

BOONE COUNTY BOARD OF ADJUSTMENT

BOONE COUNTY GOVERNMENT CENTER

801 E. WALNUT ST., COLUMBIA, MO.

Thursday, October 23, 2014

The meeting was called to order at 7:00 p.m. in the Boone County Commission Chambers having a quorum present.

Member Thomas read the procedural statement stating that this Board is appointed by the Boone County Commission to consider specific application of the zoning and subdivision regulations. The Board is empowered to enter rulings that may give relief to a property owner from the specific application of the Zoning and Subdivision regulations. Generally, variances can only be granted in situations where by reason of shape, topography or other extraordinary or exceptional situation or condition of a specific ordinance would result in peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use as relating to the property. A variance from the strict application of this ordinance can be granted provided the relief requested will not substantially impair the intent, purpose and integrity of the zoning regulations.

Notice of this meeting has been published in accordance with our by-laws for the proper number of days. All decisions of the Board are based on the zoning or subdivision regulations for Boone County, Missouri, and they are hereby made a part of the record of this meeting.

This Board is comprised of five members, with three members constituting a quorum. An applicant must receive at least three votes in order to receive the relief that they have requested from the Board. Any applicant appearing before this Board has the right to be heard by all five members. At times that all five members are not present, the applicant, and only the applicant, may choose to wait until such time as all five members are present to hear their request.

Roll call was taken:

Present: Frank Thomas
Cindy Bowne
Lance Robbins

Absent: Rhonda Lightfoot
David Butcher

Staff: Thad Yonke, Senior Planner
Uriah Mach, Planner
Paula Evans, Secretary

Minutes of the August 28, 2014 meeting were approved by acclamation.

REQUEST

1. Case Number 2014-004

Request by CCF Rentals LLC (Lawrence J Forrester) for a variance from the front 50-foot setback in the A-2 (Agriculture) zoning district for an existing barn on 35 acres located at 151 E Hwy MM, Ashland (**Zoning Regulations 10.A**).

Member Thomas asked the applicants if they wished to proceed with the hearing only having three members present.

The applicants stated they wished to proceed.

Planner, Uriah Mach gave the following staff report:

The property is zoned A-2 as is all surrounding property. The site is located on State Highway MM approximately 4 ½ miles west of Ashland. There is a house, barn, and other accessory structures on this property. The applicant is interested in splitting the property; however the existing barn is within the 50-foot setback. The original zoning for this tract is A-2, there have been no previous requests submitted for this tract. The requested variance is from zoning regulations 10.A. which requires a 50-foot front setback in the A-2 zoning district for the existing barn. Staff notified six property owners about this request.

Present representing the request:

Dan Brush, Brush & Associates, 506 Nichols St, Columbia
Joe Forrester, 155 W Highway MM, Ashland

Mr. Brush stated that CCF LLC is dissolving and they are splitting up the property. CCF is consisted of Joe Forrester and Nancy Case, and Nancy's brother Dan who has recently passed. This is the only property, they both live adjoining this property and they wish to go ahead and split it off as a economical equal. Joe is getting the 10 acres and the house and Nancy is getting the remainder. The existing barn has probably been there since before the highway; on the highway plans they note the barn being there. The barn is in good shape; it is not leaning and doesn't have a swayback. It is currently being used to store lumber.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Thomas asked how far the building was into the setback.

Mr. Brush stated the closest point to the right of way is 16.15 feet. The other corner is about 33 feet off the right of way.

Member Bowne asked the applicants if they had pictures of the barn.

Mr. Brush presented a google photo representing what the barn looks like.

Member Thomas asked the size of the barn.

Mr. Brush stated approximately 30 by 60 foot.

Member Bowne asked if there is a history of accidents on this road.

Mr. Brush stated he is not aware of any. It is located right before it breaks over the hill. There is not a lot of traffic out there except for locals.

Member Robbins asked staff if they saw any problems with this in the future.

Mr. Yonke stated the barn is where it is; the problem was not created by a lot line change and there is no site distance issue, it is probably not a safety concern

Member Bowne made and Member Robbins seconded a motion to **approve** the request by CCF Rentals LLC (Lawrence J Forrester) for a variance from the front 50-foot setback in the A-2 (Agriculture) zoning district for an existing barn on 35 acres located at 151 E Hwy MM, Ashland **with the following condition:**

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

Member Thomas	Yes	Member Bowne	Yes
Member Robbins	Yes		

Motion to approve the request carries unanimously

2. Case Number 2014-005

Request by Kevin & Deborah George for a variance from the length to depth ratio required on 2.66 acres located at 12801 N Rte B, Hallsville (**Subdivision Regulations, Table A**).

