

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, August 26, 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 Leipard
Jason Russell

Absent: Paul Zullo

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

Chairperson Thomas read the following statement:

Ladies and Gentlemen, the Boone County Board of Adjustment is now in session.

This Board is appointed by the Boone County Commission to consider specific application of the zoning and subdivision regulations. The Board is empowered to enter rulings that may give relief to a property owner from the specific application of the Zoning and Subdivision regulations. Generally, variances can only be granted in situations where by reason of shape, topography or other extraordinary or exceptional situation or condition of a specific ordinance would result in peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use as relating to the property. A variance from the strict application of this ordinance can be granted provided the relief requested will not substantially impair the intent, purpose and integrity of the zoning regulations.

Notice of this meeting has been published in accordance with our by-laws for the proper number of days. All decisions of the Board are based on the zoning or subdivision regulations for Boone County, Missouri, and they are hereby made a part of the record of this meeting.

This Board is comprised of five members, with three members constituting a quorum. An applicant must receive at least three votes in order to receive the relief that they have requested from the Board.

This meeting is being conducted in compliance with County Commission order 307-2021 which requires that all persons 10-years or older, regardless of vaccination status, wear a face mask while in public areas of the Government Center.

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 April 22, 2021 meeting were approved as written.

REQUESTS

1. Case 2021-003

- a) Request by Chad & Wendy Glascock to allow a variance for a new accessory structure to be placed in the front plane of an existing single-family dwelling located at 15445 S. JD Sapp Rd, Hartsburg. (Zoning Regulations, Section 7.A.5)
- b) Request by Chad Glascock for a variance from the front setback in the A-2 zoning district for a new accessory structure located at 15445 S. JD Sapp Rd, Hartsburg. (Zoning Regulations, Section 10.A)

Planner, Thad Yonke gave the following staff report:

This 3.15 acre property is zoned A-2 (Agriculture) as is all the surrounding property and is approximately one mile west of the Ashland city limits on the southwest corner of the intersection of Liberty Lane and JD Sapp Road; there is a single-family dwelling on the property. The applicant intends to build a 30 x 46 garage/pole barn in front of the existing single-family dwelling and in the front setback along JD Sapp Road. The property is a corner lot, which requires a fifty-foot setback on both JD Sapp Road and Liberty Lane. This 3.15-acre lot is a surveyed remainder from an 11.93-acre parent parcel. The applicant transferred two lots out of the 11.93-acre parent parcel by family transfer to various family members. A sketch submitted by the applicant indicates that the building would be placed 55-feet from the center line of JD Sapp Road which, he thought to be the property line. The family transfer survey recorded in 2011, Book 3789, Page 116, indicates that the property line is not the center line of JD Sapp Road but rather an unspecified distance to the west of the center line. Boone County Chief Engineer, Jeff McCann, indicated that JD Sapp Road at this location, has a 30-foot total right-of-way. Mr. McCann indicated that he prefers that the building be located 65-feet from the center line. The requested variances are 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, and; Zoning Regulations, Section 10.A which requires a front setback of 50-feet in the A-2 zoning district. Staff notified 21 property owners about this request.

Present representing the request:

Chad Glascock, 15445 S JD Sapp Rd, Hartsburg

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

Thad Yonke stated no.

Chad Glascock: I want to put a 30 x 50 building up on the southeast corner of the property facing JD Sapp Road. The house was built in 2003 and at that time we leveled off a place for a future shop and at that time we were told it would be okay to place it there. Money was tight back then, so we opted not to build then. My kids will start driving soon and I want a place to put their vehicles in that building and out of the weather. Since 2003 the rules and regulations changed, and this has been an ongoing battle for us to be able to put the building up and that is why we are here tonight.

Open to public hearing.

Present speaking in favor of the request:

Bobbie Glascock, 15690 S JD Sapp Rd, Hartsburg

Bobbie Glascock: I am Chad's Dad and own the property on the east side of Liberty Lane. In 1960 my parents bought that property and at that time, the yellow line (on the aerial) above Liberty Lane to the north, the dots on the right-hand side is actually the property line and JD Sapp Road wasn't even there. My parents owned both sides of JD Sapp Road. Somehow or another an easement was granted so the original property line, in my opinion, is the dotted line and it goes down the middle of JD Sapp Road. When we measured for the future barn, we measured off that center line. Boone Electric's power poles are to the west side of JD Sapp Road and we are to the west side of those power poles and they aren't going to have to move them so that tells us that we have enough room to do it.

