

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, November 5, 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
Paul Zullo

Absent: Michael Leopard
Vacant Seat

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

Chairperson Thomas read the following statement:

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.

This meeting is being conducted in compliance with the current Public Health Order regarding the Covid-19 pandemic. Occupancy of the Commission Chambers is limited to 50% occupancy provided all persons wear a face mask and maintain 6-feet of physical distance from each other. We will follow a partial virtual format. There are Members present in the Chambers. Other Members may be attending the meeting through an audio link. The audio link is open to members of the public who wish to follow the proceedings.

If necessary, there will be a staff member in the Lobby who will meter access to the Chambers. Members of the public, who wish to testify, will be allowed in as space allows. Individuals may be asked to exit the Chambers when their testimony is complete in order to make space for another. The public will be rotated through until all who wish to testify have had an opportunity to do so.

When the Board has voted on any agenda item, the applicant may be asked to exit the Chambers to make room for the next applicant.

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 Board. 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 July 23, 2020 meeting were approved as written.

REQUESTS

1. Case 2020-008

Request by Sonia Reeder for a permit to allow a mobile home as a second dwelling, for a period of two years, on 2.5 acres located at 16910 N Anchorom Rd, Hallsville (**Zoning Regulations Section 15.C.4.d**)

Planner, Thad Yonke gave the following staff report:

This 2.5 acre tract is zoned A-2 (Agriculture), all adjacent zoning is also A-2. The site is located two miles northwest of the Hallsville municipal limits, there is a single-family dwelling, a singlewide and outbuilding on the property. The applicant wishes to replace the existing singlewide to be used by the applicant's grandchildren to aid the applicant. The applicant has submitted a detailed list of doctor visits as well as a statement indicating her need for help from family members. The original zoning for this property is A-2, there have been no previous requests submitted for this site. It is unclear when the existing singlewide was placed on the property as no building permits were located and no variance was granted for its placement. In addition, the type of wastewater system that is being used by the singlewide is unknown. There appears to be one lagoon on the 2.5 acres, however, there are two homes currently on the property. The requested variance is from Zoning Regulations Section 15.C.4.d: 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 19 property owners.

Present representing the request:

Sonia Reeder, 16910 N Anchorom Rd, Hallsville

Joy Hayes, 16900 N Anchorom Rd, Hallsville

Sonia Reeder: I am requesting a variance for a second home so we can update the singlewide that is there. The one that is there is old and falling apart and it will be costly for repairs so we want to swap it out so my grandson can live in it. The existing singlewide has been on the property since the 1980's and I thought I could just get a permit to swap out but I found out I no longer have grandfather rights. I just need to be able to swap out singlewides. There is a septic tank that serves the singlewide and a lagoon for the house.

Joy Hayes: We submitted a picture to show that the trailer has been on the property for a while because there was concern that this hasn't been on the property for a while and it has been.

Sonia Reeder: We have had a mobile home there since the early 1980's.

Open to public hearing.

No one spoke in favor of the request.

Speaking in opposition by phone:

Ed Miller: I am under the impression that the land involved in putting another residence on is under what is required for Boone County and I would like to voice my disapproval.

Present speaking in opposition:

Gloria Crowley, 16926 N Anchorom Rd, Hallsville

Gloria Crowley: I called and they didn't know which end that they were going to try to set the new trailer on. I was trying to find out for sure which place they were going to set the trailer on. That is why I came tonight to find out where it was going to be placed. If they are moving the singlewide out that has been back there forever and putting another one in to replace it that is fine. They have a motor home back there too. That is no problem if they move that trailer out as long as they move it out and don't try to put another one next to it.

Also present speaking in opposition:

Kenneth Swiney, 16860 N Anchorom Rd, Hallsville

Kenneth Swiney: I border their property, I live on the south side on 25 acres. I don't agree with what they want to do because they are only allowed so many dwellings on so many acres in Boone County and they should have to abide by that just like I have to. I am sorry but that is the way it goes, we have rules that we have to go by.

Chairperson Thomas: That is why they are coming before Board; they are asking for a temporary variance.

Kenneth Swiney: Well you put them in and you can't get them out.

Chairperson Thomas: We review these regularly and there are some that last a while but we do continue to the review them.

Kenneth Swiney: I don't agree with it because we have rules; I pay taxes every year and have been for 10 years on that place.

Closed to public hearing.

Chairperson Thomas: How many structures are on the property now?

