

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
Michael Leipard

Absent: Paul Zullo
Vacant Seat

Staff: Bill Florea, Senior Planner Uriah Mach, 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 June 27, 2019 meeting were approved as written.

REQUEST

1. Case Number 2019-004

Request by Pete Grathwohl on behalf of GPD Development LLC for a variance from the minimum lot depth on 16.75 acres located at 11201 E I-70 Drive NE, Columbia. (Subdivision Regulations, Appendix B, Section 1.8.2)

Planner, Bill Florea gave the following staff report:

The property is 16.75 acres and zoned R-M, moderate density residential. Adjacent zoning is A-1 to the north and to the east, south, and west is zoned R-M. This site is located on I-70 Drive NE approximately two miles east of the Route Z interchange on I-70. There is a house and several accessory structures on this property. The applicant wants to subdivide the house from the remainder of the property and the accessory structures. The existing accessory structures are located such that it is unlikely that the property can meet the minimum depth requirements in the subdivision regulations and meet the minimum setbacks for the remaining structures. The original zoning for this area is R-M, there have been no other requests submitted for this site. The requested variance is from Subdivision Regulations, Appendix B, Section 1.8.2, Table A, which requires a lot to have a depth of at least 250 feet. Staff notified 17 property owners about this request.

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 subject property is a 16.75 acre tract zoned R-M on I-70 Drive NE approximately 2 miles east of the I-70 interchange with State Route Z. The applicant wants to subdivide the property so that the existing house will be separated from the accessory structures on the remaining tract creating a greater than 2.5 acre tract. There is an accessory structure located north of the house but its proximity makes it impossible to comply with minimum setbacks between property lines and still comply with the minimum lot depth required in the regulations for lots 2.5 acres or larger. Appendix B Section 1.8.2 of the Subdivision Regulations state "Lot depth shall comply with Table A." Table A sets a minimum lot depth of 250 foot for lots that are 2.5 acres and larger. The accessory building is approximately 230 feet from the front property line.

- a. The applicant will not incur unreasonable and unnecessary hardship. The property is zoned R-M and could be subdivided into lots smaller than 2.5 acres. The regulations allow a minimum lot depth of 125 feet for lots of 0.5 acres up to 2.5 acres, and 100 feet on lots smaller than 0.5 acres. The R-M zoning allows lots as small as 2500 square feet so the minimum can be obtained without a change in zoning.
- b. Granting this variance will not endanger the health, safety, or welfare of the public.
- c. Granting this variance will not thwart or circumvent the general intent of the regulations.

Staff recommends that this variance be denied.

Chairperson Thomas asked if staff heard from any neighboring property owners.

Bill Florea stated he received a call from a property owner who wanted more information regarding the request, once that was explained they had no issue with it.

Paula Evans stated she received a call from a neighbor who asked questions, the caller mentioned they would be attending the meeting tonight.

Present representing the request:

Pete Grathwohl, 5603 Light Post Ct., Columbia

Pete Grathwohl submitted an exhibit of the proposed layout of the new lots. This was marked as Exhibit A.

Pete Grathwohl: My family and I bought this property and our intent was that the house was going to be my son's and the barn was going to be my wife and son's hobby place and there is also a lake north of that which my kids and grandkids enjoy. The purpose was to put my son in the house and we could enjoy the barn and lake. Since then my son has lost his job and he has had some health concerns and he will not be able to live in the house or purchase it because he has no job right now. My wife suggested selling the house off and keep the barn so they could do their hobbies and still have the lake for the grandchildren. I first started with Crockett Engineering and they informed me that I had hurdles to overcome because the big building is too close to the road so I would need a variance. I then spoke with Bill Florea who helped me quite a bit on what I needed to do and what the procedure was. I have spoken with one neighbor, Kenny Cook, who asked what my reasoning was and I explained to him that I was just trying to sell the house and recoup some of the costs.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition to the request:

Kenneth Cook, 11351 I-70 Drive NE, Columbia

Kenneth Cook: I oppose this request; I have 20 acres that adjoins the applicant's property plus 12 acres behind that my step-son owns. We moved out there to be in the country, we turned down purchasing the house due to the income years ago from the original owners, there is only one lagoon on the property and there are four buildings.

Also present speaking in opposition:

Josh Dennison, 11021 I-70 Drive NE, Columbia

Mr. Dennison submitted a letter from Bruce and Lisa Brown which voiced concerns regarding sewer and traffic.

Josh Dennison: My mother in law, Jean Payne owns the next property down the road and Duvall Road. We understood this to be a subdivision where they were going to mark off the back lots of this property to make individual houses for sale on 2 or 3 acre tracts. Duvall Road is a private road, if there were going to be 2.5 acre tracts in the back side of this property we are not going to allow access on Duvall Road so whoever developed the property would have to have some type of easement running along what is there now to get to I-70 to access the back of the lot. We are concerned with infrastructure like sewer type issues. They will have to have some kind of easement to get to the back of the property via I-70 Drive NE.

Also present speaking in opposition:

Betty Lathrop, 1470 N Duvall Rd, Columbia

Betty Lathrop: I bought my property with all of the scenery of country living and I don't want another housing development around us. I like the quiet and I'd like to continue to have the quietness. I oppose the request.

Closed to public hearing.

Pete Grathwohl: I understand their concerns but I have no intention of subdividing the property. The property is in an LLC to protect myself because I own rental property. I just want to keep the pond and the barn and sell the house.

Chairperson Thomas: The part the applicant is talking about subdividing is the front part of the property with the house on the left side.

Pete Grathwohl: Yes.

