

**BOONE COUNTY BOARD OF ADJUSTMENT**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, June 25, 2020

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  
Jesse Stephens  
Rhonda Proctor  
Michael Leipard  
Paul Zullo

Absent: None

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

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

Member Leipard made, and Member Stephens seconded a motion to amend the agenda to add a Stream Buffer Regulations presentation

All members voted in favor, none opposed. Agenda amended.

Chairperson Thomas read the following 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. The applicant or the applicant's representative may make a presentation to the commission. The Board may request additional information at any time.

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 unless requested by the Board. The Board will then discuss the matter and may ask questions of anyone present during the discussion.

Please sign in and give your name and mailing address when you address the Board. Please speak directly into the microphone so your remarks are properly recorded. 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.

Minutes of the February 27, 2020 meeting were approved as written.

## **REQUESTS**

1. Case Number 2020-003

Request by Gabriel Guerra and Yvette Guerra for a variance to allow an accessory structure to be constructed in front of an existing single-family dwelling on 2.51 acres located at 545 W Worstell Ln, Columbia. **(Zoning Regulations, Section 7.A.(5))**

Director, Bill Florea gave the following staff report:

This 2.51 acre property is zoned A-R (agriculture-residential) as is the adjacent zoning. The site is located 4.4 miles north of the Columbia city limits, there is a single-family dwelling on the property. The applicant wishes to construct a 40 x 40 garage in the front plane of an existing dwelling. In 2018 a building permit for a single-family dwelling was issued to a previous owner, construction of the home was completed in February 2020. The home was located on the rear of the property 25 feet from the rear property line. The original zoning for this property is A-R, there have been no previous requests submitted for this site. The requested variance is from Zoning Regulations Section 7.A.5 "no accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall. Staff notified 29 property owners.

Chairperson Thomas asked if staff heard from any neighbors.

Bill Florea stated no.

Present representing the request:

Yvette Guerra, 545 W Worstell Ln, Columbia  
Gabriel Guerra, 545 W Worstell Ln, Columbia

Gabriel Guerra: We are trying to build a 40 x 40 structure for a garage to be installed just south of the existing house. The current aerial shows an old lagoon and that is no longer there, it has been moved over to the east of the house and the old lagoon was filled in. Every where else around the perimeter has a flood issue, the house is on the highest point of the property. Just south of that to the left of the old pond there is a spot where we plan to build the structure. You cannot see the structure from the street because of all the cedars in front of it, but where you can see it is from the angle of where the existing pond is where Boone Electric had cut out trees and put in power lines to install a transformer to feed the house. The feed goes directly toward the north then goes across to the west. If we tried to put a building anywhere else it would be in the way of Boone Electric; we want to put it at proposed location number 1, it would be the best spot for it to go, it is really the only spot.

Open to public hearing.

No one spoke in favor or opposition of the request.

Closed to public hearing.

Chairperson Thomas asked staff the intent of this regulation in not having an accessory building in front of a residence.

Bill Florea: Both aesthetics and safety so there is no confusion in trying to find the home if there is an emergency and also so the home is more visible than the accessory structure.

Member Stephens: There has been grading done since the house was built?

Gabriel Guerra: Yes. Other than the pond, it has been filled in.

Member Stephens: There looks to be a drainage swale on the west side of the house, is that what the applicant meant when he spoke of a swale?

Gabriel Guerra: Yes.

Yvette Guerra: The house can be seen more from Worstell, the shop won't even be visible.

Member Leopard: Is the intent also to be able to get to it? If the accessory was too much in front of the house it would be hard to get to it.

Bill Florea: That is correct.

Yvette Guerra: When you come off of Worstell Lane going up the drive it is the only way you can get to the property because of all the trees.

Member Leopard: Is it going to be on the hill?

Yvette Guerra: It is going to be built in front of all the trees.

