

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, January 7, 2021

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
Michael Leopard

Absent: Paul Zullo
Vacant Seat

Staff: Bill Florea, Director Thad Yonke, Senior Planner
Uriah Mach, Planner Cece Riley, Planner
Chris Crane, Acting-Secretary Nicki Fuemmeler, Stormwater Coordinator

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 November 5, 2020 meeting were approved as written.

REQUESTS

Case 2020-010

- a. Request by MBK Investments LLC for a variance from the stream buffer regulations for future development on 3.47 acres located at 5065 S Providence Rd, Columbia. (Zoning Regulations Sections 26.5.3, Table 1; 26.6.1.4; 26.6.2.3; 26.6.2.4)
- b. Request by MBK Investments LLC for a variance from the maximum lot depth on 3.47 acres located at 5065 S Providence Rd, Columbia (Subdivision Regulations, Appendix B, Table A)

Planner, Thad Yonke gave the following staff report:

This site is located at 5065 S Providence Road and borders the city limits of Columbia just 400 feet northwest of the Providence Road/Highway 163/Route K intersection. The property was used as a mobile home park as recently as 2019. The applicant intends to seek to rezone the property to M-LP (planned light industrial) for the future use of self-storage units and contractor's storage. The property would then be platted. The original zoning for this property is R-M, there have been no previous requests submitted for this site. There is a type 2 stream along the north property line which requires a 25-foot inner zone setback and a 25-foot outer zone setback. The applicants propose to place the future storage buildings and a portion of the parking area within the outer stream buffer zone. In addition, the property exceeds the 3 to 1 width to depth ratio.

For case 2020-010 A, Section 26.2.5.2.2 of the zoning regulations requires that the Director make a recommendation on requests for variance from the provisions of the regulations and state the reasons for the recommendation. The Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the following criteria:

- The variance shall not have the effect of nullifying the intent and purpose of these regulations:
- The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements.
- The conditions upon which the request of variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.
- Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished for a mere inconvenience, if the chapter was strictly interpreted and carried out.

The variances sought along with an analysis of each is as follows:

Zoning Regulations Section 26.5.3 Table I. Minimum Buffer Width. Type 2 stream requires a 50-foot buffer.

The requested variance does nullify the intent and purpose of this provision, has the possibility to be injurious to other property or improvements, is self-imposed by design choice, and is more of an inconvenience than hardship based on the following:

1. This project proposes to install structures within the outer 25-feet of the stream buffer and additionally the associated grading will encroach into the streamside zone. Due to the channelizing of the stream through the culvert under Providence Rd. and insufficient stream buffer/extensive impervious surface area on the north side in the Corporate Lake Development, this stream is actively eroding, and the banks are not stable. Increasing impervious surface area on the south side of the stream would only exacerbate this issue.

Zoning Regulations Section 26.6.1.4 Restricted uses in the streamside zone

The requested variance does nullify the intent and purpose of this provision, has the possibility to be injurious to other property or improvements, is self-imposed by design choice, and is more of an inconvenience than hardship based on the following:

1. The function of the streamside zone is to protect the physical, biological, and ecological integrity of the stream ecosystem. Clearing of existing vegetation and grading and other soil-disturbing practices are not allowed in the streamside zone. Some clearing is proposed for the zone. Granting this variance will result in disturbance to the streamside zone.
2. The soils in the streamside zone are spongy and would work well for stormwater infiltration.
3. The vegetative target for the streamside zone is undisturbed indigenous vegetation. Some of the plants proposed to restore the vegetation are not native. Given the nature of the soils, the vegetation in the stream buffer would need to be native and water-loving in order to support infiltration, evapotranspiration and stream bank stability.
4. There is a power line that would be directly in the way of any trees planned for restoration of the stream buffer.

