

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER COMMISSION CHAMBERS
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, April 25, 2024

I. CALL TO ORDER

Chairperson Thomas called the meeting to order at 7:00 p.m. with a quorum present.

II. ROLL CALL:

Present: Frank Thomas
Paul Zullo
Michael Leipard
Jesse Stephens

Absent: Vacant Seat

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

III. APPROVAL OF MINUTES:

Minutes of the September 28, 2023 meeting were approved as written.

IV. CHAIRPERSON STATEMENT

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 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.

V. REQUESTS

1. Case 2024-002

Request by KM Farms LLC for a variance from the 25-foot front setback for existing barns in the Agriculture-Residential (A-R) zoning district on 22.74 acres located at 19555 N Old Highway 63, Sturgeon. (Zoning Regulations, Section 10.A). Open public hearing.

Senior Planner, Thad Yonke gave the following staff report:

This 22.74 acre tract is zoned Agriculture-Residential (A-R). Zoning to the north is A-R, east across Highway 63 is Agriculture 2 (A-2), to the south is A-R and west is A-2. This property is located on Old Highway 63 North, approximately 2000 feet south of State Highway NN. There is a single-family dwelling located on the northern portion of this property which was constructed as 1080 square feet of living area and 1080 square feet barn. There is a single-family dwelling, several outbuildings and a grain bin on the southern portion of this tract. This property is currently divided by a section line. The applicants wish to divide this property into three tracts; an administrative survey consisting of 11.89 acres has been submitted for the southern portion of the property; the remaining 10.85 acres is proposed to be platted into two tracts. There are three accessory structures that are currently within the proposed 25-foot front setback from Old Highway 63. The applicant is requesting a variance from the front setback for these structures. The original zoning for this property is A-R, there have been no previous requests for this property. The requested variance is from Zoning Regulations Section 10.A Minimum Yard Requirements. The front/rear setback in the A-R zoning district is 25-feet. Staff notified 9 property owners about this request.

Staff analysis:

Facts:

- The subject property was greater than 20-acres in size when the barns and grain bin were constructed.
- An exhibit provided shows the grain bin at 29.5 feet from the initial property line; even after a three feet right-of-way dedication the bin would be 26.5 feet and therefore is outside the 25 feet setback area.
- All the structures located within the building setback of 25 feet show up on the historical aerial photo dated 1977.
- 1977 is prior to the county issuing building permits.
- The zoning ordinance and setback requirements were in effect starting in December 1973.
- A survey of the property to the south containing 25.06 acres that was divided from the same initial farm in 2012 shows the subject tract as a more or less 22.86 acre remainder tract.
- If the barns are used exclusively for agriculture as defined by the Boone County Zoning Ordinance (and nothing else) they could remain where they are without a permit so long as the parcel upon which they are located remains above 20 acres.
- Dividing the property into lots of less than 20 acres makes the barns noncompliant and therefore a variance is required to allow for completion of the land division if the structures are to remain.

STAFF ANALYSIS & RECOMMENDATION:

Zoning regulation variances:

Zoning Regulations, Section 10.A Minimum Yard Requirements. The front setback in the A-R zoning district is 25-feet.

The Board may grant a variance to the Zoning Regulations where, by reason of shape or topography or other extraordinary or exceptional situation or condition of a specific ordinance would result in peculiar and exception 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.

Analysis:

The barns were constructed at a time when permits were not required but setbacks were. If the barns were used at that time and continually since exclusively for agricultural use, then they qualified for an exception because the property was 20-acres or larger and was considered a “farm”.

The division of the property into lots of less than 20 acres shifts the primary use of the property from a “farm” to residential lot development with any agriculture use becoming secondary.

It is unlikely going into the future that the barns will be used exclusively for agricultural purposes and nothing else. The barns do encroach into the 25 feet setback and also appear to be situated slightly within the customary 20 feet utility easement.

However, the barns may allow for some level of agriculture or mixed allowable activity to continue on the property into the future and obtaining a variance provides a smoothing to this transition.

The structures will need the setback variance for the current configuration of the barns, or the land division would be dependent upon removal of the structures prior to approval of the division. It does seem reasonable to grant the setback variance with the “as-is-where-is” condition in accordance with customary Board of Adjustment practice.

In this case as the property is attempting to remain in the realm of its two historical uses even as it shifts more into traditional estate lots for additional housing rather than a larger working farm; the variance allows both uses to remain active. Without the grant of the variance the opportunity to retain the agricultural use would be greatly diminished.