Member Thomas asked the applicants if they wished to proceed with the hearing only having three members present.

The applicants stated they wished to proceed.

Planner Uriah Mach gave the following staff report:

The current zoning of the property is A-R as is the surrounding property. The site is 9/10 miles south of Hallsville, south of the Kemper Road intersection. The site is currently vacant. The applicants acquired this land as excess right of way from the Missouri Department of Transportation (MoDot). The applicants would like to plat these tracts into a buildable lot; however the tracts are not deep enough to comply with the minimum lot depth requirement. The original zoning of the property is A-R. The property was platted as part of South Town Estates subdivision in 1977. Subsequently the property was purchased by MoDot for a by-pass around Hallsville. MoDot has since abandoned plans for the by-pass and has returned the right of way. The requested variance is from subdivision regulations appendix A.1.8.2 Lot Specifications, Table A which

requires lots to have a minimum depth of 250-feet. Staff notified 29 property owners about this request.

Section 1.9.2 of the subdivision regulations requires that the Director make a recommendation on requests for variance from the provisions of the regulations. The Board may grant a variance only if it finds after public hearing and upon competent and substantial evidence that the applicant meets the criteria for grant of a variance required by these regulations. No variance from any requirement contained within Appendix A or B of these regulations shall be granted unless the Board finds: (a) the applicant will incur unreasonable and unnecessary hardship if a variance is not granted and the variance is not sought primarily to avoid financial expense in complying with the requirements of these regulations (b) grant of a variance will not endanger the health, safety or welfare of the public, and (c) grant of a variance will not hinder, thwart or circumvent the general intent or any specific purpose of these regulations. All applications for variances shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the application and state the reasons for his recommendation.

The applicants, Kevin and Deborah George have acquired land that has been ruled as excess right of way by MoDot. Prior to the land being secured for right of way it had been platted as part of South Town Estates subdivision. MoDot sold part of the land to the applicants, who are interested in combining two pieces into one lot that would be large enough for a single family residence and a wastewater system. The tracts are very narrow. Appendix B 1.8.2 and Table A of the subdivision regulations requires that lots have a minimum depth of 250-feet. The proposed 2.66 acre lot will not be able to meet that requirement

- a.) The applicant will incur unnecessary hardship if this variance is not granted. The depth of the property limits the ability to develop this lot as a building site. The tracts could be subdivided into lots as small as .5 acres, however that would require a design and construction of some type of wastewater collection system and treatments as well as fire hydrants, which may require upgrading the existing water lines. The other option would be to leave the property vacant.
- b.) Granting this variance will not endanger the health, safety, or welfare of the public. The applicants propose creating one building lot. Creating additional lots would result in additional driveway access to a heavily traveled road.
- c.) Granting this variance will not thwart or circumvent the general intent of the regulations.

Staff recommends that this variance be granted.

Present representing the request:

Kevin George, 12921 N Route B, Hallsville
Deborah George, 12921 N Route B, Hallsville

Mr. George stated the depth and length of the lot doesn't meet county regulations; we would like to combine the two lots into one for a building lot.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Thomas asked how deep the lots are.

Mr. George stated it is 131 feet going east and west and 243 feet going north and south on the road side.

Mr. Yonke stated it will meet the setback requirements.

Member Bowne asked if it was combined in to one lot it would be 2.66 acres and the applicants are going to develop it as one lot. Is there anything in the future that would prevent this from coming back if it were to be subdivided again?

Mr. Yonke stated the applicants acquired three lots from MoDot, the bottom two pieces are what the applicants want to combine into one buildable lot. The remaining piece is still going to be around it. For that piece to have anything done on it, it would have to be combined with another lot. The applicants don't know which piece they want to add it to at this point. It may come back some time in the future to become larger. In order for a lot to have an onsite wastewater system they have to have at least 2.5 acres which is why they want to combine two of the lots.

Mrs. George stated the applicant's son wants to build a home.

Member Bowne asked if the variance would apply if these lots were sold in the future.