Zoning Regulations Section 26.6.2.3 Allowable uses in the outer zone

The function of the outer zone is to prevent encroachment into the streamside zone and to filter runoff from development. The requested variance converts 51% of the streamside zone to impervious surface, which nullifies the intent and purpose of this provision. The request does not have the possibility to be injurious to other property or improvements, but is self-imposed by design choice, and is more of an inconvenience than hardship based on the following:

1. By proposing a significant amount of impervious surface conversion in the outer zone the intent of the zone is nullified by the proposed design.
2. Regardless of the variance requested herein, the other provisions of the stream buffer and stormwater regulations unaltered by a variance will mitigate potential injury to other properties or improvements.
3. The outer zone of a Type II stream buffer can be landscaped. We encourage (would require) planting indigenous vegetation, however, the extensiveness of the design is the driving factor in the need for the requested variance and this is a design choice which by definition is self-imposed/created.
4. Stormwater BMP's are allowed in the outer zone, but it is the intensity of the chosen proposed design that appears to be driving the need for the BMP to be in either zone.

Zoning Regulations Section 26.6.3.4 Restricted uses in the outer zone

The requested variance does nullify the intent and purpose of this provision, has the possibility to be injurious to other property or improvements, is self-imposed by design choice, and is more of an inconvenience than hardship based on the following:

1. Structures or any type of impervious surface, except as allowed in Section 26.6.2.3, are not allowed in the outer zone.
2. Installing some sort of dust-free pervious driving lane between the storage units and main drive would help alleviate some of the stream bank erosion problems.

Staff's recommendation for all four zoning variances for Case 2020-010 A is denial. The request nullifies the intent and purpose of both the Streamside Zone and Outer Zone.

For Case 2020-010 B (Subdivision variance from Appendix B, Table A)

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 3.47 acres and zoned R-M (Residential Moderate Density). The subject property is bordered on the north and west by the municipal limits of the City of Columbia and other developed

properties to the south. There is a house and an accessory structure on the property currently which was also the site of the Crane Mobile Home Park which was in operation as recently as 2019.

The applicant is interested in rezoning and redeveloping the property. The subject property consists of the fragments of three lots from a survey and as such is not a legal lot. Before any building permits could be issued for this property it must become a legal lot by platting. In order to be platted the property must meet the standards in the subdivision regulations, however, the current configuration, through relatively regular in shape, will not meet the length to width ratio standard set forth in the Subdivision Regulations Appendix B, Table A. The subject property is approximately 150 wide and 900 feet long; far exceeding the ratio limit of the length of the lot being limited to three times its width. The applicant wants to redevelop the property but as part of the process the property must be platted.

Staff offers the following findings in support of its recommendations:

- a. The applicant will incur unreasonable and unnecessary hardship as an unreasonable deprivation of use. The property can't be redeveloped unless it is platted, and it is virtually unfeasible to plat the property in a way that does not need the requested variance. Without the variance the property can't be platted or get building permits rendering the property practically unusable.
- b. Granting this variance will not endanger the health, safety, or welfare of the public. Getting this property redeveloped is in the overall community and the surrounding neighborhood's interest. If the property remains unplatted then no redevelopment can occur, and the property will likely become a blight and nuisance to the area. By getting the variance and having the lot platted the situation will be created which will facilitate much needed investment in the property and likely improve the area
- c. Granting this variance will not thwart or circumvent the general intent or any specific purpose of the regulations. The primary purpose of the lot standards are related to subdividing relatively large pieces of ground into orderly and regularly shaped lots and roadways. In this case the regulations need to be applied to an interstitial small narrow and long property with little road frontage; there are not many options available without some form of variance. The configuration of this property has been long standing and is not a new/recent issue. Granting the variance will solve a long-standing issue that is relatively unique to the area and not set any general precedence in opposition to the regulations.

This request satisfies parts a, b and c of the regulatory criteria cited in Section 1.9.2 of the Subdivision Regulations. Staff recommends that this subdivision variance be granted.

Staff notified 43 property owners.

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

Uriah Mach indicated he heard from two property owners. One was an adjacent property owner to the west who wanted to know what the request was in regard to. The other was a property owner to the south and also wanted to know what was going on.

