

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, May 26, 2022

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
Jason Russell

Absent: Michael Leopard
Paul Zullo

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

Chairperson Thomas 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 May 26, 2022 meeting were approved as written.

REQUESTS

1. Case 2022-003

Request by Wayne Atkinson for a variance to place an accessory structure in front of a primary structure located at 2860 E Buffalo Dr, Columbia (Zoning Regulations, Section 7.A.5)

Planner, Thad Yonke gave the following staff report:

This property is zoned A-R (Agriculture-Residential), as is all surrounding property. The property is located on the corner of Buffalo Drive and Lespedeza Lane in the Haystack Acres Subdivision, approximately 500 feet west of Oakland Gravel Road. There is a single-family dwelling on the property which was built in 2005. The existing home is located approximately 25 feet from the west property line and is a corner lot. The Zoning Regulations require a front yard setback along all street frontages. The regulations designate the front property line, for a corner lot, as the shortest street dimension of the lot. The Lespedeza Drive frontage is the shortest street dimension and is the front yard. The applicant requests to build a detached garage on the east side of the property in front of the existing home. The original zoning for this property is A-2 and was rezoned to A-R in 1978. In 1994, the previous owners of Haystack Acres submitted a request to rezone the subdivision to R-SP (Planned Single-Family Residential); the rezoning was approved pending an approved review and final plan, however the applicant at that time did not submit a suitable plan. There have been no previous requests for this individual tract. The requested variance is from Zoning Regulations, Section 7.A.5, no accessory

building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall.

Staff analysis and recommendation:

Facts:

- The lot is a corner lot;
- All road frontages on a corner lot require a front yard setback;
- On corner lots, the front yard shall face the shortest street dimension. Since the eastern frontage, Lespedeza Lane, is the narrowest dimension it is the “front”. So, the west property line is the rear lot line and the yard area east of the eastern wall of the home is entirely a front yard;
- The applicant desires to build a detached accessory structure in this front yard area.
- Zoning Ordinance 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.

Analysis:

The lot is a normal rectilinear shape corner lot occupied by a single-family dwelling. The existing structure appears to comply with the required setbacks. The choice of the location and orientation of the home on the lot was a deliberate choice made by the builder and creates the situation where the lot has no eligible location for a detached accessory structure.

The need for the requested variance was created by the decision to place the home in its current location and is therefore, self-created. This was a given condition of the property when the applicant acquired the property. All properties are subject to the decisions made by the past and present owners and those decisions often restrict the choices of successive owners.

While not the exact solution sought under the requested variance, there are alternatives to provide additional “garage” space on the lot by adding on to the existing home that would not require a variance. There is adequate lot area adjacent to the home to allow such construction. The lot slopes to the east but could be regraded to accommodate the garage. Since the applicant desires a detached garage, the finished floor elevation of the garage does not have to match that of the home, it must simply share a common wall which, allows the grading to be minimized.

The strict application of the regulations does not result in an unreasonable deprivation of use. The lot is developed with a single-family dwelling with an attached garage. A review of aerial photograph indicates that neighboring properties do not have detached accessory structures.

The request is exactly what the regulation prohibits and therefore, impairs the intent, purpose, and integrity of the regulations. There is no unique circumstance causing the inability to comply with the regulations. The lot, as developed, simply isn’t eligible for a detached accessory structure.

Chairperson Thomas asked if staff heard from any neighbors.

Thad Yonke stated staff heard from the President of the Neighborhood Association, they wanted to know what was going on and when it was explained they were not particularly in favor. They said they have had some issues with accessory structures in the neighborhood.

Present representing the request:

Wayne Atkinson, 2860 E Buffalo Dr, Columbia

Wayne Atkinson: I want to build a garage on the east side, 25-feet from the property line and 25-feet from the road. It would not be in front of what I consider the front of my house; it would be back from that. Staff mentioned that the President of the Homeowners Association said something about other structures in the neighborhood; we have several houses in our neighborhood that have their own garages that they bought and they are those little cheap ones. I am building a nice one. I have a slab home and have no basement and it would be nice to have somewhere to put my stuff other than in the garage so I could get my cars in there.

Open to public hearing.

Speaking in favor of the request:

Kenya Hardman, attending by phone, 2633 Buffalo Dr, Columbia

Kenya Hardman: I am in favor of the request.

Speaking neither in favor or opposition to the request:

Donna Weber, attending by phone, 2975 Buffalo Dr, Columbia.

Donna Weber: I am not speaking in favor or opposition to the request but I would like more information on what the applicant wants to build.

No one else spoke on the request.

Closed to public hearing.

Chairperson Thomas: What is the proposed size of the structure.

Wayne Atkinson: 25 x 30.

Chairperson Thomas: Is going to be like a temporary structure or will it have a foundation?

Wayne Atkinson: I am going to put it on a concrete foundation.

Chairperson Thomas: Is there any particular reason you are not going to attach it to the existing home?

Wayne Atkinson: They said you could attach it on the one side; the picture looks like the ground is flat but on the east side of the house it goes downhill quite a ways.

Chairperson Thomas asked to see the topography map.

Wayne Atkinson: On the east side my yard slopes down really good; you would have to really build up a lot of dirt and do a lot just to get anything on that side of my house. It is not like it is flat and it goes all the way down to a creek running through there.

Chairperson Thomas: Can staff give an idea of the slope?

Thad Yonke: The map is two-foot contours.

Wayne Atkinson: From the house it probably drops from the house to the creek at least 12-feet.

Uriah Mach: From looking at the map it is maybe eight feet.

