

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER COMMISSION CHAMBERS
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, June 27, 2024

I. CALL TO ORDER

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

II. ROLL CALL:

Present: Frank Thomas
Paul Zullo
Michael Leopard
Jesse Stephens

Absent: Vacant Seat

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

III. APPROVAL OF MINUTES:

Minutes of the April 25, 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 for the proper number of days. All decisions of the Board are based on the zoning or subdivision regulations for Boone County, Missouri, and they are hereby made a part of the record of this meeting.

This Board is comprised of five members, with three members constituting a quorum. An applicant must receive at least three votes in order to receive the relief that they have requested from the Board.

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

The following procedure will be followed: The agenda item will be announced, followed by a report from the Resource Management Department staff. The applicant or the applicant's representative may make a presentation to the Board. The Board may request additional information at any time.

After the applicant's presentation, the floor will be opened for a public hearing to allow anyone wishing to speak in support of the request. Next, the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the Board and please restrict your comments to the matter under discussion. The public hearing will then be closed, and no further comments will be permitted unless requested by the Board. The Board will then discuss the matter and may ask questions of anyone present during the discussion.

Please sign in and give your name and mailing address when you address the Board. Please speak directly into the microphone so your remarks are properly recorded. We ask that you turn off or silence your cell phones. All testimony from the applicants and the public should be given from the speaker table, do not approach the Board unless requested. Any evidence submitted should first be given to the Secretary of the Board to properly identify for the record. During testimony, any references regarding submitted evidence should be referred to by its exhibit number.

Any materials that are presented to the Board, such as photographs, written statements or other materials will become a part of the record for these proceedings. If you would like to recover original material, please see the staff during regular business hours.

V. REQUESTS

1. Case 2024-004

- A.1 Request by MuddyMoLanding LLC for a variance from the 10-foot front setback for a new general store in the Recreation (REC) zoning district on 1.1 acres located at 11505 S Smith Hatchery Rd, Columbia. (Zoning Regulations, Section 10.A). Open public hearing.**
- A.2 Request by MuddyMoLanding LLC for a variance from the 20-foot rear setback for an existing accessory structure in the Recreation (REC) zoning district on 1.1 acres located at 11505 S Smith Hatchery Rd, Columbia. (Zoning Regulations, Section 10.A). Open public hearing.**
- B. Request by MuddyMoLanding LLC for a variance from the dust-free parking and drive requirements in the Recreation (REC) zoning district located at 11505 S Smith Hatchery Rd, Columbia (Zoning Regulations, Section 14.D.1) Open public hearing.**
- C. Request by MuddyMoLanding LLC for a variance from the stormwater quantity and quality control provisions in the Recreation (REC) zoning district located at 11505 S Smith Hatchery Rd, Columbia. (Zoning Regulations, Sections 28.4.4.1 to 28.4.4.3) Open public hearing.**

Director, Bill Florea gave the following staff report:

This site is located adjacent to the Missouri River and Katy Trail, approximately six miles southwest of Columbia. There is a general store, outside performance stage, outdoor picnic space, spaces for tent and RV camping and a marina with boat docks and fueling station on the site.

Request A.1 is from Section 10A Yard Requirements. The applicant wishes to demolish the existing general store and rebuild a 2-story general store totaling 2,000 square feet in the current location of the existing building. The current location of the general store does not meet the required 10-foot front setback. The applicant has requested a variance from the front setback.

Request A.2 is from Section 10A Yard Requirements. In conjunction with the construction of a new general store, the applicant also intends to build a new stage. The proposed location of the stage will not meet the required 20-foot rear setback. The applicant requests a variance from the rear setback for a new stage to be constructed.

Request B is from Section 14.D.1 Minimum Improvement and Maintenance Standards. The applicant has requested a variance from the dust-free parking and drive requirement.

Request C is from Sections 28.4.4.1 – 28.4.4.3 Stormwater Quantity and Quality Control. The applicant has requested a variance from the dust-free parking and drive requirement under Request B. In the event that Request B is not approved by the Board, the applicant requests a variance from the Stormwater Regulations.

