

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER COMMISSION CHAMBERS
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, March 27, 2025

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
Michael Leipard
Jesse Stephens
Ryan Krueger
Tynton Roberts

Staff: Andrew Devereux, Planner
Paula Evans, Secretary
Thad Yonke, Senior Planner (attending by phone)

III. APPROVAL OF MINUTES:

Minutes of the December 5, 2024 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. 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 2025-001

Request by Sapp Rental Properties, LLC for a variance to allow an on-site wastewater system on a lot that is less than 2.5 acres in the General-Commercial (C-G) zoning district on approximately 0.97 acres located at 10701 S Rte N, Columbia. (Subdivision Regulations, Appendix B, Section 3.2 On-Site Treatment) open public hearing.

Planner, Andrew Devereux gave the following staff report:

This 0.97-acre tract is zoned General Commercial (C-G); zoning to the north is Single-Family Residential (R-S), to the east is Agriculture 2 (A-2) and R-S and to the south and west is R-S. The property is located on South Route N at the intersection of West Nashville Church Road; there is a non-conforming single-family dwelling and a shop located on the property. These buildings were constructed prior to zoning adoption in 1973 and are currently unoccupied. The applicants request a variance to place an engineered, on-site wastewater system on the property. The original zoning for the property is C-G, there have been no previous requests for this property. The requested variance is from Subdivision Regulations, Appendix B.3.2 – On-site Treatment. Staff notified 19 property owners about this request.

Facts:

- The property consists of four lots in the unincorporated village/ community of Sapp.
- The four lots were created prior to the adoption of the zoning and subdivision regulations and are therefore, Legal Lots of Record.
- Lots two and three contain structures; one contains a house, the other a garage/shop business building. Neither of these structures is currently occupied as they have no approved wastewater system.
- Lots one and four are vacant. The southernmost vacant lot is used for parking for the business building, the northernmost vacant lot is unused currently.

- A subsurface wastewater system has been designed to serve both the business building and the residence, and this system is proposed to be on the northernmost vacant lot.
- As four separate legal lots, the proposed wastewater system is not on the same lot as the structures it is proposed to serve and therefore, is not an on-site wastewater system unless the four lots are vacated and replatted into a single lot.
- The current subdivision regulations require a minimum of 2.5-acres on plats to propose on-site wastewater as opposed to a public central collection system. Subdivision Regulations, Appendix B, 3.2 on-site Treatment.
- The area of the four lots when combined will be approximately just under one-acre in area and certainly less than the required 2.5-acre minimum.
- The entire property is zoned C-G, the house is not a legal use in the C-G zoning district so a rezoning request will need to be sought and obtained for the single-family dwelling structure to remain as a home.

Staff Analysis & Recommendation:

The barrier to grant of a variance is intentionally high. So long as the property can be used in compliance with the regulations, the standard that must be met for a variance has not been met. Neither inconvenience nor cost are valid reasons to support granting a variance. This is especially true for variances requested to Subdivision Regulations since there is no inherent right to subdivide land into additional lots except in total conformance with all the regulations and standards set forth in the Subdivision Regulations.

If the property is currently in use, then the fact that it can't be divided because the land division won't meet the required standards is not an unreasonable and unnecessary hardship as there is no deprivation of use of the property.

Additionally, if the property is already considered a Legal Lot of Record is an important fact since if the property is not a Legal Lot of Record there is no expectation of use for property as it was not legally created.

Variance: Subdivision Regulations, Appendix B. 3.2 The applicant requests a variance to plat a lot of less than 2.5-acres without connecting to a public sewer, while proposing to construct an onsite wastewater system on a lot less than 2.5 acres.

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.

Analysis:

The variance requested is part of a complex process to make these four legal lots of record actually useable in some fashion as a single viable property. The idea of combining the lots into a single lot by platting allows the property and to some extent the existing structures to be used.

For the subdivision regulation criteria (a)

The applicant will incur unreasonable and unnecessary hardship if the requested variance is not granted.

The four individual lots are legal lots of record, but they are too small to stand alone with a building and individual on-site wastewater system on each. The design for the proposed wastewater system occupies almost the entire northernmost lot of the four, which is one of the larger existing lots. Assuming half of the proposed wastewater system area would be needed for each lot, it appears that such a system would not be able to fit and function in the long term for the individual lots.

Any reconfiguration of the four lots will require a platting action and therefore need this variance. The existing structures can't be used or replaced without compliant wastewater service. There is no central public sewer anywhere close to connect to. There will be a regulatory undue hardship as an unreasonable deprivation of use of the property when the regulation is applied; if the regulation is applied the property must not be able to be used for a variance to be justified. When the property still has use without the grant of a variance, there is no undue hardship as an unreasonable deprivation of use and therefore no variance can be granted. In this instance without granting the variance the property can't be used so the variance is justified.

For criteria (b)

A grant of a variance would not endanger the health, safety or welfare of the public;

A single compliant on-site system for the two existing structures on the combined lot will provide much better protection for public health than attempting limited on-site systems for each existing lot. The variance eliminates the potential for four sewer discharge or failure points to be created attempting to make each individual lot useable.

For criteria (c)

Grant of this variance will not hinder, thwart and circumvent the general intent and specific purpose of these regulations.

While the standards have been determined to be the minimum requirement of the subdivision regulations for orderly development, this does not presume the property in question is small legal lots of record where some level of expectation of developability is justified. This is a relatively unique case for which the standard is not generally designed as it is highly uncommon. Therefore, granting the variance will not thwart and circumvent the intent of the subdivision regulations.

Staff recommends approval of variance request based upon the preceding analysis and subject to the following condition(s);

- The variance is only allowed for the replat as long as no Public central wastewater system becomes available. If a public system becomes available prior to installation of an on-site system or after an existing on-site system is installed but the on-site system needs to be replaced or modified, then connection to the public system is required.

Present representing the request:

Adam Voight, Sapp Rentals, 10625 S Route N, Columbia

The applicant gave a power point presentation which is attached at the end of these minutes.

Adam Voight: My wife and I purchased this property in approximately June 2024 with the intent of renovating and bringing it up to code and creating a rental property. We were aware of the wastewater issue when we purchased the property and had conversations with the County prior to purchase and again after purchase with the intent to find a solution to be able to remedy the issue of the wastewater system. One of our intents is to go to the Planning & Zoning Commission to request to downzone to a residential zoning. We intend to install a wastewater system on the northern portion of the property. The previous renter removed all of the vehicles that were on the property last summer. Our intent is to improve the property to become a rental, the issue is we don't have an onsite wastewater system so we wish to install that and bring the home up to code. The existing four lots are one-acre in size so we don't meet the minimum 2.5 acres for an onsite wastewater system. Currently and previously, raw sewage discharges onto the neighbor's property, it is an "over-the-hill" wastewater system. My friend's grandfather built this property in the 1950's or 1960's so I know the full history of the property and I am well aware that there was never an onsite wastewater system on the property; we just want to bring it up to code. This property sits on top of a hill so every neighboring property downhill was impacted and the property was in use up until last summer. We met with Boone County Resource Management last summer and again in January of this year where we were provided guidance on how to remedy the situation. We hired a soils scientist to do a soil morphology test to determine whether we could do an onsite system and from there we hired a professional engineer, Dennis Sievers, who designed a system that would meet the setback requirements. The soil scientist checked multiple locations to determine whether the soil could handle an onsite system. We ask for a variance so we can install a professionally designed and county-approved wastewater system onsite. This request was suggested by Resource Management staff. We will work with the county and do any necessary permitting that is required. Our plan is to combine all four lots into one tract and downgrade the zoning from commercial to residential to make it usable.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Krueger: The staff recommendation is to approve the request and what we are looking at is to allow the wastewater to be constructed; the rezoning and replating are separate from this request.

Andrew Devereux: This request is to grant relief from the 2.5-acre requirement of the subdivision regulations so the property owners can present a plat that would combine these four lots into one legal lot of record. Once all four of the lots are combined there is no property line that be would crossed that would create a wastewater violation, assuming the plat gets approved they would rezone to a residential zoning and then an onsite wastewater permit can be applied for.

