

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER; ROOM 301
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, October 27, 2022

The meeting was called to order at 7:00 p.m. in the Room 301 of the Boone County Government Center having a quorum present.

Roll call was taken:

Present: Frank Thomas
Paul Zullo
Jesse Stephens
Jason Russell

Absent: Michael Leopard

Staff: 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. Members of the public attending by phone will be muted until the public hearing portion of each hearing.

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 August 25, 2022 meeting were approved as written.

REQUESTS

1. Case 2022-006

Request by Kyle Nichols to transfer a previously granted variance to place a mobile home as a second dwelling, for a period of two years, on 10 acres, more or less, located at 2851 W Hwy 124, Harrisburg. (Zoning Regulations, Section 15. C.4.d)

Planner, Thad Yonke gave the following staff report:

This property is zoned A-2 (Agriculture); property to the north, east and west are also zoned A-2, property to the south is zoned C-GP (Planned General Commercial) and A-2. The site is located on State Highway 124, approximately 2.5 miles west of Highway 63, there is a modular home, several accessory structures and a singlewide on the property. The applicant requests renewal of permission to place a mobile home temporarily on the property, for a period of two years, due to practical difficulty or unnecessary hardship. The applicant has submitted an application for permission for the same use as previously granted and to transfer the approval to the new property owner. The previous owner, Anna Nichols, was granted permission in 2020 to place a singlewide as a temporary dwelling for her grandson. Since the permission was granted the previous owner transferred the property to her grandson, the current applicant. The requested permission is temporary and can only be granted for periods of two years; therefore, the Board must find that the conditions under which the original approval was granted still exist. The original zoning for this site is A-2. The only previous request for this property was the permission granted by the Board in 2020. 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 21 property owners.

STAFF ANALYSIS & RECOMMENDATION:

Facts:

- After receiving approval from BOA, a singlewide was placed under building permit M1821 and did get inspections.
- Wastewater is a lagoon that appears to have been Health Department approved.
- The ownership of the property is changing but not the situation. The ownership change still involves the original parties the only change is the property title.

Analysis:

The parties occupying the property are the same as the original approval however, ownership of the property has been transferred to the grandson.

The renewal application indicates that the facts that supported the original approval still persist.

If the applicant confirms that the practical difficulty or unnecessary hardship still exists, Staff recommends renewal of the permission.

Present representing the request:

Kyle Nichols, 2885 W Hwy 124, Harrisburg

Kyle Nichols: The staff report was correct. Our situation hasn't changed, I am on the property and I help my Grandma take care of the yard work and other things to help her and make her life easier. The property was deeded over to my name and that is the only change since the last time we were before the Board.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Thomas made, and Member Stephens seconded a motion to approve the request by Kyle Nichols to transfer a previously granted variance to place a mobile home as a second dwelling, for a period of two years, on 10 acres, more or less, located at 2851 W Hwy 124, Harrisburg with the following conditions:

- Request to be reviewed before the Board in two years.

Member Thomas	Yes	Member Zullo	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to approve the request carries unanimously

2. Case 2022-007

Request by Teresa Rhoades for a variance from the front setback for an existing home located at 18352 N Perche Church Rd, Clark. (Zoning Regulations, Section 10.A)

Planner, Thad Yonke gave the following staff report:

This ten-acre tract is zoned A-2 (Agriculture) as is all surrounding property. The site is located approximately 1500 feet west of the intersection of Barnett School Road and Perche Church Road and about 4.2 miles northeast of the Harrisburg municipal limits. There is a single-family dwelling on the property. According to the applicant, the dwelling was built in the 1940's, this aligns with Boone County Assessor records. According to a survey recorded in 1990, the home is a one-story frame with a concrete block basement. The applicant intends to divide the property. The required dedication of right-of-way will cause the home to be in the front setback. The applicant requests a variance from the front setback for the existing house. The original zoning for this property is A-2, the property was surveyed in 1990. There have been no previous requests for this tract. The requested variance is from Zoning Regulations, Section 10.A. A minimum front setback in the A-2 zoning district is 50-feet. Staff notified 10 property owners.