The original zoning for this property is Agriculture 1 (A-1). The property was rezoned to Recreation (REC) in 1986. In 2005, a Conditional Use Permit was granted under County Commission Order 234-2005, for incidental retail sales, travel trailer park and restaurant. Approval of the conditional use permit was granted with several conditions, including the requirement that all driveway, loading and parking areas were to be dust-free (minimum chip and seal). All conditions of approval were to be complied with by December 31, 2006. In 2008, additional land that was not included in the 1986 rezoning was rezoned from A-1 to REC. The requested variances are: Variance A1 Zoning Regulations, Section 10A. Minimum Yard Requirements; the front setback in REC is 10-feet. Variance A2 Zoning Regulations, Section 10A Minimum Yard Requirements; the rear setback in REC is 20-feet. Variance B, Zoning Regulations Section 14.D.1 Off-Street Parking and Loading Regulations; lot shall have a dust free surface composed of a minimum level of improvement equivalent to a chip and seal surface. Variance C Zoning Regulations, Sections 28.4.4.1 through 28.4.4.3 Stormwater Quality and Quantity Control. Staff notified three property owners about this request.

Facts:

- The property lies between the Missouri River channel and the former railroad Right-of-Way that is now under state control as the Katy Trail.
- The existing main structure is built adjacent to the property line between the Trail and the subject property.
- The state has agreed not to construct any structures on the Katy Trail property proximate to the existing building location.
- The state has entered into an agreement to allow the development on the subject property to utilize trail property for supporting use such as parking.
- The property is long and not very wide.
- The widest part of the property is where the new DNR permitted wastewater system is located.
- The subject property is entirely comprised of stream buffer and 100-year floodplain or floodway.
- The site diagram provided by the applicant is deficient in showing all the driving lanes and surface types related to the development.
- The CUP approved in 2005 has a specific condition, (#3) that reinforces the regulations stating, “All driveway, loading, and parking areas are to be dust free (minimum chip and seal).”

Staff analysis & recommendation:

Zoning regulation variances:

{A1} Zoning Regulations, Section 10.A Minimum Yard Requirements. The front setback in the REC zoning district is 10-feet.

{A2} Zoning Regulations, Section 10.A Minimum Yard Requirements. The rear setback in REC is 20-feet

{B} Zoning Regulations, Section 14.D.1 Off-Street Parking and Loading Regulations; lot shall have a dust free surface composed of a minimum level of improvement equivalent to a chip and seal surface

{C} Zoning Regulations, Section 28.4.4.1. through 28.4.4.3 Stormwater Quality and Quantity Control.

- Runoff Reduction,
- Water Quality Protection,
- Channel Protection Criteria,

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.

Analysis:

To be eligible for a variance All of the following must be true, for a variance to be granted, however, the first test is the most critical.

The tests are:

- The regulatory requirements for which the variance is sought must result in the property meeting the standard of a regulatory undue hardship. This is not the same as the standard use of the word hardship commonly used on a daily basis. A regulatory undue hardship must be an unreasonable deprivation of use related to the property when the regulation is applied; if the regulation is applied the property must not be able to be used. 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. This may compel the owner to develop in a manner that is not their preferred option.
- The property must have unique characteristics that, when the regulation is applied, prevents development of that property.
- The variance can't be granted because the applicant disagrees with the requirements of the regulation. Arguments as to why the regulation should not exist or apply can't be used to justify a variance. A board may not grant a variance when an amendment of the zoning regulations is indicated. Granting variances in this case would be a grant of special privilege favoring the applicant over the rest of the population.
- A variance cannot be granted when need for the variance is self-created or created by a previous owner of the property.
- The variance cannot be granted to avoid the cost of compliance with the regulations, where the justification is predominantly financial, or where compliance is possible but might be more expensive.
- The variance sought must be the minimum variance needed to achieve the desired purpose.
- A variance cannot be granted when there is another viable alternative to accomplish the same goal under the regulations without the need for variance.

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.

For purposes of analysis this report will group variance request {A1, A2, & C} together and will address variance request {B} separately.

For variance requests {A1, A2, & C}:

The site location along the Katy Trail and Missouri River has been legitimized by County rezonings to recreational (REC) as an appropriate land use. However, the property is not ideally suited to such use by its physical constraints. The long narrow nature of the property is problematic when applying both the required front and rear setback and when considering that there needs to be space between the riverbank and any structure for emergency and general access. The 30-feet of combined setbacks makes compliant design for replacement structures mostly impractical.

The existing structures are proposed to be replaced with modern code-compliant buildings designed by an Architect licensed to practice in Missouri. The structures are proposed to be in the same locations as the existing “Bait Shop” building and the existing stage. The new structures will be significant qualitative improvements and will enhance long-term viability of the property but the owner seeks to maintain the existing development footprint.