Member Leipard: Is there any public sewer planned in that direction in the future?

Member Stephens: No. There are no capital projects headed that way unless a developer wants to come in and build a sewer line. If in 20 years something does come through and the system needs repair or is no longer functional, if public sewer is available the applicants would be required to connect to the public sewer.

Member Leipard made, and Chairperson Thomas seconded a motion to approve a request by Sapp Rental Properties, LLC for a variance to allow an on-site wastewater system on a lot that is less than 2.5 acres in the General-Commercial (C-G) zoning district on approximately 0.97 acres located at 10701 S Rte N, Columbia with the following condition:

- The variance is only allowed for the replat as long as no public central wastewater system becomes available. If a public system becomes available prior to installation of an on-site system or after an existing on-site system is installed but the on-site system needs to be replaced or modified, then connection to the public system is required.

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Krueger	Yes
Member Roberts	Yes		

Motion to approve the variance passes unanimously

2. Case 2025-002

Request by David & Pamela Dykstra for a variance to construct a single-family dwelling within the 300-foot setback of the eye of a designated sinkhole on 6-acres located at 10605 S Myers Ln, Ashland (Zoning Regulations Section 28.4.6(5)A Environmentally Sensitive Areas: Additional Criteria - Buffer Zone Widths) open public hearing.

Planner, Andrew Devereux gave the following staff report which covers Case Numbers 2025-002 & 2025-003:

This 6-acre tract is zoned Agriculture 2 (A-2). Zoning to the north is A-2, to the east is Agriculture 1 (A-1) and A-2 and to the south and west is A-2. The site is located on Myers Lane approximately $\frac{3}{4}$ mile northwest from the Highway DD intersection with Myers Lane. The property is currently vacant according to the application, but the exhibit shows an existing shed. The applicants request a variance to construct a single-family dwelling within 300-feet of the eye of a designated sinkhole (Case 2025-002) and to construct an on-site wastewater system within 300-feet of the eye of a designated sinkhole (Case 2025-003). See also variance requests 2025-004, 2025-005 & 2025-006. The original zoning for this property is A-2, there have been no previous requests for this property. The tract is located within a designated sinkhole area. The requested variance is from Zoning Regulations, Section 28.4.6(5) A. Environmentally Sensitive Areas: Additional Criteria. Buffer zone widths. Point Recharge Feature (Sinkholes): For a point recharge feature, the buffer zone coincides with the topographically defined drainage area, except that the width of the buffer zone from the edge of the topographic rim shall not be less than 150-feet, or greater than 300-feet from the sinkhole eye. Staff notified 4 property owners about this request.

Facts:

- The property is a Legal lot of Record several acres in size.
- The entire property is within a designated sinkhole buffer.

- The property is roughly triangular in shape and would be difficult to develop even if it were not entirely within a designated sinkhole buffer.
- The property is surrounded by identified sinkholes, four of which are on the property and at least three others are identified on the provided exhibit as close enough to be an issue for development of the property.
- Exhibit A, which is a graphic exhibit of the property locating the relevant features such as the eyes of the sinkholes, proposed detention basin, home location, wastewater location, encroachment into the required setback, and other features have been provided.
- There is an accessory structure shown on the site plan that can't be constructed for which there are no requested variances.

Staff Analysis & Recommendation:

While the barrier to grant of a variance is intentionally high. The general standard is that so long as the property can be used in compliance with the regulations, the standard that must be met for a variance has not been met. Neither inconvenience nor cost are valid reasons to support granting a variance. However, Section 28 contains its own self-contained criteria that do not require the undue hardship or practical difficulty to rise to the result of deprivation of use.

Additionally, whether the property is already considered a Legal Lot of Record is an important fact since if the property is not a Legal Lot of Record there is no expectation of use for property as it was not legally created.

Variance: Zoning Regulations, Section 28.4.6(5)A. Environmentally Sensitive Areas: Additional Criteria Buffer zone widths. Point Recharge Feature (Sinkholes): For a point recharge feature, the buffer zone coincides with the topographically defined drainage area, except that the width of the buffer zone from the edge of the topographic rim shall not be less than 150 feet, or greater than 300 feet from the sinkhole eye.

Criteria for approval of Variances to the Stormwater Regulations, Chapter 28 of the Boone County Zoning Regulations have distinct criteria from variance to other sections of the Zoning Regulations. Under Chapter 28, the Board must find, after public hearing and upon competent and substantial evidence that the applicant meets the following criteria:

- A. The variance shall not have the effect of nullifying the intent and purpose of this stormwater ordinance;
- B. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to the other property or improvements;
- C. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.

Analysis:

Since this property is several acres in size and a Legal Lot of Record, there is an expectation of use of the property in terms of development with structures or buildings.

There is no place on the property that is not within 300 feet of a sinkhole eye. Efforts to minimize the impact of having a dwelling unit and an on-site subsurface wastewater system within the 300 feet of the sinkhole eyes is supported by showing the proposed placement locations of the dwelling unit and the associated wastewater system on Exhibit A. Any recommendation for approval will be conditioned upon

the variances being tied to the specific locations shown on Exhibit A and are not to be considered blanket exceptions to the regulations.

It should be noted that these proposed placements are dependent upon not only receiving these two sought variances but three additional variances as well. The other variances while tied to these will have separate reports & analysis.

As a Legal Lot of Record several acres in size with A-2 zoning, there is a reasonable expectation of use for the property for one single-family dwelling. Therefore, without granting these two variances the property can't be used as a location for any dwelling unit. Tying the variances to the areas shown for the home and wastewater system is an effort to make the requested variances the minimum relief needed to make the request work.

Based upon the specific facts of this case there would be a demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use. The variances are necessary to avoid a regulatory undue hardship as an unreasonable deprivation of use of the property when the regulation is applied. This is the higher standard generally applicable to variance requests from the zoning ordinance.

In this instance the actual standard that needs to be met is lower. Section 28 has self-contained standards where the undue hardship and practical difficulty does not have to rise to the level of deprivation of use to justify the variance, this is Section 28.9.4. Since the use meets the higher standard of an unreasonable deprivation of use it certainly qualifies as a simple undue hardship and practical difficulty under Section 28.9.4.

Additionally,

- A. The variance does not have the effect of nullifying the intent and purpose of the stormwater section of the Zoning Ordinance. The intent of this component of the ordinance is to balance the stormwater impacts with an expectation to build on the property. As stated above If done as shown on Exhibit A for a dwelling unit and wastewater system the proposal can overcome an undue hardship and practical difficulty posed by the physical features of the site while mitigating stormwater impacts.
- B. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements. The variance package has the combined effect of mitigating the potential impacts to both other properties and public health, safety, and welfare while still allowing for one dwelling on the property to avoid the undue hardship in using the property.
- C. The conditions upon which the request for this variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed. The lot shape and physical features are unique and challenging and as a reasonably sized Legal Lot of Record are neither self-imposed nor generally applicable to other properties.

Staff recommends approval of variances requested based upon the preceding analysis and subject to the following condition(s);

- 1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. The variances are not to be considered blanket exceptions, for the property, to the regulations for which the variances are granted.

2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed and no variances have been requested for an accessory structure.

See Exhibit A attached at the end of minutes.

Member Stephens stated that when he was employed with Crockett Engineering, he worked on this request and spoke with Mr. Dykstra. Member Stephens is no longer employed with Crockett Engineering and there is no conflict of interest.

Present representing the request:

Kevin Murphy, A Civil Group, 3401 Broadway Business Park Ct, Ste 105 Columbia

Kevin Murphy: The applicants wish to construct a home on the site. There is nowhere on the site they can built that isn't affected by these ordinances. The applicants would like to build as much as an off-grid home as they can which we hope would counteract some of the issues. There is no electricity available in the area so they will be using solar power, batteries and a backup generator. The sewer system needs a flat grade to disburse correctly and that was the optimal location to put it that met the required size needed. We tried to minimize everything by keeping the house close to the road which will minimize the grading.

