and there are no main structures on the property. By allowing the building to the north to go with the northern property and the building to the south to go with the southern property that would clean up a violation to the zoning ordinance.

Open to public hearing.

No one spoke in favor or opposition.

Closed to public hearing.

David Butcher: The applicants are requesting to subdivide in an A-1 district a parcel of land smaller than 10 acres.

Thad Yonke: That is not the request before the Board.

Bill Florea: The variance is from the 50-foot setback for the house on the south.

David Butcher: That was supposed to be part of the request as well.

Member Stephenson: The applicants state there is a problem with that but it doesn't state that it was requested.

David Butcher: Then the applicants will be here next month to ask for that.

Thad Yonke: I am not sure lot size variances are legal anyway because the proper mechanism is to rezone the property.

David Butcher: I don't believe that is true because you can rezone any property to fix that. There is no setback requirements in Industrial and there is no lot size requirement. Technically if I rezoned it to industrial I could do that but it doesn't make any sense.

Thad Yonke: It doesn't make sense to rezone to industrial; A-2 would be the more likely zoning.

David Butcher: At this point the applicants are asking for a variance for the building being in the front setback, I will do more homework to figure out what to do about the lot size.

Member Zullo: How far is the building in the setback?

David Butcher: About 3 feet.

Member Stephenson: Are we going to run in to any issues with the building being within the setback?

Thad Yonke: No.

David Butcher: The applicants don't want an approval with an as is, where is condition and currently this building doesn't need that. If the property is left alone it is fine where it is and we could add on to the building and make it larger but if there is an as is where is condition then the applicants can't do that. If the applicants aren't allowed to subdivide then they don't need the variance. The applicants would like to withdraw their request at this time.

OLD BUSINESS

- Case Number 2016-011 Request by Nellie J Branson Trust

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

NEW BUSINESS

None

ADJOURN

Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 25th day of May, 2017