

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, June 27, 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
Paul Zullo
Michael Leipard

Absent: Vacant Seat

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

The meeting was called to order at 7:00 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 April 25, 2019 meeting were approved as written.

REQUEST

1. Case Number 2019-002

Request by Dolores A. Wolfe for a permit for a mobile home as a second dwelling on 10 acres located at 8900 E Old Hwy 124, Hallsville. (**Zoning Regulations Section 15.C.4.d.**)

Planner, Thad Yonke gave the following staff report:

The site is located approximately one-mile northeast of Hallsville on Old Highway 124, there is a modular home, shed and barn on the property. The applicant requests to allow her daughter to place a mobile home on the property as a second dwelling to facilitate assistance due to the health of the applicant. The subject tract was originally zoned A-1. In 2009 the applicant requested the tract be rezoned to A-2 to effectuate a Family Transfer which did not occur. The reason cited for the rezoning at the time was for a family transfer due to health reasons. The requested variance is from Zoning Regulations Section 15.C.4.d which states “to permit, in case of practical difficulty or unnecessary hardship, for a period of two years, the location of a mobile home on a lot”. Staff notified 16 property owners about this request.

Present representing the request:

Ruby Annamarie Wolfe-Boyd, 8900 E Old Hwy 124, Hallsville
Dolores Wolfe, 8900 E Old Hwy 124, Hallsville

Ms. Wolfe-Boyd: My mom, Ms. Wolfe, is in bad health and I can move out there and be of help to her and take her to doctor appointments.

Open to public hearing.

Present speaking in favor:

Beverly Hargis, 14500 N Level Rd, Hallsville

Beverly Hargis: I have known Ms. Wolfe for 25 years and she is a good neighbor and she has helped her neighbors when she has been able to and now, she needs help. Being a widow and being by myself I can understand not wanting my children living with me, so I have no problem with them putting a trailer there for her daughter to live close by to help her. All the neighbors try to help each other out and Ms. Boyd will be an asset to the neighborhood.

No one spoke in opposition.

Closed to public hearing.

Member Proctor: When did the applicant purchase the property?

Ms. Wolfe-Boyd: I believe 1994.

Dolores Wolfe: It was purchased in February 1994.

Member Proctor: How many people currently live on the property?

Dolores Wolfe: Just me.

Member Proctor: Back in 2009 the applicants rezoned the property to A-2 for a family transfer. Why wasn't the family transfer completed?

Ms. Wolfe-Boyd: It just didn't work out for us, at the time neither me nor my siblings were able to move there.

Chairperson Thomas: The application was for a zoning change?

Thad Yonke: Yes, so that a family transfer could happen. The zoning went into effect so a family transfer can still happen.

Member Leopard: How big is the house that is there now? How many bedrooms and bathrooms?

Dolores Wolfe: It is three bedroom and two bathrooms.

Member Leopard: Is it on a basement?

Dolores Wolfe: No, it is a mobile home.

Chairperson Thomas: If they have the zoning change and they can do a family transfer then why is this request an option?

Thad Yonke: I am not sure why this application is before the Board. There may be some misunderstandings; those are questions the Board should ask.

Thad Yonke: (to applicants) Do you realize that what you are asking for is a temporary situation?

Ms. Wolfe-Boyd: I do understand that.

Thad Yonke: And it can only be done for a singlewide mobile home, it will have to have a separate wastewater system, you will have the costs associated with that for a temporary situation. If you were to do

the family transfer, you would have the same costs of setting up the trailer and putting in the waste water system except that will be permanent. The Board and staff are confused as to why the applicants want to go for a temporary situation when you will have to come back every two years and show that you have the same situation when you have it set up where you can divide the property into two tracts and the trailer could be there permanently.

Ms. Wolfe-Boyd: I don't believe she can divide the property yet; I think she has to wait a couple of years.

Mr. Yonke: Do you owe money on the property, is that why?

Ms. Wolfe-Boyd: Yes.

Mr. Yonke: So, there is a lien on the property that would prevent the family transfer from happening.

Member Leipard: If they do the family transfer, they could build a house, correct?

Thad Yonke: Correct, if they do a family transfer, they can place a singlewide, doublewide, or a site-built home. Even if the variance is granted tonight, they can still do a family transfer in the future.

Member Leipard: It would be two separate lots so as far as the bank is concerned...

Thad Yonke: It would be two separate pieces, but Ms. Wolfe would transfer title to one of the children and it would be in a different name. I can see why a bank might be reluctant to allow that; it adds another name into the mix that isn't on the original paperwork.

Member Proctor: If we granted the variance the applicant would have to come back in two years for review and we would have the option to say no at that time.

Thad Yonke: Yes, the Board could review it and if the property was paid off by that time, I would expect the applicants to have already completed a family transfer so that they aren't coming back every two years. It will become a permanent situation.

Chairperson Thomas: I would like to make a note for the record that there is currently a lien on the property.

Member Thomas made, and Member Proctor seconded a motion to approve the request by Dolores A. Wolfe for a permit for a mobile home as a second dwelling to be reviewed by the Board in two years on 10 acres located at 8900 E Old Hwy 124, Hallsville

Member Thomas	Yes	Member Proctor	Yes
Member Zullo	Yes	Member Leipard	Yes

Motion to approve the request carries unanimously

Thad Yonke informed the applicant that they would need to obtain a building permit from Resource Management and to also look at where they are placing the new singlewide so the property will be able to be divided in the future.

