

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER COMMISSION CHAMBERS
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, May 22, 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
Jesse Stephens
Ryan Krueger
Tynton Roberts

Absent: Michael Leopard

Staff: Bill Florea, Director
Thad Yonke, Senior Planner
Uriah Mach, Planner
Andrew Devereux, Planner
Christina Crane, Acting-Secretary

III. APPROVAL OF MINUTES:

Minutes of the March 27, 2025 meeting were approved with one correction.

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 2025-008

Request by Keriann Roth & Justin Farrar for a variance from the width to depth ratio in the Agriculture 2 (A-2) zoning district on two tracts totaling 16.53 acres located at 17515 S Jemerson Creek Rd, Hartsburg. (Subdivision Regulations, Section 1.8.2, Table A) open public hearing.

This is a combined staff report for Case Numbers 2025-008, 2025-009, and 2025-010:

Senior Planner, Thad Yonke gave the following staff report:

These requests are for three tracts totaling 16.53 acres and is zoned Agriculture 2 (A-2); all surrounding property is also zoned A-2. The property is located on south Jemerson Creek Road, the west property line borders east Cedar Tree Lane; the property is currently vacant. The applicants submitted requests for three variances to reconfigure the property into two new lots by plat. The proposed reconfiguration will create a tract that cannot meet the 3 to 1 depth to width ratio. The current five-acre tract, bordering Jemerson Creek Road, does not meet the minimum lot depth requirement. This tract is proposed to be combined with a portion of the 11.53-acre tract bordering the west property line. The proposed reconfiguration will not alleviate the minimum lot depth issue. The current five-acre tract bordering Jemerson Creek Road may not meet the minimum lot width requirement. This tract is proposed to be combined with a portion of the 11.53-acre tract bordering the west property line. The proposed reconfiguration will not alleviate the minimum lot width issue. The original zoning for this property is A-2; there have been no previous requests for this property. The requested variances are from Subdivision Regulations, 1.8.2 Table A – Minor/Major Plat, Any lot 2.5 acre or greater. Minimum lot width at

building line is 150-feet; minimum lot depth is 250-feet; maximum lot depth is 3 x width. Staff notified 23 property owners about this request.

Facts:

- The approximately five-acre tract is a remnant tract that was created when it was orphaned by the warranty deed found in Book 687 page 561 of the Records of the Boone County Recorder of Deeds in August 1988.
- The property conveyed by deed in Book 687 page 561 was the part of the previous parent property that is contained in the Eastern half of the Southeastern Quarter of Section 30 of Township 46 Range 12 West, the remaining portion of the parent property was contained in the Northeast Quarter of Section 30 of Township 46 Range 12 West.
- The Subdivision Regulations in effect for Boone County Missouri in the summer of 1988 governed the division of land creating tracts less than five-acres in size. If the remainder of the property was five full acres in size or larger then it would be a legal lot of record, if not it was an illegally created parcel.
- The Deed transferring the property to the current owner describes the property as “A tract of land containing approximately five (5) acres, more or less...” which is too vague to determine if the lot is legally created.
- The property is partially bounded by a quarter-quarter section line and the statutory Right-of-Way for Jemerson Creek Road in unincorporated Boone County.
- The quarter-quarter section line has been the western property line, and the roadway has been the eastern property line since at least 1973 and has remained unchanged.
- The property is long and narrow and comprised of extreme topography ranging from flat on the south where the property contains 100-year Floodplain to steep rocky hillside climbing to the north at approximately 30 to 45 percent slope.
- There is a small triangular portion of the property at its northern tip that will not meet either minimum width or depth.
- At its narrowest, other than at the northern triangular tip, the property is approximately 90 feet deep.
- The tract is just 250 feet deep, the minimum lot depth requirement, at a couple of locations. The vast majority of the property is less than 250 feet deep.
- As a stand-alone tract the property is likely unbuildable because of shape and topography.
- The subject property is best suited to being used as access to the public roadway and to climb to the more developable area of a combined lot.
- The proposal is to combine the subject tract with some additional property to the west to create a buildable platted lot.
- A subsurface wastewater system will be required as part of the plat on suitable areas of the site.

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, 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: Subdivision Regulations, 1.8.2 Table A – Minor/Major Plat, Any lot 2.5 acres or greater. Minimum lot width at building line is 150-feet; minimum lot depth is 250-feet; maximum lot depth is 3 x width.

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:

Normally the question of whether the property is or is not a legal lot of record is one of the most compelling facts in any land use request including variances. In this case it is unknown whether the stand-alone property is five-acres and therefore also unknown whether it is a legal lot.

If the tract was being proposed for variances as a stand-alone buildable lot, this issue would have to be resolved. However, being part of a proposed plat that would combine it with adjoining property, the issue of whether the tract is a stand-alone legal lot is not as critical because platting will make the issue moot.