No one spoke in opposition to the request.

Closed to public hearing.

Chairperson Thomas: Can staff give some background on this?

Thad Yonke: This is a surveyed piece of property that has two property pins according to the survey; that is the property line that the 50-foot setback has to be measured from. It probably needs a variance but we don't know how much variance is being asked for because we don't know exactly how far off of the property line the building is proposed to be.

Chairperson Thomas: We don't know where the pins are?

Chad Glascock: Over time, JD Sapp Road has spread out quite a bit, especially coming off Liberty Lane. They blacktopped it 15 to 30 feet and it has gotten extremely wider along with the gravel road itself. We looked for the pins and couldn't find them. The original property line was at the dotted lines and that is why we measured off the centerline of JD Sapp Road.

Member Stephens: It looks like it is on the section line; typically, you'd see the section line be the center of the road, but it does not appear to be in this case. According to the survey recorded in 2011 it appears to be on one side of the section line. Two pins would have been set at that time, so they are probably there.

Thad Yonke: A surveyor would be able to find them.

Member Stephens: They could probably be found with a metal detector.

Bobbie Glascock: If you look at the house you can tell where the driveway is, where he is talking about building is behind his house on the flat part on the left side of the driveway. The house is a walkout basement and there is no way to get down to it because it all drains down to a lake off his property.

Chairperson Thomas: What is considered the front plane of the house?

Bill Florea: The corner of the house that is closest to the property line; anything in front of that, parallel to the property line, is considered the front plane. Since this is a corner lot, there are two front planes.

Member Stephens: The applicant would have to be behind both front planes.

Bobbie Glascock: Anything to the west is a falling hill, that is why we are asking for a variance. The southeast corner is flat and when the house was built, that flat area was for a future garage. Anything to the west is not doable.

Chairperson Thomas: Did the applicants talk to staff about this?

Bobbie Glascock: Yes, I talked to Mr. Florea.

Member Leopard: One of the problems is that it is behind the house in both directions?

Thad Yonke: Behind the house is fine. The applicant wants to place the building closer to the road than the house is so that is one of the variances; the other problem is if it is within 50-feet of that surveyed line they will need another variance for however far it encroaches into the setback.

Member Russell: 65-feet from the centerline of the road was the recommendation but that is just a recommendation?

Bill Florea: Correct, that recommendation is from the Chief County Engineer just to ensure if there is ever road work that needs to be done there is adequate room to do the work.

Member Stephens: If you can't find the pins that is another way of measuring.

Thad Yonke: When there is a pinned property line you can't really use an approximation.

Member Russell: We aren't thinking it is more than 10-feet between the pins and the road.

Bill Florea: We have no idea.

Thad Yonke: Without a surveyor marking it we don't know how much of a variance is being requested.

Member Russell: Did we send anyone out from the county to try to determine the property line?

Bill Florea: The County doesn't do that.

Member Stephens: The likelihood is that it is a 15-foot half-width right-of-way. If you go off the centerline of the road and measure 15-feet that is where the pins should be.

Bobbie Glascock: The road wasn't that wide all the time. I live south of there and there was enough room for one car on that road when I moved there.

Thad Yonke: The survey was done in 2011 and the pins were set at that point.

Member Russell: If it is 65-feet from the center of the road is that something the applicant can fit?

Chad Glascock: It will be pushing it, I wouldn't want to go any more than that. More than that and you are falling off the hill.

Chairperson Thomas asked staff to measure from the centerline of the road to the corner of the house on the aerial map.

Cece Riley: It appears to be 95-feet.

Thad Yonke: We talked to the surveyor that did the survey to see how accurate he thought the house delineated on the survey was. He had not taken the measurements when they did it, so he said it was approximated off the aerial photograph.

