

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, September 28, 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: Frank Thomas
Cindy Bowne
Paul Zullo

Absent: Rhonda Proctor
Dennis Stephenson

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

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.

Minutes of the June 22, 2017 meeting were approved by acclamation.

REQUEST

1. Case Number 2017-008

- a. Request by Tompkins Homes and Development Inc for a variance to allow creation of tiered lots on previously platted land, being lots 31 and 32 of Sugartree Hill subdivision as recorded in Plat Book 10 Page 96 of Boone County Records located at 6 S Mockingbird Ln, Columbia (Subdivision Regulations Appendix B 1.8.1).
- b. Request by Tompkins Homes and Development Inc for a variance to allow tier lots to have stems less than 20' wide on lots 31 and 32 of Sugartree Hill subdivision as recorded in Plat Book 10 Page 96 of Boone County Records located at 6 S Mockingbird Ln, Columbia (Subdivision Regulations Appendix B 1.8.1).

Planner, Bill Florea gave the following staff report:

These lots are .19 acre each and zoned R-S, property to the north, south and west are also zoned R-S, the property to the east is zoned A-1. This site is located just west of Columbia off State Highway UU, the land is currently vacant. When these lots were platted access was provided by a 20' wide publicly dedicated roadway. The applicant wants to vacate the roadway and serve these lots by stem or tiers connected to the public road. The regulations do not allow tier lots to be used on land that has already been platted. Sugartree Hill was platted in 1970 prior to the adoption of Boone County land use and subdivision regulations. Land use regulations were adopted in December 1973. The zoning applied to Sugartree Hill is R-S. The subdivision only partially developed at that time. The applicant has acquired the vacant lots and is trying to develop the vacant lots in accordance with current standards as much as possible. The requested variance is from Subdivision Regulations Appendix B.1.8.1 which does not allow tier lots to be used on previously platted land. Staff notified 25 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 lots were platted as lots 31 and 32 of Sugartree Hill subdivision in November 1970, three years prior to adoption of zoning and subdivision regulations in Boone County. There were not any development standards at the time – for example the main streets in Sugartree hill only provide a right-of-way width of 40 feet. There were 47 lots platted in Sugartree Hill. There are homes on 19 lots. One street was never built. Lots 31 and 32 are in a section of the development that has not been built. Access to these two lots is by a 20 foot wide roadway shown on the plat. According to the plat, all roadways are dedicated to the public. The developer has proposed vacating this roadway and replatting lots 31 and 32 as tier lots. The subdivision regulations only allow tier lots on previously unplatted tracts. The regulations also require that a tier lot have a stem at least 20 feet wide. The applicant is asking permission to replat the lots with stems, each of which will be 10 feet wide.

Appendix B Section 1.8.1 of the Subdivision Regulations states “Tier Lots – The Commission may allow tier lots on previously unplatted land when the following criteria are met: a) tier lot design is the most feasible means to access lots due to extreme topographic conditions; b) the stem of a tier lot, that is the portion of the lot which connects it with required yard area and buildable area with its public road access, shall not be less than 20 feet nor more than 59 feet in width and not shorter than 25 feet or longer than 250 feet in length, and may not be included within any required yard area or lot size under the Boone County Zoning Regulations, and c) the allowance of tier lots will not endanger the public health, safety and general welfare.

Staff analysis:

- a) The applicant is trying to develop land that has been platted for 47 years. For unknown reasons, it has never been developed. The applicant is trying to design a solution that will allow construction on lots with a minimal amount of redesign.
- b) Granting this variance will not endanger the health, safety, or welfare of the public.
- c) Granting this variance will not thwart or circumvent the general intent of the regulations. Sugartree Hill was platted 47 years ago prior to any subdivision or development standards. The proposed design will facilitate these lots being used for home construction which will increase the tax base in this area.

Staff recommends this variance be granted.

Present representing the request:

David Butcher, Crockett Engineering, 1000 W Nifong, Columbia

The applicants presented a power point presentation.

David Butcher: The Commission has allowed the applicants to vacate those lots and the right of way in order for us to replat it. The only issue is that in order to be replatted the configuration of that is not going to meet the minimum standards for lot sizes, arrangement, and configuration. This is just south of Midway on Highway UU, it is in the Sugartree Hill Subdivision.

The applicant showed a slide of the properties in the subdivision that have been developed and what hasn't been developed.