These improvements are needed for development/resiliency, safety, and floodproofing of the property. With respect to these three requested variances, the unique features of the property cause the need for the variances and the request does not amount to a grant of special privilege. This request is not self-inflicted. These variances are not going to avoid costs and are not sought to avoid costs. The request is the minimum needed and there is no other means under the regulations to accomplish the applicant’s goal without need for the variances.

The requirements of Section 28 for Runoff Reduction, Water Quality Protection, and Channel Protection Criteria could rise to the level of an undue hardship as a deprivation of use, if strictly enforced, because of the site features, shape and size of the property. The location of the site will allow direct discharge of the stormwater from the site to the Missouri River, not something generally possible for most properties in Boone County.

For requested variances {A1}, {A2} & {C} There can be an undue hardship considered by not granting the variances. Each of these three variances is related to the unique size, shape, location, and features of the site.

For variance request {B}:

The current Conditional Use Permit (CUP) includes a condition requiring all driveway, loading, and parking areas to be dust free (minimum chip and seal). A specific condition of a Conditional Use Permit (CUP) is not subject to relief from a variance; BOA’s authority does not include oversight of permitting decisions made by the County Commission. It is premature to consider granting Variance {B} until a revised CUP is approved that eliminates that condition.

The requirement for dust free driving and parking surfaces does not result in a deprivation of use. Deprivation of use is the most basic requirement for granting a variance. Under number 6 of the “Hardship Details” provided with the application, the document states “In the event that the parallel portion of the county road and trail are paved, Muddy Mo is willing to match paving-type at that time”.

This clearly indicates that the applicant acknowledges that meeting the dust free standard is possible, does not result in a deprivation of use, and that not meeting the standard is not impossible due to any unique size, shape or location of the property. It is simply their preference not to meet the standard at this time. The request fails to meet the first, second, third and fifth bulleted tests outlined above.

While having unusual shape, size, or topographic challenges provide justification for granting a variance, the Board must also find that those characteristics prevent the property from being developed unless a variance is granted from the requirement to provide dust free driving and parking surfaces. That is not the case here. The unique characteristics of the property do not prevent development or result in deprivation of use when the dust free driving and parking requirement is applied. The request fails to meet the second bulleted test outlined above.

Additionally, the “unique” aspects of the subject property, such as having river frontage or being zoned REC and being subject to flooding, are not relevant with respect to the variance requested. The dust free requirement is a standard for all commercial activity in Boone County. This is true even if the location happens to be in a rural area or is accessed by a gravel public roadway. There is nothing specific to this property that makes it not possible to meet this standard.

The documentation provided by the applicant supports that the variance is unwarranted. The “Hardship Details” state that the dust free requirement is illogical and ineffective. If that is true for this property it is also true for other commercial properties on gravel roads which, supports an amendment of the zoning ordinance to adjust that requirement. A variance cannot be granted where a zoning amendment is indicated.

A commercial property that is accessed by a gravel public road is not an uncommon occurrence in Boone County. The presence of dust from said public roadway is not justification for granting a variance. The presence of other dust does not make it impossible to use dust free surfaces on the site. The mentioning of “regular and significant maintenance” is an economic argument to avoid cost of compliance as all drives, parking and loading spaces will require some level of maintenance regardless of surface type.

The relationship between the dust free requirement and the stormwater regulations is intentional, there is no conflict. They work independently and while creation of impervious surfaces can trigger stormwater requirements, that is not a conflict, it is an intentional interaction between the two sets of regulations.

The appropriate way to deal with the unique aspects of the property as related to the difficulties of the property complying with the stormwater provisions of the zoning ordinance would require asking for variances from the stormwater provisions if the property can’t meet those requirements. This would be variances from section 28 and is what comprises variance request {C}. Variance request {C} is discussed separately, however, by being included in the application it negates attempts to establish undue hardship from provision of the dust free surface as it relates specifically to the request. The request fails to meet all the bulleted tests outlined above except for bullet four.

Staff recommends approval of variance requests {A1}, {A2}, & {C}

- Analysis shows that they have met the seven bulleted tests mentioned previously in this analysis including the first and most important test. There can be an undue hardship considered by not granting the variances. Each of these three variances is related to the unique size, shape, location, and features unique to the site.