STAFF ANALYSIS & RECOMMENDATION:

Facts:

- The existing home was built in the 1940's.
- The house will not encroach into the plat provided 20-foot utility easement that will be required of any plat.
- A draft plat has not been provided, but a diagram with some dimensions is part of the application. The house will encroach approximately 5-8 feet into the front setback when platted.

Analysis:

The house will need the setback variances for any land division, or the division would be dependent upon removal of the non-compliant portion of the house. The existing survey shows that the parent tract is exactly 10.00-acres so the standard process for the division of this tract is by subdivision plat.

Assuming the survey pin shown on the survey just north of the labeled gravel drive (Pin 1) is the center of the roadway, 33-feet of additional ROW and the 50 feet setback yields a distance minimum of 83 feet, this distance is labelled 84.1 feet with the implication that no variance is needed at that location.

The pin shown on the section line (Pin 2), that also may be at the centerline of the roadway, is shown as being 76.2 feet from the corner of the house that is nearest to the roadway. This location would also require the 33-foot half width ROW and the 50 feet setback and therefore this location would encroach 6.8 feet into the 50 feet setback. This is the location that needs the variance.

The last dimensioned corner of the home to a pin on the section line (Pin 3) shows 70.75 feet with the roadway beyond. The current survey for the property indicates that there may be an intervening property owner between this property and the right of way. If that is the case, a variance is unnecessary. If that is not the case, the amount of encroachment into the front setback, that would be allowed by a variance, is unspecified. For those reasons, staff recommends that this variance should be tabled until such time as clarifying data is provided.

While a desire for division of the land is driving this request, which technically looks to be in compliance with the setback regulations assuming only a statutory 15 feet half width ROW and the 50 feet setback, the platting of the additional dedicated ROW will enable road improvements in the future along this curved section of public roadway which, will be of public benefit and will maintain all of the platted utility easement and most of the required setback.

Staff recommends approval of the variance for the Pin 2 location due to the benefit to the public of the additional ROW and dedicated utility easement, the minimal encroachment into the setback, and the low volume of traffic on Perche Church Rd (last counts show between 35-63 cars per day (ADT)) and tabling the issue of a variance for the Pin 3 location.

Present representing the request:

Don Bormann, surveyor, 101 W Singleton, Centralia

Don Bormann: I talked to Thad about this early on with a concept review and we had assumed that there was going to be an issue with the house so I went out and measured it and this drawing is the result. The one on the west, where Thad said it was Pin 3, there is about another 14.1 feet so we don't really need anything over there. It should be about 84, almost 85 feet at that point so it shouldn't be an issue. The one we don't know about is the one he didn't mention, that iron was not to be found. Looking at the configuration of the drawing, there is 84 feet from the first one to the house and if you come around to the north the house is sitting at an angle to the road; there may be an issue with the next two pins. There is likely to be an encroachment but it won't be as big as the other one, we haven't done the survey yet.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Stephens: I would like an explanation on the idea of tabling the request as suggested in the staff report.

Thad Yonke: Where it has 70.75-feet listed, if you look at it there you can see the survey shows the roadway beyond the section line and the section line appears to be where the property line is. This looks like it is a 30-foot statutory right of way which would mean that it is only 15-feet on each side of the center line, by use is right of way. If that is the case and that 15-foot stops before you hit the section line, then it doesn't have frontage, if it doesn't have frontage, then there won't be any additional right of way dedication.

Member Stephens: What you are saying is there is a strip by the neighboring property?

Thad Yonke: There might be part of that, we are unsure. As Mr. Bormann said, the new survey hasn't been completed; the existing survey implies, unlike what the Assessor's map shows, that there is a little strip of land between that that is not in the ownership of the person who is requesting the variance. If the right of way went all the way to the section line and they have to dedicate right of way then 70.75 feet is not going to be enough so they would need a variance there. At this point, staff can't make a recommendation on that particular one because we don't know enough about whether or not it needs the variance.

Don Bormann: That is where we measured the 14.1 feet so it should be within that.

Thad Yonke: You are saying the road is outside of their property?

Don Bormann: Yes, but the 15-foot half-right-of-way would cover into their property.

Thad Yonke: So they would be dedicating additional right of way so they do need a variance on that one but I have no idea how much.

Don Bormann: When we took the first measurement we didn't check it but we did check it today.

Member Stephens: If we were to follow the recommendation and table that, then upon his production of a survey showing they don't need the variance would he even have to come back?