David Butcher: The existing road was dedicated as a 20 foot wide roadway and the rest of the roads within the subdivision was granted as 40 feet. In the design phase of these streets to try to put in something that is functional this right of way is not feasible for the county to maintain it or the public to be able to use it. We would like to be able to redivide these two lots and we need the two lots to extend to Mockingbird; we

anticipate bringing a private driveway down the common line so the lots will share the driveway access and then both lots will have street frontage so they will both be able to have water meters on their own property. The applicants have worked out pretty much all the problems with the rest of the streets, we just don't know what to do with this little area. If the Board grants the variance the applicants will present a plat that will subdivide it into the reconfigured two lots. The reason we decided to split the road instead of giving one lot frontage is because we wanted the lots to have equal allocation of the right of way so there wasn't a dispute and no reason not to have equal share in what goes on with the driveway that will access these two lots. The other reason is so they can each get a water meter on their own property; we didn't want a watermain extension in order to put a water meter on one of the lots. We wanted to make sure each lot had legal lot frontage on to Mockingbird.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request:

Mike Trial, 301 N Hwy UU, Columbia

Mike Trial: Does this become two lots or four lots?

David Butcher: Two lots stay as two lots.

Mike Trial: There will still be four lots there? 30, 31, 32, and 33?

David Butcher: That is correct.

Mike Trial: So what you are trying to do is get 31 and 32 to have street frontage on Mockingbird and it would be a private drive?

David Butcher: Right now these two lots are the ones we are talking about. These two lots have street frontage with the "T" shaped road. This street needs to go away and just be a driveway, it is too narrow for a street. The two lots will still be two lots but they will have access off of Mockingbird instead of the "T" shaped street.

Mike Trial: My concern is that I own the property just north of there, if the lots get smaller and the houses get smaller that could affect my property value.

David Butcher: These lots won't get any smaller, these are as small as you can make a lot in Boone County.

Bill Florea: The lots already exist. The lots will actually be a little larger in size because you are adding the stem.

Mike Trial: My concern is smaller lots, smaller houses, and the overall neighborhood. If you've driven by there only 19 of 40 lots were ever developed and it is not the best looking place in the world, it is good that it is going to be developed but I would hope that the development would enhance the neighborhood.

Also present speaking in opposition:

Will Cobbins, 5 S Blue Jay Way, Columbia

Will Cobbins: These lots are to the east of my house. If he is going to block off Haven street and make it a driveway is that going to affect how I get in and out of my property?

Chairperson Thomas: It looks like all of those roads are dead ends or cul-de-sacs.

David Butcher: We are only talking about the small road at this hearing.

Will Cobbins: It won't affect my property at all then.

Chairperson Thomas: No.

Closed to public hearing.

Member Bowne: Where do the applicants intend to put the water meters?

David Butcher: We have a water main that is proposed to go down by Mockingbird Lane, the water meter will be placed near the road.

Member Bowne: How wide will the driveway be?

David Butcher: 15 – 18 feet wide.

Member Bowne: Did the county say they couldn't handle the existing road?

Bill Florea: The county would prefer not to maintain that road.

David Butcher: It does not meet the minimum standards but the applicants are developing a road that they will be able to handle.

Member Bowne: As it exists, lots 31 and 32 are acceptable lot sizes?

Bill Florea: Yes.

Member Bowne: The applicants stated the county couldn't handle a 20 foot wide road. Has the county actually said this?

Thad Yonke: The county has said they will not approve road plans for a public roadway to be constructed at 20 foot wide.

Member Bowne: Who is building Mockingbird Lane?

David Butcher: The developer.

Member Bowne: Is he paying for it?

David Butcher: Yes.

Member Bowne: Who is maintaining it?

David Butcher: The county.

Thad Yonke: If it is built and constructed to county standards and accepted.

Member Bowne: The other roads, Ravens Road and Oriole are not built yet?

David Butcher: No. Those don't really have a bearing on the driveway stem.

Thad Yonke: They have to have approved road plans to construct any of that otherwise they won't be able to do the rest of the development.

David Butcher: We are here tonight because the engineers at Resource Management have requested that this be the solution and not to have this roadway be a public street. It makes sense, it is too narrow. We are here to take this burden away from the public and make it a private matter.

Bill Florea: The County Commission has already granted permission for the applicants to vacate and replat, so they have approved the concept.

Member Bowne: Are the other roads already platted?

David Butcher: Yes.

Member Bowne: Are there other private drives in this subdivision area?

David Butcher: Not that I am aware of.