Member Leipard: It would be a lot easier for everyone if there was a drawing showing exactly where the building was going to be placed.

Member Stephens: All they really need to do is find the pins.

Member Leipard: I would like to see a decent drawing.

Member Stephens: Either that or find the pins and work off those.

Member Leipard: I would find the pins and sketch it out and bring it back to the Board.

Bill Florea: There have been cases in the past where the Board has tabled a request and required more information before they made a decision.

Member Stephens: We could do that. If the applicants are agreeable to find the pins.

Thad Yonke: The applicants would still need the variance for an accessory in front of a primary structure.

Bobbie Glascock: What do you mean by in front of the building? The front of the building is where the front door is.

Thad Yonke: Legally, where the corner of the house is, if an accessory structure is closer to the road than the corner of the house that breaks the front plane. If the property is not five acres or larger a variance would be required.

Bobbie Glascock: I understand but how many people walk in your house when you pull up to the garage door and there is no door, is that the front of the building?

Thad Yonke: With the Board of Adjustment we are talking about what the regulations say.

Chairperson Thomas: The applicant is kind of penalized because he has two front planes. It looks to me that the frontage that I would consider the natural frontage of the house looks to be facing Liberty Lane.

Chad Glascock: You don't consider it where the driveway comes in?

Thad Yonke: Both of them are fronts according to the regulations.

Bobbie Glascock: If none of the neighbors have a problem with this then I don't see why we have to go back and start surveying because it is not five acres.

Member Russell: If we agree on the first variance and the second we are willing to say find the pins and go 50-feet.

Bobbie Glascock: If those pins are not in the road we can't go 50-feet. It will drop off a hill.

Chairperson Thomas: What the Board is saying is that we are not comfortable with the amount of information we have with where the house is located in relation to the property line and knowing exactly how much in the front setback the accessory building will be.

Bill Florea: The reason that is a problem is because we have no way to verify where the property line is. When the applicant builds how are we going to verify that what they've done is in compliance with what the Board expects you to do if they grant a variance unless, there is some kind of survey or at least dimensions from the property line.

Bobbie Glascock: If you come down to look at that property you are going to see that there is nowhere else to put the building other than where we told you it was going.

Bill Florea: I understand that but what if you decide to put it right by the property line?

Bobbie Glascock: We can't.

Bill Florea: What is stopping you?

Bobbie Glascock: Boone Electric is stopping me because there is a power line.

Bill Florea: What I am saying is the applicants have not provided enough information. You haven't even really told them what you want to do specifically, so it is not verifiable.

Chairperson Thomas: It can be verified; we are just asking for more information. This Board is evidence based and what you bring us is what we make our rulings on. We don't go out to look. It is only what the applicants bring to the Board. We could deny the request because the applicant has not given enough information.

Thad Yonke: At the end of the house, is that a driveway/patio area?

Bobbie Glascock: Yes, it is a sidewalk.

Thad Yonke: About 30 x 30?

Bobbie Glascock: Yes.

Thad Yonke: Where, in relation to the concrete pad, is the applicant intending to place the building?

Bobbie Glascock showed the location on the aerial photo.

Chairperson Thomas: That is not what was shown on the provided documentation. The drawing that we have shows it at the corner of the concrete pad.

Chad Glascock: The building will start at the end of the pad.

Chairperson Thomas: This is exactly what we are talking about, the lack of information we have.

Member Stephens: My inclination is to approve the first variance and have the applicant provide more information.

Chad Glascock: The drawing provided to the Board is where it is supposed to be.

Member Stephens: If we approve the first variance and table the second one for more information; if the applicant goes out and finds the pins and realize they don't need the second variance, is that a scenario that works?

Thad Yonke: The applicant can then withdraw that request and not come back.

Member Stephens: If the Board denies the second variance then what happens.

Bill Florea: They would have to reapply.

Member Stephens: We could table the second request and the ball is back in their court whether they follow through or not.

Bill Florea: Correct.

Chad Glascock asked the Board to explain what they were talking about.

Member Stephens: The applicant is requesting two variances; one is to be in the front plane of the home and the second is the distance from the property line, the required setback is 50-feet from the property line.