2. Case Number 2019-003

Request by Michael L. Proctor, Steven R. Proctor, Angela D. Enochs and Aaron S. Proctor for a variance from the 50-foot front setback in the A-2 zoning district for an existing single-family dwelling on 6.9 acres located at 14160 N Rte E, Harrisburg (**Zoning Regulations Section 10.A**).

Planner Thad Yonke gave the following staff report:

The site is located on State Highway E approximately 800 feet south of State Highway 124. The site is $\frac{3}{4}$ mile southeast of Harrisburg, there is a single-family dwelling on the property. Part of the house extends into the front setback. The original zoning for this site is A-2. In 1985 a conditional use permit was granted for the parent parcel to allow a 4th dwelling on a tract larger than ten acres (parent parcel was 14 acres). The property was subsequently split into the several parcels. The existing house on the subject tract was built in 2010. The requested variance is from Zoning Regulations 10.A which stipulates that structures must be at least 50 feet from the front property line. Staff notified 20 property owners about this request.

Present representing the request:

Steve Proctor, 7001 Stidham Rd, Harrisburg

Steve Proctor: My mother owned this property and she passed away about a year ago and my siblings and I inherited the house. We originally thought we were going to keep the house in the family, and it would go to one of the grandchildren but that fell through so at that point we decided to sell the property. I am a land surveyor and upon locating the house I discovered that about 4 to 5 feet of the garage portion of the house is within the front setback. Before we put it on the market, we were going to survey a portion of it out for my brother who lives south of the adjoining property but after that my sister decided to buy the house. Since we had already applied for the variance we wanted to go ahead and move forward with the request. I think what happened when the house was built the building inspector asked the contractor where the property line was located. The property has never been surveyed so the contractor pointed to where he thought it was and measured 50 feet back. A lot of these state highways have varying widths and most of them are probably 30 feet wide but this one is 35 feet wide.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas: The house is 4 to 5 feet within the setback?

Steve Proctor: Yes, it is a portion of the garage. My sister and her husband are going to be remodeling and adding to the back side of the home.

Chairperson Thomas: How old is the house?

Thad Yonke: According to the staff report it was built in 2010.

Member Zullo made a motion to approve the request with the as is, where is condition.

Mr. Yonke: The applicant indicated they wish to remodel and possibly add square footage to the rear of the

house. With the condition, does the Board intend to allow the potential buyer to add on to the rear of the house? The as is where is condition pertains to the existing footprint of the home.

Chairperson Thomas: The applicants can add to the back of the house but can't add additional square footage within the setback.

Member Zullo made and Member Leipard seconded a motion to approve the request by Michael L. Proctor, Steven R. Proctor, Angela D. Enochs and Aaron S. Proctor for a variance from the 50-foot front setback in the A-2 zoning district for an existing single-family dwelling on 6.9 acres located at 14160 N Rte E, Harrisburg with the following condition:

1. 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 Proctor	Yes
Member Zullo	Yes	Member Leipard	Yes

Motion to approve the request with condition carries unanimously

OLD BUSINESS

Certificate of decision – Case 2019-001 Valerie Stevens

Chairperson Thomas approved and signed the Certificate of Decision.

NEW BUSINESS

Changes to by-laws.

The following is a summary of the proposed changes to the bylaws:

Section 4.F – Changes the sub-section letter. Original 4.F was deleted by the Board on March 24, 2016.

Section 5.B – New Section – As identified for rezoning and conditional use permit requests, Zoning Ordinances Section 15.A.1 and 15.F.2.A

Section 5.C, 5.D, 5.E, 5.F, 5.G. – Changing sub-section letter due to addition of new Section 5.B

Section 5.H – Was section 5.G; added “All exhibits shall first be submitted to the Secretary of the Board so it may be identified for the record”. This adds to the bylaws what was discussed with the Board regarding meeting procedures.

Sections 5.I, 5.J, 5.K – Changing sub-section letter due to addition of new Section 5.B.

Section 8.G – New section – This adds to the bylaws what was discussed with the Board regarding meeting procedures.

Section 8.G – 8.O – Updated sub-section letter due to addition of new Section 8.G.

Section 8.H as updated – changes verbiage.

Section 9.D & 9.E – updated section letters to account for deletion of old section 9.D which was deleted by the board in August 2017.

Section 13.A. – The proposed change in this section was not shown in the previous proposed bylaws given to the Board in March 2019. Staff proposes to change this section to: “The Board may, by ~~four~~ three positive votes of the Board, modify, change, add to or repeal any of the rules herein written, but such modification, change, addition or repeal shall comply in all respects to existing laws and the Ordinances of the County of Boone and the State of Missouri.”

Chairperson Thomas: Regarding Section 13.A, why the change from four to three members?

Bill Florea: We have struggled getting four members to a meeting, this takes it to a simple majority of members. If the Board is not comfortable making the change, that is fine too.

Bill Florea: Section 5.B is a new section that mirrors our Zoning Regulations in terms of zoning applications. This is so applicants aren’t continuously turning in the same request.

Thad Yonke: Nothing prohibits applicants from coming back and asking for a significantly different request.

Member Proctor: I am glad you put the withdrawn in there because they will come in and get a feel for how it will go and then withdraw so I am glad they have to wait a year.

Bill Florea: Correct, they will have to substantially change the request before bringing it back or wait a year.

Member Thomas made and Member Proctor seconded a motion to approve the changes to the bylaws as presented effective this date.

All members voted in favor, none opposed.

ADJOURN

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

Meeting adjourned at 7:38 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 25th day of July, 2019