Thad Yonke: On the 2.5 acres there are two dwellings. If they have an existing septic tank that serves the existing mobile home now, when they take out a new permit, which will be required, the septic will have to be evaluated to see if it is sufficient to work for the new unit. That is something that is required of all permits.

Member Stephens: If the Health Department finds a violation with the existing system they will require the applicants to upgrade the system and bring it up to code prior to occupancy?

Thad Yonke: Yes, with a singlewide the electric service inspection allows for temporary occupancy.

Member Stephens: What is the structure on the south side of the property?

Sonia Reeder: It's a shed.

Member Stephens: There are three structure on the property now? One is a shed and two are dwellings?

Sonia Reeder: Yes.

Member Stephens: They will still have to abide by the side setback requirements?

Thad Yonke: Yes.

Member Stephens: It appears the trailer is probably 15 feet off the side property line now.

Thad Yonke: It depends on the new unit and how long it is. All of that gets determined as part of the building permit. Part of the reason we can't answer where it is going is because we don't know yet. If this variance is approved the trailer will have to comply and the applicants will have to show us where it will be located, I assume it is going close to where the previous trailer was if they are trying to utilize the same septic system.

Sonia Reeder: It has runners now.

Thad Yonke: Assuming the existing runners work for the new unit it has to meet the manufacturer specifications for the new trailer.

Chairperson Thomas: Is that part of the building permit process?

Thad Yonke: Yes.

Member Stephens: If this were approved this would be on a two-year cycle and they have to continue to prove the need and the use every two years going forward.

Thad Yonke: It has to be reviewed every two years minimum.

Member Stephens: It sounds like there is an opportunity for the Health Department to go in and if there are issues with the sewer they can help them deal with that which would be my primary concern.

Chairperson Thomas: We are just getting the process started, there are still a lot of other things that have to be dealt with.

Thad Yonke: This will get reviewed on a two-year cycle and each of those opportunities the applicants have to come before the Board and let them know whether the situation is the same, at that time the Board has the opportunity to say yes or no at each of those intervals.

Chairperson Thomas: I understand that part, I just wondered about the building permit and making sure that what they are putting in there is adequate.

Member Stephens: It doesn't sound like the permitting process happened originally and it might be a benefit to everyone if that happened now and things got done correctly.

Sonia Reeder: Everything to the existing trailer has been unhooked, I thought we were under the same grandfather rights, I thought I just needed a permit to haul off the old trailer and put in a new one. So now the family has moved in with me and I hope they are able to get another trailer soon.

Chairperson Thomas: There is no one living in the existing singlewide now?

Sonia Reeder: No.

Member Stephens: The existing trailer is going to be hauled off site?

Sonia Reeder: Yes.

Member Zullo made, and Member Stephens seconded a motion to approve the request by Sonia Reeder for a permit to allow a mobile home as a second dwelling, for a period of two years, on 2.5 acres located at 16910 N Anchorom Rd, Hallsville with the following condition:

- Permit to be reviewed before the Board in two years

Member Thomas	Yes
Member Stephens	Yes

Member Zullo	Yes
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Motion to approve the request carries unanimously

2. Case 2020-009

- a. Request by Bryan & Leanne Ross for a variance from the front yard requirement and to allow a structure to remain in the required 10-foot utility easement, for an existing barn located at 1215

N Harper Rd, Clark (**Zoning Regulations Section 10.A and Subdivision Regulations Appendix B, Table A**)

- b. Request by Bryan & Leanne Ross for a variance from the front yard requirement for an existing garage located at 1215 N Harper Rd, Clark (**Zoning Regulations Section 10.A**)
- c. Request by Bryan & Leanne Ross for a variance from the front yard requirement for an existing single-family dwelling located at 1215 N Harper Rd, Clark (**Zoning Regulations Section 10.A**)

Planner, Thad Yonke gave the following staff report:

This 17.5 acre tract is zoned A-2, all adjacent zoning is also zoned A-2. The site is located approximately 1.9 miles southwest of the Highway 63/Route CC intersection, there is a single-family dwelling, a barn, and garage on the property. The applicant is subdividing the property by administrative survey, the barn, garage, and a portion of the residence are located within the front setback. The original zoning for this property is A-2, there have been no previous requests submitted for this site. The applicants have submitted an administrative survey in order to subdivide the property. The existing barn and garage are located entirely within the 50 foot front setback, the barn also encroaches about five feet into the required 10-foot utility easement. The residence encroaches 13.5 feet into the setback area. No building permits were located for either the barn or garage. A remodeling permit for the residence was issued in 2006. The requested variances are from Zoning Regulations Section 10.A which requires a minimum front-yard setback of 50-feet in the A-2 zoning district and from Subdivision Regulations Appendix B, Table A which requires a minimum 10-foot utility easement along the frontage of Harper Rd. Staff notified 11 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 property is 17.5 acres and zoned A-2, (Agriculture). Adjacent zoning is also all A-2. This site is located approximately 3-miles west of the municipal limits of Sturgeon at 1215 W. Harper Road. There is a house, a garage, and a barn on this property. The applicant wants to subdivide the property, which includes an additional 11.7 acres under a different parcel number, by Administrative survey.