Variances to the minimum lot depth, minimum lot width at the building line, and the three-to-one ratio are needed to facilitate platting the tract into a buildable lot because of the longstanding existing lot shape and the extreme topography.

In most cases, existing lot shape would not be compelling justification for a variance because it is self-created whether by a previous or the current owner. In this case, the variances sought, if applied with limiting conditions, eliminate the argument of the subject property being rendered of no use or value. The overall two lot plat will take property with extreme topography and awkward existing shapes and render two reasonably developable lots.

For the subdivision regulation criteria (a)

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

The subject property is not suited to being developed for anything other than an access to the building site on the proposed platted lot and extra yard area. Leaving the subject property as an individual tract, where an owner may expect to be able to develop the lot, would be a significant problem. The extreme topography and shape make the property extremely difficult if not impossible to develop. Attempting to do so would be a greater threat to public health, safety, and welfare than allowing the subject tract to be combined into a platted lot more suited to development. Granting the variances to allow platting the property avoids any arguments of deprivation of use.

There will arguably 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 due to the extreme topography granting the variance is justifiable to avoid unreasonable deprivation of use.

For criteria (b)

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

Both tracts that are proposed to be included and redivided as a two-lot plat with one western lot fronting on Cedar Tree Lane and the eastern lot fronting on Jemerson Creek Road. This will create two developable lots. The new lots will provide much better protection for public health than attempting limited on-site systems for each existing extreme tract.

For criteria (c)

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

The standards outlined in the Subdivision Regulations have been determined to be the minimum requirement for orderly development. However, the variance process is available for cases such as this where there is a long standing oddly shaped property with extreme topography where some level of expectation of development 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 to facilitate platting the property as part of a two-lot plat substantially compliant with the exhibit provided by Patchett Land Surveying Co. Labelled Exhibit A. Said plat will meet all applicable subdivision regulations except for the proposed eastern lot will contain portions of the lot that do not meet the minimum lot depth, minimum lot width at the 50 feet building line, and the 3-to-1 ratio based on the existing out boundaries of the tracts to the satisfaction of the Director of Resource Management.

Chairperson Thomas asked staff if they heard from any neighbors other than the letter that was received.

Thad Yonke: We received one phone call, but I believe it was from the person who sent the letter. We received additional phone calls but those calls were merely asking what the request was about; they didn't voice an opinion one way or the other.

Present representing the request:

Keri Roth, 3435 E Rte M, Ashland

Keri Roth: We first purchased the lot off Cedar Tree and after that purchase we were approached to buy the five-acres on the back side of the property so we ended up purchasing that. What we are trying to do is basically section off five-acres or so off the Cedar Tree side to be able to sell to our friends so they can build and then on the Jemerson Creek side, the skinny piece of land is to develop that into a driveway to go up onto the hill on the Jemerson Creek side to build.

Open to public hearing.

Present, speaking in support:

Jamie Patchett, surveyor, 7676 Black Walnut Dr, Columbia

Jamie Patchett: Mr. Yonke covered everything in his staff report but I am happy to answer questions.

Present, speaking in opposition:

Travis Smith, 17425 S Jemerson Creek Rd, Ashland

Travis Smith: I was the one who sent the letter and I just wanted to make sure it was received.

Chairperson Thomas: Yes, it was received. The letter is entered into the record.

Travis Smith: I just have questions. At the beginning, it sounded like this request didn't meet the variance for undue hardship.

Thad Yonke: It could be considered not to if it didn't meet the other criteria. That is part of the standard parts of it explaining that it has to have that deprivation of use. As the five-acre component to this, that part can't stand alone, it doesn't meet the ability to be used without some form of variance. Whether that part is added to the rectangular component or not, the five-acre section of this had to have these variances and that is really what we are focused on. It is only of value to get up the hill to get to the regular part of the lot which, on its own would theoretically be buildable.

Travis Smith: I went to the county previously and asked if that five-acres was buildable and was told no. If you look at the map my house is pointed straight to where this one is proposed. I don't know if the variance is being proposed so it can be sold and if that matters at all.

Chairperson Thomas: Variances for economic reasons is not a reason for a variance. So far, this is a way of making an unusable piece of property usable.

Travis Smith: The applicants just said they were going to sell it so does that go into consideration of the variance?

Chairperson Thomas: If it is the only reason for the variance; that is when we are more concerned about it.

Bill Florea: It is not really the motivation of the owner that affects the variance, it is the land itself. Whether that owner intends to reside on the property or sell it to someone else is not material to the variance, it is really the facts surrounding the property.

Thad Yonke: When you checked with the county previously about whether this property was buildable and you were told it wasn't, that was correct. That is part of the reason that our analysis is the way it is because as a stand-alone piece of property, without variances it can't be built on. The other aspect of that is the only way to make it a buildable lot is to come through and get variances.

Closed to public hearing.

Member Krueger: (to Mr. Smith) With the information you just received has your position changed?