Open to public hearing.

No one spoke in favor of the request.

Present, speaking in opposition:

Daniel Helmka, 10601 S Myers Ln, Ashland

Daniel Helmka: Electricity is available in the area, I have it. My concern with this is there is no level site, it goes downhill from the road into a massive cluster sinkhole. Just north of the of the proposed wastewater there are two sinkholes and you can see that it is a closed circle at the bottom of the basin, it is 100-feet across. That 150-foot variance is more like 100. It is inside the ledge of the sinkhole, it is in the bowl grading down. The drip-system proposed is on a slope and if you drip on a slope you are going to get erosion, especially in the Class 4B soil which is what this is. The Class 4B soil is a lower-loading capacity, .05 gallons per day, the proposed system is .3 gallons per day. My concern is once the very thin layer of soil is saturated it is going to go into the much more precarious 4B soil and then you have a 39-inch water table. This seems like a direct infiltration within weeks into the water system. I am on a well right across the road and these sinkholes are all connected through the various collapses in cave systems that are in that area and I don't feel like I can feel confident or safe that it is safe to dump sewage into my drinking water or the Bonne Femme Watershed.

Present, providing rebuttal:

Dennis Sievers, Wastewater Engineer, 1209 Straton Dr, Columbia

Dennis Sievers: It is true that there is no place on that lot where you could put a soil system that doesn't eventually go into the sinkhole. On the other hand, it is not a drip system, it is an at-grade system which is built on top of the soil and looks like a terrace. We've used those hundreds of times in the county. You have 27-inches of Class 3 soil, it is the best soil in the county. The water is applied to the surface at grade

and it has 27-inches to be treated by bacteria in the soil. There is 4B soil also but the water table is 39-inches so you are at 39-inches above the water table. In my professional opinion, having done this for many years, that the water will be treated very well. We know it is going to go into one of the sinkholes, that is a given, but we are treating it before it gets there and it should protect his well. I can't guarantee it will, but no one can. Based on what we know from the soil scientist and past experience, the at-grade is going to give it pretty good treatment. If you want you could go further than that and put an ATU in front of the at-grade; the ATU treats the wastewater biologically in a tank so the effluent coming out of the ATU is very clean, both bacteriologically and other items like sludge and so forth, so that could be added. My professional opinion is there is going to be clean water going into the sinkholes.

Chairperson Thomas: You are saying it is 27-inches above grade and 39-inches to the water table.

Daniel Helmka: How is the water coming out and entering the soil?

Dennis Sievers: It is getting treated in the 27-inches of Class 3 soil.

Daniel Helmka: It comes out of the septic tank and it has to be pumped with solar energy out to the grade into a pipe and how does it come out of that pipe?

Dennis Sievers: You cultivate the soil...

Daniel Helmka: Are there holes in the pipes?

Dennis Sievers: Yes.

Daniel Helmka: That is what I am asking. It is dripping out of a pipe on slope into an environmentally sensitive area. If you drip water down a slope it is going to saturate the soil and it is going to start eroding. This is an area that is known for erosion; there are gullies all over the place and it is a very sensitive area as it slopes down to the soil it is going to drag that and we don't know what the consequences are if it opens up a sinkhole.

Dennis Sievers: It has 27-inches to get treated.

Daniel Helmka: If it is on a slope..

Dennis Sievers: It doesn't matter if it is on a slope.

Daniel Helmka: You just said it has to be level. You said it has to be on grade, at level.

Dennis Sievers: Only the pipe has to be on grade.

Daniel Helmka: Let me explain this again, when water drips into soil it is going to make a flume in the soil directly below it. If it is on a slope that flume is going to be off-set and it is going to come down the slope where it can reenter the surface again and then runoff.

Dennis Sievers: By the time it starts to move down it is treated.

Daniel Helmka: It doesn't matter if it is crystal clear water going in to the...

Dennis Sievers: You don't understand the biologic ..

Daniel Helmka: You aren't hearing what I am saying. The sinkhole itself, constant water running into the sinkhole is going to cause a problem.

Chairperson Thomas stated we are stopping this discussion. This is a variance for the placement of the wastewater system. The type that is installed is a different review and process. We are only talking about the location of it.

Andrew Devereux: That is correct. The Board is looking at the placement and the development of the property. The approval of the wastewater system is done at the permitting stage. Assuming that all of the variances that are being applied for are approved once staff receives the building permit and wastewater permit, that is when it is reviewed.

Chairperson Thomas: Mr. Helmka can get with staff to register his complaint.

Daniel Helmka: When we installed our system, we had to meet the 300-foot setback and so did our neighbors. There is a reason for that.

Closed to public hearing.

Member Stephens: I have seen and looked at this property and you can go all around this property and not find a location that is more than 300-feet from a sinkhole eye. Mr. Sievers is correct, I am also a professional in this realm and I would agree that an ATU in front of the system is probably a good idea. Water coming out of an ATU is going to look clean, it may not be fully treated from E. coli and other bacteria but that is the purpose of the top layer of the soil is to provide secondary treatment. If you are 300-feet from the eye of the sinkhole you didn't need a variance. If your property was shaped like this you would have needed a variance. If there is a further variance that stipulates an ATU be provided ahead of that it would provide an additional level of protection, but I don't know if we can do that.

Chairperson Thomas: I don't know that the Board can stipulate the type of system.

Member Stephens: I don't intend to.

Member Krueger: Mr. Helmka's questions was a 2-part. Yes, clean water eventually gets to the well, it sounds like an ATU system may help with that but the secondary part of the concern was erosion in general.

Member Stephens: Obviously everything needs to be maintained, it is not going to be a sub-surface erosion issue.

Member Leipard: How deep is Mr. Helmka's well?

Daniel Helmka: 485-feet.

Member Stephens: From what I remember, the requirements for a well are that if it is a public well it has to be 500-feet away from a wastewater system, if it a private well it has to be 100-feet away from a wastewater system. The requirements do say 100-feet from a private well, they have to meet that requirement regardless, we aren't granting a variance from that.

Kevin Murphy: We have a well on this property as well and obviously it is much closer. I would also like to note that the road between our property and Mr. Helmka's property, our property drains to a different set of sinkholes than his property drains.

Chairperson Thomas: I don't know that you can make the assumption that none of that is connected.

Kevin Murphy: The distribution from that line is metered out of the small perforations, it is not like a pipe that is flowing onto the slope; it is multiple, small perforations that is metered out, it is not a constant flow.

Chairperson Thomas: What is the accessory structure that is shown on the plan? Is it an existing shed?

Kevin Murphy: There is an existing log covered shed on the property; the Dykstra's were wanting to put an accessory structure on the property, but we were advised that it may be beyond the scope of deprivation of use.

Chairperson Thomas: Is that what staff is referring to?

Andrew Devereux: Yes, applicant's Exhibit A shows a proposed accessory building.

The public hearing was reopened.

Daniel Helmka: On the last page of Mr. Sievers engineered drawings, it says he can't guarantee the functionality or usability of the wastewater system.

Dennis Sievers: I put that statement on all of my designs, I was told to do that by an attorney. I don't have any control over how it is put in the ground or how it is maintained.

Kevin Murphy: Mr. Sievers is not in charge of constructing the wastewater system or maintaining it.

Chairperson Thomas: Correct, that is because he is just the designer, not the installer. I want to be clear, we are talking about the location, not the kind of wastewater treatment. That is a different permitting process.

Andrew Devereux: This variance has to do with the location of the home and wastewater system.

Chairperson Thomas: In the permitting process, if they say the location is not correct, what happens?

Andrew Devereux: The way that the variance condition is requested is if there is a different location that is going to be shown for the wastewater system then this variance would need to come back to the Board and a new exhibit would need to be shown.

Chairperson Thomas: The applicants haven't talked about the wastewater permit with county staff?

Kevin Murphy: Just discussions with staff and the appropriateness of this type of system in this area. That was all preliminary, we haven't applied for a permit.

Member Leopard: There isn't any public sewer headed that way any time soon?

Member Stephens: No.