Thad Yonke: The county does not allow private drives to be constructed in publicly dedicated right of way so the rest of the right of way is already dedicated so they will have to build public road that meet standard approval by the engineering department in order to construct any kind of driving surface.

Member Bowne: The concern I have is with this becoming a private drive that these two lots have to share the driveway.

David Butcher: That is correct, we are going to take care of that.

Member Bowne: Whoever builds now may be happy with sharing and who buys later may not be happy with the way the driveway is maintained between the two of them. By changing this into a private issue instead of public as it was originally planned, I see this as a red flag. I also don't like putting in a stem lot, I know it says this is not circumventing the regulations but that is exactly what we are doing, we are allowing a stem lot when there is obviously a reason why people don't want a stem lot. The only thing that is weighing it the other way is if it was a request from the county not to have it be a county road.

Bill Florea: That is exactly what it is.

Thad Yonke: We don't see any other way this could be solved because we can't approve a roadway that is only going to be 20 feet wide.

David Butcher: Even if this gets built as a publicly maintained 20 foot wide road it is still going to be the same road in the same location with the same two homeowners using it, the only question is if the county will be able to maintain it, and they won't. These two landowners are going to be fighting over who is going to take care of it because the county won't maintain it. We intend to put in a driveway maintenance agreement on top of that so the two landowners will have some rules as to who pays for it and who maintains it.

Thad Yonke: The Board can make that a condition and it can be verified through the platting process.

Member Bowne: What about the other utilities servicing the two lots? How are they accessing the two lots?

David Butcher: Through the easement corridors they have adjacent to the road right of ways.

Member Bowne: The only utility that will run down the driveway is the water line? No electric or gas?

David Butcher: I don't believe so because there is an easement.

Thad Yonke: Staff is generally opposed to stem lots but in this particular instance we recommend approval because we don't see any other good solution.

Member Thomas made and Member Bowne seconded a motion to **approve** the requests by Tompkins Homes and Development for a variance to allow creation of tiered lots on previously platted land with stems less than 20-feet wide on lots 31 and 32 of Sugartree Hill subdivision located at 6 S Mockingbird Lane, Columbia with the following condition:

- A recorded maintenance agreement regarding driveway placement, maintenance, and liability between the landowners be part of the platting process

Member Thomas	Yes	Member Bowne	Yes
Member Zullo	Yes		

Motion to approve the request carries unanimously

2. Case Number 2017-009

Request by Matt & Elizabeth Wansing for a variance to construct an outbuilding within the front setback on 12.5 acres located at 7165 E Hartman Rd, Hartsburg (**Zoning Regulations Section 10.A**)

Planner, Bill Florea gave the following staff report:

This 12.5 acre tract is zoned A-2, as is the surrounding property. This site is located approximately 5.5 miles south of Ashland off of Westbrook Drive. The property is split by Hartman Road; the applicant's house is on the north side of Hartman Road; the applicants wish to build an accessory structure across the road from their house. The proposed location is within the front setback. The original zoning for this tract is A-2, the property to the east was platted in 2001. The requested variance is from Zoning Regulations Section 10.A which requires that structures in the A-1 and A-2 zoning districts provide at least a 50 foot setback from the front and rear property lines and 15 feet from the side property lines. Staff notified 22 property owners about this request.

David Butcher, Crockett Engineering, 1000 W Nifong, Columbia
Matthew Wansing, 7165 E Hartman Rd, Hartsburg
Elizabeth Wansing, 7165 E Hartman Rd, Hartsburg

The applicants presented a handout to the Board.

David Butcher: The applicants intend to build a garage across the street from their house, they own the property that is split by a roadway. The property is by the quarry almost to the county line. There are only two homeowners that live on the road behind them. This is by the Lake Champetra area which is terrain challenged. Drawing one of the handout shows the location of some existing footings that were prepared for the garage. When Mr. Wansing went to get his permit he was given direction on how to measure his setback, there was some confusion on his part whether it be by misdirection by the inspector or misinterpretation on Mr. Wansing's part. The setback is supposed to be measured from the right of way line; on this road there is a statutory 30 foot right of way so you would measure 65 feet from the centerline of the road giving 15 feet on either side of the road for the right of way plus the 50 foot setback. Mr. Wansing didn't realize he needed to go 15 feet and he went 50 feet from the center of the road trying to do the right thing but we concede there was a miscommunication between the inspection department and Mr. Wansing. All things being what they are Mr. Wansing asked for his footing inspection, the inspector comes out and passes the inspection and tells him he can go. Mr. Wansing ordered his concrete, which is on the way and 20 minutes later the inspector comes back and says oops, sorry, we were wrong about that, you need to move your building back. Unfortunately, once you order concrete you are paying for it, there is no turning back once the concrete is ordered. In this particular instance he already had the footings dug and inspected to the point where they would pass inspection other than their location. He already had all the rebar in place, the concrete was already on the way and he was paying for it one way or another. He poured the concrete in the footings and hoped that he could get some help.