Travis Smith: No, I am opposed to the request and it has nothing to do with anyone in this room, it is simply the fact of my forever home is facing the back corner and I know it is going to take away my view. I built my house based on the fact that there was a 10-acre tract right behind me and the five-acre. One would assume someone would build on the 10-acre tract next to Cedar Tree and if you look at the topography of both my property, the applicant's property, and the property around it is very difficult topography that never in a million years would I have suspected that the plot would be built on. I never thought it would be subdivided that far out in Boone County. It has nothing to do with who owns the land or who is going to buy it.

Member Stephens: I guess there was a question about whether this was a legal lot.

Thad Yonke: We are unable to determine whether or not the lot on its own, as a stand-alone, would be a legal lot. The question becomes, regardless of whether it is a legal lot, it cannot stand-alone without a variance. Because they are asking for it in conjunction with a subdivision of the land then it can be rendered that it will be part of a usable lot by getting the exact same variances it would have to have as a stand-alone lot. The problem would be, as a stand-alone lot, it would be questionable trying to get a wastewater system and a building to work on it as a five-acre lot. It is more likely that it would cause more potential damage to the public health, safety and welfare trying to do that than there will be to get a variance.

Member Stephens: The dilemma is if this irregular piece of ground were to be under a different ownership and someone wanted to build on it their options would have been to seek similar variances but without the benefit of having the other ground further back; essentially we would be put in a more difficult situation of approving worse variances.

Thad Yonke: At that point you would have to determine if it was or wasn't a legal lot; if it turns out it is a legal lot then they are entitled to have the expectation of some form of developability as a legal lot of record. It comes back to that is what is not being asked for at the moment.

Member Stephens: There are two lots and there will be two lots with a subdivision plat. In this scenario, I can tell by looking at it, the buildable location is going to be pushed further off Jemerson Creek.

Member Krueger: Do we have anything that shows where the new lot would be located?

Jamie Patchett showed the location of the proposed lot.

Jamie Patchett: At the suggestion of the Planning Department, if an accessory structure is wanted in the future we would need five acres.

Member Stephens: The point was to get the five-acre buildable lot and let the remnant come together.

Jamie Patchett: The piece to the east will primarily be used for the driveway.

Member Stephens: I would have similar concerns as the applicants about trying to do a house on the long, skinny piece because the wastewater system would be even more challenging. This is conditioned on having an engineered wastewater system, correct?

Thad Yonke: Yes.

Chairperson Thomas made, and Member Stephens seconded a motion to approve a request by Keriann Roth & Justin Farrar for a variance from the width to depth ratio in the Agriculture 2 (A-2) zoning district on two tracts totaling 16.53 acres located at 17515 S Jemerson Creek Rd, Hartsburg. (Subdivision Regulations, Section 1.8.2, Table A) 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 Stephens	Yes
Member Krueger	Yes	Member Roberts	Yes

Motion to approve the variance passes unanimously

2. Case 2025-009

Request by Keriann Roth & Justin Farrar for a variance from the minimum lot depth in the Agriculture 2 (A-2) zoning district on two tracts totaling 16.53 acres located at 17515 S Jemerson Creek Rd, Hartsburg. (Subdivision Regulations, Section 1.8.2, Table A) open public hearing.

See staff report, applicant testimony and public hearing under Case 2025-008

Chairperson Thomas made, and Member Stephens seconded a motion to approve a request by Keriann Roth & Justin Farrar for a variance from the minimum lot depth in the Agriculture 2 (A-2) zoning district on two tracts totaling 16.53 acres located at 17515 S Jemerson Creek Rd, Hartsburg. (Subdivision Regulations, Section 1.8.2, Table A) 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 Stephens	Yes
Member Krueger	Yes	Member Roberts	Yes

Motion to approve the variance passes unanimously

3. Case 2025-010

Request by Keriann Roth & Justin Farrar for a variance from the minimum lot width in the Agriculture 2 (A-2) zoning district on two tracts totaling 16.53 acres located at 17515 S Jemerson Creek Rd, Hartsburg. (Subdivision Regulations, Section 1.8.2, Table A) open public hearing.

See staff report, applicant testimony and public hearing under Case 2025-008

Chairperson Thomas made, and Member Stephens seconded a motion to approve the request by Keriann Roth & Justin Farrar for a variance from the minimum lot width in the Agriculture 2 (A-2) zoning district on two tracts totaling 16.53 acres located at 17515 S Jemerson Creek Rd, Hartsburg. (Subdivision Regulations, Section 1.8.2, Table A) 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 Stephens	Yes
Member Krueger	Yes	Member Roberts	Yes

Motion to approve the variance passes unanimously

VI. OLD BUSINESS

- Certificate of Decision – Sapp Rentals
- Certificates of Decision – Dykstra

Chairperson Thomas accepted and signed the Certificates of Decision.

VII. NEW BUSINESS

None

VIII. ADJOURN

Being no further business, the meeting was adjourned at 7:36 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 24th day of July, 2025