

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, June 28, 2018

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
Paul Zullo
Dennis Stephenson

Absent: Frank Thomas
Vacant Seat

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

The meeting was called to order at 7:00 pm having a quorum present.

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 April 26, 2018 meeting were approved.

REQUEST

1. Case Number 2018-006

Request by Missouri Soybean Association to allow a sign larger than 32 sq. ft. located at 5601 S Rangeline Rd., Columbia (**Zoning Regulations 25.3.2**).

Planner, Bill Florea gave the following staff report:

The property is zoned A-1 as is the adjacent zoning. This site is located four miles southeast of Columbia and two miles south of State Highway WW on Rangeline Road. There is an 8400 square foot building on the site for office and lab work associated with the development of soybean crops. A 6250 square foot storage building was built in 2013. The applicants installed a sign without a building permit. When required to apply for a building permit it was discovered that the sign is larger than allowed by Boone County Regulations. The original zoning for this tract is A-1. A conditional use permit was issued in 2011 for an agri-business for a use oriented to the agricultural community. A second permit was approved in 2012 to allow the construction of a second building. In April the applicants requested a third conditional use permit to allow construction of a 1200 square foot open air pavilion and additional 6000 square foot storage building. That request is on hold until the several issues are resolved, such as this sign. The requested variance is from Zoning Regulations 25.3.2 which requires "Uses permitted by the zoning district regulations, including the sale of the property on which the sign is located, shall each be permitted façade signage and/or one freestanding sign per adjacent public street frontage. Total signage for such a use shall not exceed 32 square feet in area. The height of freestanding signs shall be limited to eight-feet above the established street grade. Section 25.3.2.2.1 indicates how to determine the area of a sign: "The area of the sign shall be calculated using the following formula: height x width = area. For example, if a sign was 21 inches high and 20 inches wide, the area would be calculated by multiplying the height of 21 inches x the width of 20 inches, which equals 420 square inches (21 x 20 = 420). Staff notified 16 property owners.

Bill Florea: In addition, when reviewing the application staff noticed some inaccuracies in the material submitted by the applicant that had been previously submitted to the Board. Staff handed out supplementary materials to help the Board in their decision making tonight. The first item is excerpts from the Zoning Regulations of the relevant sign regulations, the second item is a photo of the sign with the dimensions as measured by staff, the third is a site plan submitted by the applicant with their dimensions printed in black and staff measurements in various colors. The fourth item is a table calculating the sign area and overage amount for each measurement.

Present representing the request:

Greg Luce, Research Director, Missouri Soybean Assn, 6307 Upper Bridle Bend Dr, Columbia

Fred Malicoat, Architect, 5649 N Clearview Rd, Columbia

Fred Malicoat: I submitted the dimensions after Mr. Luce measured them and I used the 90 x 56 and came up with 35 square feet. I didn't use the stone columns on the side; I figured those as support rather than part of the sign. If you consider the columns then it is considerably larger than the 32 square feet. Staff shows 65 square feet which is 33 square feet over. The sign sits off the highway about 50 feet and the old sign was about 15 feet off the highway. The applicant took down the old sign as it blocked the view as you were turning out of the driveway so they constructed this sign and it was built by a company out of Jefferson City and no one checked any sign ordinances. We are asking for a variance to keep the sign as is.

Greg Luce: The reason we didn't apply for a permit is our fault. We didn't know that we had to have a permit for a sign, there was a sign there previously and I understand now that it didn't have a permit. I started working there around three years ago and the old sign was not in a good place, it was closer to the road and we wanted to put a new, more attractive sign up to showcase the facility and we wanted to move it back to be safer and it doesn't block the view from the entranceway.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Proctor: In 2011 a conditional use permit was granted to start an agri-business and in 2012 a second building was built, now in 2018 you are working on a third building. Staff mentioned there are other issues that are holding up this building besides the sign, what are those issues?

Bill Florea: There were issues at the Planning and Zoning Commission hearing regarding lighting and site design issues.

Member Proctor: Does this meet elevation off the street grade?