Gabriel Guerra: Referring to the map submitted with the application, proposed location 1, south of the house there is no access for EMS, to the right of that there is a dotted line showing the high voltage line

that Boone Electric had cut out an easement just for the power line, not a drive because there is a natural drainage that runs through that location. For proposed location number 1, the only accessibility is up the driveway and that is the only way EMS or anyone can get on the property. Everything else to the east is not usable.

Member Stephens: Where is the sanitary sewer?

Gabriel Guerra: By proposed location 2 there is a green dotted line on the map leading to the lagoon.

Member Stephens: Proposed location 2 is south of the dotted line due to the sewer running through.

Gabriel Guerra: Correct.

Member Leopard: Do the applicants plan to put electric in the building?

Gabriel Guerra: It will not have a sewer and will have just enough power for lights.

Member Stephens: Which way would the garage doors face?

Gabriel Guerra: They would face the west toward the driveway.

Member Zullo: Will the trees be taken out that sits in front of it?

Gabriel Guerra: The little trees have already been taken out.

Bill Florea reminded the Board that there are criteria that must be addressed when considering the request and there needs to be a deprivation of use. As the Board considers the request keep in mind that if there is a compliant location it is difficult to make that finding.

Chairperson Thomas: What is wrong with the second location?

Gabriel Guerra: The second location is on a slope on fill dirt and the area still ponds with a lot of rain. We are also close to the underground line for Boone Electric and right below the overhead lines.

Member Stephens: What is considered the front plane of the house? Is it based off of street frontage?

Bill Florea: Yes.

Member Stephens: Technically location 2 would require a variance.

Bill Florea: Location 3 is the only one that would be compliant.

Member Stephens: That is the one running through the drainage soil.

Gabriel Guerra: Yes, all my neighbor's drainage runs through there. There are also power lines going across there. If we went with location 3 a lot of work would have to be done.

Member Stephens: What is the side yard setback?

Bill Florea: Six feet.

Member Stephens made, and Member Proctor seconded a motion to approve the request by Gabriel Guerra and Yvette Guerra for a variance to allow an accessory structure to be constructed in front of an existing single-family dwelling at proposed location number 1 as shown on the application, on 2.51 acres located at 545 W Worstell Ln, Columbia with the following condition:

- That all other setback requirements are met

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

Motion to approve the request carries unanimously

2. Case Number 2020-004

Request by Sara Glydewell-Lewis for a variance to allow an accessory structure to be constructed in front of an existing single-family dwelling on 1.8 acres located at 1653 W Hwy 124, Harrisburg **(Zoning Regulations, Section 7.A.(5))**

Planner, Thad Yonke gave the following staff report:

This 1.8 acre tract is zoned A-R (agriculture-residential), the adjacent zoning to the north, east and west is also A-R, property to the south is zoned A-2 (agriculture). The site is located 5.9 miles east of the Harrisburg city limits, there is a single-family dwelling on the property. The applicant wishes to construct a detached garage southwest of the existing house. The existing home is located on the rear portion of the property and is estimated to have been built in 1976. The original zoning of this property is A-2, the property was rezoned to A-R in 1976 and then platted as part of the Country Boy Estates Subdivision. The requested variance is from Zoning Regulations Section 7.A.5, no accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall. Staff notified 27 property owners.

Present representing the request:

Adam Lewis, 1653 W Hwy 124, Harrisburg  
Sara Lewis, 1653 W Hwy 124, Harrisburg

The applicants made a power point presentation.

Adam Lewis: The attached garage is in bad shape so we hope to be able to rebuild it and add an extension on to the house and build a detached garage to the south of the house. There is a level spot that has been built up off the west of the driveway. There would be a turn-around built up on the east side on the other side of the driveway. The house sits pretty far back on the property but the proposed garage shouldn't obstruct the view of the house. The house sits on somewhat of a hill and slopes off all around it, we can't build on the right side because the septic is there. We will still have to build a 3 to 4 foot stem wall in the back because of the slope on the left but that would be the best place to build it. Steve Proctor from Central Counties Surveying came out and he agreed that the proposed area would be the best place for it. The east side has a septic line going from the deck.