Mr. Wansing did not intend to break the rules, it was not his intention to do this in violation of the regulations. The reason the building is so small is two-fold, on drawing three the hillside is very steep behind the building. Had he moved this another 15 feet further behind I am not sure he could have afforded to do it because a retaining wall will likely be required and he would probably have not built the building to begin with. We don't know what to do here, this is a costly adventure on their part and we feel that the county is partially to blame for this situation and we would like to have a little help. There are two homeowners that live down this roadway and they have very long driveways and no one seems to have any objection. This isn't a high traffic area and the terrain is such that it probably never will be, there is a rock quarry next door, a major thoroughfare plan is not going to help you on something like this, there is no way to identify whether the roadway is ever going to become an interstate. In our lifetime it is likely never going to be anything other than what it is. It is not really harming anyone being 15 feet closer to the roadway and I would like to see the applicants be able to keep it there.

Open to public hearing.

Present speaking in support:

Randal Sell, 7501 E Hartman Rd, Hartsburg

Randal Sell: I have lived at this location for 35 years. I wasn't there when the incident occurred but I would like to speak to Hartman Road. Because of the topography and the quarry it will never be anything more than what it is. 20 or 25 years ago after it was quarried, there was talk that it may become a private road. It is a blind hill going up and over at my driveway and to lower that to make it more within county specs it would have to move into the quarry for the lateral support. The road will remain the same for the area because it can't be moved or lowered without affecting that sidewall. I don't care if the building is 15 feet off, it won't affect the road at all because it will never get to county specs. The road is 1/10 of a mile long that the county maintains and it will never be more than what it is.

No one spoke in opposition.

Closed to public hearing.

Bill Florea: The building permit application that the applicant signed states the setbacks as 100 feet from the front property line, 100 feet from both sides and 100 feet from the back. I am not sure how the applicants mistook 100 feet for 50 feet. In addition, the footing inspection was not approved; the inspector indicated on the inspection record that states “n/a” for “not approved”, footing okay, 2-foot spread around perimeter, setback issues caused inspection to fail. The testimony was that the inspection was approved which is not the case.

Chairperson Thomas: So the testimony was that the inspection was approved and then the inspector came back and changed their mind?

David Butcher: I directly spoke with David Forward, Chief Building Inspector, on the phone and he told me over the phone exactly verbatim almost word for word what my clients have told me which was that they approved it originally and the inspector in the field was unsure and called Mr. Forward, he called him back and said that needs to be failed, the inspector went back to the site and changed his mind after they had already ordered the material and had it on the way.

Chairperson Thomas: That information is not noted on the inspection report.

David Butcher: I did not put Mr. Forward under oath but I didn't feel the need to.

Thad Yonke: Part of the reason there is a misunderstanding in the first place, if you want to call it a misunderstanding, is because no matter how you do it, 100 feet is what the applicant specified on their application for how far it was going to be off the property line.

Chairperson Thomas: What is the width of that property?

Bill Florea: Several hundred feet deep.

Thad Yonke: Even if the property owner measured 100 feet from the center of the road it wouldn't be off as much as it is. It would still meet the required setback.

David Butcher: Drawing one is what I drafted after my phone conversation with Mr. Forward as to what the building setbacks were supposed to be on that road. He told me, and I drew this as he told me, he said it was supposed to be 30 feet wide, 15 feet each side of the road and 50 feet from that statutory right of way.

Thad Yonke: That is not what the applicant put on their building permit application.

David Butcher: Therefore there is more confusion associated with this.

Thad Yonke: The confusion is that our people look at what the building permit application says and that is what they are expecting the setback to be so it is not going to get questioned as much because the applicant indicated he would meet the setback. That is what is introducing the inspection problem is that it is not matching what the applicant put on the permit application.

David Butcher: I am not defending the inspection and I have nothing other than the testimony of David Forward with regard to the inspection, I didn't put him under oath so if it does go to the next level I will have to bring his expert testimony to the table.

