

**BOONE COUNTY BOARD OF ADJUSTMENT**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, November 30, 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 Proctor  
Cindy Bowne  
Dennis Stephenson  
Paul Zullo

Absent: Frank Thomas

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

Vice Chairperson Proctor 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 28, 2017 meeting were approved by acclamation.

## **REQUEST**

### 1. Case Number 2017-011

- a. Request by Joseph Darwent for a variance from the front setback for an existing house on 53.3 acres located at 80 E. County Line Road, Clark (**Zoning Regulations Section 10.A**)
- b. Request by Joseph Darwent for a variance from the front setback for an existing accessory structure on 53.3 acres located at 80 E. County Line Road, Clark (**Zoning Regulations Section 10.A**)

Planner, Thad Yonke gave the following staff report:

This 53.3 acre property is zoned A-2, property to the north is located in Randolph County, zoning to the east, south, and west is A-2. The site is located just west of the Highway 63 and Route F/Highway 22 interchange, there is a single family dwelling and accessory structure on the property. The applicant seeks to subdivide a five acre parcel out of the property. Surveys indicate that the house and accessory structure are within the required front setback. The original zoning for this tract is A-2. There have been no previous requests submitted for this property. 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 a 15 foot setback from the side property line. Staff notified 7 property owners about this request.

Member Bowne: Did staff heard from any of the neighbors?

Thad Yonke: No.

Present representing the request:

Joseph Darwent, 80 E County Line Road, Clark

Patty Darwent, 80 E County Line Road, Clark

Joseph Darwent: I sold all of the property except for the house and then on the day of the sale the surveyor informed me that the house and barn are too close to the road and requires a variance. Originally it was 4.7 acres that we were going to keep but we made arrangements to keep it at 5 acres. It is my understanding that I can't sell this property without the variance.

Thad Yonke: We cannot sign off on the survey without a variance.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Bowne: When was the house built?

Joseph Darwent: 1987.

Member Bowne: What type of foundation does it have?

Joseph Darwent: It is an earth contact home.

Member Bowne: What is the condition of the home?

Joseph Darwent: Very good.

Member Bowne: The applicant is asking for a variance because the house is 1.3 feet into the setback.

Joseph Darwent: Yes, and the barn is closer than that. I didn't even realize that until the surveyor measured it.

Thad Yonke: The applicant was required to dedicate additional right of way during the platting process.

Member Bowne: But the house is 1.3 feet into the setback?

Thad Yonke: Yes, that is what it would be after dedication of additional right of way. The house is 48.7 feet off the new setback.

Joseph Darwent: Was this a law in 1987?

Thad Yonke: Yes, the setback was 50 feet, however, the road right of way wasn't dedicated from the center line out. The home was built in compliance.

Member Bowne: Since the home is earth contact I would like to grant the variance without the as is where is condition.

Member Bowne made and Member Stephenson seconded a motion to **approve** the request by Joseph Darwent for a variance from the front setback for an existing house on 53.3 acres located at 80 E. County Line Road, Clark:

Member Proctor	Yes	Member Bowne	Yes
Member Zullo	Yes	Member Stephenson	Yes

Motion to approve the request carries unanimously

Member Bowne: The barn is in the front setback but also in front of the house.

Thad Yonke: A variance to remain in the front plane of the house only applies if it is on a lot less than 5 acres.

Member Bowne: When was the barn built?

Joseph Darwent: I am guessing it was built before the road was built.

Member Bowne: What type of barn is it?

Joseph Darwent: It is a wood frame, tin covered barn.

Member Bowne: What is its condition?

Joseph Darwent: I have been waiting for it to fall down for 20 years.

Member Bowne: Does it have electricity or water to it?

Joseph Darwent: No.

Member Bowne: If the barn is in such bad shape then why does the applicant want to keep it?

Joseph Darwent: It suits my purposes, I have an old tractor I keep in it and lawn mowers. It is a wood frame building but there are wooden dowels holding it together.

Patty Darwent: It is a really old barn and it has probably been there 100 years.

Member Bowne made and Member Stephenson seconded a motion to **approve** the request by Joseph Darwent for a variance from the front setback for an existing accessory structure on 53.3 acres located at 80 E. County Line Road, 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 Proctor	Yes	Member Bowne	Yes
Member Zullo	Yes	Member Stephenson	Yes

Motion to approve the request carries unanimously

## **OLD BUSINESS**

### Certificates of Decision

- 2017-008 Tompkins
- 2017-009 Wansing
- 2017-010 Traxler Family Farms

Vice-Chairperson Proctor accepted and signed the certificates of decision.

## **NEW BUSINESS**

### 1. Review By-laws

Members had an opportunity to review the proposed changes to the bylaws. Vice-Chairperson Proctor asked the Board if there were any questions.

Member Stephenson: Section 8.H. We will now require permission in writing from the landowner for someone else to represent the request. Will that be required to be notarized?

Paula Evans: No.

Member Stephenson made and Member Zullo seconded a motion to accept the Board of Adjustment Bylaws and application form as written.

All members voted in favor. None opposed.

### 2. Annual Election of Officers

Member Proctor nominated Frank Thomas as Chairperson. Member Stephenson seconded the nomination. No other nominations.

All members voted in favor of Frank Thomas to serve as Chairperson.

Member Bowne nominated Rhonda Proctor as Vice-Chairperson. Member Stephenson seconded the nomination. No other nominations.

All members voted in favor of Rhonda Proctor to serve as Vice Chairperson.

## **ADJOURN**

Meeting adjourned at 7:22 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 21<sup>st</sup> day of December, 2017