

# **BOONE COUNTY BOARD OF ADJUSTMENT**

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, October 28, 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: Michael Leipard  
Jesse Stephens  
Paul Zullo  
Jason Russell

Absent: Frank Thomas

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

Vice-Chairperson Leipard read 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 County Commission order 443-2021 which recommends all persons who have not completed their COVID-19 vaccination process, and who are 10 years of age or older continue to wear a face mask in any public areas of the Government Center.

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 September 23, 2021 meeting were approved as written.

## **REQUESTS**

1. Case 2021-003

Request by MBK Investments LLC to allow a variance from the 25-foot boundary setback in a planned development located at 5065 S. Providence Rd, Columbia. (Zoning Regulations, Section 6.9.1)

Planner, Thad Yonke gave the following staff report:

This property is 3.47 acres and is zoned R-M (moderate-density residential). Property to the north and west are located inside the city limits of Columbia and zoned R-MF; property to the east is R-S (single-family residential) and to the south is R-S and C-GP (planned general commercial). This site borders the city limits of Columbia, 400 feet north of the Providence Road and Route K intersection with Highway 163. There is a single-family dwelling on the property; the property was used as a mobile home park as recently as 2019. The applicant intends to seek rezoning of the property to M-LP (planned light industrial) for the future use of contractor storage buildings. The property would also be platted. The original zoning for this property is R-M. In December 2020, the applicants requested a variance from the stream buffer regulations to place one of the storage buildings within the outer stream buffer zone, that request was denied; at the same time, the applicants also requested a variance from the subdivision regulations for the 3:1 width to depth ratio, that variance was approved. The current request is a variance from the required 25-foot perimeter setback in a light-industrial planned development. The applicants propose to place storage buildings 10-feet from the south property line. The requested variance is from

zoning regulations 6.9.1 “A minimum 25-foot setback shall be provided around the boundaries of the (industrial) planned development”. Staff notified 43 property owners.

Present representing the request:

Jay Gebhardt, A Civil Group, 3401 Broadway Business Park, Columbia  
Caleb Colbert, Attorney, 827 E Broadway, Columbia

Jay Gebhardt submitted two exhibits:

Exhibit 1 – Drawing of the property showing the location of the proposed buildings, proposed setbacks, parking and stream buffer.

Exhibit 2 – Copy of Zoning Regulations, Section 10.A, Yard Requirements

Caleb Colbert: Exhibit 1 highlights what the applications are proposing. We have proposed for the site to have a planned light industrial development and under the county regulations a planned light industrial development requires a 25-foot perimeter setback on all four sides. We are able to accommodate the 25-foot setback on three of the four sides, but we are not able to accommodate the full 25-foot setback on the south property line. The reason for that is two-fold; one, the lot is long and skinny as opposed to a square lot where you could locate a building in the middle of the lot, instead it is considerably longer than it is wide. That problem is made more challenging by the fact that there is 50-feet of stream buffer located along the north property line. In order to accommodate the stream buffer we have to locate the buildings along the south property line. We are proposing to locate the buildings such that we still provide a 10-foot setback, we think that proposal still meets the intent of the zoning regulations as shown on exhibit 2. Exhibit 2 shows the standard yard requirements for M-L zoning which only requires a 6-foot side setback. We are going above and beyond that by providing a 10-foot setback so we do think we are providing the buffer that is intended in the zoning. We think this is the best layout and best site plan for this particular property in light of the challenges of the lot dimensions and the stream buffer.

Vice-Chairperson Leopard: On a planned development the setback is required to be 25-feet; what is the regular M-L zoning setback requirements?

Bill Florea: M-L requires a side setback of 6-feet.

Vice-Chairperson Leopard: With planned zoning you have more control on the plan and it has to be approved?

Thad Yonke: Correct. The regulations were setup recognizing that the standard is 6-feet but a perimeter for planned developments was determined to be the proper way. It wasn't an accident that the setback wasn't 6-feet.