Member Zullo: Is it the slope of the house making you put it so close to the driveway? Is there no way to scoot it back more?

Adam Lewis: Toward the lake?

Member Zullo: Yes. If you have an emergency vehicle going through there you are right in the driveway.

Adam Lewis: It slopes pretty drastically once you get off the back side of where it was built up. There is a turn-around spot already on the east side of the driveway and we hope to make that a little more official and have a circle drive on the east side.

Member Zullo: Is there an attached garage now, is it not usable?

Adam Lewis: There is an attached garage on the south side, you can't park in there right now it is very badly cracked and there is a void under the side closest to the house.

Member Zullo: What do you plan on doing? Are you going to close it in for the house when it is fixed?

Adam Lewis: Yes.

Sara Lewis: Our house is a two bedroom and we have three kids and that is the only direction we can build on.

Member Zullo: Can you get a fire engine in between that and the trees? On the diagram of the proposed location it looks to be right at the edge of the driveway. Our concern is dealing with emergency vehicles.

Adam Lewis: I could slide it back but I would have to fill more and build a higher stem wall because of the drop off. I could get it closer to the house but I wanted to keep a decent gap between the garage and property line.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas: The applicant is talking about using the current garage as living space, what keeps you from just building off the common wall of the garage?

Adam Lewis: It is cost prohibitive, right now we would have to build up the roof line and extend it with the same type of material. We are hoping to do a metal building.

Member Leopard: Is there an issue about how far from the driveway they have to be?

Bill Florea: No. It is a private driveway.

Member Leopard: I would like to see a better drawing showing where it is going to be and how much room a fire truck would have to get in.

Member Stephens: The Boone County Fire District requires at least a 26-foot wide drive

Member Leipard: To get out of there the fire truck would almost have to back out.

Chairperson Thomas: But that is the case now.

Sara Lewis: Are you saying they can't get down it now?

Member Leipard: I would like to see a better drawing showing the width of the driveway.

Sara Lewis: We have had an ambulance come down the driveway but I don't know about a fire truck.

Adam Lewis: We do plan on widening the driveway toward the house, would that help with the decision?

Member Leipard: What size is the proposed building?

Adam Lewis: We hope for a 30 x 40, if it helps to move it back off the driveway a little bit we can do that but we were planning on using the existing fill.

Member Leipard: Can we ask the applicant to bring a drawing back?

Thad Yonke: Does that really have any direct bearing on the topography making it necessary to have the building in front of the house? They will have to make the driveway work anyway to be able to get vehicles in and out. The requested variance is based on the fact that they really can't put an accessory structure anywhere else. The applicants have shown that the property slopes off on all the other sides of the property. While I understand, I don't know that it is relevant to the request that the applicants have made.

Member Leipard: If we were to approve the request based on the topography then who approves that the driveway is wide enough for a fire truck to get in? They could put their garage half into the driveway.

Thad Yonke: That is not reviewed by anyone.

Bill Florea: It is not pertinent to us and there actually is no fire code that addresses that for single family residences. There are standards that apply as Member Stephens mentioned, but that applies to commercial projects or new subdivisions. By addressing this if they wanted to get the fire district involved they could ask them what they would like the applicants to do.

Member Stephens: The doors of the garage face the east. To physically get a vehicle in the garage there is no way you could do it unless you have something about 26 feet wide in front of it or you wouldn't be able to turn into the garage.

Sara Lewis: We did have to take some trees down already in the front because they wouldn't be able to get concrete trucks back there. We would be willing to widen the driveway.

Member Stephens: Where the garage is facing is where you would make the turn-around area?

Adam Lewis: Yes.

Member Proctor: They aren't going to be too close to the side setback?

Bill Florea: That is a 6-foot setback.

Adam Lewis: From the corner of the garage it will be close to 20-feet from the property line.

Member Stephens: The neighbor that lives closest to this didn't call did they?

Thad Yonke: No one called to object.