Thad Yonke: No, because if they don't need the variance there is no need to come back.

Member Russell: If we are tabling it then we are not resolving it.

Thad Yonke: If you do table it. Mr. Bormann just has to find that he measured it and it would be 14.2 which is less than 15-feet. If it has the 15-foot statutory right of way, which is the minimum, then it would have frontage. The Board can table this request or go ahead and grant it.

Member Stephens: We don't need a variance on Pin 1.

Don Bormann: The two middle ones are what needs the variance.

Member Thomas: The third pin is the one that couldn't be located?

Don Bormann: The middle one out of those two.

Member Stephens: Could the motion just be to grant a variance from the 50-foot front setback from the middle two pins with the as is, where is condition?

Member Stephens made, and Member Russell seconded a motion to approve the request by Teresa Rhoades for a variance from the 50-foot front setback for the middle two pins for an existing home located at 18352 N Perche Church Rd, Clark with the following condition:

- The existing structure maintain the same location, footprint, and square footage. If the existing structure has been damaged, by any cause, equal to more than seventy-five percent of the actual value of the structure immediately prior to the damage then any replacement structure must be built in compliance with the required setback.

Member Thomas	Yes	Member Zullo	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to approve the request carries unanimously

OLD BUSINESS

Case 2001-009

Review variance granted to Tim Waller for a variance to place a mobile home as a second dwelling for a period of two years on 5 acres located at 11160 N Route B, Hallsville. (Zoning Regulations, Section 15. C.4.d)

Planner, Thad Yonke gave the following staff report:

This property is zoned A-2, as is all the surrounding property. The site is located on State Highway B, approximately two miles south of the Hallsville municipal limits, there is a single-family dwelling, an accessory structure and singlewide on the property. The applicants wish to renew permission to temporarily place a mobile home on the property, for a period of two years, due to practical difficulty or unnecessary hardship. The original zoning for this site is A-2. It was platted as part of M & M Subdivision in 1987. The property was granted permission to place a temporary mobile home on the property by the Board in 2001 which has been renewed several times. 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 7 property owners.

STAFF ANALYSIS & RECOMMENDATION:

Facts:

- After receiving approval from BOA, singlewide was placed under building permit M1440 and did get inspections.
- Wastewater is a Lagoon that appears to have been Health Department approved.

Analysis:

The renewal application indicates that the facts that supported the original approval still persist. If the applicant confirms that the practical difficulty or unnecessary hardship still exists, Staff recommends renewal of the permission.

Representing the request by phone:

Angela Waller, 11150 N Route B, Hallsville

Angela Waller: My mother lives in the mobile home, nothing has really changed except she had a stroke about a year ago and now requires a little more help and monitoring with day to day things. We just hope to keep the mobile home in place until the time that we no longer need it.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Thomas made, and Member Stephens seconded a motion to renew the request by Tim Waller for a variance to place a mobile home as a second dwelling for a period of two years on 5 acres located at 11160 N Route B, Hallsville with the following conditions:

- Request to be reviewed before the Board in two years.

Member Thomas	Yes	Member Zullo	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to approve the request carries unanimously

Case 2020-008

Review variance granted to Sonia Reeder for a variance to place a mobile home as a second dwelling on 2.5 acres located at 16900 N Anchorom Rd, Hallsville. (Zoning Regulations, Section 15. C.4.d)

Planner, Thad Yonke gave the following staff report:

This 2.5-acre tract is zoned A-2, as is all the surrounding property. The site is located approximately two miles northwest of the intersection of State Routes U & V at the Hallsville municipal limits, there is a single-family dwelling, an accessory structure, and singlewide on the property. The applicants request renewal of permission to place a mobile home temporarily on the property, for a period of two years, due to practical difficulty or unnecessary hardship. The mobile home was to be placed so the applicant's grandchildren could live in the singlewide and aid the applicant. The original zoning for this site is A-2. At the time of the original approval there was question regarding the adequacy of the existing on-site wastewater system. In November 2020, Columbia-Boone County Department of Public Health and Human Services (PHHS) performed an on-site wastewater evaluation and noted that there was effluent running into the front yard, into the ditch and across Anchorom Road through a road culvert. PHHS noted that an on-site wastewater permit would need to be obtained to bring the system into compliance. There is no record of the applicant obtaining a permit as required. There is also no record of a building permit to place the singlewide that is currently on the property. The permission renewal form returned by the applicant in 2022 indicates that the singlewide is currently vacant. 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 18 property owners about this request.

