

# **BOONE COUNTY BOARD OF ADJUSTMENT**

**BOONE COUNTY GOVERNMENT CENTER**

**801 E. WALNUT ST., COLUMBIA, MO.**

**Thursday, December 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  
Rhonda Proctor  
Cindy Bowne  
Dennis Stephenson

Absent: Paul Zullo

Staff: Thad Yonke, Senior Planner                      Uriah Mach, 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 November 30, 2017 meeting were approved by acclamation.

## **REQUEST**

### 1. Case Number 2017-012

Request by Deborah L Vollrath Revocable Trust for a variance from the required perimeter setback for an existing house on 9.99 acres located at 7370 S Bennett Dr, Columbia Planner, Thad Yonke gave the following staff report (**Zoning Regulations Section 6.6.4**):

Planner, Thad Yonke gave the following staff report:

This site is located 1.8 miles south of Columbia, there is a single family residence and several accessory structures on the property. The applicants will submit a rezoning request to A-2P (Planned Agriculture) so that a second lot may be created. The existing residence does not comply with the setback requirements. The original zoning for this site is A-1, a request to rezone this property to A-2 was denied in August 2017. The requested variance is from zoning regulations, section 6.6.4 which requires that a planned development must provide a minimum perimeter setback equivalent to the front setback for the entire property. The existing house meets the front setback requirement of 50 feet for the road frontage but there is only a 22.53 foot setback on the north perimeter. Staff notified 14 property owners about this request.

Present representing the request:

Kevin Schweikert, 506 Nichols St, Columbia  
Dennis Vollrath, 2208 Windstone Dr, Columbia

Kevin Schweikert: It is staff's recommendation that we do this by a planned zoning which requires the setbacks along the sides and the rear of the lot to be the same as the front which is 50 feet. We have an existing house and if the A-2P zoning is approved the house will be across the perimeter setback so we are asking for a variance to allow the existing house to remain within the 50 foot perimeter setback along the side and the front also in case during the platting of the property there may be additional right of way dedication required. The reason we are doing this is so the parents can family transfer the southern piece to their son, they are getting older and they would like to have them around to help take care of them and the property.

Kevin Schweikert submitted a copy of the review plan.

Chairperson Thomas: How old is the house?

Dennis Vollrath: My parents bought the property in 1985, the addition was granted in a permitted addition to the house, the existing structure was all grandfathered in, it was that way with the original zoning.

Chairperson Thomas: But how old is the house?

Dennis Vollrath: It would have been built in the early 1980's.

Chairperson Thomas: How much of the house is going to be in the setback?

Kevin Schweikert: About 27 feet in the side setback, the front will be a little less, maybe 10 feet or so.

Member Bowne: Why was the A-2 rezoning request denied?

Thad Yonke: Because it is A-1 zoning in the area. The Planning and Zoning Commission didn't feel it was appropriate to rezone to straight A-2. It could have been divided into three lots; they only want to divide it in two lots but under straight A-2 it could have been divided into three; the Commission felt that was out of character.

Kevin Schweikert: Going with the planned rezoning it gives more control and limits the amount of lots which is in character with the area, there are five acre tracts along Bennett Road to the south. The reason they are asking for rezoning is so they can do a family transfer of the south half of the property.

Thad Yonke: The house meets the setback requirements now but they are asking for planned rezoning which requires a perimeter setback. If the applicants decide to plat the property they will be required to dedicate additional right of way and we don't want the applicants to have to come back for another variance.

Member Stephenson: How much additional right of way would they have to dedicate?

Uriah Mach: I believe there would be a 15 foot statutory right of way.

Member Bowne: Do they have the ability to do a family transfer as is?

Thad Yonke: No. It is zoned A-1 which requires 10 acre tracts. Family transfers have to meet the minimum lot size, the tract doesn't meet the minimum lot size now being only 9.99 acres. Their only option is A-2 or A-2P, they have already tried the A-2 and were denied.

Member Bowne: It seems strange to grant a variance for a perimeter setback for planned zoning that hasn't been approved yet. It seems backwards.

Thad Yonke: We want them to do it this way because if the Board doesn't agree with the concept of it then they won't even go to Planning and Zoning Commission. We don't want the Planning and Zoning Commission to approve things that require variances and then they come to the Board with everything approved. The Board is the one making the exceptions and that is a bigger difference, the Board's decision is much more legalistic than the Planning and Zoning Commission.

Chairperson Thomas: What if the Board approves the variance and then the Planning and Zoning Commission denies the rezoning?

Thad Yonke: The variance is for a perimeter setback, there is no perimeter setback in A-1 zoning.

Member Bowne: What other structures are on the property?

Dennis Vollrath: There is a detached garage and shed, there is nothing on the south tract.

Kevin Schweikert: There are no other buildings affected by the perimeter setback; just the house.

Member Bowne: Are there any trailers on the property?

Kevin Schweikert: No.

Member Bowne: It looked like trailers on the aerial.

Dennis Vollrath: My father used to run a concrete construction company, the aerial may show some trucks parked there.

Member Stephenson: Did the applicants contact the neighbors to the north?

Thad Yonke: All property owners within 1000 feet were given notice of the request.

Dennis Vollrath: Gary Sapp surrounds us to the north, east, and south.

Member Bowne: So that is not residential to the north; it is a land company.

Thad Yonke: It is rural residential in the sense that agricultural zoning allows for residences.

Kevin Schweikert: All the land owners within 1000 feet have been contacted. Mr. Vollrath contacted neighbors personally.

Dennis Vollrath: We visited the neighbors in person before the previous rezoning request. We didn't have any objections then and haven't heard anything after the two mailings.

Thad Yonke: No neighbors showed up to the Planning and Zoning Commission for the A-2 rezoning request.

Kevin Schweikert: It was really just a concern of creating more than two tracts.

Member Bowne: Are your parents not able to care for themselves?

Dennis Vollrath: Currently they are but it is a matter of time.

Member Bowne: Does your father still run the concrete business?

Dennis Vollrath: No, he is retired.

Member Bowne: Do you run the business?

Dennis Vollrath: No.

Member Bowne: Is there still a concrete business?

Dennis Vollrath: No, he closed the business and retired in 2012. My grandmother got moved into a home when she had Alzheimer's and I don't want to see my father go through that either. I would rather be closer to the property.

Member Proctor made and Member Thomas seconded a motion to **approve** the request by Deborah L Vollrath Revocable Trust for a variance from the required perimeter setback for an existing house on 9.99 acres located at 7370 S Bennett Dr, Columbia 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 Thomas	Yes	Member Bowne	NO
Member Proctor	Yes	Member Stephenson	Yes

Motion to approve the request carries    3 YES            1 NO

## **OLD BUSINESS**

Certificate of Decision

- a. 2017-011 Darwent

Chairperson Thomas accepted and signed the certificate of decision.

## **NEW BUSINESS**

Thad Yonke announced that this is Member Bowne's last meeting. Mr. Yonke informed the Board that staff has valued her input and her ability to make difficult decisions.

## **ADJOURN**

Meeting adjourned at 7:24 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 22<sup>nd</sup> day of February, 2018