Thad Yonke: If the Board is granting the first variance are they basing that on the topography?

Chairperson Thomas: Yes.

Thad Yonke: If the Board feels that has been proven they can grant that variance.

Member Stephens made, and Member Russell seconded a motion to approve the request by Chad & Wendy Glascock to allow a variance for a new accessory structure to be placed in the front plane of an existing single-family dwelling located at 15445 S. JD Sapp Rd. Hartsburg:

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to approve the request carries unanimously

Member Stephens made, and Member Leipard seconded a motion to table the request by Chad & Wendy Glascock for a variance from the front setback in the A-2 zoning district for a new accessory structure located at 15445 S. JD Sapp Rd, Hartsburg in order for the applicants to provide the following information:

- Locate property pins and adequately locate where the proposed structure will be located

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to table the request carries unanimously

Bobbie Glascock: What if we can't find the pins without hiring a surveyor?

Member Stephens: You may have to hire a surveyor. It is a legally surveyed tract of ground so it can be retraced.

Bobbie Glascock: If we find the pins it needs to be 50-feet off of that?

Member Stephens: If you find those two pins and determine that you can place it 50-feet off of that then you don't need to come back. If you realize you can't place it 50-feet back then they can come back before the Board without having to reapply.

Thad Yonke: You would take your string line from pin to pin and measure off of that. If you can't make the 50-foot setback you would come back and tell the Board how many feet you wish to be off the front setback. You don't need a surveyor to do that if you can find the pins yourself.

2. Case 2021-004

Request by John & Phyllis Needles for a variance from the width to depth ratio on a lot in the A-2 (agriculture) zoning district located at 19351 N Rte V, Sturgeon. (Subdivision Regulations, Appendix B 1.8.2, Table A)

Planner, Thad Yonke gave the following staff report:

This 9.4-acre tract is zoned A-2 (Agriculture) as is the surrounding property and is located approximately three miles south of the Sturgeon city limits. There is a single-family dwelling and outbuilding on the property. The applicant intends to convey a strip of land between 24 and 30 feet in width comprising $\frac{3}{4}$ to one acre of property to the owner to the north creating a property line to match the current fence line. This must be done by subdivision plat and this will result in the property becoming non-compliant under the current subdivision regulations, exceeding the 3:1 ratio. The original zoning for this property is A-2, there have been no previous requests submitted for this property. The requested variance is from Subdivision Regulations, Appendix B, Table A, which indicates that the maximum lot depth cannot exceed three times the lot width. Staff notified 23 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 9.4-acres and zoned A-2, agriculture. Adjacent zoning is also all A-2. This site is located approximately 3-miles south of the city limits of Sturgeon on the west side of State Route V immediately west of the intersection of Graybill Road and State Route V. There is a house and an accessory structure on this property. The applicant originally owned most of the 40-acres comprising the entire NW1/4 of the NW1/4 of section 28-T51N-R12W.

In 1987 the applicant deeded the north 25-acres to Mr. & Mrs. Bailey without benefit of a survey. The Baileys platted the 25 acres into a two-lot subdivision plat named Bailey Acres in 2010. The plat shows a fence line south of the southern boundary of the plat. The fence is shown 30 feet south of the boundary on the west and 24 feet south on the east. The applicant wants to transfer the portion of their property that falls between the platted boundary line to the north and the fence line that is on their property, to the neighboring property to the north. In order to accomplish the transfer, the properties involved will have to be platted. The requested variance is from the Subdivision Regulations, Appendix B, Table A: The maximum lot depth cannot exceed 3 times the lot width (D to W=3 to 1). Staff notified 23 property owners regarding this request.

The applicant's property is approximately 1355 feet deep and 300 feet wide. This results in a depth to width ratio of around 4.5 to 1. If the transfer is executed, the resultant lot will be even less compliant with the required standard than the current property, approximately 4.9 to 1. In the current configuration, the existing lot is a legal lot because it was created prior to the existing regulations going into effect in 1995 despite not meeting this subdivision standard.