Staff recommends denial of variance request {B}.

- Analysis shows the request fails to meet any of the bulleted tests. Most importantly, a regulatory undue hardship has not been established.

- An unreasonable deprivation of use related to the property does not exist when the property still has use without the grant of a variance. There is no undue hardship as an unreasonable deprivation of use caused by the requirement to provide dust-free surfaces. Compliance is possible.
- The arguments used to justify the request are sought to avoid the cost of compliance with the regulations. Where the justification is predominantly financial, or where compliance is possible but might be more costly, a variance is not warranted.
- A grant of a variance does not remove the requirement of a condition under the CUP. This request has no practical relevance while that condition is in effect.
- Any argument that the regulation, as applied, is illogical or ineffective indicates that an amendment to the Zoning Regulations should be considered. A variance cannot be granted where an amendment to the Zoning Regulations is indicated.

Chairperson Thomas: The letters that we received, are they just part of the record?

Bill Florea: They are part of the record; we provided most of them to the Board, we received another letter today that I believe the applicant is going to provide to the Board in their packet.

Present representing the request:

Bogdan Susán, Attorney representing MuddyMoLanding, 3220 Vandiver Rd, Columbia

Lucia Bourgeois, Regulatory Strategist, Columbia

Jay Gebhardt, A Civil Group, 3401 Broadway Business Park Ct, Columbia

Mr. Gebhardt presented a packet to the Board. Many of the documents in the packet had already been provided to the Board; additional documentation included a rendering of the proposed building and letters in support of the requests.

Mr. Susán stated he was hired by MuddyMoLanding to represent them tonight.

Bill Florea asked Mr. Susán if he had notified the County Counselor's Office that he was going to be here to represent the applicants tonight.

Bogdan Susán: No, my client called and informed me that I was required to come to the meeting by the ordinance. I don't plan to make any argument; I didn't know I was required to notify.

Bill Florea: Required by what ordinance?

Lucia Bourgeois: We were informed by you and Mr. Yonke that we had to have legal representation to contribute to the meeting.

Bill Florea: That is not true; I did not say that.

Bogdan Susán: That was our understanding

Mr. Florea informed the Board that if the applicants are represented by an attorney then the Board also has the right to be represented by their attorney at the hearing.

Bogdan Susán: I withdraw my comments.

Bill Florea: If you would, that would allow us to move forward tonight.

Member Stephens: You may have gotten confused with the city ordinances because they do require legal representation.

Lucia Bourgeios: I have been brought on as a Regulatory Strategist to help support Muddy Mo Landing in getting our final design to completion. This is a unique situation that has made it a difficult project to marry regulation and practicality. This property is in a floodplain in an ecologically sensitive area; it is irregular in shape and boundary and when inherited it needed significant amount of cleanup. Besides this, Muddy Mo Landing has been able to elevate this property to being a premier Columbia destination offering family-friendly entertainment, outdoor recreation, and conservation education. It is visited by hundreds of thousands of locals as well as out of state visitors annually, Coopers Landing is a unique and valuable contributor to the local economy while providing free services that benefit the Missouri Department of Natural Resources (DNR), Columbia Parks and Recreation, City of Columbia Public Schools, and Missouri River Relief Initiative. It's a fundamental waypoint for both river and trail travelers. Since it was acquired in 2019, Muddy Mo Landing has continuously improved the location through the removal of condemned and unsafe structures, reinforced health and safety standards with participating food vendors, installed a state-of-the-art septic system designed to withstand flooding, repaired the well and brought it to standard and received public works permits from DNR, mitigated electrical noncompliance as far as could be achieved without a new building as well as supported furthering educational programs that embrace Missouri's river environment. In collaboration with the county, we are pleased to report that we have a preliminary building design that we are eager to get permitted. The new building has been designed with the highest regard for the county zoning ordinance, that is to promote the public health, safety and general welfare. This building is critical to continuing improvements and mitigating sore spots including showers and restrooms that will allow us to get rid of the port-a-potty's, it will include laundry as well as provide indoor space for year-round accessibility and shelter. In order to continue, approved site plans are not limited to just the building but requires approval for the entire site. Our desire for this variance is based on the functionality of the property as well as our desire to continue to uphold our fundamental mission to preserve a natural environment that is safe and enjoyable. Several letters are included in the provided packets; I would like to call attention to the letter from Robert Jacobson, a local hydrologist who specializes in ecology and Missouri River management.