STAFF ANALYSIS & RECOMMENDATION:

Facts:

- After permission was granted by BOA no building permit was applied for nor granted;
- Health Department inspected the singlewide connected septic in 2020 and found evidence of wastewater leaving the property and indicated a new wastewater permit and system were required to be obtained;
- No permit for a new wastewater system was applied for or issued.
- A new wastewater system was not installed as required by the original approval;
- The applicant indicates the trailer is vacant.

Analysis:

There were significant concerns and opposition voiced by neighbors at the hearing in 2020 at which the permission was granted. The record shows that the concerns would have been addressed if the appropriate required permits had been requested and obtained; no permits to support the BOA granted approval were ever applied for or approved.

Since the singlewide is currently vacant there is no one currently providing the service upon which the permission was based, therefore, renewal would not be appropriate. Furthermore, the applicants have failed to comply with the conditions of the approval granted in 2020. Staff recommends the renewal be denied and the singlewide be removed from the property.

Present representing the request:

Sonia Reeder, 16910 N Anchorom Rd, Hallsville
Joy Hayes, 17501 N Route V, Sturgeon

Sonia Reeder: The singlewide is for sale, no one has lived there since the inspection was done two years ago. The property is deeded to my grandson who was living next to me at the time; they have since moved and are living elsewhere.

Joy Hayes: I was here with the applicant last time; I am the girlfriend of her grandson. After all of this was done we took into consideration the financial part and realized that we couldn't afford that so we lived with her at her house for a while until we found a house where we could live close by so we can still give her the support she needs. We thought it didn't make sense for every two years with the amount that we going to have to pay because we figured if we could get the money it wouldn't make sense to only have it temporarily.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas: To be clear, none of the things that we requested before were done?

Joy Hayes: They came and did the inspection and we walked around and they told us what to do but we didn't act on that.

Chairperson Thomas: Then this is pretty straightforward as far as I am concerned. I don't think we need to renew this request which means the singlewide will need to be removed from the property.

Joy Hayes: We are trying to get it sold; it has been for sale for two years.

Thad Yonke: We will work with you for a time to get that done. It will need to have some progress, it is probably quicker for us to insist that you guys try to make sure that happens sooner rather than later than it is for us to prosecute because that would mean we would have to take you to court which takes longer.

Sonia Reeder: But there is no one living there.

Thad Yonke: The mobile home has to be removed from the property.

Sonia Reeder: What if I want to use it as storage?

Thad Yonke: It is not allowed; it is not legal to use a singlewide for storage. Mobile homes are only allowed to be used as residences. It is a zoning violation and what we would normally do is take you to court and prosecute you over it as a zoning violation.

Sonia Reeder: On my own property?

Thad Yonke: Yes. It doesn't comply with the zoning regulations and it didn't before, which is why you came to the Board of Adjustment. However, we are not looking to prosecute things because that takes a lot of time for the court and staff as well as for the property owner so it is better if we can work with you to just get the problem resolved. If you have it up for sale and you work to try to get it removed sooner than later then that is generally the best thing for everyone.

Joy Hayes: How much time would you give?

Thad Yonke: I would say probably six months at the most.

Joy Hayes: Do we have to send you something saying it has been removed?

Thad Yonke: We will put it on the monitor list and we will drive by periodically to see if it is still there. If it is, we will eventually have to send you notice. We don't want to have to prosecute it, however, at some point we may have to start that procedure.

Member Thomas made, and Member Stephens seconded a motion to deny renewal of the variance granted to Sonia Reeder to place a mobile home as a second dwelling on 2.5 acres located at 16900 N Anchorom Rd, Hallsville:

Member Thomas	Yes	Member Zullo	Yes
Member Stephens	Yes	Member Russell	Yes

Motion to deny the request carries unanimously

NEW BUSINESS

Annual Election of Officers

Members requested to postpone the election until more members were present.

ADJOURN

Being no further business, the meeting was adjourned at 7:55 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 23rd day of March, 2022