Bill Florea: Staff didn't measure that but from generally looking, yes, it looks like it does meet elevation.

Member Proctor: The first sign was removed because of sight issues with people pulling out, has this been remedied by moving it?

Greg Luce: Yes. Largely we wanted a more attractive sign but the other sign was close to the road and closer to the main entrance. You couldn't see, especially pulling out because it blocked the view. Moving it back 50 feet off the road has helped; there is no obstruction.

Bill Florea: It is actually not 50 feet off the road. The way you measure the setback when there is no dedicated right of way is you identify the center of the road and measure 15 feet and then 50 feet from that point. It should have been 65 feet from the center of the road.

Greg Luce: I measured from the edge of the road so it is a little further back from staff's measurement.

Thad Yonke: It doesn't comply with the setback requirements.

Member Proctor: I have been on the Board for a while and I went back through the sign ordinance and I am not finding in the regulations where the Board can grant a variance on the size of the sign.

Bill Florea: That is what the regulation says. County Counsel has indicated some concern about that provision but has not directed us to take action to rescind that.

Thad Yonke: If you notice, none of the information in the staff report that opposes the request relies upon that provision as a reason to deny.

Member Proctor: But isn't the request essentially to forgive the size of the sign?

Bill Florea: It is. Which is not technically allowed by the zoning regulations.

Thad Yonke: It should be recognized that at the moment even if the Board grants a sign variance they would have to move the sign anyway because it doesn't comply, it is currently a zoning violation.

Greg Luce: It needs to be moved in which direction?

Bill Florea: Toward the building.

Greg Luce: That is impossible because the parking lot is there.

Thad Yonke: We measured, there is 13 feet between the back edge of the last column to the parking lot edge. The sign is five feet out of compliance so it would have to be moved an additional five feet. If a building permit had been taken out that would have been addressed.

Greg Luce: We apologize. We didn't know there was an ordinance that we had to do that.

Member Stephenson: The sign looks to be very soundly built and is nice looking. I am sure this is not the first sign that this sign company has built.

Greg Luce: No, it is Bee Seen signs and they are out of Jefferson City.

Member Stephenson: When were zoning ordinances adopted?

Bill Florea: 1973.

Member Stephenson: These ordinances have been in effect since 1973 and a professional sign company like this wouldn't be aware of the ordinances?

Bill Florea: We have permitted signs constructed by this company before.

Member Stephenson: I am surprised they would build the sign; they had to have known it was out of compliance, they are a professional company.

Member Proctor: When was the sign constructed?

Greg Luce: Fall of 2017.

Member Stephenson made and Member Zullo seconded a motion to deny the request by Missouri Soybean Association to allow a sign larger than 32 sq. ft. located at 5601 S Rangeline Rd., Columbia:

Member Proctor	Yes	Member Stephenson	Yes
Member Zullo	Yes		

Motion to deny the request carries unanimously

2. Case Number 2018-007

Request by the John A. Gonnerman Trust for variances from the minimum lot depth of 250' and the requirement for lot lines to be at right angles to roads on property located at 7206 E Hwy HH, Columbia. (Subdivision Regulations, Appendix B, Section 1.8.2 & Table A).

Planner, Thad Yonke gave the following staff report:

This site is located just north of Columbia on State Highway HH approximately 2.4 miles east of State Highway B, the property is vacant. The applicant wants to plat the land utilizing an existing access driveway that meanders on the property. The easement does not form 90-degree angles at the road. Additionally, the proposed lots will have areas that have less depth than the required 250 feet. The original zoning is A-2 (Agriculture). A .5 acre tract was created in 1978 for a family transfer. A 1.29 acre was surveyed in 1984 under the same ownership. A 6.34 acre tract was created in 2009 and is Lot 1 of Ashwood Subdivision. The requested variances are from Subdivision Regulations, Appendix B, Section 1.8.2 and Table A. a) Side lot lines shall generally be at right angles to straight streets and radial to curved streets. b) Lots 2.5 acres and larger shall have a minimum depth of 250 feet. Staff notified 29 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 applicant has requested two variances from Appendix B Section 1.8.2 of the subdivision regulations:

- a. Side lot lines shall generally be at right angles to straight streets and radial to curved streets; and,
- b. "Lot depth shall comply with Table A." Table A sets a minimum lot depth of 250 feet for lots 2.5 acres and larger.