Ms. Bourgeios read the following excerpt from Mr. Jacobson's letter "I find the request for a variance on the dust-free requirement for parking to be justified. As a research hydrologist and frequent customer, I have been aware of the effects of river flooding and local runoff on erosion at the site. Adding impervious pavement would seem to work counter to the objectives of the stormwater ordinances by increasing local runoff, leading to additional erosion on the margins of the pavement. The dust-free requirement also seems illogical given that both the neighboring county road and the Katy Trail are gravel and clearly generate much more dust than would parking areas at Cooper's Landing. As noted in the variance request, the unique nature of Cooper's Landing should mitigate concerns that a variance would set precedent."

Lucia Bourgeios: While we recognize the need for the county to uphold the highest degree of compliance from all businesses so as not to be perceived as showing favoritism, what we believe we are asking for is not preferential treatment but exercising our right to provide evidence of a unique circumstance. Similarly, we are not aiming to challenge the existing code, we are challenging that the application of this code to a unique property would result in greater contradiction to the purpose and intent of the ordinance, specifically as outlined in Section 22 Floodplain Management, Section 26 Stream Buffer Regulations, and Section 28 Stormwater Ordinance; all of which emphasize where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail in favor of mitigating environmental harm. Our mention of future compliance with paving is with the respect and understanding that appropriate infrastructure would be implemented to protect both water quality and

control at which time we would have greater resources to find a solution where we are not causing undue impact. Further, as we developed our site plan and determined our need for a dust-free variance, specific attention to determining hardship was conducted. Though the county may have a practice of determining hardship, our reading of the ordinance leads itself to greater interpretation; presumably this is intentional so that unique circumstances such as ours may be considered by the Board of Adjustment. Recognizing that this is a complex property that has many unique features, we'd like to make an appeal to common sense when choosing how to interpret code. Though we do believe we meet the hardship test asserting that the dust-free code is prohibited to business function, we are more concerned with how that code defies the intention of the code in the first place as it is clearly defined in the writing of the ordinance. Our hardship is defined by the flexibility of use necessary to our business case as well as our desire to uphold ordinance in relation to protecting our environment, especially in regard to waterways over the code which in our case would not provide its intended use to promote safe, environmentally, and financially sound development.

Jay Gebhardt: We presented the Board with a packet tonight and in that packet there is a rendering of the proposed building by Architect, Stephen Bourgeois; a site plan by the architect, which is not quite complete, letters of support from the Missouri River Relief organization, the United States Exercise Tiger Foundation, and from Robert Jacobson. Also included is a copy of the application for variance, written justification for the variances, minutes from the 2005 conditional use permit Planning & Zoning Commission hearing, and the license agreement from DNR for use of their property for the Landing. There has been a transformation since the applicant purchased the property. Any vestiges of the Mike Cooper era are gone. Whereas, Mike ignored the conditions of the conditional use permit in many ways, the applicant has been working as funds permit to bring the property into compliance with the Boone County Building and Zoning codes. But there was a lot to do from the state it was in when the applicant bought it to now and there is much more that the applicant would like to do to make this a pleasant destination that embraces the Missouri River that also complies with all health, safety, building and zoning codes of Boone County. One example that many do not know is that a DNR permitted sanitary sewer system has been built on the north end of the landing. This was done as a first phase of the ultimate plan to build the building you see in the packet presented tonight. A Civil Group has been engaged by the applicant to help him throughout this process and tonight is a culmination of many meetings and discussions on how this very unique property can be brought into compliance. However, we were not able to meet every portion of the code as the code was never written to anticipate a project like the landing. We are requesting four variances from the zoning ordinance, three of the four are recommended approval by county staff and one, the requirement of dust free surfaces, is not supported. The definition of dust-free is an adjective meaning having or causing no dust. In the Boone County Zoning Regulations, Section 14.d, minimum improvement and maintenance standards, parking lots and garages shall conform to the following improvements and maintenance standards: (1) Such lot shall have a dust free surface composed of a minimum level of improvement equivalent to a chip and seal surface. (6) Lots utilized as display lots for vehicles, boats, mobile homes, manufactured homes and farm equipment may provide a dust free parking surface that does not comply with Section (1) above. (7) Lots utilized as equine boarding facilities, animal training facilities, or riding schools shall not require a dust free surface unless specifically required by the terms of a conditional use permit. So, the code anticipated some situations where dust free is not appropriate. From Zoning Regulations Definitions, Parking Space is defined as a durably dust-proofed, properly graded for draining, usable space, enclosed in a main building or in an accessory building, or unenclosed, reserved for the temporary storage of one vehicle, and connected to a street or alley by a surfaced driveway. Each such space shall be not less than nine feet wide and nineteen feet long and be accessible to a vehicle without the necessity of moving any other vehicle. I would like to point out we have two areas of the landing that function very differently from each other. The pull in parking that is on the State of Missouri State Park property, the parking along the road is actually on the State Parks property, the license agreement that is in the packets explains how that was achieved.