Present to provide comment:

Julia Titus, 12601 S Myers Ln, Ashland

Julia Titus: It is surrounded by conservation, so no one is ever likely to build back there.

Closed to public hearing.

Member Stephens made, and Member Roberts seconded a motion to approve a request by David & Pamela Dykstra for a variance to construct a single-family dwelling within the 300-foot setback of the eye of a designated sinkhole on 6-acres located at 10605 S Myers Ln, Ashland with the following conditions:

1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. The variances are not to be considered blanket exceptions, for the property, to the regulations for which the variances are granted.
2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed and no variances have been requested for an accessory structure.

Member Thomas	Yes	Member Leopard	Yes
Member Stephens	Yes	Member Krueger	Yes
Member Roberts	Yes		

Motion to approve the variance passes unanimously

3. Case 2025-003

Request by David & Pamela Dykstra for a variance to construct an onsite wastewater system within the 300-foot setback of the eye of a designated sinkhole on 6-acres located at 10605 S Myers Ln, Ashland (Zoning Regulations Section 28.4.6(5)A Environmentally Sensitive Areas: Additional Criteria - Buffer Zone Widths) open public hearing.

See Staff Report, applicant testimony and public hearing under Case 2025-002.

Member Stephens made, and Member Roberts seconded a motion to approve the request by David & Pamela Dykstra for a variance to construct an onsite wastewater system within the 300-foot setback of the eye of a designated sinkhole on 6-acres located at 10605 S Myers Ln, Ashland with the following conditions:

1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. The variances are not to be considered blanket exceptions, for the property, to the regulations for which the variances are granted.
2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed and no variances have been requested for an accessory structure.

Member Thomas	Yes	Member Leopard	Yes
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Member Stephens	Yes	Member Krueger	Yes
Member Roberts	Yes		

Motion to approve the variance passes unanimously

4. Case 2025-004

Request by David & Pamela Dykstra for a variance to construct an onsite wastewater system within the drainage area of a designated sinkhole on 6-acres located at 10605 S Myers Ln, Ashland (Zoning Regulations Section 28.4.6(4) Environmentally Sensitive Areas: Additional Criteria - Buffer Zone Limitations) open public hearing

Planner Andrew Devereux gave the following staff report:

This 6-acre tract is zoned Agriculture 2 (A-2). Zoning to the north is A-2, to the east is Agriculture 1 (A-1) and A-2 and to the south and west is A-2. The site is located on Myers Lane approximately $\frac{3}{4}$ mile northwest from the Highway DD intersection with Myers Lane. The property is currently vacant according to the application, but the exhibit shows an existing shed. The applicants request a variance to disturb and perform construction activities as well as construct an engineered, on-site wastewater system within the buffer zone drainage area of a designated sinkhole. See also variance requests 2025-002, 2025-003, 2025-005 & 2025-006. The original zoning for this property is A-2, there have been no previous requests for this property. The tract is located within a designated sinkhole area. The requested variance is from Zoning Regulations, Section 28.4.6(4) Environmentally Sensitive Areas: Additional Criteria – Buffer Zone Limitations and Prohibitions: The natural vegetative cover must be retained within a buffer zone described in this section. All construction activities including grading and filling are prohibited. Additionally, wastewater disposal or irrigation is prohibited. Staff notified 4 property owners about this request.

Facts:

- The property is a Legal lot of Record several acres in size.
- The entire property is within a designated sinkhole buffer.
- The property is roughly triangular in shape and would be difficult to develop even if it were not entirely within a designated sinkhole buffer.
- The property is surrounded by identified sinkholes, four of which are on the property and at least three others are identified on the provided exhibit as close enough to be an issue for development of the property.
- Exhibit A, which is a graphic exhibit of the property locating the relevant features such as the eyes of the sinkholes, proposed detention basin, home location, wastewater location, encroachment into the required setback, and other features have been provided.
- The proposed vegetative disturbances for the construction of the house and wastewater system are part of a package attempting to minimize the health and environmental impacts while allowing one single-family dwelling to be located on the property.
- The specific regulation is to retain the vegetation and prohibit disturbance and construction activities in addition to specific prohibition of an on-site wastewater system which is a subtle but real different than variances 2025-002 & 003.
- There is an accessory structure shown on the site plan that can't be constructed for which there are no requested variances.

Staff Analysis & Recommendation:

While the barrier to grant of a variance is intentionally high. The general standard is that so long as the property can be used in compliance with the regulations, the standard that must be met for a variance has not been met. Neither inconvenience nor cost are valid reasons to support granting a variance. However, Section 28 contains its own self-contained criteria that do not require the undue hardship or practical difficulty to rise to the result of deprivation of use.

Additionally, if the property is already considered a Legal Lot of Record is an important fact since if the property is not a Legal Lot of Record there is no expectation of use for property as it was not legally created.

Zoning Regulations, Section 28.4.6(4) Environmentally Sensitive Areas: Additional Criteria - Buffer Zone Limitations and Prohibitions: The natural vegetative cover must be retained within a buffer zone described in this section. All construction activities including grading and filling are prohibited. Additionally, wastewater disposal or irrigation is prohibited.

Criteria for approval of Variances to the Stormwater Regulations, Chapter 28 of the Boone County Zoning Regulations have distinct criteria from variance to other sections of the Zoning Regulations. Under Chapter 28, the Board must find, after public hearing and upon competent and substantial evidence that the applicant meets the following criteria:

- A. The variance shall not have the effect of nullifying the intent and purpose of this stormwater ordinance;
- B. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to the other property or improvements;
- C. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.

Analysis:

If this property was not a Legal Lot of Record several acres in size, there would be no expectation of use of the property in terms of development with structures or buildings.

There is no place on the property that is not within a buffer zone of a sinkhole. This is related closely to variance requests 2025-002 & 003 as the 300 feet from the sinkhole eye is the defined buffer area. However, the focus of the two different regulations is what sets the need for both types of variances; one allows the vegetative disturbance to occur, the other, 2025-002 and 2025-003, allows construction of the home and onsite wastewater system.

Efforts to minimize the impact of having a dwelling unit and an on-site subsurface wastewater system within the buffer zone of the sinkholes is supported by showing the proposed placement locations of the dwelling unit and the associated wastewater system on Exhibit A. The variance sought here has two components. The first component is a request to disturb vegetation and allow construction activities related to the construction of the dwelling unit and the associated wastewater system to be constructed in the first place. The second component is to allow the on-site wastewater system to remain within the buffer zone after construction. Any recommendation for approval will be conditioned upon the variance being tied to the specific locations shown on Exhibit A and are not to be considered blanket exceptions to the regulations.

It should be noted that these proposed placements are dependent upon not only receiving this variance but four additional variances as well. The other variances while tied to this will have separate reports & analysis.

As a reasonably sized Legal Lot of Record with A-2 zoning, there is a reasonable expectation of use for the property for one single-family dwelling. Therefore, without granting this variance the property can't be used as a location for any dwelling unit. Tying the variances to the areas shown for the home and wastewater system is an effort to make the requested variances the minimum relief needed to make the request work.

Based upon the specific facts of this case there would be a demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use. The variances are necessary to avoid a regulatory undue hardship as an unreasonable deprivation of use of the property when the regulation is applied. This is the higher standard generally applicable to variance requests from the zoning ordinance.

In this instance the actual standard that needs to be met is lower. Section 28 has self-contained standards where the undue hardship and practical difficulty does not have to rise to the level of deprivation of use to justify the variance, this is Section 28.9.4. Since the use meets the higher standard of an unreasonable deprivation of use it certainly qualifies as a simple undue hardship and practical difficulty under Section 28.9.4.

Additionally,

- A. The variance does not have the effect of nullifying the intent and purpose of the stormwater section of the Zoning Ordinance. The intent of this component of the ordinance is to balance the stormwater impacts with an expectation to build on the property. As stated above If done as shown on Exhibit A for a dwelling unit and wastewater system the proposal can overcome an undue hardship and practical difficult posed by the physical features of the site while mitigating stormwater impacts.
- B. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements. The variance package has the combined effect of mitigating the potential impacts to both other properties and public health, safety, and welfare while still allowing for one dwelling on the property to avoid the undue hardship in using the property.
- C. The conditions upon which the request for this variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed. The lot shape and physical features are unique and challenging and as a reasonably sized Legal Lot of Record are neither self-imposed nor generally applicable to other properties.