Chairperson Thomas: I want to be sure when we make a motion that we locate the building.

Member Thomas made, and Member Stephens seconded a motion to approve the request by Sara Glydewell-Lewis for a variance to allow an accessory structure to be constructed in front of an existing single-family dwelling on 1.8 acres located at 1653 W Hwy 124, Harrisburg with the following condition:

- The proposed building is located on the property as shown approximately on the submitted drawing.

Member Thomas	Yes	Member Leopard	NO
Member Proctor	Yes	Member Zullo	Yes
Member Stephens	Yes		

Motion to approve the request carries 4 YES 1 NO

3. Case Number 2020-005

Request by Randall & Kristine Fry for a variance from the front setback for a new accessory structure located at 24001 S Missouri River View Dr, Hartsburg (**Zoning Regulations Section 10.A**)

Director, Bill Florea gave the following staff report:

This 5.02 acre site is located ten miles south of Ashland and 1.5 miles from the Callaway County line. The current zoning is A-2 (agriculture) as is the surrounding property. There is a single-family dwelling on the property. The applicants wish to construct a detached garage that would encroach the front property line. The original zoning for this property is A-2, there have been no previous requests submitted for this site. The requested variance is from zoning regulations 10.A which stipulates that structures must be at least 50-feet from the front property line in A-2 zoning. Staff notified 12 property owners.

Chairperson Thomas asked if staff heard from any of the neighbors.

Bill Florea stated no.

Present representing the request:

Randall Fry, 24001 S Missouri River View, Hartsburg

Randall Fry: I am asking for a 30 x 40 detached garage and for a variance due to the topography. Everything on the north side of the property is laterals for the septic system so I am not considering that area. There is a gravel pad that the previous owners placed and that is where I would like to build the



structure. There are two large pine trees that I would like to keep closer to the road ditch but I can trim some of the limbs back. The primary use for the building would be to house a pickup, a small tractor and implements. I would like to have electricity in it for lighting and possibly a 30 amp to plug in a camper. If I understand correctly I would have to build 75 feet from the center line of the road.

Thad Yonke: There is a 50-foot setback from the 25-foot half-width right of way so 75-feet would work.

Randall Fry: I would like to build it around 40 feet from the center of the roadway which would come right next to the pine trees. As far as emergency access I have seen EMS and fire trucks parked along the road for emergencies along Missouri River View.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas: This isn't in the front plane?

Thad Yonke: It will be in the front plane but it complies with the regulations because the property is larger than five acres.

Member Leopard: Is there electric, sewer and water running along the road?

Thad Yonke: There is no central sewer in this location.

Bill Florea: Does the applicant have public water?

Randall Fry: Yes.

Bill Florea: Do you know which side of the road the water lines run?

Randall Fry: I am not sure where the water lines are. The electric lines are on the other side of the road.

Member Stephens: The sewer is located north of the house, it is a septic tank with laterals?

Randall Fry: All of the laterals were moved to the front.

Member Stephens: Is the drip field running into the trees?

Randall Fry: Yes.

Member Stephens: Is the house a walkout basement?

Randall Fry: Yes.

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

Bill Florea: Anything closer than 75 feet from the centerline of the street would be in the setback. On one of the diagrams the applicant submitted there is a 20 x 40 and a 30 x 40, are those two options?

Randall Fry: Yes, I would rather have the larger one. I don't think I could get an RV and a vehicle in the smaller one. I would like to make it a drive-thru.

Member Zullo: How would you make the change if it is a pull-thru?

Randall Fry: I would put a garage door on both ends of the garage.

Member Zullo: If you are driving through where are you going to?

Randall Fry: I would drive further south on the county road and then have a culvert and driveway.

Member Stephens: There would be a second driveway entrance.

Member Leopard: The applicant wants to place the building 40 feet from the road?

Member Stephens: He stated 40 feet from the centerline of the road.

Bill Florea: You would subtract 25 feet for the half-width of the right of way so it would be 15 feet from the front property line.