Member Zullo: Whose responsibility is that if it is a state park? Is that what we are talking about as the impermeable surface?

Jay Gebhardt: It is one of the areas.

Member Zullo: So, it is not the applicant's responsibility.

Jay Gebhardt: It is our responsibility; we are the generator of the parking.

Lucia Bourgeois: By way of our agreement with them they allow us to use their land for business usage and therefore we are responsible for the parking.

Member Zullo: I am trying to understand that this is where we want you to surface.

Jay Gebhardt: It is one of the areas. The pull in parking that is on the State of Missouri State Park property and the landing area which has ADA spaces required to be near the new building along with the proposed RV parking on the site. For both of these areas there is no possibility of vehicles causing dust, as the speeds while parking along the road and the maneuvering of RVs on the site, are not fast enough to create dust to become airborne. That is not to say there isn't a lot of dust in the air at the landing, there is, but that comes from the county road and not the landing. As for the area within the landing, not the parking on the state property, it is my opinion that the existing soil matrix is primarily a sandy soil mixture that is very hard when dry and not prone to creating large volumes of dust. Due to the location of the pull in parking between the trail and the county road, even if those spaces were paved, they would be covered in dust from the county road. So, the intent to make this dust free is not possible due to the location of the parking. The landing is the ultimate flex space for different events. The applicant hosts many different groups at the landing and their needs are different. There are designated RV spaces with electricity available, but many times RV's "boondock" or camp without hookups at the landing and the location of this is flexible depending on what is going on at the landing. What might be used to boondock an RV for one event may be primitive tent camping during other events. To comply with creating a dust free surface would mean essentially paving most of the landing property except for the area used for the DNR approved sewer. Forget the cost of this, but do consider that it would completely change the experience of the campsites of the landing. We do consider this an extreme hardship as this flexibility of the use of the space and trying to maintain a more natural camping experience is a main attraction for the landing since at least 2005, if not before. We are aware of the conditional use permit granted in 2005 for the landing and one of those conditions was that all driveway, loading and parking areas are to be dust free (minimum chip and seal). It also says said conditions must be complied with by December 31, 2006, which clearly was never enforced. We plan to submit a revised conditional use permit request but it's rather a "chicken and the egg" problem. We are following the staff's recommendation to come before the Board first. I understand that your ruling cannot change an order by the County Commission, so I would ask that if you can approve the variance for dust free surfaces, we would be okay if a condition be placed that the dust free variance not go into effect until a revised conditional use permit is granted by the County Commission. I know the staff has pointed out why they do not believe the hardship of these variances do not meet the tests provided in the staff report. I would like to go through each of these tests to show how we believe we have met these tests or the intent of the dust free requirement.

- Undue hardship
 - Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the operation. Ignoring the cost consideration, the paving of the landing would forever alter the nature of and the experience of this unique property along the Missouri River. Staff

states when the property still has use without the grant of a variance, there is no undue hardship or unreasonable deprivation of use and therefore no variance can be granted. The paving of the landing would completely change the experience at the landing and I believe the reason for a Board of Adjustment is to look at these nuances of the code and apply common sense to the request. The nuance here is the word use. Any property would have a use, just not the use intended for the property. In the case of the landing, the use is to bring people closer to the river in a natural setting. Not granting the variance would cause this use to be altered to the point that it would not make sense to continue to be used in the manner it is. The landing is unique. It is the only marina on the river within Boone County. It not only is along the river, it adjoins the cross-state Katy trail. The applicant's vision for the property is to provide the amenities for people to use and enjoy the river. There is nothing else like it in the county. It is the definition of unique. The hardship is completely undue and unnecessary to meet the intentions of the Zoning Regulations.