Chairperson Thomas: The structure behind it is the one you want to keep?

Pete Grathwohl: Yes.

Chairperson Thomas: If the minimum lot depth for 2.5 acres is 250 feet and if he made it 2 acres would that change the minimum lot depth requirement?

Bill Florea: Yes, but he would have to have a central sewer system because you need a minimum of 2.5 acres to have an onsite wastewater system.

Member Proctor: When was the house built?

Pete Grathwohl: 1961.

Member Proctor: When the accessory structure built?

Pete Grathwohl: I am not sure, it was there when I purchased the property.

Member Proctor: (to staff) was this a permitted structure?

Bill Florea: Yes.

Member Proctor: If this request was granted they would be sharing a driveway with the house and accessory structure.

Pete Grathwohl: Yes, there is a circle drive and the drive goes back to the shed.

Member Proctor: Is the accessory structure too close to the property line?

Bill Florea: No. The property is zoned R-M which has a side setback of 6 foot. According to the drawing the applicant is proposing 25 feet between the front of the accessory structure and the new property line which is the minimum for R-M zoning.

Member Leopard: It is already zoned for a subdivision.

Bill Florea: It is zoned R-M which is multi-family. If there were the proper infrastructure in the area, such as central sewer and water, all of that R-M zoning could be developed as multi-family or single family.

Chairperson Thomas: But there is no central sewer there.

Bill Florea: Correct, that is the biggest constraint now.

Chairperson Thomas: Why does staff recommend that this variance be denied? It sounds like the real issue is the 2.5 acres for the lagoon. It has to be 2.5 acres for the lagoon but it is not meeting the lot depth.

Bill Florea: Correct.

Chairperson Thomas: Does staff think there is another way that it can be subdivided to meet the lot depth and the 2.5 acre minimum?

Bill Florea: Yes.

Chairperson Thomas: Where is the lot depth issue?

Bill Florea: From the right of way to the proposed property line that would be just south of the existing shed is 200.25 feet, the depth would have to be 250 feet in order to comply.

Chairperson Thomas: So the problem is the 25 foot setback they are trying to keep with the accessory structure.

Bill Florea: It is possible to subdivide and keep the accessory structure on the lot with the house but the applicant wants to keep the accessory structure, it is just personal choice that has rendered this problem. This property could be subdivided and you could create a lot that is 250 feet deep but it is not what the applicant prefers.

Member Leipard: The distance isn't going to cause a problem for utilities?

Bill Florea: I don't believe so, eventually this area will develop with that zoning it is just a matter of someone who is willing to put in the sewer and water to the site. At that time everything is going to be brought down below 2.5 to 5 acres anyway.

Kenneth Cook: That is speculation.

Bill Florea: I don't believe it is.

Kenneth Cook: You are saying that in 5 or 10 years you think the place will be subdivided into five acres, that is speculation.

Bill Florea: What I am saying is that zoning allows that.

Kenneth Cook: I own next to what used to be a trailer park and it is multiple family, it is still listed as that so if we wanted to we could open up a trailer park?

Bill Florea: Not necessarily a trailer court.

Kenneth Cook: Why not?

Bill Florea: I don't believe this is the proper time for this discussion.

Chairperson Thomas informed the audience that the public hearing portion of the meeting has been closed.

Chairperson Thomas: What we are talking about is this variance specifically, we are not talking about developing the area. The area right now is zoned to allow for subdividing if someone brought sewer and water to the site.

Mrs. Cook: Where would you put the lagoon for the house?

Chairperson Thomas again informed the audience that the public portion of the hearing has been closed any concerns should have been brought up at that time.

Member Leipard: That would have to be brought up.

Bill Florea: If the Board granted the variance and the applicant proceeded to divide the property part of the review process would be to ensure a wastewater system was on the property to serve the house.

Member Proctor: The Board can grant variances in the case of topography or other extra-ordinary circumstances; this request is a personal preference.

Member Proctor made, and Member Thomas seconded a motion to deny the request by Pete Grathwohl on behalf of GPD Development LLC for a variance from the minimum lot depth on 16.75 acres located at 11201 E I-70 Drive NE, Columbia

Member Thomas	Yes	Member Proctor	Yes
Member Leipard	Yes		

Motion to deny the request carries unanimously

OLD BUSINESS

Certificate of decision – Case 2019-002 Dolores A. Wolfe

Certificate of decision – Case 2019-003 Michael L. Proctor, Steven R. Proctor, Angela D. Enochs and Aaron S. Proctor

Chairperson Thomas approved and signed the Certificates of Decision.

NEW BUSINESS

1. Annual Election of Officers

Bill Florea opened the floor for nominations for Chairperson.

Member Proctor nominated and Member Leipard seconded Member Thomas as Chairperson. No other nominations were made. All members voted in favor of Member Thomas as Chairperson.

The floor was opened for nominations for Vice-Chairperson.

Member Thomas nominated and Member Proctor seconded Member Leipard as Vice Chairperson. No other nominations were made. All members voted in favor of Member Leipard as Vice Chairperson.

2. August Board of Adjustment Meeting

The Board was informed that Resource Management has already received requests for the August 22, 2019 meeting. Member Zullo had already informed the department that he would be unable to attend the August meeting. After checking their calendars Chairperson Thomas and Member Leipard both stated they would be unavailable for the August meeting. Chairperson Thomas stated that with the Labor Day Holiday many people's schedules will be full and requested that items for August be placed on the September 26, 2019 agenda due to lack of a quorum for the August meeting.

ADJOURN

Being no further business the meeting was adjourned at 7:41 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 26th day of September, 2019