Member Stephens: I don't know what side of the street the water line is but there may be an easement and we wouldn't know what the width of that is without finding that document; if it is on the other side of the road there may not be an easement.

Randall Fry: Is this something they would have to approve with the building permit as well?

Member Stephens: It would need to be checked.

Thad Yonke: If the Board is inclined to grant the variance the Board could state that they have to stay out of any recorded easement.

Member Stephens: My issue is that going from 50 to 15 feet is a big ask. It looks like there is some leniency there if it were to move 15 to 20 foot further back it looks fairly flat until you get 10 or 15 foot back from the garage. I am not inclined to think that 15 feet is appropriate, there could be easement issues but 15 seems way too close to the road.

Member Zullo: Are you talking about removing 20 feet from the building to accommodate the placement? The applicant couldn't put his RV in it but that is not pertinent to the Board, it is the placement of the building. I agree that is too close.

Member Stephens: Those measurements are off the center of the road and we have to think about the setback from the right of way line, not from the center of the road.

Member Leopard: What do you think about 25 feet?

Member Stephens: Is there anything else out there that close to the road?

Staff showed the aerial map of the area.

Member Stephens: There doesn't appear to be anything else that close. The other consideration is what is an undue topographical situation and I know once you get to 3:1 or 4:1 slopes and try to fill on that it is

pretty much impossible but I think these are more shallow than that. According to the topographical map it seems to be 7:1 or 8:1 slopes so it is fillable. The farther south you go you start to get some pretty steep terrain. I don't see the terrain as something that can't be overcome.

Randall Fry: I put an option there for site 1 to go 50 feet instead of 40 feet from the center of the roadway.

Thad Yonke: The right of way is 25 feet so that would be a 25 foot setback.

Member Stephens: It is definitely better than 15 feet and is probably outside of any easement.

Thad Yonke: The easement is likely to be 10 or 20 feet if there is one.

Member Stephens: There will be an RV and truck in the building, will it have multiple garage doors?

Randall Fry: Yes. One of them big enough for an RV which would be the one closer to the road and the one that I park my truck in daily would be on the left side. My builder thought that going further down probably wouldn't be worth the cost.

Member Stephens: There is a practical limit and that is what I am trying to figure out.

Member Leopard: Were you thinking the 20 x 40 would allow him that?

Member Stephens: It appears that 50 feet off the right of way line is somewhere about, I think he has the back line of his shop about where the setback line is. If we ask you to hold it behind the setback line I don't know if you would try to flip it and try to pull in at a different direction. At that point, if you keep moving it further down 30 feet is going to be about 5 to 6 feet. At 25 feet you are still kind of downhill but you are more like 4 feet of grade change. No matter what you do you will have to do some pad leveling it is just a question of how much. In the current location you show that you probably have about 3 feet of pad leveling, if you would adhere to the setback you probably have more like 6 feet.

Member Stephens: It looks like the house is about 60 feet from the road.

Randall Fry: It is about 80 feet from the centerline.

Member Stephens: I am trying to make sense out of where the topography becomes bad. Somewhere between 35 and 40 feet off the road you will still have the ability to put garage doors in without getting in the front plane of the house before you start getting into more serious fill.

Randall Fry: With the current restrictions I wouldn't be able to build more than five feet out of the front of my house.

Member Stephens: Correct. Currently the way the regulations are written you more or less would be stuck with doing something similar to the house which is to build the grade up and front the garage doors facing the road. The variance would give you a little more flexibility.

Member Thomas: The Board is going to vote on the motion and if it passes the applicant can choose whether or not to build.

Member Stephens made, and Member Leipard seconded a motion to approve the request by Randall & Kristine Fry for a variance from the front setback for a new accessory structure located at 24001 S Missouri River View Dr, Hartsburg with the following condition:

- The building be no closer than 35 feet from the right of way line.