The applicant has indicated a desire to utilize an existing access easement as the boundary line between proposed lots 1 and 2. If the easement is accepted as the boundary line then part of each lot will have less than the required 250 feet of depth. Additionally, the easement does not provide a right angle for the lot line where it intersects with State Highway HH.

- a. The applicant will not incur unnecessary hardship if the variances are not granted. The applicant owns 110 acres at this site and can easily modify the lot lines to meet the regulatory lot depth and

angles. The fact that an access easement will cross the property has no bearing as access easements generally do not follow property lines.

- b. Granting the variances will not endanger the health, safety or welfare of the public.
- c. Granting the variances will thwart or circumvent the general intent of the regulations. Granting the variances when the applicant can easily design lots that comply with the regulations is just a convenience.

Staff recommends that these variances be denied.

Present representing the request:

Dan Brush, Brush & Associates, 506 Nichols St, Columbia
John Gonnerman, 8645 S Tomlin Hill Rd, Columbia

Dan Brush presented two copies of the proposed survey with one copy showing hashed lines. An additional copy of the plat was presented with corresponding photos labeled A, B, C, D, E and F.

Dan Brush: We are looking to prevent a future problem, one that I see fairly frequently as a surveyor. I run in to people who think they know where their property line is and generally speaking they look at something that is topographic and think that is what they own to. When we create property lines that do not match topographic features on the ground such as ditches and roads, we open ourselves up to future problems and future litigation between adjoining owners. The road was built in the mid 1970's and is the only location that MoDot will allow an entrance on to Highway HH. To try to configure the road to fit the property line is probably not topographically feasible. It is where it should be from an engineering standpoint for ease of driving. It has an existing easement there and is already being used by two other families. The drawing with the hash marks would be if the applicants followed the strict interpretation of the subdivision regulations. The hashed areas are the areas that would probably become a problem. We don't anticipate it to be a problem for the first owners or even the second owners but by the time you get to the third or fourth owner they are going to look at the road as their property line until someone gets mad at their neighbor and builds a fence then a lawsuit ensues, that is the crux of what we are trying to accomplish and prevent.

John Gonnerman: I believe the road has been there since the mid 1960's. I started my cabinet shop in 1973 and had been there for five or six years before that. My father bought that property with two other gentlemen and he bought them out. There are a couple of pieces that are family transfer lots. The current owner of one of the lots has requested more acreage so we ended up selling them property down to the 1.9 acre tract. My cabinet shop is on one of the family transfer lots, I had a trailer home there for a long time but it has been moved. My brother and I own this property together and we have the land leased out to people that do horse breeding. We want to get rid of the road frontage. No one has contested the access to the property for close to 45 years, it follows the grade of the land and we would like to have the property line follow the road so we don't have to move the road and it doesn't put one piece of property on one side and another piece on the other side that are owned by separate neighbors and let the road be the boundary.

Open to public hearing.

No one spoke in favor of the request.

Thad Yonke: Staff had contact from one neighbor, Richardson, who said they were in opposition to the request.

Uriah Mach: I have taken approximately twelve phone calls and none of them spoke in favor.

Present speaking in opposition:

Sara Vincent, daughter of Melvonna Richardson, 7010 N Kircher Rd, Columbia
Melvonna Richardson, 7300 N Kircher Rd, Columbia

Melvonna Richardson: It says 250 feet as far as the depth, what does that mean? When I came to talk to staff they told me it is for two building lots, one with five acres and one with about four acres. Is that correct? It says "subdivision".

Sara Vincent: I think what she is asking is how many homes the applicant wants to build.

Thad Yonke showed Ms. Richardson and Ms. Vincent a copy of the proposed survey showing the lots and explained the issue stating that in order to have a lot with buildable area it has to be 250 feet deep.

Sara Vincent: So they are asking a variance for two lots.

