

**BOONE COUNTY BOARD OF ADJUSTMENT**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, April 25, 2019

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  
Michael Leipard

Absent: Dennis Stephenson  
Paul Zullo

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

The meeting was called to order at 7:02 pm having a quorum present.

Chairperson Thomas read the following procedural statement:

Ladies and Gentlemen, the Boone County Board of Adjustment is now in session.

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. 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.

Please give your name and mailing address when you address the Board and sign the sheet on the table after you testify. When you address the Board please speak directly into the microphone, so your remarks are properly recorded. Also, we ask that you turn off your cell phones. All testimony from the applicants and the public should be given from the speaker table, do not approach the Board unless requested. Any evidence submitted should first be given to the Secretary of the Board to properly identify for the record. During testimony, any references regarding submitted evidence should be referred to by its exhibit number.

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 27, 2018 meeting were approved as written.

## **REQUEST**

### 1. Case Number 2019-001

Request by Valerie Stevens for a variance to construct a single-family dwelling within the setback of the A-2 zoning district on 2.5 acres located at 7700 N Deer Valley Ln, Columbia. (Zoning Regulations 10.A)

Planner, Bill Florea gave the following staff report:

The property is located at 7700 N Deer Valley Lane, Columbia, it is 2.5 acres and is zoned A-2, agriculture as is the surrounding property. This site is located at the northeast corner of the intersection of Deer Valley Lane and State Highway HH, approximately 1.5 miles north of Columbia. The site is currently vacant. Due to the floodplain on the property the applicant would like to build within the required setbacks. The original zoning for this site is A-2. Deer Valley Estates subdivision was platted in 1987. The original plat indicates the location of the Hinkson Creek floodplain as shown by the Flood Insurance Rate Map (FIRM) adopted in 1983. In 2012 the developer obtained a flood plain development permit to place fill in the development including lot 18. In 2011 and again in 2017 the Federal Emergency Management Agency (FEMA) issued new maps incorporating digital technology and more precise terrain contours. Boone County adopted the revised maps March 17, 2011 and April 19, 2017.

The applicant purchased lot 18 in 2014. The adopted maps show a different boundary for the designated floodway and the flood plain that had been previously indicated. As a result, the potential building area for Lot 18 is restricted to an area that is located within what would be the front and side setback area of the lot. Residential construction is not permitted in the floodway. 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 property line and a 15 foot setback from the side property line. Staff notified 15 property owners. Should the Board choose to approve the variance request, staff suggests the following condition:

- The property owner shall provide a lot survey, prepared by a licensed land surveyor, that identifies the location of the west and north property lines, the boundary of the regulatory floodway, and the

location of the building. Said property lines and floodway boundary shall also be staked on the property by a licensed surveyor in order to ensure proper location of the building. The survey shall be submitted with the building permit application. The field staking shall be in place at the time of the footing/setback inspection.

Chairperson Thomas asked if staff heard from any neighbors.

Bill Florea stated that we received a call from the neighbor across the street.

Present representing the request:

Valerie Stevens, 4105 Grant Lane, Columbia

The applicant presented a letter from Allstate to Gary Schultz dated June 1, 2012 which was marked as Exhibit A and a copy of the aerial map marked as Exhibit B.

Valerie Stevens: I purchased the property in 2014, when I purchased it I asked the insurance company to make sure I didn't have to purchase flood insurance. I also had the letter from the engineer that the previous owner had built up the property. I was given the letter when I purchased the property and I didn't have to buy flood insurance. This spring when I went to obtain a building permit I was told I couldn't get one. My concern is that since then I got a letter from MoDot saying they are changing the bridge at Hwy HH wanting me to sign so they could have access to my property to build the bridge but I never received anything from FEMA or the County that this happened in 2017. Right now the property is useless; I purchased the property with inheritance money and my Dad lives a mile north of here which is why I chose this location. Whether I choose to keep the property or not I would like permission to build otherwise the land is worthless.