It is not known when the fence was built. So, it is difficult to determine why the property line and fence line do not match. Either the applicant made the choice to create the property to the north without conveying all the property down to the fence line or the fence was built after conveyance of the property. In either case, the location of the fence in relation to the property line appears to have been caused by the property owner and/or neighbor to the north. An alternative to a variance would be to install a fence along the current property line, or to allow the adjoining property owner to utilize the portion of the property north of the fence line by permission without the transfer of any property.

A. The applicant will not incur unreasonable and unnecessary hardship as an unreasonable deprivation of use. There is no deprivation of use. The act or acts that resulted in the fence not following the property line was a choice, whether that act was intentional or through lack of care. That choice does not constitute a hardship and is not grounds for grant of a variance. There are remedies available to the owner that do not require a variance or subdivision of the land. The land between the fence and the property to the north can be used.

A desire to avoid the cost associated with installing a fence along the actual property line would be an economic variance sought primarily to avoid financial expense in complying with the requirements of these regulations; such grants of variance are prohibited.

B. Granting this variance will not endanger the health, safety, or welfare of the public.

C. Granting this variance will thwart and circumvent the general intent and specific purpose of the regulations. There is no inherent right to divide property, there is only the right to divide or reconfigure property in compliance with the adopted Subdivision Regulations. The standard for which the variance is sought was written for the exact purpose: to prohibit creating or altering lots that exceed a depth to width ratio of 3 to 1. Whether the existing lot meets the standard prior to a proposed subdivision action or not has no bearing. The regulation is working as designed, granting the variance will thwart the purpose of this portion of the regulation.

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

Present representing the request:

John Needles, 19351 N Rte V, Sturgeon

John Needles: We made a mistake in not getting the land surveyed at the time of sale. Mr. Bailey (previous owner of the property to the north) and I measured the frontage based on the depth of the land that we knew of and we figured we had to have so many feet of frontage to give him 25 acres. That is how we arrived at where this other fence line was. When they surveyed the seven-acre tract with the pond on it, the surveyor at that time told me that he has 30-feet on the front and 24-feet on the west. At that time, I didn't feel it was necessary to carry it any further, I didn't know about the 1995 law that was passed that you had to have 3 to 1 ratio but because we had done this previously I guess it was grandfathered in?

Thad Yonke: At the time the division was done that rule was not in place, it wasn't grandfathered, it was legally done at the time.

John Needles: It is not legal; it was allowed to stand because it was done before 1995?

Thad Yonke: Correct, that was not grandfathered, it was a legal lot because it was created legally at the time.

John Needles: The only reason that I was requesting it is because we were thinking about selling our property. The surveyor ran into this rule that was made for the 3 to 1 which I knew nothing about, that doesn't excuse the issue. When the new owners built the fence, I never thought anything about it because that is where the old fence was that Mr. Bailey built and I never questioned it then. Then my realtor said that I had to have a legal description of my property and I couldn't have a guess-timation. That was when I decided to talk to my surveyor, and he called me and informed me of the problem that I had with the depth to width ratio. That is why I am here, because I didn't want to spend the money to move the fence over 30 feet. I talked to the neighbor and told him if I could do this, are they willing to accept it and they said yes. That is why I am here, to see if I can let the people have the 30-feet and give me a legal description of the property even though it doesn't meet the criteria for the 3 to 1. At that time, it will end up being 8.4 acres instead of 9.4 acres. The fence is brand new and it is not creating a hardship; I just hate to have to foot the bill to move the fence back 30-feet and tear out the new fence. The property will still not meet the criteria.

Open to public.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas asked if staff heard from any of the property owners.

Thad Yonke: I took two calls from people who were confused because the agenda said it was a subdivision variance and the callers were concerned that a subdivision was being put in. When I explained what the variance was for, they had no problem with the request.

Member Stephens: Has there always been a fence in that location?

John Needles: Mr. Bailey put a fence through there.

Member Stephens: When did you transfer the land to him?

John Needles: My house is about 34 years old.

Thad Yonke: The land was deeded in 1987.

Member Stephens: So, the fence was built in the late 1980s?

John Needles: Yes, that is where we talked about it and when we measured that is where we thought the 25-acres was. I knew nothing about it until he sold off seven acres, I happened to talk to the surveyor at the time and he informed me that 30-feet beyond the fence was my property.