Staff recommends approval of variance requested based upon the preceding analysis and subject to the following condition(s);

- 1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. The variance is for the vegetation disturbance and to allow the construction activity as well as to allow the wastewater system to remain in the buffer after construction. The variances are not to be considered blanket exceptions, for the property, to the regulations for which the variances are granted.
- 2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed and no variances have been requested for an accessory structure.

See Exhibit A attached at the end of minutes.

Present representing the request:

Kevin Murphy, A Civil Group, 3401 Broadway Business Park Ct, Ste 105 Columbia

Kevin Murphy: This request is in regard to disturbance within the buffer zone of the sinkholes. We are minimizing disturbance as much as we can, we will be providing erosion control barriers to mitigate erosion that could potentially occur during construction. It will remain in place until the property is stabilized. There used to be a school house on the property, you can see where the house is going there are remnants of a cistern that used to be there.

Open to public hearing.

No one spoke in favor of the request.

Present speaking in opposition:

Daniel Helmka, 10601 S Myers Ln, Ashland

Daniel Helmka: My concern is with the vegetation; it is a forest and there is no way for vegetation to grow on there once it is disturbed so there is nothing to keep it from continually eroding. They are going to have a wastewater system in a field of stumps because grass can't grow there; there is not a blade of grass on that side of the road. I have concerns that a vegetative cover won't be able to grow and will the soil ever solidify or will it continue to erode every time it rains?

Kevin Murphy: Some tree cover is going to be removed where the house and wastewater system will go so there will be open areas for sunlight. There are different types of ground cover that can be planted. This is going to be their homestead, they aren't going to have a yard of mud around their house. The ground as it is, there is underbrush under the tree canopy. If there are concerns about erosion because grass is not there; that situation exists all over the property as it is. I have lived on wooded lots in the country myself and had a wonderful yard with trimmed trees around it.

Chairperson Thomas: I am assuming if the existing soil doesn't grow anything that the applicants will bring something in. They want a yard, correct?

Kevin Murphy: As Dr. Sievers pointed out, it is probably some of the best soil in the county. If anything can grow, it's here.

Daniel Helmka: The trees that are going to block the light are on the other side of the road along the fence row. There are still going to be trees blocking it.

Closed to public hearing.

Chairperson Thomas made, and Member Krueger seconded a motion to approve a request by David & Pamela Dykstra for a variance to construct an onsite wastewater system within the drainage area of a designated sinkhole on 6-acres located at 10605 S Myers Ln, Ashland with the following conditions:

1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. The variance is for the

vegetation disturbance and to allow the construction activity as well as to allow the wastewater system to remain in the buffer after construction. The variances are not to be considered blanket exceptions, for the property, to the regulations for which the variances are granted.

2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed and no variances have been requested for an accessory structure.

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Krueger	Yes
Member Roberts	Yes		

Motion to approve the variance passes unanimously

5. Case 2025-005

Request by David & Pamela Dykstra for a variance from the stormwater detention and water quality requirements from disturbing more than 3,000 square feet in an environmentally sensitive area on 6-acres located at 10605 S Myers Ln, Ashland (Zoning Regulations Section 28.4.6(2) Land Disturbance Threshold Lowered) open public hearing.

Planner, Andrew Devereux gave the following staff report:

This 6-acre tract is zoned Agriculture 2 (A-2). Zoning to the north is A-2, to the east is Agriculture 1 (A-1) and A-2 and to the south and west is A-2. The site is located on Myers Lane approximately $\frac{3}{4}$ mile northwest from the Highway DD intersection with Myers Lane. The property is currently vacant according to the application, but the exhibit shows an existing shed. The applicants request a variance to disturb more than 3000-square feet in a designated sinkhole area in a manner other than that prescribed by the regulatory standards. See also variance requests 2025-002, 2025-003, 2025-004 & 2025-006. The original zoning for this property is A-2, there have been no previous requests for this property. The tract is located within a designated sinkhole area. The requested variance is from Zoning Regulations, Section 28.4.6(2) Land Disturbance Permit Threshold Lowered: When any of the above conditions exist, permitting related to land disturbance, stormwater management, and water quality control will be required for any land disturbance greater than 3,000 square feet or greater. (Based upon information provided along with the application, the applicants are not seeking relief from the lowered threshold of need to deal with land disturbance, stormwater & water quality but rather are seeking to address these issues by proposing a different standard than prescribed in Section 28.4.4.) Staff notified 4 property owners about this request.

Facts:

- The property is a Legal Lot of Record several acres in size.
- The entire property is within a designated sinkhole buffer.
- The property is roughly triangular in shape and would be difficult to develop even if it were not entirely within a designated sinkhole buffer.
- The property is surrounded by identified sinkholes, four of which are on the property and at least three others are identified on the provided exhibit as close enough to be an issue for development of the property.
- Exhibit A, which is a graphic exhibit of the property locating the relevant features such as the eyes of the sinkholes, proposed detention basin, home location, wastewater location, encroachment into the required setback, and other features have been provided.

- The proposed location for the dwelling unit on the property is within the required 50-foot setback from the front property line in an A-2 Zoning District.
- The proposed location for the dwelling unit on the property would be at least 25 feet from the front property line which is the same distance as the required front setback in residential zoning districts.
- The proposed placement of the dwelling unit within the required front setback is to maximize the distance the dwelling unit will be from the sinkhole eyes in their respective drainage areas.
- The proposed encroachment is part of a package attempting to minimize the health and environmental impacts while allowing one single-family dwelling to be located on the property.
- There is an accessory structure shown on the site plan that can't be constructed for which there are no requested variances.

Staff Analysis & Recommendation:

Criteria for approval of Variances to the Stormwater Regulations, Chapter 28 of the Boone County Zoning Regulations have distinct criteria from variance to other sections of the Zoning Regulations. Under Chapter 28, the Board must find, after public hearing and upon competent and substantial evidence that the applicant meets the following criteria:

- A. The variance shall not have the effect of nullifying the intent and purpose of this stormwater ordinance;
- B. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to the other property or improvements
- C. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed.

Zoning Regulations, Section 28.4.6(2) Land Disturbance Permit Threshold Lowered: When any of the above conditions exist, permitting related to land disturbance, stormwater management, and water quality control will be required for any land disturbance greater than 3,000 square feet or greater.

(Based upon information provided along with the application the applicants are not seeking relief from the lowered threshold of needing to address land disturbance, stormwater, & water quality but rather are seeking to address these issues by proposing a different standard than the one prescribed in Section 28.4.4.)

Analysis:

Since this property is several acres in size and a Legal Lot of Record, there is an expectation of use of the property in terms of development with structures or buildings.

There is no place on the property that is not within a sinkhole buffer. The variance request is not from the requirement to provide protection at the lower threshold but rather to provide protection under a custom plan for the site rather than by the standards prescribed in the regulations. The applicants propose to provide the channel protection detention for a post development 2-year event being held to the pre-development 1-year event (Tier 1). Water quality treatment for the site is proposed by placing native vegetation/forest on the site in a roughly 0.50-acre conservation easement.

The prescribed standards are proposed to be met in all but the requirement found under Section 28.4.4 (3) B Flood Control Criteria. While detention and discharge are proposed, it is not proposed to meet the 25-year, 24-hour storm event. Providing this level of protection would require significantly more land

disturbance and potentially impact the site to a greater extent than what is proposed by the variance. Since efforts to minimize the impact of having a dwelling unit and an on-site subsurface wastewater system within the buffer zone of the sinkholes is the goal of the package of variances requested, this request seems in line with a custom approach proposed to match the topographic and physical challenges of the specific site. They are supported by showing the proposed placement locations of the dwelling unit and the associated wastewater system on Exhibit A. While not labeled the conservation easement area proposed is shown on Exhibit A. Any recommendation for approval will be conditioned upon the variance being tied to the specific locations shown on Exhibit A and are not to be considered blanket exceptions to the regulations.