Present, representing the request:

Jay Gebhardt, A Civil Group, 3401 W Broadway Bus Park, Columbia
Matt Kelly, property owner, 911 Crestland Ave, Columbia

Jay Gebhardt presented the following items which were issued exhibit numbers:

1956 Aerial Photo – Exhibit 1
1962 Aerial Photo – Exhibit 2
1968 Aerial Photo – Exhibit 3
1980 Aerial Photo – Exhibit 4
2002 Aerial Photo – Exhibit 5
2019 Aerial Photo – Exhibit 6
Proposed Development w/ Stream Buffer Mitigation Exhibit – Exhibit 7
Off-Site Stream Buffer Dedication Exhibit – Exhibit 8

Staff asked when referencing these items that they are referenced by their Exhibit number.

Jay Gebhardt: The 1st Exhibit is the 1956 aerial; it shows the creek in its original location with its original native vegetation consisting of larger trees and brush. I am trying to establish the background of this, this is not a pristine stream that has been untouched.

The 1962 aerial shows the beginning of the channelization of the stream and the development of the mobile home lot and lagoon to the north. The reason I included this is that Crestvale Mobile Home Park is being developed to the north of this by then and had a large lagoon along our property line. It had re-channelized the eastern portion of the creek by this time.

The 1968 aerial shows the stream has been channelized along the property line to allow the development of the existing mobile home park that exists on the property today and the old mobile home park to the north.

The 1980 aerial shows the stream fully channelized along the north property line in approximately the same position as it is today. The Mobile Home park has also now fully been developed with 18 units.

The 2002 aerial shows both mobile home parks with the lagoon to the north having been removed. All of the existing vegetation that surrounded the stream has been removed and no replanting was done in its place.

The 2019 aerial shows the property basically as it exists today with approximately 250 feet of the eastern portion of the stream in a pipe with the project to the north.

The Proposed ML-P plan for the property showing the plan for stream buffer mitigation.

As you can see from these aerials the existing stream has been channelized, had existing vegetation removed and is not outstanding or pristine in any way. It is basically a ditch cut by previous owners near the property line to aid them in their development of the mobile home park. Our goal with this request is to reestablish the vegetation along the streamside and outer zones of the stream buffer.

The first qualification for a variance is that the variance will not nullify the intent of the regulations. We would not request this if we did not believe that what we are proposing meets or exceeds the purpose and intent of the regulation.

The purposes as stated in the regulation are;

- Restoring and maintaining the chemical, physical and biological integrity of the water resources,
- Removing pollutants delivered in urban storm water,

- These two purposes are being met or exceeded with the enhanced native plantings we are proposing and the extended detention. The area of the plantings was made to be the same size as the impervious area proposed in the stream buffer to make up for these encroachments. This will have many benefits but one of the main ones will be the removal of the pollutant's and maintaining the chemical, physical and biological integrity of the stream.
- Another purpose is reducing erosion and controlling sedimentation,
 - All impervious areas will be tilted to drain away from the stream, we aren't just having the pavement go right into the stream or bringing it back and piping it or getting to our detention pond. Any sedimentation will be collected in the detention pond and the bank erosion will be reduced if not eliminated.
- Another purpose is stabilizing stream banks,
 - We will be stabilizing the streams banks with the enhanced vegetation plan and not increasing the flow in the channel with the extended detention pond. This will greatly improve the existing conditions and make the poor condition of the stream better than if we complied with the stream buffer regulations. This variance will be a step in restoring the stream.
- Another purpose is providing infiltration of storm water runoff,
 - The current soils within the stream buffer are compacted fill and offer no infiltration of storm water.
 - The enhance plantings will aerate the soil, break up the compaction with their roots and generally improve the overall infiltration of the storm water into the soil.

This was a mobile home park and had the mobile homes parked right up next to the creek.