Chairperson Thomas: How much of the home will be in the setback?

Bill Florea: On the application it states a 32 x 32 house.

Valerie Stevens: Yes but ideally it is not what I want to do.

Bill Florea: There is a 20-foot platted utility easement along Deer Valley Lane and that should be respected; some setback from there would be advisable, preferably 5 feet. From what I scaled that would leave room for a 32-foot deep house with a 25 feet setback in the northwest corner. Not having a survey of the property, it is hard to say for sure. If the Board were to grant the variance and let the applicant build within 20 feet of the front property line, if necessary but keeping as far away from the utility easement as possible would be workable.

Valerie Stevens: Is that permission just for me or for anyone who bought the property?

Chairperson Thomas: The variance goes with the property.

Bill Florea: There would be a record of this decision and it will be recorded in the land records that a title company would find in a title search.

Valerie Stevens: Does it matter if I build a residential building because I am in a quandary of what to do because it is not really the size of house I want. Could I build a shed? I just want to make sure I can build something on it so the property is worth something.

Chairperson Thomas: The application requests permission to build a 32 x 32 house with attached garage, that is what the applicant is applying for.

Valerie Stevens: So if it was anything different I would have to apply for it.

Chairperson Thomas: Yes.

Bill Florea: Any tract less than five acres can't have an accessory structure on it without a primary structure.

Valerie Stevens: I couldn't get a straight answer from the insurance companies when I went back with this map about flood insurance, they can't give me an answer. The bank isn't going to give me a loan.

Chairperson Thomas: This is not something the Board can help with. The applicant should talk to their lender.

Bill Florea: Another option is to talking to an engineer since there has been fill placed on the property it may be possible to apply to FEMA to adjust the map.

Valerie Stevens: I have already checked in to that. It is a \$600 fee and the surveying which costs \$2000-\$3000 with Allstate and they said that 99.9% of the time FEMA is going to say no. I am still upset that I was not notified about any of this. Is there any way to apply for FEMA to purchase my property?

Chairperson Thomas: That is a question for FEMA.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Bill Florea: Will the applicant need to get any closer to the north property line than 15 feet?

Valerie Stevens: No.

Bill Florea: The way the report was written it was indicated that there would be a front and side setback variance. If the Board grants the variance it would only be from the front setback.

Member Leipard: How much are we talking?

Bill Florea: No closer than 20 feet; 25 feet would be preferable, but it would be a good idea to give some wiggle room. When we locate these things in the field our mapping isn't 100% accurate with the aerial.

Chairperson Thomas: Is the setback from the structure, the foundation? What about driveways?

Bill Florea: Anything at grade doesn't matter. We are talking about the structure and a two feet overhang is allowed.

Valerie Stevens: The section that we are talking about will have to built up because of the land of what would be the backyard would be taller than the proposed house.

Chairperson Thomas: It doesn't look like there is much change in topography. It shows 772 feet and the low point is 768 feet.

Uriah Mach: It is Hinkson Creek so it is probably 764 feet.

Thad Yonke: The 100-year flood elevation on the flood plain development permit is 773.5 feet.

Bill Florea: That is the elevation that the water would be in a 1% flood.

Member Leipard: Is staff confident that 25 feet is enough?

Bill Florea: Yes.

Thad Yonke: There is a 20-foot utility easement that is already there and there is a 50 foot right of way through there.

Bill Florea: It is not a county-maintained road; it is in a county dedicated right of way but the road was never built to county standards so it is privately maintained.

Valerie Stevens: On the front of the property line there is water and sewer.

Thad Yonke: This property is eligible for public sewer so there will be no lagoon or septic system, otherwise she would have to ask for variances for those too.

Valerie Stevens: How can something like this fall in the cracks? I wasn't notified.

Thad Yonke: You wouldn't be notified.

Valerie Stevens: Everyone else was if there was a structure on the land. Just because I didn't have a structure on the land I wasn't notified.

Bill Florea: I can't answer that question.