It should be noted that these proposed placements are dependent upon not only receiving this variance but four additional variances as well. The other variances while tied to this will have separate reports & analysis.

As a reasonably sized Legal Lot of Record with A-2 zoning, there is a reasonable expectation of use for the property for one single-family dwelling. Therefore, without granting this variance the property can't be used as a location for any dwelling unit. Tying the variance to the areas shown for the home and wastewater system is an effort to make the variance sought part of a package customized due to the topographic and physical site constraints and the larger disturbance that would occur with the increases associated with the 25-year storm event.

Based upon the specific facts of this case:

- A. The variance does not have the effect of nullifying the intent and purpose of the stormwater section of the Zoning Ordinance. The applicant's proposal for a custom set of defined performance standards fitted to the site as part of a package of variances is to overcome an undue hardship and practical difficulty posed by the physical features of the site and the prescribed standards related to the 25-year event. The custom standards will be less intrusive than the prescribed standards. The intent is to mitigate stormwater impacts and the proposal accomplishes this.
- B. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property or improvements. The custom standards and variance package have the combined effect of mitigating the potential impacts to both other properties and public health, safety, and welfare while still allowing for a one dwelling on the property to avoid the undue hardship in using the property.
- C. The conditions upon which the request for this variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and are not self-imposed. The lot shape and physical features are unique and challenging and as a reasonably sized Legal Lot of Record are neither self-imposed nor generally applicable to other properties.

Staff recommends approval of the variance requested based upon the preceding analysis and subject to the following condition(s);

1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. While detention and discharge are proposed, it is not proposed to meet the 25-year, 24-hour storm event. Providing this level of protection would require significantly more land disturbance and potentially impact the site to a greater extent than what is proposed by the variance. The variances are not to be considered blanket exceptions for the property to the regulations related to disturbance and construction within the buffer of sinkholes.

2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed and no variances have been requested for an accessory structure.

See Exhibit A attached at the end of minutes.

Present representing the request:

Kevin Murphy, A Civil Group, 3401 Broadway Business Park Ct, Ste 105 Columbia

Kevin Murphy: The Stormwater Regulations were recently amended. Prior to January the stormwater requirements and detention for a site like this we wouldn't have been required to seek this variance. The Stormwater revisions brought the level up to the 25-year and it is quite a big jump up for a property this size.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Stephens: I think it is smart not to tear out more trees just to meet a higher level of detention especially for a water quality situation.

Member Roberts made, and Chairperson Krueger seconded a motion to approve a request by David & Pamela Dykstra for a variance from the stormwater detention and water quality requirements from disturbing more than 3,000 square feet in an environmentally sensitive area on 6-acres located at 10605 S Myers Ln, Ashland with the following conditions:

1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. While detention and discharge are proposed, it is not proposed to meet the 25-year, 24-hour storm event. Providing this level of protection would require significantly more land disturbance and potentially impact the site to a greater extent than what is proposed by the variance. The variances are not to be considered blanket exceptions for the property to the regulations related to disturbance and construction within the buffer of sinkholes.
2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed and no variances have been requested for an accessory structure.

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Krueger	Yes
Member Roberts	Yes		

Motion to approve the variance passes unanimously

6. Case 2025-006

Request by David & Pamela Dykstra for a variance from the front setback for a single-family dwelling on 6-acres located at 10605 S Myers Ln, Ashland (Zoning Regulations Section 10.A) open public hearing.

Planner, Andrew Devereux gave the following staff report:

This 6-acre tract is zoned Agriculture 2 (A-2). Zoning to the north is A-2, to the east is Agriculture 1 (A-1) and A-2 and to the south and west is A-2. The site is located on Myers Lane approximately ¾ mile northwest from the Highway DD intersection with Myers Lane. The property is currently vacant according to the application, but the exhibit shows an existing shed. The applicants request a variance to construct a single-family dwelling within the 50-foot front setback in the A-2 zoning district. See also variance requests 2025-002, 2025-003, 2025-004 & 2025-005. The original zoning for this property is A-2, there have been no previous requests for this property. The tract is located within a designated sinkhole area. The requested variance is from Zoning Regulations, Section 10.A Minimum Yard Requirements. The front setback in the A-2 zoning district is 50-feet. Staff notified 4 property owners about this request.

Facts:

- The property is a Legal Lot of Record several acres in size.
- The entire property is within a designated sinkhole buffer.
- The property is roughly triangular in shape and would be difficult to develop even if it were not entirely within a designated sinkhole buffer.
- The property is surrounded by identified sinkholes, four of which are on the property and at least three others are identified on the provided exhibit as close enough to be an issue for development of the property.
- Exhibit A, which is a graphic exhibit of the property locating the relevant features such as the eyes of the sinkholes, proposed detention basin, home location, wastewater location, encroachment into the required setback, and other features have been provided.
- The proposed location for the dwelling unit on the property is within the required 50-foot setback from the front property line in an A-2 Zoning District.
- The proposed location for the dwelling unit on the property would be at least 25 feet from the front property line which is the same distance as the required front setback in residential districts.
- The proposed placement of the dwelling unit within the required front setback is to maximize the distance the dwelling unit will be from the sinkhole eyes in their respective drainage areas.
- The proposed encroachment is part of a package attempting to minimize the health and environmental impacts while allowing one single-family dwelling to be located on the property.
- There is an accessory structure shown on the site plan that can't be constructed for which there are no requested variances.

Staff Analysis & Recommendation:

The barrier to grant of a variance is intentionally high. So long as the property can be used in compliance with the regulations, the standard that must be met for a variance has not been met. Neither inconvenience nor cost are valid reasons to support granting a variance.

Additionally, if the property is already considered a Legal Lot of Record is an important fact since if the property is not a Legal Lot of Record there is no expectation of use for property as it was not legally created.

Variance: Zoning Regulations, Section 10A: Minimum Yard Requirements. The front setback in the A-2 zoning district is 50-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 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 only be provided if the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zone Plan as embodied in these regulations and Zoning Map.

Analysis:

Since this property is several acres in size and a Legal Lot of Record, there is an expectation of use of the property in terms of development with structures or buildings.

There is no place on the property that is not within 300 feet of some sinkhole eye. Efforts to minimize the impact of having a dwelling unit and an associated on-site subsurface wastewater system within the 300 feet of the sinkhole eyes is supported by showing the proposed placement locations of the dwelling unit and the wastewater system on Exhibit A. However, these efforts to support minimizing the impact of the other variances have caused the need to request this variance due to attempting to maximize the distances from the most problematic sinkholes while still providing a minimum safe distance from the proposed dwelling to the roadway. The need for this variance is created by the extreme topography and physical features of the property.

In order to minimize environmental and health impacts related to placing a home and associated wastewater system on the property the concept is dependent upon encroaching into the normal required 50-foot setback by up to half. The proposal uses the 25-foot setback as the compromise distance since this is an established safe roadway setback standard for the County even if it is for different zoning districts than the A-2. This variance would be unnecessary if rezoning to a different zoning category that had a 25-foot front setback standard was obtained. However, the higher densities and expectations of urban levels of infrastructure associated with such rezonings make such rezonings inappropriate for this location and a variance the better option. Any recommendation for approval will be conditioned upon the variances being tied to the specific locations shown on Exhibit A and are not to be considered blanket exceptions to the regulations.

It should be noted that these proposed placements are dependent upon not only receiving this variance but additional variances as well. The other variances while tied to this one will have separate reports & analysis.

As a reasonably sized Legal Lot of Record with A-2 zoning, there is a reasonable expectation of use for the property for one single-family dwelling. Therefore, without granting this variance the property can't be used as a location for any dwelling unit. Tying the variances to the areas shown for the home and wastewater system is an effort to make the requested variances the minimum relief needed to make the request work.