Member Stephens: Before that you thought the fence line was your property line.

John Needles: Yes.

Member Stephens: Since that time was the fence rebuilt?

John Needles: The current property owners built the fence where the other fence was.

Member Stephens: How long ago did they do that?

John Needles: I don't know.

Member Stephens: What kind of fence is it? Barbed wire or woven?

John Needles: It is woven with the little squares, it isn't barbed. He has goats in there.

Member Stephens: They have been using that ground like it is theirs?

John Needles: Yes, I thought it was theirs.

Member Stephens: Once you sold the 25 acres what year did the fence get built? Late 1980's after the property was divided?

John Needles: The fence was there before the property was divided.

Member Stephens: So that is an old fence location that has been there for some time and they have improved the fence over the course of time?

John Needles: Yes, they took out the old fence.

Member Stephens: The thought was when you sold the property originally you thought there was about 25 acres north of the fence?

John Needles: Yes, that is how we established it, measuring along the road so many feet and the distance in depth gave us 25 acres so we were both happy. I wish I would have surveyed it.

Thad Yonke: The deed did not say 25 acres more or less and it didn't reference the fence, which it could have. Or, there could have been a survey at that point, both of which would have ensured that the intent of meeting the property line was the fence but that is not how the deed was prepared.

Chairperson Thomas: They could have referenced a fence line and that would be legal?

Bill Florea: That was common in older property descriptions.

Member Stephens: The concern I have is adverse possession, the other property owner has been using that property like it is theirs for many years.

Thad Yonke: That does not allow for violation of the subdivision regulations.

Bill Florea: That is not for the Board of Adjustment to decide.

Thad Yonke: You cannot claim adverse possession of a piece of property if the other person gives you permission to utilize the property.

Bill Florea: That is not relevant to the Board's decision.

Member Russell: If he decides he wants to sell he can only sell what is in the yellow (yellow line outlining the property on the aerial).

Thad Yonke: He sells what he already owns, as is.

Member Leipard: Even though it doesn't comply?

Thad Yonke: It doesn't have to comply with the regulations as it stands. Any alteration of it does have to comply with the regulations and does not qualify for the three criteria of the variance.

Member Leipard: He can sell it and allow an easement along that part?

Thad Yonke: Yes.

Bill Florea: He can cut a gate in the fence and it would be the new owner's decision how to deal with the fence; that may make it more difficult to find a buyer. It would be in Mr. Needles' interest to resolve it first.

Member Russell: Either way it is not compliant with today's standards.

Bill Florea: Correct. Granting the variance would make it even less compliant.

Thad Yonke: The criteria under which the Board is allowed to grant a variance, it has to meet all three of the criteria, if it fails any one of them the Board is really not allowed to grant a variance.

Member Stephens: Are the neighbors in favor of the fence being moved?

John Needles: I have not approached them on that because the fence was brand new.

Member Stephens: If you are putting your property up for sale it is going to be more valuable with more acreage. There is a cost to move the fence but there is also a cost to giving up acreage too.

John Needles: The deal I made with the people was that they would take care of all of the surveying and all the costs to get it where they had a legal description with this land included. I wouldn't have to pay anything.

Member Russell: It sounds like whoever bought it from Mr. Bailey should try to get a variance.

Bill Florea: They have more responsibility to move the fence.

Thad Yonke: When they built the fence, they built it on someone else's property, whether it was an honest mistake or not.

John Needles: I think it was an honest mistake. We didn't think anything about it since there was a fence there.

Chairperson Thomas: Ultimately there is no need for a variance. Unfortunately, there was a misunderstanding and the property owners to the north built a fence in the wrong place.

Bill Florea: There is a plat of record that shows the relationship of the fence to the property line that existed before they bought the property. Whether they didn't know, there was information of record that was linked to their title of the property that they bought.

Thad Yonke: The survey shows the fence on someone else's property. It is very clear.

Member Russell: So, he can legally sell his property as outlined on the yellow line (shown on aerial).

Thad Yonke: Correct.