While it may be arguable that the granting of the variance would not obviously rise to the level of deprivation of use of the property the grant of the variance with conditions, in this case, allows the property to remain active in both of its historic functions.

Staff cannot support a blanket reduction in the setback as it violates the concept of complying to the greatest extent with the regulations and seeking only the least variance from the standards needed. There is no justification or need for variance except where the barns encroach in the 25 feet setback.

Staff could support the variance of the encroachment into the front setback for the existing barns with the “as-is-where-is” condition in accordance with customary Board of Adjustment practice and recommends approval.

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

Planner, Andrew Devereux stated that a neighbor came to the office to ask questions but did not indicate favor or opposition to the request.

Present representing the request:

David Butcher, Crockett Engineering, 1000 W Nifong, Bldg 1, Columbia

David Butcher presented an exhibit, labeled by staff as “Exhibit A, Pages 1-3”. Page 1 of the exhibit is an aerial photograph of the property with a drawing of how the property will be divided. Page 2 is a copy of the proposed Final Plat of KM Farms Plat 1. Page 3 is a copy of the proposed Administrative Survey.

David Butcher: Page 1 breaks down how the applicants want to subdivide the property. 11.8 acres to the south and two, five-acre tracts to the north. There is already an existing structure, the barn with living area on lot 1. The in-laws live in that house and are there seasonally, they have an RV they usually travel with. There is an existing residence on lot 2 that was part of the original farm on the 10-acre parcel. The objective here is on lot 2, the applicants want to build another house. You can only build two houses on 20-acres, there are already two houses on it and they want to build their future home on lot 2 so they need to subdivide. The intent is the property will still be used the same way, it is being used for farming. I think they farm in other locations and store their implements and grain on this property. The clients are fine with the as is-where is condition, we aren’t looking for a blanket variance we just want the buildings to be able to stay where they are.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Leopard: I like the way the property is proposed to be divided.

Member Stephens: This is all administrative, there is no rezoning required? Is this the public process?

Thad Yonke: The Administrative Survey would not be a public process, the subdivision plat would go before the Planning & Zoning Commission but there is no public hearing.

Member Leipard made, and Chairperson Thomas seconded a motion to approve the request by KM Farms LLC for a variance from the 25-foot front setback for existing barns in the Agriculture-Residential (A-R) zoning district on 22.74 acres located at 19555 N Old Highway 63, Sturgeon 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 Leipard	Yes
Member Stephens	Yes	Member Zullo	Yes

Motion to approve the request passes unanimously

VI. OLD BUSINESS

None

VII. NEW BUSINESS

None

VIII. ADJOURN

Being no further business, the meeting was adjourned at 7:18 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 27th day of June, 2024

OLD STATE HWY 63

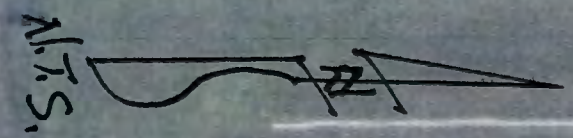
ADMINISTRATIVE SURVEY
11.89 ACRES

KM FARMS
5.19 AC.

5.61 AC.
Part No. 1

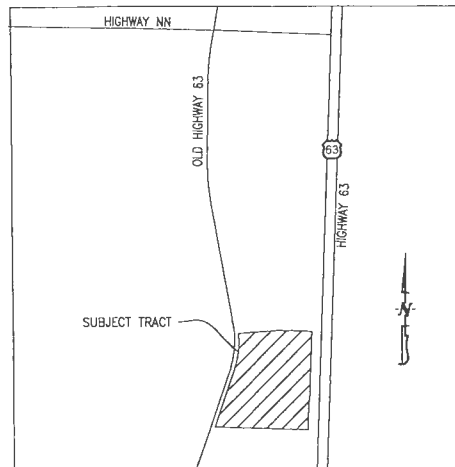
SECTION LINE

U.S. HIGHWAY 63

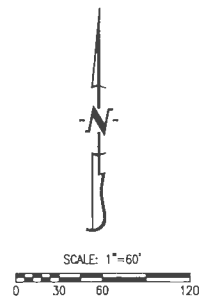


ADMINISTRATIVE SURVEY FOR KM FARMS, LLC

LOCATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 51 NORTH,
RANGE 13 WEST BOONE COUNTY, MISSOURI
JANUARY 22, 2024