Enforcement of the 50-foot setback forces the home into very close proximity to the steep portions of the sinkhole buffer areas and would create health and environmental hazards that are minimized by having the additional 25-feet in separation the variance allows.

Based upon the specific facts of this case, centering on the fact that this is a Legal Lot of Record there would be a demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use when the regulation is applied. If the regulation is applied the property must not be able to be used for a variance to be justified. When the property still has use without the grant of a variance, there is no undue hardship as an unreasonable deprivation of use and therefore no variance can be granted. In this instance this is not the case and without granting the variance the property can't be used so the variance is justified.

Staff recommends approval of variance requested based upon the preceding analysis and subject to the following condition(s);

1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. The variances are not to be considered blanket exceptions for the property to the regulations to encroach into the 50-foot setback in any other locations on the property.
2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed, and no variances have been requested for an accessory structure.

See Exhibit A attached at the end of minutes.

Present representing the request:

Kevin Murphy, A Civil Group, 3401 Broadway Business Park Ct, Ste 105 Columbia

The applicants had no comments.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas made, and Member Krueger seconded a motion to approve a request by David & Pamela Dykstra for a variance from the front setback for a single-family dwelling on 6-acres located at 10605 S Myers Ln, Ashland with the following conditions:

1. The variance is for the specific location shown on Exhibit A for the proposed dwelling unit and for the location of the proposed on-site wastewater system. The variances are not to be considered blanket exceptions for the property to the regulations to encroach into the 50-foot setback in any other locations on the property.
2. That the accessory building leader and text be removed from Exhibit A to eliminate possible confusion as it currently would not be allowed to be constructed, and no variances have been requested for an accessory structure.

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Krueger	Yes
Member Roberts	Yes		

Motion to approve the variance passes unanimously

VI. OLD BUSINESS

None

VII. NEW BUSINESS

None

VIII. ADJOURN

Being no further business, the meeting was adjourned at 8:40 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this day of , 2025