- Another purpose is maintaining the base flow of streams,
 - The extended detention pond will be designed to limit the flow from the site to equal the existing condition that existed prior to the establishment of the mobile home park. This will nullify the impacts of the impervious area on the base flows.
- The last six purposes are contributing the organic matter that is a source of food and energy for the aquatic ecosystem,
- Providing tree canopy to shade streams and promote desirable aquatic organisms,
- Providing riparian wildlife habitat,
- Furnishing scenic value and recreational opportunity,
- Protecting the public from flooding, property damage and loss, and
- Providing sustainable, natural vegetation.
 - These six purposes are met with the proposed variance request by proposing the enhanced plantings for the Stream buffer zones. These are plantings that would not be required if the stream buffer variance were not being requested and will greatly improve the existing conditions.
 - Having larger trees and more vegetation provides tree canopy, a denser wildlife habitat, scenic value, bank stability and greater sustainability.
- Please note none of the proposed plantings are required. We are only required to stay out of the proposed stream buffer, but do not have to improve it. We are proposing to improve it in exchange for placing impervious surfaces in the outer zone. There is no impervious area proposed in the stream side zone.

The second qualification is that the variance will not be detrimental to the public safety, health or welfare.

- We believe we have met this requirement for many of the reasons listed above with the addition of providing full extended storm water detention which will nullify the impacts from the proposed impervious area in the outer zone
- Plantings being proposed will reestablish this channel as a stream which again would not be required without the variance
- The public safety, health and welfare will benefit from the proposed mitigation for the proposed encroachments in the regulated stream buffer by filtering the water, stabilizing the existing stream bank erosion, providing habitat for the stream ecosystem and by making the stream buffer an attractive feature of the property and one that will instill the desire to maintain and preserve it. Without the approval of the variance the existing poor conditions will stay the same.

The Third Qualification is the variance must be unique to the property and is not generally applicable to other property and not self-imposed.

- The main unique feature of the property driving the request is its narrow width. The property is approximately 162 feet wide and 925 feet deep. Since the stream runs parallel with the long side of the property the stream buffer takes up 45 feet to 60 feet of the north portion of the property. This amounts to approximately 40% of the width of the property.
- This long and narrow tract would not be allowed in today's subdivision process and as such is unique.
- The owners requesting this did not create the property lines nor the channelized ditch so it cannot be said it is self-imposed.

The fourth qualification is to show there is a hardship to the owner and not a mere inconvenience.

- The property is zoned for multifamily and the current owner would like to request a zoning to MLP for self-storage and contractor business locations. The taking of 40 percent of the property width is a significant hardship to the owner to redevelop this property. The shape of the property creates a hardship that we have tried to mitigate with enhancing the stream side and the outer zones of the buffer area.
- There is a perimeter setback for ML-P zoned properties of 25'. This combined with the stream buffer leaves roughly 88 feet by 925 feet in width for development.
- The owner would like to enhance the stream buffer requirements in exchange for the use of some of the outer zone. The net effect of this will be water quality that is better than the existing conditions and better than those if the variance is not granted.
- Although the Stream buffer is a good regulation, there are exceptions and this property is an example of one of those exceptions.

I believe we have met the four requirements for you to grant the variance. Both the owner and myself appreciate your time and help with providing a solution for this property that will not only meet but exceed the intent and purposes of the stream buffer regulations. If the variance is not granted then the stream side and outer zones will only meet the minimum requirements of the stream buffer and the enhanced plantings will not be required. The proposed native planting will be an improvement above the minimum requirements and allow redevelopment of property in a manner that allows it to contribute or add to the community.

Jay Gebhardt (continued)

I believe some of the plants that were on this plan came from the City's list of native plantings and when we googled them some did not. The applicants agree to a condition that all of the plantings are native to central Missouri and that would allow us to comply with that.

I feel that I have a good set of clients that are going to make a good project and we feel like we are trying to make this better. We are asking for 50% of the outer zone to be impervious but we feel like the enhancements that are being proposed will offset that.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Stephens: There was something mentioned about an electric line.