Chairperson Thomas: He can inform his neighbor that they need to move their fence.

Thad Yonke: There are a number of ways to remedy this other than a variance.

Member Stephens: This is just something your real estate agent needs to disclose.

Member Russell: I don't think a variance is necessary in this situation. The applicant owns the property.

Chairperson Thomas made, and Member Russell seconded a motion to deny the request John & Phyllis Needles for a variance from the width to depth ratio on a lot in the A-2 (agriculture) zoning district located at 19351 N Rte V, Sturgeon:

Member Thomas	Yes	Member Leopard	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to deny the request carries unanimously

OLD BUSINESS

1. Case 2019-002

Review permit issued to Dolores Wolfe for a mobile home as a second dwelling on 10 acres located at 8900 E Old Hwy 124 (first granted 6/2019).

Planner, Thad Yonke gave the following staff report:

This 10 acres is zoned A-2 (Agriculture). The property to the north, south and west are zoned A-1 (Agriculture) and property to the east is zoned A-R (Agriculture-Residential). This site is located approximately one-mile northeast of Hallsville on Old Highway 124, there is a modular home, shed, barn and singlewide on the property. On June 27, 2019, the Board of Adjustment approved the placement of a mobile home on the property as a second dwelling for a period of two years. During testimony, the applicant's daughter indicated that she and her son would reside in the second dwelling in order to assist the applicant. The original zoning for this tract was A-1 (Agriculture). In 2009, the applicant requested the tract be rezoned to A-2 (agriculture) to effectuate a family transfer which did not occur. The reason cited for the rezoning at the time was for a family transfer due to health reasons. During the BOA hearing in June 2019, the applicant's daughter indicated that she didn't believe a family transfer could be completed at the time and thought the applicant had to "wait a couple of years" due to a lien on the property. As of current date, a family transfer has not been completed. The applicant obtained a permit from Resource Management to place the mobile home on the property in October 2019. Resource Management inspected the piers, tie downs and electric, however, the applicants failed to schedule a final inspection and the permit was closed due to inactivity. No certificate of occupancy has been issued. The requested variance is from Zoning Regulations, Section 15.C.f, 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 15 property owners.

Attending by phone conference:

Dolores Wolfe, 8900 E Old Highway 124, Hallsville

Marie Wolfe-Boyd, 8888 E Old Highway 124, Hallsville

Marie Wolfe-Boyd: The situation has not changed; my mother is still in bad health and she has been in and out of the hospital a few times and caught Covid so it has been a bit of a struggle. I have been here on her property to help her.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas: What bearing does the fact that the family transfer not being completed have on this request?

Bill Florea: The family transfer really doesn't have any bearing; while that was the justification for the rezoning, they still granted it; it doesn't affect what is happening tonight. In terms of the certificate of

occupancy, the only item was that they didn't skirt the trailer but all of the safety issues, such as electric and tie downs have been inspected and approved. All of the critical features have been addressed, it is just the skirting hasn't been done.

Chairperson Thomas: Does the fact that they didn't finish out the process have any relevance here?

Bill Florea: I wouldn't make much of it; if it were more significant issues then it might.

Member Russell: Looking through the old minutes, was a separate wastewater system installed?

Thad Yonke: Yes, they had to put in a separate wastewater system.

Member Stephens: Has the trailer been skirted?

Marie Wolfe-Boyd: Yes.

Member Stephens made, and Member Leipard seconded a motion to approve the request by Dolores Wolfe for a mobile home as a second dwelling for a period of two years, on 10 acres located at 8900 E Old Hwy 124:

- Permit to be reviewed before the Board in two years

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to approve the request carries unanimously

NEW BUSINESS

Annual Election of Officers

The floor was opened for nominations for Chairperson.

Member Leipard nominated Member Thomas as Chairperson. No other nominations.

All members voted in favor of Member Thomas as Chairperson.

The floor was open for nominations for Vice-Chairperson.

Member Stephens nominated Member Leipard as Vice-Chairperson. No other nominations.

All members voted in favor of Member Leipard as Vice-Chairperson.

ADJOURN

Being no further business the meeting was adjourned at 8:12 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 23rd day of September, 2021