Thad Yonke: Each lot will have to meet the specifications.

Sara Vincent: Her question is this variance is only for these two pieces of property and is considered a subdivision. This variance wouldn't be anything to do with the other 90 acres? All of us are wondering how many homes will be built.

Member Proctor: Any questions about what they are going to do with the property would have to be in the future.

Sara Vincent: This variance is only for these two pieces of property so if anything else was going to develop he would have to have a variance for that.

Member Proctor: He would have to go through the proper channels.

Thad Yonke: Or he would have to create lots that are in compliance with the regulations.

Sara Vincent: What are the lots sizes in the county?

Thad Yonke: The zoning for this piece of property is A-2 which requires a minimum lot size of 2.5 acres. However, that typically requires frontage on a public road. If he uses private access easements to serve the lots then any new lots created would have to be five acres or larger.

Melvonna Richardson: We are all concerned about the safety issue on this. Highway HH goes due east and on that curve it turns and goes due north. I am surprised that two of the neighbors didn't show up because they are awakened at all hours of the night because of people going off that corner. It is because of that neighbor that it is safer now because they cleaned that whole area up and he keeps it cut. Before that there were accidents.

Sara Vincent: Her concern is adding more coming in and out of that drive.

Melvonna Richardson: If it is two houses it might not make that much difference but when it said subdivision we were concerned.

Also present speaking in opposition:

Lori Kilfoil, 3101 E Christian School Rd, Hartsburg

Lori Kilfoil: There have been multiple accidents and we are very concerned about even two more houses in that area. We are farmers and drive tractors on that road, I am concerned about more traffic.

Member Stephenson: We are here to look at the driveway and where it sits and the lot sizes. I don't know that we can guarantee what will or won't be built there in the future. I understand the concerns but the Board is looking at a lot size that doesn't comply and a driveway that doesn't comply with regulations. If we approve or don't approve the variance it may not change what is built there.

Thad Yonke: If the variance is not granted that doesn't mean they can't create two five acre lots in the front it just means they have to create two five acre lots that meet that 250 foot depth. Creating the two lots is not the issue; the issue is what shape the two lots will be.

Closed to public hearing.

Member Stephenson: Is the drive location approved by MoDot?

Dan Brush: That is an approved entrance, they will not approve any other locations for an entrance.

Member Stephenson: If the driveway were turned perpendicular you can still use the same entrance.

Dan Brush: That is correct; it will end up with a tract more than five acres. Part of the reason for the configuration is so we end up with two five acre tracts.

Member Zullo: Is the reason for the request for convenience? The applicant stated the driveway can be moved.

Dan Brush: We can do it with two five acre tracts and come perpendicular off the road. It creates a hardship, maybe not for the current owner but for the future owners. It is better to have lot lines that follow topographic features and a road is a topographic feature. The road location is in a spot for maintenance wise for drivability it follows the ground better than trying to make something perpendicular to the road and redo it. That is if the neighbors let us redo it because we would have to get an agreement from the other two people that use the road; we may or may not be able to achieve that. It is not entirely up to us to redo the road.

Member Stephenson: Do the applicants own the property that backs up to lot 2?

John Gonnerman: That is part of the farm as well.

Member Stephenson: If we ran the road straight the property line could be moved back to make a five acre tract.

Dan Brush: Yes.

Member Proctor made and Member Stephenson seconded a motion to deny the request by the John A. Gonnerman Trust for variances from the minimum lot depth of 250' and the requirement for lot lines to be at right angles to roads on property located at 7206 E Hwy HH, Columbia (Subdivision Regulations, Appendix B, Section 1.8.2 & Table A):

Member Proctor	Yes	Member Stephenson	Yes
Member Zullo	Yes		

Motion to deny the request carries unanimously

OLD BUSINESS

Certificates of Decision

- a. 2018-003 Drummond
- b. 2018-005 Chapman

Vice Chairperson Proctor accepted and signed the certificates of decision.

NEW BUSINESS

None

ADJOURN

Meeting adjourned at 7:51 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 23rd day of August, 2018