Jay Gebhardt: There is an overhead line that straddles the creek. It is a Boone Electric line.

Member Stephens: It is all overhead?

Jay Gebhardt: On the perimeter.

Member Stephens: I assume that has some type of easement?

Jay Gebhardt: No. It is just an old service line. It is basically right on the property line so the large trees that we are showing are out away from that and putting in the shrubs and shorter vegetation underneath.

Chairperson Thomas: But there is no easement or access that the utility company needs or requires?

Bill Florea: It is not uncommon for Boone Electric service lines to be located without easements, that was a historic practice, they are better about it now.

Chairperson Thomas: They don't maintain around them?

Bill Florea: Yes, they do.

Chairperson Thomas: So that means they will want to maintain where the applicants want to plant.

Jay Gebhardt: They aren't maintaining it very well now but the line is near, or on the other property, it kind of straddles our property line.

Chairperson Thomas: But the amount of area they will maintain is not just on the line.

Jay Gebhardt: But it is not the entire 50-feet of stream buffer either, we feel like we can put plantings in there that will satisfy Boone Electric's needs without having to trim them and still meet the requirements.

Member Stephens: Does the electric line serve the development to the north or does it serve the applicants?

Jay Gebhardt: It serves the applicants; I know it doesn't to the north because that is City.

Member Stephens: If it is a private service line can it just be reconfigured?

Jay Gebhardt: It probably can. We are not at that stage with the development to know how we are going to feed these buildings.

Member Stephens: My suspicion would be that they would probably want to do something different.

Member Leipard: How much water does the creek carry after a lot of rain?

Jay Gebhardt: It has a drainage area that is much larger, it is part of State Farm and the property across Providence Rd; it is about 100 acres. The existing pipe that was placed in the creek is a 72-inch diameter, it is a large flow but it only flows when it rains.

Member Stephens: Is it headed to the lake?

Jay Gebhardt: No, it goes down behind Old Plank to Forum.

Member Leipard: Is that part of staff's thinking? That it carries that much water erosion?

Bill Florea: That is part of the reason for the buffer, to maintain the integrity of that channel so that it can carry the water.

Member Leipard: What will be on the property? Storage units?

Jay Gebhardt: The back buildings will be self-storage, the front buildings are contractor spaces, they will be leased spaces for a plumber, HVAC and those types of businesses. The front building will be a combination of office and conditioned storage space.

Member Stephens: Are all of the properties under the same ownership? There is parking on both sides and part of it looks to be serving that building? Is that a cooperation between neighbors?

Jay Gebhardt: The veterinarian to the south has indicated she would like to have more parking. She didn't want a connection to the outer road, but she wanted space for employees to park and maintain her parking for customers. Part of the M-LP plan will be a proposal to sell parking spaces to be incorporated into the property to the south.

Thad Yonke: That probably won't work because they didn't request a variance for the depth of that lot.

Jay Gebhardt: I understand, but the depth we proposed will meet the required 3:1 ratio.

Thad Yonke: Our understanding is that there will be some kind of proposed shared parking, whether it is on their lot or the other lot. That will be part of the M-LP plan and it will have to meet all of the requirements because there is no variance requested for that.

Member Leipard: Are the buildings in the front within the stream buffer?

Jay Gebhardt: Crane's old shop building is right next to the piped portion of the creek.

Matt Kelly: There is one existing building that encroaches the stream buffer and that is going to be demolished. All of the new front buildings are going to be outside of the stream buffer.

Chairperson Thomas: How much of the buildings are going to be in the stream buffer?

Jay Gebhardt: It ranges from 10 feet on the east side to about 25 feet on the west side. We can shorten those buildings, but this is a lot less storage than what we wanted when we originally looked at purchasing the property. Having that extra space allows us to have the money and the ability to plant this and enhance the creek and stabilize it and make it an asset.

Chairperson Thomas: In the long run how will the vegetation be enforced after the property is developed?