Mr. Yonke stated the zoning is A-R which requires a half acre. If you drop below the 2 ½ acre the minimum depth can change because on smaller lots it doesn't have to be 250-feet. If there were a central sewer system and the property was sold they could develop it in to ½ acre lots.

Member Thomas made and Member Robbins seconded a motion to **approve** the request by Kevin and Deborah George for a variance from the length to depth ratio required on 2.66 acres located at 12801 N Rte B, Hallsville:

Member Thomas	Yes	Member Bowne	Yes
Member Robbins	Yes		

Motion to approve the request carries unanimously

3. Case Number 2014-006

Request by John & Briana Roche for a variance to allow an accessory structure to be constructed in front of a single family dwelling on 3.09 acres in the R-S (Single Family Residential) zoning district on 3.09 acres located at 3970 N Wyatt Ln, Columbia (**Zoning Regulations 7.A.5**).

Member Thomas asked the applicants if they wished to proceed with the hearing only having three members present.

The applicants stated they wished to proceed.

Planner Uriah Mach gave the following staff report:

The property is currently zoned R-S, property to the north, east and south, which are located inside the city limits of Columbia is zoned R-1, property to the west is zoned R-S. The site is located on the northeast side of Columbia approximately ½ mile north of Mexico Gravel Road/State highway PP. There is a modular home on the property. The applicants would like to build an accessory structure on the property. The house is situated at the very southeastern corner of the property which limits the potential building sites. The original zoning for this property is R-S. It was platted as part of Brinkman Subdivision in 1994. The requested variance is from zoning regulations Section 7.A “No accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall”. Staff notified 166 property owners about this request.

Present representing the request:

John Roche, 3970 Wyatt Ln, Columbia

Mr. Roche stated he purchased the property 1 ½ years ago with the intent to build a garage. Mr. Roche didn't know prior to the purchase that a variance would be required and only found out when he came to get the permit. The subdivision to the east drains to the right of the lagoon so it is somewhat of a swamp area and limits where the building can be placed. Mr. Roche would like to put the 40 x60 foot building in front of the lagoon about 244 feet from the road. The home sits back 300 feet.

Open to public.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Thomas stated there is a lagoon to the north.

Mr. Roche stated yes. Mr. Roche is trying to get rid of the other lagoon. The property was originally a trailer park and that was the lagoon that served the trailers.

Member Robbins stated the applicants cannot build behind the house because of the runoff.

Mr. Roche stated yes; it is a lower area.

Member Bowne asked how far the house is from the rear property line.

Mr. Roche guessed about 60 feet.

Mr. Mach stated that is probably correct.

Member Bowne asked if the applicant will use the existing driveway to access the building.

Mr. Roche stated yes.

Member Thomas asked what would happen if the building is built and the property is subdivided.

Mr. Yonke stated there is a city central system to the east serving the subdivision. If the applicants wished to subdivide the property in the future they would be required to annex into the city. Mr. Yonke stated part of the reason for this regulation is so that on smaller lots people don't build outbuildings directly in front of a home so it blocks the view for emergency services.

Member Robbins asked if the variance is granted does that mean they can build the outbuilding directly in front of the home.

Mr. Yonke stated the Board can put a restriction on the approval.

Mr. Roche stated he would like to place it on the north side of the property. Mr. Roche stated there is a residential neighborhood behind the property and doesn't want to build an outbuilding that close to the neighbors.

Member Robbins made and Member Bowne seconded a motion to **approve** the request **John & Briana Roche for a variance to allow an accessory structure to be constructed in front of a single family dwelling on 3.09 acres in the R-S (Single Family Residential) zoning district on 3.09 acres located at 3970 N Wyatt Ln, Columbia with the following condition:**

- Placement of the building does not block the line of sight from the house to the roadway.

Member Thomas	Yes	Member Bowne	Yes
Member Robbins	Yes		

Motion to approve the request carries unanimously

OLD BUSINESS

- Certificate of Decision – Case # 2014-003 Joseph & Sara Cook

Chairperson Thomas approved and signed the certificate.

NEW BUSINESS

- Amend Board of Adjustment By-laws Section 5.H.
(in re: application deadline)

The proposed change in by laws changes Board of Adjustment variance deadlines from the first Monday of the month to the same deadline date as rezonings and plats.

Member Thomas made and Member Bowne seconded a motion to **approve** the amendment to the BOA bylaws section 5.H:

All members voted in favor, none opposed

ADJOURN

Meeting adjourned at 7:39 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this day of , 2014