Chairperson Thomas: The problem I have is the permit application is incorrect to begin with.

Member Bowne: Is it incorrect? Is it supposed to be 30 and 50?

Bill Florea: The applicant puts on the application where they are going to build. Since that is in excess of what is required which is 50 feet, the permit is approved. Mr. Butcher is correct, 15 and 50 is 65.

David Butcher: They didn't have a property boundary survey of their property lines when they did this and they own 17 acres which straddles the roadway.

Thad Yonke: Even if you assume the centerline of the road 15 feet and 50 feet there is no way you could make that mistake if they went with the 100 feet that was on the application.

David Butcher: They didn't view that as being their property line since they cover the street. The assumption was they were 100 feet from their property lines.

Chairperson Thomas: Which property line?

David Butcher: The one where the quarry is on the east side.

Bill Florea: It says front on the application. It says 100 feet from the front, sides and rear.

Chairperson Thomas: Even if the front one is correct, the side and rear are still incorrect, is that accurate?

David Butcher: What they put on that application is not correct.

Chairperson Thomas: Exactly.

David Butcher: What they stated on that application is not correct.

Bill Florea: What they stated on the application is correct, they didn't build according to what they stated on the application. The applicant signed the application.

David Butcher: Ultimately for this to be approved the location of the building to be approved I would need a variance from the setback from the road in order for them to be only 35 feet from the property line instead of 50. As far as the application goes, we can have them file a new application that meets the standards. They can pull a new application for a permit but ultimately I am in the setback.

Member Bowne: How far is the footing from the east property line?

David Butcher: I don't know.

Member Bowne: You don't have any idea how far it is from any of them except for the one on Hartman Road?

David Butcher: That is correct.

Member Bowne asked to see the topography map.

David Butcher: Each one of the contours is two feet so if you imagine pushing the building back to maintain some reasonable elevation they will be nearly 10 to 12 feet deep.

Bill Florea: If you insist on having it at the same elevation as the road.

David Butcher: But it is on a slope so it will have to be flattened out somehow.

Bill Florea: It looks like they excavated their current site.

David Butcher: Yes.

Member Bowne: What is the size of the shop?

Bill Florea: The permit application states 1260 square feet.

Member Bowne: What are the dimensions of the building?

Elizabeth Wansing: 30 by 40.

David Butcher: I know this is an unusual circumstance and I know that we have had many cases where the building ends up in the front setback but this couple didn't intend to do it wrong, they had every intention of doing it correctly it is just a misunderstanding.

Member Bowne: Is this all work the applicant did himself or did he have a contractor?

Matt Wansing: I had a contractor.

Member Bowne: Is the plan to have a concrete floor? What type of structure will this be?

Matt Wansing: Yes, a concrete floor. No plumbing, just electric, it will be a three-bay garage and a 2 x 6 stick frame, metal building.

Member Bowne: Had the applicants come in and asked for a variance due to topography we would have granted it with those kind of elevations. I understand they flattened it out and made a driveway, we all flatten it out and make a driveway. I don't like to hear "well the county made a mistake and they put the wrong amounts on there" lets deal with what we have right now. We have a footing sitting there already poured, would we allow this building to be in the front setback based upon topography and I would say yes, I don't have a problem with that. I do have a problem with blaming the county. I am not saying they don't make mistakes but I don't want that to be the reasoning, that is not the route we should be taking now.

Matt Wansing: I take responsibility for this, it is a misunderstanding. I am sorry for doing that and all of the problems that it has created.

David Butcher: I wasn't intending to blame the county as the reason this happened, I just wanted the Board to know there was a misunderstanding and misinterpretation between the two and I wanted to paint the picture that not every case is perfectly where it is their fault. In this case I don't believe it was 100% the applicants fault and I was looking for a little latitude.

Member Bowne made and Member Zullo seconded a motion to **approve** the request by Matt & Elizabeth Wansing for a variance to construct an outbuilding 35 feet from the front property line on 12.5 acres located at 7165 E Hartman Rd, Hartsburg:

Member Thomas	Yes	Member Bowne	Yes
Member Zullo	Yes		

Motion to approve the request carries unanimously

3. Case Number 2017-010

Request by Traxler Family Farms LLC for a variance from the minimum lot depth on 14.36 acres located at 12900 N Route B, Hallsville (**Subdivision Regulations, Appendix B 1.8.2, Table A**)

Planner, Thad Yonke gave the following staff report:

This 14.36 acre tract is zoned A-R. Property to the north is zoned R-S, property to the east and south are zoned A-2 and to the west is A-R. This site is located on State Highway B approximately .75 miles south of Hallsville. The tract is situated between Highway B and the COLT railroad right of way. The land is currently vacant and has been used for agricultural purposes. The applicant wishes to subdivide this 14.36 acre parcel into 4 lots. The proposed southernmost lot will be triangular due to the location of State Highway B and the COLT railroad right-of-way. The subdivision regulations require a minimum lot depth of 250 feet. The original zoning for this site is A-R. There have been no previous requests submitted for this tract. The requested variance is from Subdivision Regulations Appendix B.1.8.2, Table A which requires a minimum lot depth of 250 feet. Staff notified 66 property owners.

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 property is located south of Hallsville and is situated between State Highway B and the COLT railroad right-of-way. The property is at least 800 feet deep at the north end, but narrows down to a triangular point at the southern end where the two right's of way intersect. The applicant would like to subdivide the property into four lots. The southern most lot would not be able to maintain the minimum lot depth of 250 feet.

Staff analysis:

- a) The applicant will incur unnecessary hardship if the variance is not granted. This is a unique situation as the proposed lot can be created providing a minimum lot depth of 250 feet at the north area and a suitable building site that will meet the required lot depth.
- b) Granting this variance will not endanger the health, safety, or welfare of the public.
- c) Granting this variance will not thwart or circumvent the general intent of the regulations.

Staff recommends this variance be granted.

Uriah Mach stated that staff received many calls about this request, three that were derogatory, one that was unhappy that this variance might be granted, and several that were nervous about an increase in density at this location. The applicants executed a series of administrative surveys earlier in the year and created approximately 20 lots all between 10 and 20 acres in size and three that were over 20 in size. They accepted that more houses were coming in to the area.

Thad Yonke: While the application talks about the four lots they intend to create that is really irrelevant in this case because the property has that triangle. If you divide it in to two lots you would still run in to the same issue.

Present representing the request:

Don Abell, 5070 E Flamingo Dr., Hallsville

Don Abell: I have a contract to purchase the property and I have the intention to split it in to four lots to build on. The lot is already triangular. If the utilities were in place the existing zoning being A-R would allow up to ½ acre lots. The density I am proposing is three acre lots and the southern most proposed lot would be 4.8 acres. The plat has been submitted and if the variance goes through the plat will move forward.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Bowne: The four lots would have access off of Route B?

Don Abell: Yes, but we are proposing to limit that to two access points.

Thad Yonke: They would be shared driveways.

Don Abell: At the common lot line each side would have full access to a full width drive but with the actual driveway permit on Route B the intent is to have each side have 20 feet of driveway to their building line. For safety lines we are going to keep the access points limited on Route B, it is a pretty high speed roadway. I met with a MoDot agent in this district and he checked site distances and all the distances checked out. Their concern was that they didn't want any more driveway locations than necessary. The two locations that we decided on is where MoDot prefer they be.

Member Bowne: Are there already utilities to these lots?

Don Abell: There is a new 10 inch water main along Route B that they just installed, the lots are large enough for on site sewer systems. The existing Cedar Gate system is at maximum capacity. I have been

talking to Boone County Regional Sewer District to see if they would have capacity for four more and Tom Ratermann is checking in to that. I was originally told there is no central sewer available for any of these lots.

Member Bowne: It may be hard to get a lagoon on the triangular shaped lot.

Don Abell: You have to be careful where you place them. A lagoon is the worse-case scenario, I have modeled it out where it can be done and would have to be done in order to get a building permit. There are other alternative systems that could be installed.

Thad Yonke: The type of waste water system will be part of the platting process.

Chairperson Thomas: How much buildable area is there?

Don Abell: Roughly 300 feet wide and 250 feet deep which is over 1.5 acres of the 5 acres. There is a space 319 feet wide that would have a 250 lot depth. It is still a fairly large lot but it is triangular and it was created by the railroad and the highway.

Member Bowne made and Member Thomas seconded a motion to **approve** the request by Traxler Family Farms LLC for a variance from the minimum lot depth on 14.36 acres located at 12900 N Route B, Hallsville:

Member Thomas	Yes	Member Bowne	Yes
Member Zullo	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

None

NEW BUSINESS

1. Annual Election of Officers

Members decided to hold elections at the next meeting when more members are present.

ADJOURN

Meeting adjourned at 8:11 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 30th day of November, 2017