LOCATION MAP
NOT TO SCALE

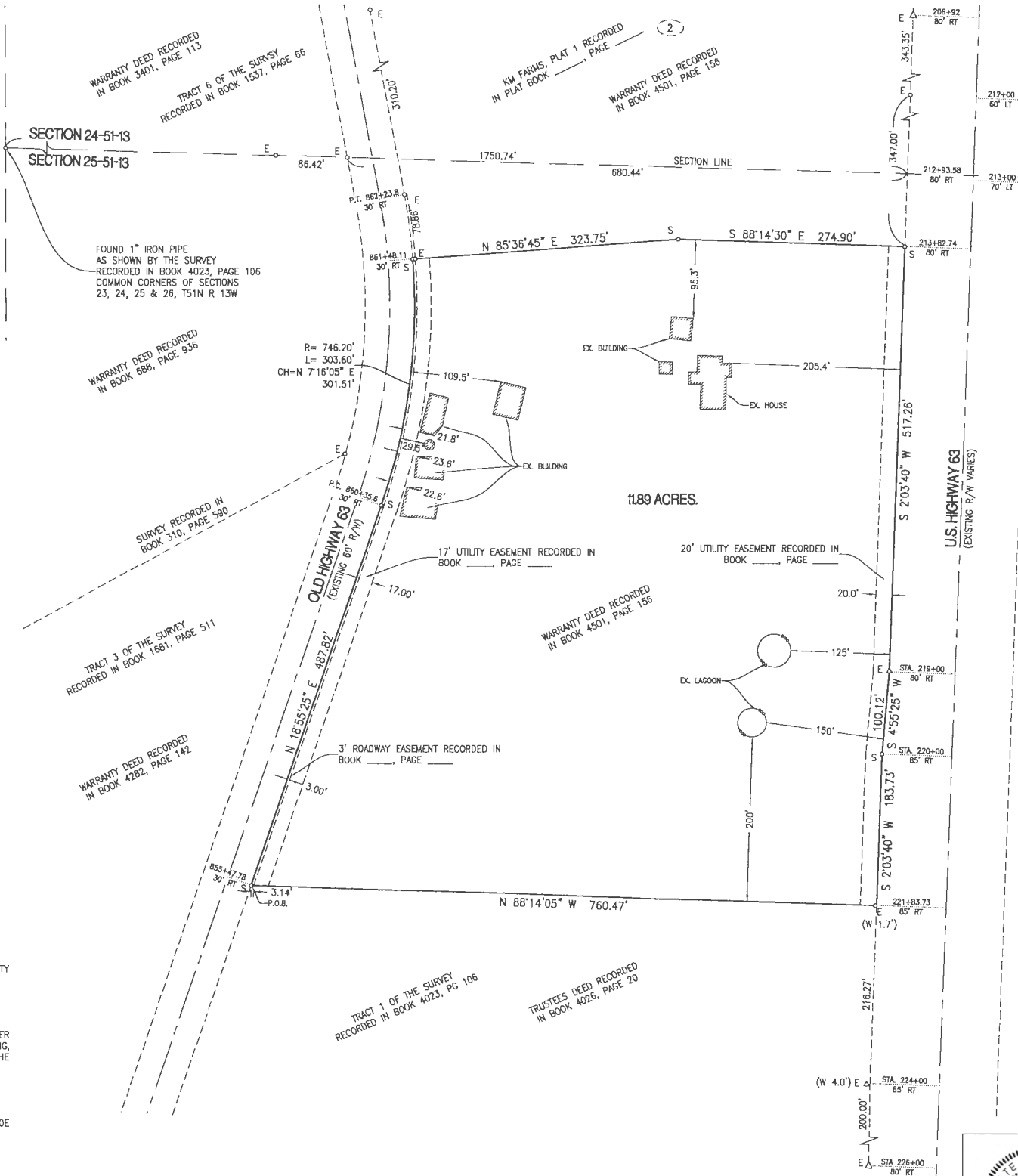


LEGEND:

- E EXISTING
- S SET
- SET 1/2" IRON PIPE OR 1/2" REBAR (UNLESS NOTED OTHERWISE)
- (M) MEASURED DISTANCE
- (REC) RECORDED DISTANCE
- △ RIGHT-OF-WAY MARKER
- P.O.B. POINT OF BEGINNING
- R= CURVE RADIUS
- L= CURVE ARC LENGTH
- CH= CURVE CHORD DIRECTION & LENGTH
- ℄= CENTERLINE

NOTES:

1. THIS TRACT IS NOT LOCATED IN THE 100-YEAR FLOOD PLAN AS SHOWN BY BOONE COUNTY & CITY OF COLUMBIA FLOOD PLAN MAPS, PANEL NO. 29019C00500, DATED: MARCH 17, 2011.
2. A CURRENT TITLE COMMITMENT WAS NOT PROVIDED FOR THIS SURVEY.
3. NO PART OF THE TRACT IS LOCATED WITHIN THE STREAM BUFFER AS DEFINED BY STREAM BUFFER REGULATIONS, CHAPTER 26 OF BOONE COUNTY ZONING REGULATIONS. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION EXCEPT AS SPECIFICALLY APPROVED BY THE DIRECTOR.
4. THIS TRACT IS SUBJECT TO THE BOONE COUNTY STORMWATER ORDINANCE.
5. THIS SURVEY CONFORMS TO THE ACCURACY STANDARDS FOR RURAL PROPERTY AS DEFINED BY CODE OF STATE REGULATIONS 20 CSR 2030-16.040(2).



CERTIFICATION:

I HEREBY CERTIFY THAT IN JANUARY OF 2024, I COMPLETED A SURVEY FOR KM FARMS, LLC, OF A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 51 NORTH, RANGE 13 WEST, BOONE COUNTY, MISSOURI AND BEING PART OF THE LAND DESCRIBED BY THE WARRANTY DEED RECORDED IN BOOK 4501, PAGE 156 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 1 OF THE SURVEY RECORDED IN BOOK 4023, PAGE 106 ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD HIGHWAY 63; THENCE WITH SAID EASTERLY RIGHT-OF-WAY LINE N 18°55'25"E, 487.82 FEET; THENCE 303.60 FEET ALONG A 746.20-FOOT RADIUS TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A CHORD N 7°16'05"E, 301.51 FEET TO THE SOUTHWEST CORNER OF KM FARMS, PLAT NO. 1 RECORDED IN PLAT BOOK _____ PAGE _____ THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE AND WITH THE SOUTH LINE OF SAID PLAT NO. 1, N 85°36'45"E, 323.75 FEET; THENCE S 88°14'30"E, 274.90 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 63; THENCE WITH SAID WESTERLY RIGHT-OF-WAY LINE S 2°03'40"W, 517.26 FEET; THENCE S 4°55'25"W, 100.12 FEET; THENCE S 2°03'40"W, 183.73 FEET TO THE NORTHEAST CORNER OF SAID SURVEY RECORDED IN BOOK 4023, PAGE 106, THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY AND WITH SAID SOUTH LINE N 88°14'05"W, 760.47 FEET TO THE POINT OF BEGINNING AND CONTAINING 11.89 ACRES.

I FURTHER CERTIFY THAT I SURVEYED THE ABOVE DESCRIBED PROPERTY AND SUBMITTED IT AS SHOWN ON THE PLAT IN ACCORDANCE WITH THE CURRENT MISSOURI STANDARDS FOR PROPERTY BOUNDARY SURVEYS.

SURVEY AND PLAT BY:

CROCKETT ENGINEERING CONSULTANTS, LLC
1000 W. NIFONG BLVD. BUILDING 1
COLUMBIA, MO 65203

CORPORATE NUMBER: 2000151304

DRAFT
DAVID T. BUTCHER, PLS-2002014095

DATE _____

STATE OF MISSOURI } SS
COUNTY OF BOONE }

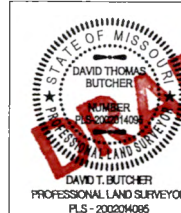
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____
IN THE YEAR 2023.

KENNETH FARRIS, Notary Public
MY COMMISSION EXPIRES APRIL 22, 2026
COMMISSION NUMBER 14965667



APPROVED FOR RECORDING THIS _____ DAY OF _____, 2024.

BILL FLOREA, DIRECTOR OF RESOURCE MANAGEMENT



KM FARMS, LLC	
A ADMINISTRATIVE SURVEY SECTION 24, TOWNSHIP 51 NORTH, RANGE 13 WEST BOONE COUNTY, MISSOURI	
CORPORATE NUMBER: 2000151304	
DATE: 1/22/2024	SCALE: 1" = 80'
PROJECT: 230678	DRAWN BY: EWD
 1000 W. Nifong Blvd., Building 1 Columbia, Missouri 65203 (573) 447-0292 www.crockettingeering.com	