Request for Variance

Sapp Rental Properties, LLC

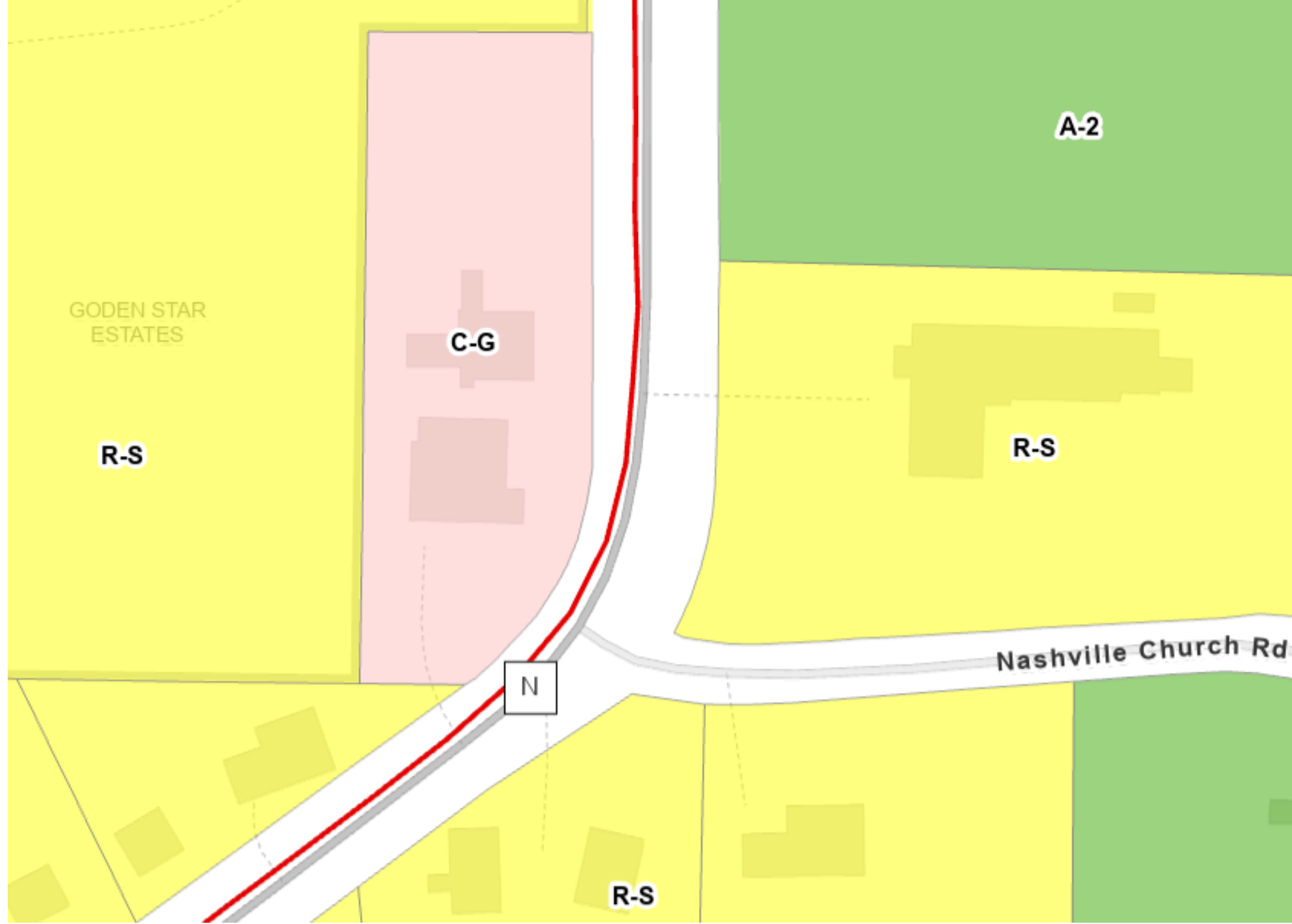
Adam and Bethany Voight, Owners

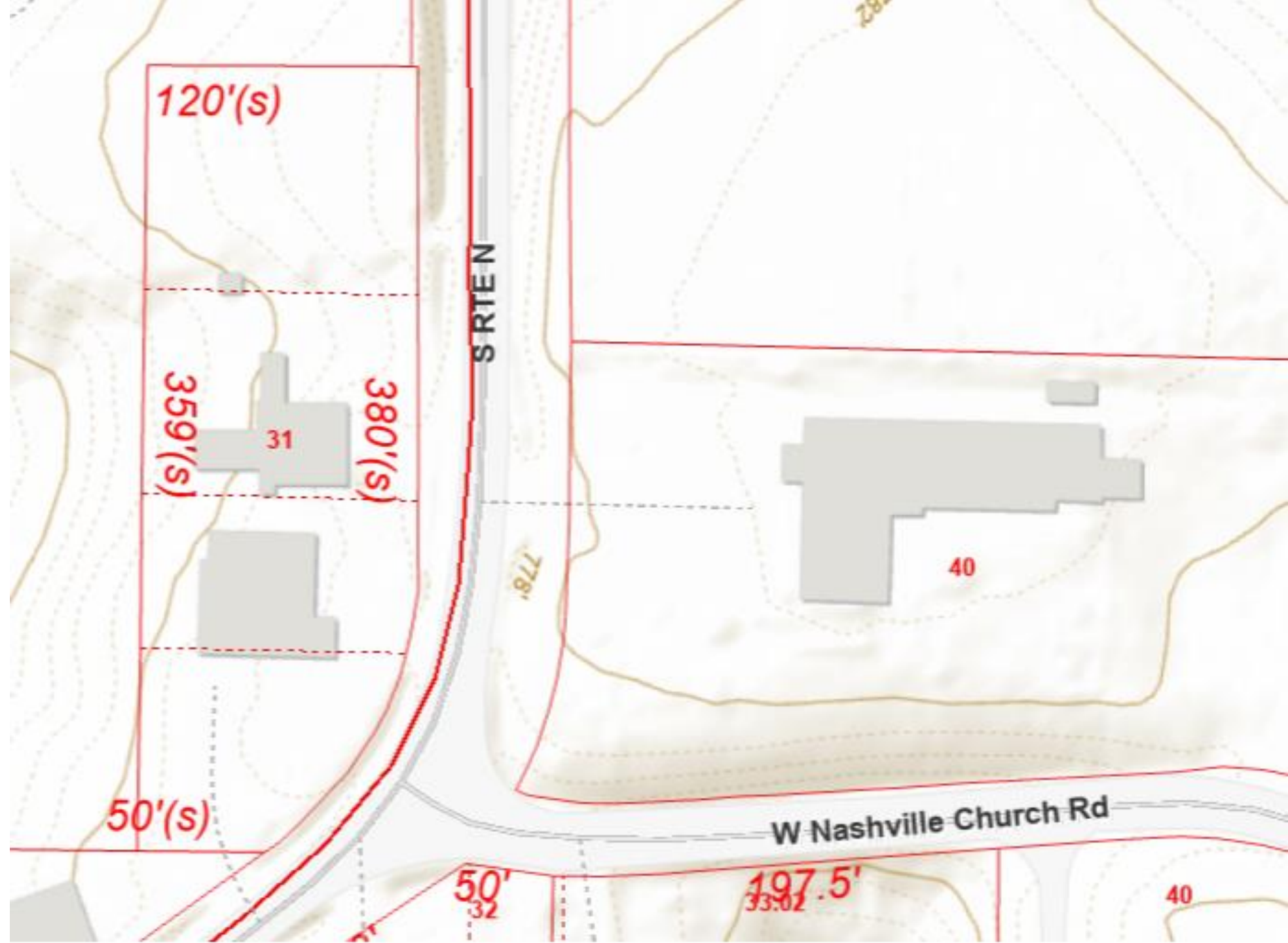
March 27, 2025

Location:

- 10701 S. Route N, Columbia, MO
- Parcel number: 20-901-26-00-031.00
- Legal Description: NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ S26-T47N-R13W Sapp Subdivision Lots 1, 2, 3, & 4
- Located in the unincorporated community of Sapp









100 ft

Intent:

- We purchased this property in June 2024 with the intent to improve it. It will serve as a much improved, compliant rental location.
- We wish to install a functional, up-to-code, on-site wastewater system to serve the home and shop.



Compliance regulations:

Boone County lot size requirement for on-site wastewater;

Per Subdivision Regulations, Appendix B, Sewers, 3.2;

On-site treatment requirement that on-site wastewater is only allowed on lots 2.5 acres or larger.

Combined lot sizes on this property total approximately 1 acre in size, less than the minimal standard requirements for on-site systems.

Why:

There is not a functional wastewater system on this property. It currently discharges raw sewage onto neighboring properties, which drains into a creek system. This is a public health and environmental issue if not corrected.

We intend to bring the wastewater system up to code to improve the property and remove the damage, safety, and health concerns to our property and the multiple properties downhill from ours.

What we've done so far:

We met with Boone County Resource Management in person on August 16, 2024, and again on January 30, 2025, for guidance on remedying the situation, in addition to numerous email correspondences.



Per recommendations, we hired a soil scientist to conduct soil morphology testing on the property to advise on potential wastewater systems and soil load potentials within the property.



Per recommendations, we hired a professional engineer specializing in wastewater systems who designed an on-site system for our location.

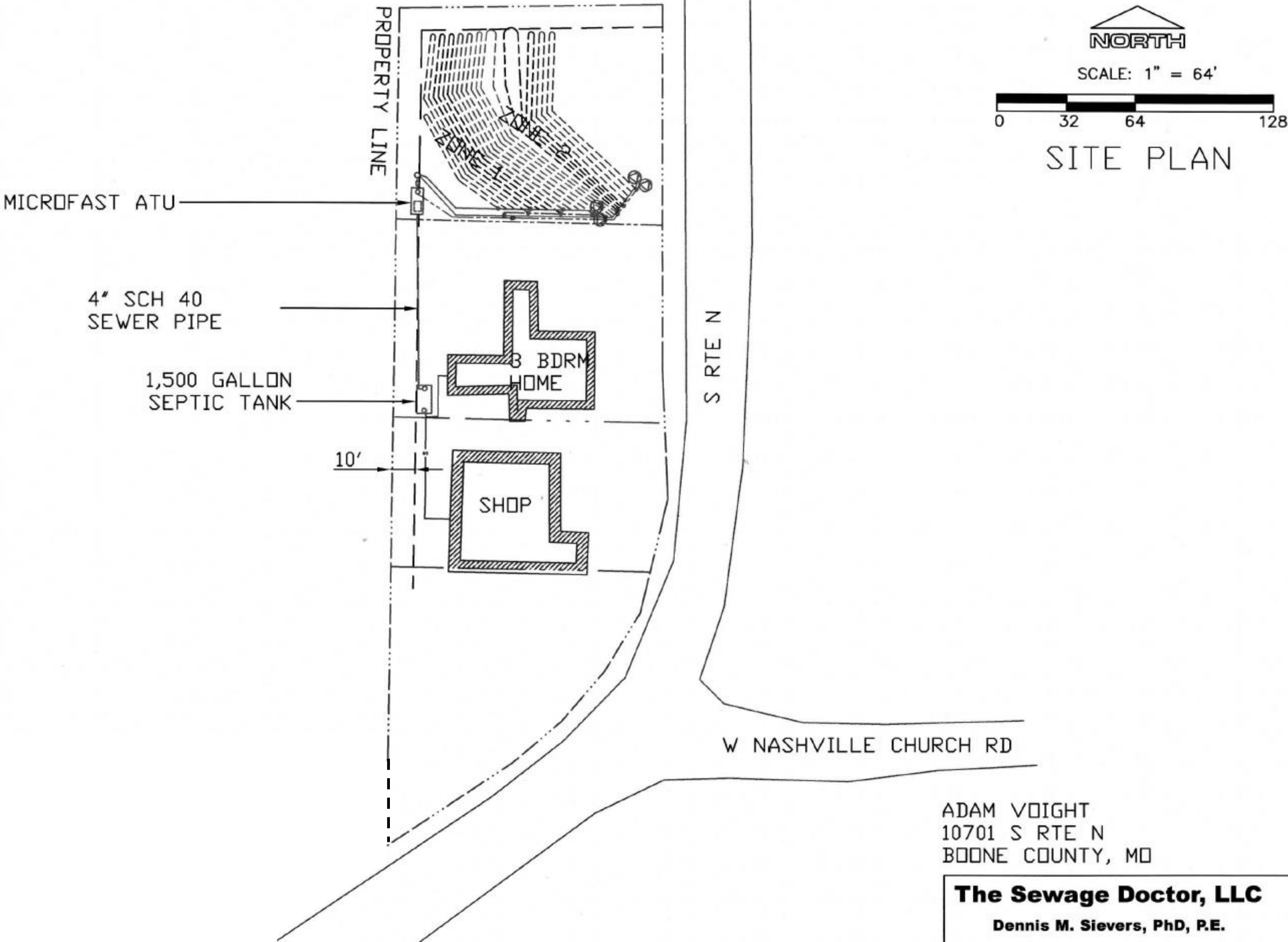


Per recommendations, we completed all necessary requirements to appear before the Board of Adjustments for our variance request.

Soil Test



Engineered Wastewater Plans



What we are asking:

- We respectfully ask that the Board of Adjustment **grant us a variance** so that we can install a professionally designed and county-approved wastewater system on-site.
- Our request aligns with Boone County Resource Management staff recommendations to **approve** our variance request.

Next Steps:

1. Board of Adjustment to provide a variance approval.
 2. Sapp Rental Properties will work with the Boone Co. Resource Dept. to make the location compliant.
- Additional steps will include consolidating the four individual lots that comprise the property's 1 acre of land.

Questions?



**Thank you for your
time.**



DYKSTRA B.O.A.
S. MYERS LANE
EXHIBIT "A"

\\UNO\Server\Project\DWG - David & Pam Dykstra\DYKSTRA-01\variance Request-Myers Lane\Drawings\Myers COMMON Revised 2025-03-21.dwg EXHIBITS