The barn and garage are located entirely within the required front setback of 50-feet while the house encroaches approximately 13.5 feet into this setback. This conflict must be resolved before the land division can be completed. One remedy is obtaining variances from Section 10.A of the zoning ordinance. The barn also is located within the required 10-foot utility easement, diminishing the space for the utility easement by approximately half of what is required by the subdivision regulations Appendix B, Table A. The requested variance to which this recommendation pertains is from the Subdivision Regulations, Appendix B, Table A which requires a minimum 10-foot utility easement along roadways.

The 1962 aerial photograph shows a structure where the barn is located. The need for the variance is created by the owner's desire to divide/reconfigure the property. The land division cannot be completed without removal/modification of the barn unless the variance is granted.

Staff offers the following findings in support of its recommendation:

- a. The applicant will not incur unreasonable and unnecessary hardship as an unreasonable deprivation of use. The property is large enough that the barn could be relocated/replaced at a compliant location on the property. This equates to an economic decision as to the cost to remove/relocate against the desire to divide/reconfigure the property. The primary use of the residence on the property and the other secondary supporting uses of the barn and garage can be maintained on the property with relocation to accommodate the full 10-foot or even the standardly requested 20-foot easement.
- b. Granting this variance will endanger the health, safety, or welfare of the public. The proximity of the building to the road right-of-way, approximately 5-feet from the road right-of-way, leaves the building too close to the driving surface of the roadway which is a hazardous condition.
- c. Granting this variance will thwart or circumvent the general intent or any specific purpose of the regulations. By granting this request a specific purpose of the regulations is thwarted. The standard of a minimum 10-foot utility easement is needed to support development and extension of utilities. Constricting the utility easement to something close to only 5-feet renders the utility easement practically unusable by even a single utility because of the proximity of the corner of the barn. Utilities frequently require or request a 20-foot utility easement along roadways, which provides sufficient width for more than one utility. An easement less than the minimum 10-feet makes the provision of utilities for this and other property development in the area more expensive and difficult.

This request fails to satisfy part a, b or c of the regulatory criteria cited in Section 1.9.2 of the Subdivision Regulations. Staff recommends that the variance from the Subdivision Regulations be denied.

Present representing the request:

Kevin Schweikert, Brush and Associates, 506 Nichols St, Columbia
Bryan Ross, 1215 W Harper Rd, Clark

Kevin Schweikert: Did the Board receive the photographs of the barn?

Staff indicated that no photographs were submitted.

Kevin Schweikert: When I took pictures of the barn I was pretty impressed with it. When you look at it from the road it is well maintained; the barn is being used on a daily basis. I believe there is a horse in it and livestock. The other small building is a garage. The reason this is coming up is because we are taking a 30 acre tract and dividing it in half with a little frontage and in doing that you have to give a 33 foot wide road easement from the centerline of the road, they normally ask for a 20 foot utility easement but 10 foot is all that is required in this area. The building line is then setback 50 feet from the 33 foot right of way and utility easement so you end up with a building line setback of 83 feet from the center line. The barn is in the utility easement a little bit.

Bryan Ross: They just put in a six inch waterline that came across my property in between that barn and the fence and they had plenty of room to do that with a good sized excavator.

Thad Yonke: That was before the granting of the right of way and utility easement so it is probably within the right of way.

Bill Florea: That is part of the problem; if the county has to utilize that right of way for roadway purposes public dollars have to be used to move the building.

Member Zullo: So this is an issue created by the applicant by wanting to subdivide.

Bill Florea: Correct.

Kevin Schweikert: The waterline is already there.

Member Zullo: The other utilities may go on the other side of the road. There could be other utilities besides the waterline that need that easement.

Chairperson Thomas: The barn is in the easement.

Bill Florea: That is why staff is opposing that portion of the request.

Chairperson Thomas: There is no other way to divide the property from keeping this variance from occurring?

