

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER; ROOM 301
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, April 27, 2023

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
Jesse Stephens
Jason Russell

Absent: Michael Leipard
Paul Zullo

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

Chairperson Thomas read 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 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.

This meeting is available through an audio link; members of the public attending by phone will be muted until the Public Hearing portion of each request.

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 or silence 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 March 23, 2023 meeting were approved as written.

REQUESTS

1. Case 2023-004

Request by Robert W Kilgore Jr for a variance from the minimum lot depth in the General Commercial (C-G) and Agriculture-Residential (A-R), and Single-Family Residential (R-S) zoning districts on 6.83 acres located at 7190 W Henderson Rd, Columbia. (Subdivision Regulations, Appendix B, Section 1.8.2)

Planner, Thad Yonke gave the following staff report:

This property is zoned Single-Family Residential (R-S), Agriculture-Residential (A-R), and General Commercial (C-G). Property to the north is zoned R-S, Planned Light-Industrial (M-LP) and Planned General Commercial (C-GP), to the east is C-G, to the south is Planned Single-Family Residential (R-SP) and to the west is R-S. the site is located between US Highway 40 and Henderson Road approximately 1200 feet west of the intersection of US Highway 40 and Henderson Road, the tract is currently vacant. The applicants plan to replat all the contiguous property they own into a single lot. A portion of the tract does not meet the minimum depth requirement of 250-feet. The original zoning for this tract is R-S, A-R and C-G. In August 2022, the applicant submitted a request to rezone all the contiguous property they owned to M-LP, a Review Plan was also submitted with a proposed use for self-storage units; the rezoning request and Review Plan were approved by the County Commission order 409-2022. A Final Development Plan has not been submitted therefore, the zoning of the property remains R-S, A-R and C-G with a pending M-LP. The requested variance is from Subdivision Regulations, Appendix B 1.8.2 which requires a minimum lot depth of 250-feet. Staff notified 54 property owners.

Facts:

- The subject property is composed of a 4.807-acre survey recorded in Book 400 Page 957 in August of 1972 & a 1.8-acre tract of returned US HWY 40 Right-of-Way dated April 1986 and recorded May 2002.

- The 4.807-acre survey was a legal lot of record.
- The 1.8-acre quit-claim deed was too small to stand alone as a lot and was never consolidated under the County regulations.
- The property is comprised of two tax parcels, not because each parcel comprises a separate lot but because they are taxed differently.
- An M-LP planned rezoning request and accompanying Review Plan were approved in August 2022 for development of the property.
- The subject property needs to be platted into a single lot to make the approved development plan compliant with the other County land use regulations.
- An approved Final Development Plan is needed to complete the rezoning process.

STAFF ANALYSIS & RECOMMENDATION:

Variance: Subdivision Regulations, Appendix B 1.8.2, Table A. Minimum lot depth 250-feet. The applicant requests a variance to plat a lot, a portion of which will not meet the minimum lot depth of 250 feet.

Section 1.9.2 of the subdivision regulations requires that the Director make a recommendation on requests for variance from the provisions of the regulations.

The Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the criteria for grant of a variance required by these regulations. No variance from any requirement contained within Appendix A or B of these regulations shall be granted unless the Board finds: (a) the applicant will incur unreasonable and unnecessary hardship if a variance is not granted and the variance is not sought primarily to avoid financial expense in complying with the requirements of these regulations (b) grant of a variance will not endanger the health, safety or welfare of the public, and (c) grant of a variance will not hinder, thwart or circumvent the general intent or any specific purpose of these regulations. All applications for variances shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the application and state the reasons for his recommendation.

The subject property consists of two uncombined tracts which need to be consolidated into a single lot by plat. A portion of the existing tract, which was part of the previously legal lot of record shown on the survey found recorded in Book 400 Page 957 has an existing eastern portion of the lot that does not meet the minimum depth. This portion falls between the Henderson Rd Right-of-Way and a portion of an adjoining lot under different ownership.

The applicants have chosen to try to resolve this situation by platting the two tracts into a single platted subdivision lot. Platting requires compliance with the Zoning Regulations and Subdivision Regulations. For the plat to be approved, the applicants must obtain a variance to create a lot that does not meet the minimum depth standard.

Variance: Subdivision Regulations, Appendix B. 1.8.2 Table A. The applicant requests a variance to plat a lot where a portion of the lot will not meet the 250-foot minimum depth requirement.

- a. The applicant will incur unreasonable and unnecessary hardship. The purpose of the minimum lot depth is to have newly platted lots designed to have a regularity and orderliness supportive of development. Part of this is accomplished by creating an expectation that there will be a predictable minimum buildable area. In this case, the existing legal lot and the non-legal portion of land need to be brought into compliance with the regulations. The applicant is attempting to

make a single legal lot out of all the property owned and the portion for which the variance is sought is not changing from an existing condition that has existed for decades. Additionally, there is no way to bring the proposed lot closer into compliance than what is proposed. By not allowing the plat a significant portion of the property remains unusable, which in this specific instance and with the facts provided would cause the owner unreasonable and unnecessary hardship. The combination of the two existing tracts into a single lot seems to be the best solution.

- b. Granting this variance will not endanger the health, safety, or welfare of the public. By combining the two tracts into a single platted lot, the narrow legal lot is made more suitable for development and the non-legal lot is eliminated.
- c. Granting this variance will not thwart or circumvent the general intent or any specific purpose of the regulations. Granting this variance could be seen as violating a specific purpose of the regulations, and creating a bad precedent, if the unique facts of the situation are not clearly considered.

The portion of the lot that was deeded by the state does not stand as a legal lot on its own but must become part of an approvable action under the County subdivision regulations. Such action in this case is platting. Altering the larger legal lot of record in any manner other than by a plat would render that lot illegal also. Obtaining the variance and platting is the only viable path forward. The portion of the lot that does not meet the minimum size remains unaltered from the state in which it has remained since 1972. This action does not increase the non-conformity. These facts distinguish this case. The combination of the two tracts into a larger single lot brings the property closer to regulatory compliance and eliminates one of the problematic tracts.

The request meets part a, b and c of the regulatory criteria cited in Section 1.9.2 of the Subdivision Regulations. Staff recommends that this variance be approved.

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

Uriah Mach stated he took a couple of calls and once people understood the request they had no opposition.

Present representing the request:

Jay Gebhardt, A Civil Group, 3401 W Broadway Bus Park Ct, Ste 105, Columbia
Trevor Kilgore, 1210 Sunset Dr, Columbia

Jay Gebhardt: The applicants don't have anything to add to the staff report.

Member Stephens: The zoning approved the applicants are just trying to get a final plat?

Thad Yonke: Yes.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Stephens made, and Member Russell seconded a motion to approve the request by Robert W Kilgore Jr for a variance from the minimum lot depth in the General Commercial and Agriculture-Residential, and Single-Family Residential zoning districts on 6.83 acres located at 7190 W Henderson Rd, Columbia:

Member Thomas	Yes	Member Stephens	Yes
Member Russell	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

Case 2023-002 Jonathan & Elizabeth Wadlow – Certificate of Decision

Chairperson Thomas approved and signed the certificate.

NEW BUSINESS

None

ADJOURN

Being no further business, the meeting was adjourned at 7:15 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 25th day of May, 2023