Member Proctor: When would the applicant start building?

Valerie Stevens: Next year.

Chairperson Thomas: Is this going to be on a slab or a basement?

Valerie Stevens: Initially it was going to be a slab but now it that it is going to be in a lower area where the water pools I will have to have some excavation done and build it back up. The other built up part will cost about \$5400 just for the foundation because it was built up and I will have to have piers so that set me back a little bit. In this location if it is built up again we will have the same issue which is why I chose to go with a smaller home.

Thad Yonke: Any additional fill work will require a new flood plain development permit. The other permits were for the fill that is already there.

Bill Florea: Any construction activity on the property will require a flood plain development permit.

Member Proctor: If we make this motion we need to designate that it needs to be setback the 25 feet from the front property line.

Bill Florea explained staff's proposed condition to the applicant.

Valerie Stevens: Allstate stated this would cost \$2000 - \$3000 to do that.

Bill Florea suggested the applicant call around.

Thad Yonke: The survey has to be done anyway when it is this tight.

Valerie Stevens: How come FEMA didn't do that?

Bill Florea: They don't know where you are going to build.

Valerie Stevens: I have to build because their map changed. Did they not do any surveying to deem the new flood maps?

Chairperson Thomas: We can't answer that. We make the stipulation when you are within the setbacks.

Bill Florea: The extent of FEMA's mapping is what you see on the screen.

Valerie Stevens: Who do I go to that does so I can get more answers about FEMA? I am in this situation because of what happened and they would purchase the property from me.

Bill Florea: Staff could give the applicant a contact to FEMA.

Member Leopard: Wouldn't Allstate know?

Bill Florea: They probably would but I'm sure we have contact information in our office.

Thad Yonke: I don't know that you are going to get any answers from them but we can give you someone at FEMA to talk to.

Bill Florea: You could also contact your Congressperson and they could put you in touch with someone.

Thad Yonke: With any building permit, if you trying to build right at the setback line our inspectors do not survey the property. Any time you are that close the building code actually says the property owner has to show the inspector where the property line is accurately which essentially means you have to have a surveyor mark that line. It doesn't have to be a full survey of the entire property it just has to show what is specified in the proposed condition.

Valerie Stevens: Is the 25 feet from the road or the ditch?

Bill Florea: From your property line and that is what the surveyor needs to identify because it was platted in 1987. At that time they put markers in the field but after 30 years they are hard to find and they could even be gone. A surveyor can either find the markers or reestablish them and give a sketch that shows where it is in relation to where the flood way line is. That will be the building envelope in which the applicant can place their building. Staff will need to be able to verify that in the field.

Member Thomas made, and Member Proctor seconded a motion to approve the request by Valerie Stevens for a variance to construct a single-family dwelling within the setback of the A-2 zoning district on 2.5 acres located at 7700 N Deer Valley Ln, Columbia with the following two conditions:

1. Build no closer than 25 feet to the property line
2. The property owner shall provide a lot survey, prepared by a licensed land surveyor, that identifies the location of the west and north property lines, the boundary of the regulatory floodway, and the location of the building. Said property lines and floodway boundary shall also be staked on the property by a licensed surveyor in order to ensure proper location of the building. The survey shall be submitted with the building permit application. The field staking shall be in place at the time of the footing/setback inspection.

Member Thomas	Yes	Member Proctor	Yes
Member Leipard	Yes		

Motion to approve the request with conditions carries unanimously

## **OLD BUSINESS**

Certificate of decision – Tina Long 2018-013

Chairperson Thomas approved and signed the Certificate of Decision.

## **NEW BUSINESS**

Changes to by-laws.

Due to the lack of enough Members present as required to make changes to bylaws this item will be moved to the next meeting.

## **ADJOURN**

Being no further business Chairperson Thomas made and Member Proctor seconded a motion to adjourn. Motion to adjourn passes unanimously

Meeting adjourned at 7:35 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 27<sup>th</sup> day of June, 2019