Member Stephens: With the current zoning of R-M it would require a 25-foot front and rear setback and 6-foot side setback. Is there any reason the applicants are applying for M-LP instead of just M-L? M-L would meet all the setback requirements.

Jay Gebhardt: M-L opens up too many uses. We could meet the requirement by moving the buildings up against the stream buffer but that puts the parking lot in the back yard of the neighbors and we didn't feel that was appropriate. The stream buffer takes up about an acre of the four-acre tract which is challenging.

Member Stephens: It is a quandary for me in that this is a weird situation but it seems to me that the general intent of a planned district is to have some conversation with P & Z about the best way to orient things. You never get to that conversation if we deny the request tonight.

Jay Gebhardt: Being 10-feet from the property line leaves enough room to provide a landscaped area. What is the purpose of the 25-foot perimeter setback? The building is a screening device in itself, there won't be any doors or penetrations on that side.

Member Zullo: Is there a fence along the south property line now?

Jay Gebhardt: I think it is a hodge-podge of fences.

Caleb Colbert: That is correct, I think it is a lot by lot fence.

Vice-Chairperson Leopard: What you are going to do behind the building is what I was interested in, that whole 10-feet is going to be green space?

Jay Gebhardt: Yes.

Member Zullo: Will the green space just be grass planted?

Matt Kelly (property owner – did not sign in): We are still working on the plan.

Member Zullo: Are the buildings metal or block?

Matt Kelly: There is a pretty good chance it is going to be metal.

Jay Gebhardt: With today's world and supply issues it is hard to say at this time.

Member Stephens: If we deny this request then they would move these buildings back against the stream buffer and put the access point where all the neighbors could see which is less desirable. They never get to the point where they have legitimate conversation with staff if we shoot them down tonight.

Member Zullo: None of the neighbors responded?

Jay Gebhardt: I have spoken with the neighbors to the north and they actually prefer this variance and M-LP zoning versus the existing zoning. The neighbors to the south are mostly renters.

Thad Yonke: The 10-foot area does have to stay grass because it is also fire access to get to the back of the building. It can't be planted heavily.

Vice-Chairperson Leopard: What is the distance from the back of the building to the back of the duplexes?

Jay Gebhardt: It looks to be about 30-feet.

Member Russell: Are the buildings on the property going to be removed?

Jay Gebhardt: Those are trailers; if they haven't already, they will be.

Member Russell: Are those setback 6-feet?

Member Stephens: They look pretty close to the property line.

Bill Florea: Keep in mind that the aerial is not 100% accurate; it could be plus or minus 10 feet.

Member Russell: The Board has specific criteria in which a variance can be granted. What does this fall under?

Bill Florea: 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 be a substantial detriment to the public.

Member Stephens: If we say no it is probably more detrimental to the public. The question is whether it is an extraordinary circumstance.

Vice-Chairperson Leopard: Is there more control with a planned development versus a straight commercial zoning?

Thad Yonke: Significantly more control.

Bill Florea: The Board doesn't have to seize on shape or topography or something else; it can be a combination of those things.

Member Stephens: I think the situation itself is a unique, extraordinary circumstance.

Vice-Chairperson Leopard: There is not a lot you can do with that property. What are the applicants going to do with the house?

Jay Gebhardt: It is going to come down.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Stephens made, and Member Zullo seconded a motion to approve the request by MBK Investments LLC to allow a variance from the 25-foot boundary setback in a planned development located at 5065 S. Providence Rd, Columbia:

Member Leopard	Yes	Member Stephens	Yes
Member Russell	Yes	Member Zullo	Yes

Motion to approve the request carries unanimously

**NEW BUSINESS**

None.

**OLD BUSINESS**

Certificate of Decision - Glascock

Vice-Chairperson Leopard approved and signed the certificate of decision.

**ADJOURN**

Being no further business the meeting was adjourned at 7:28 p.m.

Respectfully Submitted,

Paula L Evans  
Secretary

Minutes approved this 23<sup>rd</sup> day of December, 2021