- The property must have unique characteristics that, when the regulation is applied, prevents development of that property.
 - The nuance here is the word development of the property. The property is already developed and has been in use for over 20 years. The paving of the landing would alter how the property is further developed. The applicant is trying to embrace the river and create native camping experiences. The development in this way could not happen if the landing is paved.
- The variance can't be granted because the applicant disagrees with the requirements.
 - First, we don't disagree with the requirement for typical commercial properties. For recreational properties such as this I would argue that dust free surfaces are not always appropriate. In fact, your zoning code recognizes exemptions from this requirement. One size fits all is the way the staff has to enforce the code. As we all know, not everything warrants the same things. So, we do agree it is appropriate unless there are unique reasons for this request. There are many unique reasons for the landing.
- The variance can't be granted when need for the variance is self-created or created by a previous owner of the property.
 - This one has always baffled me as all improvements or development are self-created or exists due to previous owners. The nuance here are the words self-created. Yes, the purpose of not paving is to maintain the natural environment and natural experiences at the landing. This purpose is self-created and in complete contradiction with the dust free requirement. We create this situation because we want to provide services to the trail users, the marina users and people who want to enjoy being on the bank of the Missouri River. At its most extreme, everything is self-created unless it is untouched by man. So, because this applies to everything, I think you should look to the intent and the intent in this case is to not create dust. Due to the speed of vehicles on the landing and on the parking on the state property there won't be any dust created from the landing or the parking on state property.
- The variance cannot be granted to avoid the cost of compliance with the regulations where the justification is predominately financial, or where compliance is possible but might be more expensive.
 - We meet this test because we are not claiming it is too expensive. The applicant is investing a considerable amount of money in making the landing a premier site on the river. The building proposed is first class and if paved parking added to the experience he would not be asking for the variance. Money is not a reason for the variance.
- The variance sought must be the minimum variance needed to achieve the desired purpose.

- We are proposing to pave the ADA parking near the building as it is impossible to meet ADA parking requirements without using a pavement. We are asking for the minimum variance.
- The variance cannot be granted when there is another viable alternative to accomplish the same goal under the regulations without the need for a variance.
 - The nuance here is the word goal. The goal is the intent of the ordinance. We believe the area within the landing and along the state property meets the intent of not creating airborne dust due to the low speeds within the landing and parking areas on the state property. Are there other ways to accomplish a better camping experience than what already exists on the site? I don't believe there is as the solid composition of the soil is ideal for driving on without creating dust. Tent camping on pavement is just not going to happen. There are other alternatives, but we would be replacing a really good condition with one that may work just as good. As for the parking along the state, this is a typical gravel surface, but as I stated before, paving this would only create a dust covered pavement. That is why we offered to pave those spaces once the county creates a dust free surface on the road. So, we could pave this now, but paving would not mean this would be a dust free surface until the road is paved.

In summary, the landing is a unique diamond in the rough for Boone County. It is unlike any other commercial property within the county. The applicant is trying to make this resource appeal to everyone. Building the new building with bathrooms and showers will greatly increase the popularity of this resource. Paving the site would not. The landing is essentially a private extension of a state park and due to this, it is a very unique property that justifies approval of all the variances.

Open to public hearing.

Present speaking in favor of the request:

Dave Angle, 2245 Bluff Blvd, Columbia

Dave Angle: I am a musician and from that perspective Cooper's Landing is the unique place, not just in Boone County but in the state. The applicant going line by line on the zoning requirements I thought was very compelling and I think it meets what is necessary for the variance. I think it comes down to that it seems to me if the Board wants to give the variance they can within the spirit and the language of what governs your decision making. If you ask the reasonable thing to do; I don't think anyone would say it would be reasonable to pave a campground on the Missouri River so that you can prevent dust when the county road is creating mountains of dust. To pave a campground in the first instance doesn't sound reasonable. When you combine the fact that you have a county road that is the actual source of the dust then what you get is what the previous speaker described, a dust covered pavement. It is not reasonable to come to that conclusion. It seems like everyone has been down there. If you are standing on the banks of the Missouri River at Cooper's Landing it is a very special experience, trying to imagine it as a chip and seal parking lot doesn't make sense. It is unreasonable to require that of someone. The Board can do it within the spirit and language of the variance requirements.