Bill Florea: Through the planned zoning. It could be a condition that they have a maintenance agreement. We have standard maintenance agreements for other types stormwater features.

Member Stephens: There is an exhibit that shows the existing amount of impervious area, is this based on trailers that were there?

Jay Gebhardt: Yes.

Member Stephens: There is some encroachment there historically. They are asking for more impervious area than there would be if they put the trailers back in there; I assume they can put trailers back in there.

Thad Yonke: No, they cannot put trailers back, it is no longer a mobile home park. We can't issue any permits until the property is platted.

Jay Gebhardt: The chart in the top corner shows the existing impervious area in the streamside at 475 square feet and there is 3500 square feet in the outer zone that is existing today. The proposed impervious area and the proposed pervious area, that is where the 50% of the outer zone being paved comes from.

Member Stephens: So right now we are around 4000 square feet of pervious area and the proposal would be 12,000.

Jay Gebhardt: Yes.

Member Leipard: What if the buildings were smaller?

Jay Gebhardt: Keep in mind, if we shorten the buildings and get rid of the parking and have to reduce the size of the two front buildings because we don't have the parking to support it we will do the bare minimum for the stream buffer which is to stay out of it. This is a unique situation in that it is a ditch, it is not a stream.

Member Leipard: But how much water does that ditch carry?

Jay Gebhardt: It is a channelized, manmade channel.

Member Leipard: It is probably carrying runoff from all around it.

Nicki Fuemmeler: It catches some.

Member Stephens: It was mentioned that it was actively eroding. How bad is it eroding? Is there something that shows that impervious would be beneficial?

Nicki Fuemmeler: The Urban Hydrologist and I went out and looked at it. It had been fairly dry for a while when we were out there so there wasn't a lot of water in the stream, but it was very spongy and it is actively eroding and very unstable.

Member Stephens: It looks like there is probably minimal root structure there now. I think a planting schedule might not immediately help that, but I am sure given a few years it could provide adequate vegetation.

Member Leopard: Would putting vegetation in there improve it?

Nicki Fuemmeler: It would definitely help.

Thad Yonke: The issue is the intensity of the development that is proposed. All of that is by choice which means it is inherently self-inflicted.

Jay Gebhardt: It is by choice, but it is also making a project feasible. We have already made sacrifices in the size of the building.

Member Stephens: Do we know how it drains now?

Jay Gebhardt: It is really flat, and I would say everything gradually drains now, there is probably only a foot of fall between the south side and the north side.

Member Stephens: The applicants are asking for something basically in return for something else and the thing that is being proposed is a good thing. The question is what is ultimately better in terms of meeting stream buffer regulations and leaving what is there alone or trying to improve it. If it were truly an undisturbed original stream buffer this would be easy to figure out.

Chairperson Thomas: I don't think so. I don't think it matters whether it was undisturbed or has been disturbed like it has. The intent is to reclaim and to control the development around it.

Jay Gebhardt: That is what we are trying to do is reclamation of the stream. Just staying out of the buffer isn't going to improve the stream it will continue in its poor condition.

Bill Florea: Section 26.2.5.2.1 of the stream buffer regulations says that in recommending variances and exceptions, staff may recommend and the Board may require such conditions as will, in the judgement of each, secure substantially the objectives of the standards or requirements of this chapter. That seems to be the path that Member Stephens is going down. If the Board is inclined to go that way, there is some justification. If the Board believes that the imposition on the stream buffer can be mitigated, then you can require those conditions.

Chairperson Thomas: We rely on staff to make a recommendation. Staff evidently doesn't feel that way or they would have made that recommendation.

Bill Florea: That is true.

Thad Yonke: The additional thing you need to take into account is that they are proposing a planned development so the idea that they are not going to have to do anything to the stream buffer is not necessarily correct because we are going to ask and demand that there be some type of vegetation in the buffer anyway.