Member Stephens: According to the map it is probably a ten-foot drop in 100 feet; it is sloping about 8-9% on average.

Wayne Atkinson: I came in January to ask if I could get a permit and was told yes so I went and got the money together to build it and when I came down to buy the permit I was told no.

Member Stephens: Are you proposing to put a driveway off Lespedeza to the garage?

Wayne Atkinson: Yes, so I can actually park my vehicle in the garage. It is going to be 25-feet wide and 30-feet long and it will be 10-feet back from the front of my house at least.

Member Russell: Is there a size of building that is small enough to where it isn't considered an accessory building?

Thad Yonke: It is always an accessory structure if it is not the primary structure.

Member Russell: Even if it is 10 x 10?

Member Stephens: It doesn't matter what size it is.

Wayne Atkinson: I wouldn't have to have a permit unless it is 10 x 16.

Thad Yonke: If it is a 10 x 10 on skids with no electric, we don't require a permit but it still has to meet the setback requirements and still can't go in the front-yard plane.

Bill Florea: It is still an accessory structure; it just doesn't require a building permit.

Wayne Atkinson: I know several people in my neighborhood buying those smaller structures but they are pretty small.

Member Russell: When you were given the alternatives to do the grading did you look into that?

Wayne Atkinson: I wouldn't have the money to build that; it would be a lot of money to attach it to that side of my house. I got \$30,000 to build the garage, prices right now are sky-high so there is no way I would have enough money to try to attach it to my house because of the grading; you would have to build a new driveway on that side to get into the garage.

Chairperson Thomas: The applicant is already planning to put in a new driveway.

Wayne Atkinson: Yes, but it is up higher on the hill and it is a lot longer. It would be easier on the other side, there is a ditch there where I put a culvert in and it is already pretty much there.

Chairperson Thomas: But ultimately we really don't know because you haven't pursued that option as far as how much the cost is.

Wayne Atkinson: Yes, but I know it is going to be more expensive. If I attach the garage to the house I would have to put in new driveway off Buffalo Drive.

Chairperson Thomas: If it is attached to the house you could just extend the existing driveway.

Wayne Atkinson: My garage is on the other side of the house; my whole yard would be a driveway if I tried to do that.

Member Stephens: What are the setbacks for this zoning?

Bill Florea: 25-feet off the front and rear and six feet off the side. Since this lot has two street frontages you have a 25-foot setback off the east, west and north and six feet from the south property line.

Member Stephens: The builder made an interesting choice in the layout, maybe it had something to do with the drainage.

Member Russell: Topography is an issue.

Thad Yonke: Topography can be used but it cannot override all of the other issues.

Member Russell: While financial concerns are understandable the Board can't take that into consideration as to whether to grant a variance.

Member Stephens: It is not an insurmountable topographic issue.

Wayne Atkinson: The picture doesn't do it justice, there is more fall than it looks.

Member Stephens: What is the lot size?

Thad Yonke: 83' x 265'.

Member Stephens: So, it is a half-acre lot.

Wayne Atkinson: I was told it was an acre lot when I bought it.

Member Stephens: Unfortunately, the math proves otherwise.

Member Stephens made, and Chairperson Thomas seconded a motion to deny the request by Wayne Atkinson for a variance to place an accessory structure in front of a primary structure located at 2860 E Buffalo Dr, Columbia:

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|----------------|-----|-----------------|-----|
| Member Thomas | Yes | Member Stephens | Yes |
| Member Russell | Yes | | |

Motion to deny the request carries unanimously

NEW BUSINESS

Revision to By-Laws

Section 7.A Notice of Hearing on Applications or Appeals of the Boone County Board of Adjustment by-laws currently state that notice of hearings by the Board of Adjustment be published in a daily newspaper of general circulation once a day for three consecutive issues with the first publication to be not more than seven days prior to the hearing date.

The Columbia Daily Tribune is currently published daily, however, they have indicated that beginning July 3, 2022 they will only publish their print version on Sunday, Wednesday and Friday's. Due to this, staff recommends updating the by-laws. Staff has researched similar Missouri counties including Christian County, Green County and Platte County and all three of their regulations indicate that their Board of Adjustment notices are published once a minimum of fifteen days prior to the hearing. This requirement is consistent with State Statute notice requirements for rezoning and conditional use permits.

Staff recommends updating Section 7.A of the Boone County Board of Adjustment by-laws to the following:

Notice of hearing on applications or appeals shall be preceded by at least one notice published a minimum of fifteen (15) days prior to the hearing date in a newspaper of general circulation in the County of Boone, Missouri.

Currently, Section 7.A states "Notice of hearing on applications or appeals shall be published in a daily newspaper of general circulation in the County of Boone, Missouri, once a day for three consecutive issues of such newspaper. The first publication to be not more than seven days prior to the date set for the hearing by the Board."

Staff proposes to replace that language with the following: Notice of hearing on applications or appeals shall be made by at least one notice published a minimum of fifteen (15) days prior to the hearing date in a newspaper of general circulation in the County of Boone, Missouri.

Bill Florea stated that this change will make newspaper notice for Board of Adjustment hearings consistent with the requirements for rezoning requests.

Chairperson Thomas made, and Member Stephens seconded a motion to adopt the by-laws as amended:

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| Member Thomas | Yes | Member Stephens | Yes |
| Member Russell | Yes | | |

Motion to adopt the bylaws as amended carries unanimously

OLD BUSINESS

Certificates of Decision – Thomas W Smith, Smithview Development
Tade/Freiling

Chairperson Thomas approved and signed the certificates of decision.

ADJOURN

Being no further business the meeting was adjourned at 7:26 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 25th day of August, 2022