Kevin Schweikert: No, we are dividing it into two tracts.

Chairperson Thomas: The whole tract is 30 acres?

Kevin Schweikert: Approximately, yes.

Member Stephens: If they had any tract that is less than...

Thad Yonke: Any land division is going to trigger this request.

Bill Florea: The only way to leave the barn is to leave it on a 20 acre tract.

Member Stephens: You would have to maintain 20 acres of property and then whatever is left could be divided?

Bill Florea: Yes.

Kevin Schweikert: I guess we have three variances.

Chairperson Thomas: How old is the house and garage?

Bryan Ross: The original part of the house was built in 1900's and I believe the garage was earlier than that.

Chairperson Thomas: How big is the house?

Bryan Ross: 1700 square foot.

Member Stephens: Do the other variances apply in that circumstance?

Bill Florea: It depends on how you divide the property.

Member Stephens: Assuming they meet the A-2 setbacks.

Bill Florea: If the house and garage are on the same 20 acre tract as the barn then they wouldn't have to grant the easements so they wouldn't need the variance. If they divide it where they are on a separate lot less than 20 acres the house and garage would still need a variance. If the Board grants those two variances and they choose to utilize those variances they can do that or not, but it gives them a choice.

Member Zullo: So the Board can say yes to the house and garage but no to the barn.

Thad Yonke: They could then make a decision to remove or relocate the barn if they wanted to go forward with the land division of less than 20 acres but they could still have the house and garage.

Member Stephens: What will the two tract sizes be?

Kevin Schweikert: The back is 13.27 acres and the front 15.16 acres.

Member Stephens: Is it possible to change the configuration to get 20 acres in the front? I don't know what the plan is for the back part.

Kevin Schweikert: We would have to talk about it.

Thad Yonke: Staff can only react to what is proposed.

Member Stephens: Could you keep all of those buildings on the same 20 acre tract and push the line back? The concern is right now there is probably no traffic count for Harper Road but as things get parceled off then traffic is going to go up over the course of time.

Thad Yonke: And the road gets expanded into the right of way that is dedicated which puts it even closer and you don't have the utility easement that was normally required.

Member Stephens: It is A-2 zoning so if they could figure the geometry out if they leave the 20 acre piece and split some other stuff off it could be further split down the road.

Thad Yonke: Not necessarily.

Bill Florea: They would have the same problem.

Member Stephens: But if you had a tract that had the barn and house with a 20 acre tract the part that gets split off that is not 20 acres could be subdivided further.

Bill Florea: There is no way to answer that without knowing how they plan to divide it.

Thad Yonke: There are rules that apply to the entire parent parcel. We have to look at the specifics and see how it works in the regulations.

Member Stephens: Assuming the variance was granted this is administrative so it would not be seen by the Planning and Zoning or County Commissions.

Bill Florea: Correct.

Member Stephens: So there is no further review process other than administrative.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Stephens: When was the barn built?

Bryan Ross: The original part of the barn was built around 1956.

Member Stephens: What is the distance from the edge of the pavement?

Kevin Schweikert: The centerline of the road is the property line and normally there are 20-foot gravel roads so you need to be 10 feet from the edge of the gravel. It looks like the barn is projecting into the utility easement by 5 feet. It's about 28 feet from the edge of the gravel.

Member Stephens: Other than electric, is water the only utility that is on your side of the road?

Bryan Ross: They put fiber down.

Member Stephens: There probably wouldn't be anything else because the electric is overhead.

Member Thomas made, and Member Zullo seconded a motion to deny the request by Bryan & Leanne Ross for a variance from the Zoning Regulations Section 10.A and Subdivision Regulations Appendix B, Table A for an existing barn located at 1215 N Harper Rd, Clark:

Member Thomas	Yes	Member Zullo	Yes
Member Stephens	Yes		

Motion to deny the request carries unanimously

Member Stephens made, and Member Thomas seconded a motion to approve the request by Bryan & Leanne Ross for a variance from the front yard setback for an existing garage located at 1215 N Harper Rd, Clark 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 Zullo	Yes
Member Stephens	Yes		

Motion to approve the request carries unanimously

Member Stephens made, and Member Thomas seconded a motion to approve the request by Bryan & Leanne Ross for a variance from the front yard setback for an existing single-family dwelling located at 1215 N Harper Rd, Clark 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 Zullo	Yes
Member Stephens	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

None

NEW BUSINESS

None

ADJOURN

Being no further business the meeting was adjourned at 8:00 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 7th day of January, 2021