Jay Gebhardt: Not necessarily, the property can be sold, and it can continue the way it is. You have to have a feasible project and that is what we are asking. If the variance is granted it will be better than what is out there now.

Member Stephens: What is the impact of making the building shorter?

Jay Gebhardt: The real impact is the front buildings not having the parking to support the size of them. We would be knocking 10 feet off those buildings we are shrinking the contractors building; it would have to be 30 feet wide.

Member Stephens: Is the location of the pipe going to be considered stream buffer?

Jay Gebhardt: We asked that question and were told that because of the pipe there is something in there about a distance of less than 150 feet between pipes then it is not considered a stream buffer but this pipe's portion, I was told, was part of the stream buffer even though there is really no stream there.

Member Stephens made a motion to approve all requested Stream Buffer variances with a condition of native vegetation:

Motion was not seconded, the motion dies.

Member Thomas made, and Member Leipard seconded a motion to deny the request by MBK Investments LLC for a variance from the stream buffer regulations for future development on 3.47 acres located at 5065 S Providence Rd, Columbia. (Zoning Regulations Sections 26.5.3, Table 1; 26.6.1.4; 26.6.2.3; 26.6.2.4):

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	NO		
Motion to deny the request fails	2 YES	1 NO	
The variance is not approved			

Member Thomas made, and Member Stephens seconded a motion to approve the request by MBK Investments LLC for a variance from the maximum lot depth on 3.47 acres located at 5065 S Providence Rd, Columbia (Subdivision Regulations, Appendix B, Table A)

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

Case 2001-009

Review permit issued to Tim Waller for a mobile home as a second dwelling on 5 acres located at 11150 N Rte B, Hallsville (first granted 9/2001).

Planner, Thad Yonke gave the following staff report:

This site is located 4.3 miles north of the Columbia municipal limits and is zoned A-2 agriculture, as is the adjacent zoning. There is a single-family dwelling, a singlewide and outbuilding on the property. The applicants wish to renew their permit for placement of a singlewide as a temporary dwelling. The original zoning for this property is A-2 and was platted as part of M & M Subdivision in 1987. The original variance was granted in 2001 and has been renewed every two years since that time. The last review was done administratively in 2018 at which time the applicants indicated the current singlewide is a 1987 Fuqua, however, on the most recent review form sent to the applicants in September 2020 the applicants indicated a 1985 Fuqua model. The Board of Adjustment requested that all future renewals of temporary mobile home permits be reviewed before the Board. 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 8 property owners.

Present, representing the request:

Tim Waller, 11150 N Rte B, Hallsville

Angela Waller, 11150 N Rte B, Hallsville

Angela Waller: Currently it is just my mother that lives there now, my father passed away. My mother is in fair health but having her on our property has allowed her to remain more independent than she would be otherwise. She had a minor stroke last year. Having her so close has worked very well for our family. It is the same mobile home and it is a 1987 model, the 1985 was an error.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Leipard: Has staff received any complaints about this?

Bill Florea: I don't believe so.

Thad Yonke: If the situation had changed on the previous administrative reviews then we would have said it no longer qualifies.

Angela Waller: When my mother passes, we will remove the mobile home from the property, we understand that we need to do that.

Member Thomas made, and Member Leipard seconded a motion to renew the permit for Tim Waller for a mobile home as a second dwelling on 5 acres located at 11150 N Rte B, Hallsville:

- Permit to be reviewed before the Board in two years

Member Thomas

Yes

Member Leipard

Yes

Member Stephens Yes

Motion to renew the permit carries unanimously

Case 2014-002

Review permit issued to Bernie & Lisa Kile for a mobile home as a second dwelling on 10.02 acres located at 9151 E Rte H, Ashland (first granted 7/2014).

Applicants did not appear. This request will be held over until the next meeting. The applicants will be notified and if they do not appear for the next meeting their permit to renew may be denied.

NEW BUSINESS

None

ADJOURN

Being no further business, the meeting was adjourned at 8:03 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 22nd day of April, 2021