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

Motion to approve the request carries unanimously

4. Case Number 2020-006

- a. Request by Jesse Leach Jr for a variance from the side setback for an existing accessory structure located at 6652 N Rte E, Columbia (**Zoning Regulations Section 10.A**) Building A.
- b. Request by Jesse Leach Jr for a variance to allow creation of a platted lot having a stem in excess of 59 feet in width located at 6652 N Rte E, Columbia (**Subdivision Regulations, Appendix B 1.8.1 Tier Lots**).

Planner, Thad Yonke gave the following staff report:

This 18.4 acre site is located 3.6 miles north of the Columbia city limits, there is a single-family dwelling and several outbuildings on the property. The applicant wishes to divide the property into two tracts, there are several outbuildings on the property. The proposed property division shows that lot 2 will have a stem that is in excess of 59 feet in width which requires a variance from the subdivision regulations. The applicants are also requesting a side setback variance for building A. The original zoning for this property is A-2. The property was surveyed in 2001 and created a tier lot which was indicated as 52.25 feet in width which would have met the subdivision regulations, however, an additional 8 feet in width was indicated separately for a total of 60.25 feet. Outbuilding A was not shown on the survey and no building permit was located therefore the size and age of the building is unknown. There have been no previous requests submitted for this site. The requested variances are from zoning regulations section 10.A which stipulates that structures must be at least 15 feet from the side property line in the A-2 zoning district and from subdivision regulations, appendix B 1.8.1.b Tier Lots “the stem of a tier lot, that is the portion of the lot which connects it with required yard area and buildable area with its public road access, shall not be less than 20 feet nor more than 59 feet in width”.

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 property is 18.4 acres and zoned A-2, (Agriculture). Adjacent zoning is also all A-2. This site is located on the northeast side of State Route E approximately one-half mile south of the intersection of Akeman Bridge Road and State Route E. The site is approximately 3.6-miles northwest of the city limits of Columbia. There is a house and several accessory structures on this property. The property has two places that it has public road frontage; a 60.25 ft wide “stem” that connects the property to State Route E to the west, and a wider frontage to State Route E to the south. The applicant wants to subdivide the property into two lots. One lot will be a 5-ish acre northern lot that will contain the stem portion of the parent tract and the other proposed lot is the remainder of the parent tract with access to the south. The requested variance is from the Subdivision Regulations, Appendix B 1.8.1.b Tier Lots: “The stem of a tier lot, that is the portion of the lot which connects it with required yard area and buildable area with its public road access, shall not be less than 20 feet nor more than 59 feet in width”. The stem portion of the property does contain a shared driveway connection that serves three lots.

The subject tract and Hulen Estates share the same parent parcel. The “stem” was created when Hulen Estates subdivision was created in 2001. The regulation limiting the width of a stem to a maximum width of 59 feet has been in effect since 1995.

The need for the variance request was created by the design choices of the previous owner by virtue of the manner in which the Hulen Estates was divided from the parent tract. The need for the variance is self-created and was an existing condition when the current owner purchased the property. A self-created feature does not typically qualify for a variance.

An alternative to a variance would be to reduce the stem width by transferring some of the property to the adjoining lot until the width meets the standards. Additionally, use of a Tier or Stem lot design is an undesirable design choice and is only allowed when a “tier lot design is the most feasible means to access lots due to extreme topographic conditions;” The extreme topographic conditions circumstance does not appear to exist in this case.

- a. The applicant will not incur unreasonable and unnecessary hardship as an unreasonable deprivation of use. The need for the variance was created by the design choices the owner made with the division of the first platted lot from the parent parcel. The width standard from which the variance is sought was in existence at the time the plat was created so the choice essentially rendered the parent parcel unable to be further divided by subdivision plat. This was a choice, not a hardship, and was self-created which is not grounds for grant of a variance. Additionally, there are other alternatives possible to bring the proposed lot division into compliance and make the variance unnecessary. These other alternatives have not been exhausted. The criteria to allow for using a tier lot design does not seem to exist.
- b. Granting this variance will not endanger the health, safety, or welfare of the public.
- c. Granting this variance will thwart or circumvent the general intent or any specific purpose of the regulations. Granting this request will thwart a specific purpose of the regulations, The standard for which the variance is sought was written for the exact purpose to prohibit stems that exceed the 59 feet in width so granting the variance will thwart the purpose of this portion of the regulation. Use of a Tier or Stem lot design is already limited as to when it can be used and that assumes meeting the prescribed standards.

Staff recommends that this variance be denied.

Present representing the request:

Jamie Patchett, 7676 Black Walnut Dr, Columbia  
Jesse Leach, 6440 N Rte E, Columbia

Member Stephens: Is shed A the only one with a setback issue?

Jamie Patchett: Shed E was on the corner of the far south side of the property but it has been moved to the property to the south so it no longer needs a variance.

Member Proctor: Because it doesn't have a concrete pad under it is there a reason that it can't be disassembled and moved to meet the setback?

Jamie Patchett: Due to the age of the building it probably won't move well, it was built in the mid 1960's prior to Planning and Zoning.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Thad Yonke: The reason this shed needs the variance and not the other ones is because it is in front of the house so it has to meet setbacks, since the other buildings are behind the house and 60 feet from the road they qualify for an exception that allows them to be as close as 2 feet to the side property line.

Member Stephens: Is there something preventing the property owner from getting property from the neighbor in order to be in compliance with the stem?

Thad Yonke: No, that is what staff recommended in their report. That is one of the ways this could be solved to not need a variance.

Jamie Patchett: The driveway has served that property for years, we feel if we have to bring a driveway to the south end it creates a hazardous spot for a driveway; it is not on a very good curve.

Member Stephens: If the property gets subdivided wouldn't that be the only place for the property to have a driveway?

Thad Yonke: That is the road frontage so either it will have to find a place where MoDot will approve a driveway or it would have to use a shared drive with the existing house. Mr. Leach owns that property as well so he can make it work.

Jamie Patchett: For what it is worth, Mr. Leach doesn't have any plans to develop the 11-acre piece.

Member Stephens: What is the limit on the number of houses on a private drive?

Thad Yonke: That is when you are creating lots, in this particular instance if they are creating the stem lot everything has frontage. They may be using a shared driveway but everything has frontage onto the road. You could argue that the only reason they are sharing a driveway is because MoDot only wants them to have one access point because of the road curving.

Member Stephens: Looking at the property it looks like the tier lot width is probably easier solved than the shed.

Member Proctor: The lot probably needs to be determined first because it would be a moot point for the shed if they can't create the lot.

Thad Yonke: There are other alternatives to create the stem lot, if they work with an adjoining property owner to shave off part of it where it becomes compliant then they could bring a plat forward at which point they would need the variance for the shed. If the variance on the lot is not approved they could find a different way to come into compliance but they would still need the shed variance or they couldn't bring a plat forward.

Member Thomas made, and Member Stephens seconded a motion to approve the request by Jesse Leach Jr for a variance from the side setback for an existing accessory structure located at 6652 N Rte E, 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 Leipard	Yes
Member Proctor	Yes	Member Zullo	Yes
Member Stephens	Yes		

Motion to approve the request carries unanimously

Member Stephens made, and Member Zullo seconded a motion to deny the request by Jesse Leach Jr for a variance to allow creation of a platted lot having a stem in excess of 59 feet in width located at 6652 N Rte E, Columbia

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

Motion to deny the request carries unanimously

**OLD BUSINESS**

None.

**NEW BUSINESS**

1. Case 2020-010 Certificate of Decision – Nichols

Chairperson Thomas accepted and signed the certificate of decision.

2. Stream Buffer Regulations Presentation

Nicki Fuemmeler, Boone County Stormwater Coordinator, gave a power point presentation on the Boone County Stream Buffer Regulations.

**ADJOURN**

Being no further business the meeting was adjourned at 9:00 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 23<sup>rd</sup> day of July, 2020