Wayne Huebert, 301 N Cedar Lake Dr, Columbia

Wayne Huebert: As Mr. Gebhardt stated, this is a pedestrian use area and criss-crossing pedestrian use areas with paving creates curbs and areas where you are going from soft surface to hard surface. I trip a lot and I trip where I have to make a transition like that and that is a safety issue. I think it would be safer to not have a lot of paving over there.

David Lineberry, 5230 N Creasy Springs Rd, Columbia

David Lineberry: I am a musician and I play down at Cooper's Landing from time to time; I am familiar with the property since before Mike Cooper owned it. I am also the President of the Missouri River Cultural Conservancy which is about preserving exactly what it sounds like, Variance A2 pertains to the very small stage that is there; when I have been fortunate enough to play down there I talk about the unique circumstance of that setting and when I am speaking to the other musicians and audience I speak to them of the uniqueness of that site and I talk to them about the size of the river and its proximity to the stage and I ask where else in the world do they think they can go for free? There is no admission charge there and there is no gate, door or ticket. You have to go a long way on the Missouri River to find the same type of place and you can't find it elsewhere in Boone County. That is a unique thing that is an ambassadorship not just for the business but for the county, the natural resource, the river, the people and culture. All you have to do to perpetuate that is say don't change anything there. I would ask the Board to indulge the request for a variance that would allow for a better built stage in exactly the same footprint. Regarding Variance B, the dust free requirement, I live on a county road that has been chip sealed three times since I moved there 20 years ago. Chip seal isn't dust free, anyone who lives on a chip seal road knows that. The difference between a gravel road and the chip seal road is that a gravel road produces gravel dust, you can water it down. When chip seal abrades as it would when you have people entering and exiting from a gravel road, it doesn't turn to gravel dust it turns to pavement dust because chip seal is asphalt with an aggregate pressed down onto the top of it. When it becomes to degrade and dry out it gets on your tires and shoes and then into your house, it doesn't just have the silica from the gravel its got all the petroleum by-products and the carcinogens from the asphalt too. There is no brilliant, environmental benefit to calling chip seal a dust free environment. Wisely the county staff has identified the proximity to the river as a nullifying effect on some of the stormwater aspects under the premise that with that proximity that stormwater can just be flushed into the river. How do you think an impermeable membrane works when you put it on top of the soil and then you move vehicles on top of that? So now you have the odd drop of antifreeze, oil and gasoline; where do you think that goes? If you have a permeable membrane like gravel it goes into the soil and eventually gets cleaned. The applicants are stewards of the site, the patrons, the reputation and the environment. I ask the Board to consider those things they would consider, planting more trees, making sure the level of gravel is sufficient, considering water sprinkling like you do on other places in the county where the quarries are located, you don't pave your county roads leading up and away from quarries with chip and seal. I would ask the Board to extend the same thoughtfulness to these people who have invested their time and money in improving this experience for Boone Countians.

Connie Leopard, 7560 S High Point Ln, Columbia

Connie Leopard: We live in a flood area so we understand vegetation around river banks that you want to preserve. I serve on a board that deals with children in Boone County. I believe that there is a substantial deprivation of use by having impervious surfaces over an area that is beautiful for little children to experience. Some children in our city have never been to an area that doesn't have pavement all around them. We go to Cooper's Landing all the time and we love it. This unique situation that we have with this request needs to be done very thoughtfully because we need to preserve these beautiful places for our children that don't get those experiences. Thankfully the applicants and people like him in our county open these spaces up for people for free; we just invested tons of money into the Nature School because children from CPS and all of our county schools can go there to see what nature looks like. Keep that in mind while you are making your decision and whatever needs to be adjusted within our ordinances or whatever rules apply, need to have variances for places that are so unique to our county that they can't be replicated.

No one spoke in opposition.

Closed to public hearing.

Member Stephens: Did staff receive any comments from the public in opposition?

Bill Florea: No.

Member Zullo: I'd like to ask about the complication of a county road, a state park parking facility and a private entity.

Bill Florea: What about it?

Member Zullo: Part of the permit part has to do with that parking, correct?

Bill Florea: Yes.

Member Zullo: I completely understand you are next to a dirt road, I know that road very well. I don't think that road will ever be paved because it floods. It is my understand that the parking along the road edge will never be impermeable because the state park is responsible for that; the applicant is not responsible for that; he is in compliance just being part ownership but it will never have a surface.

Bill Florea: What won't ever have a surface?

Member Zullo: The parking along the road where the county road is.

Bill Florea: That is the question tonight.

Member Zullo: What I am getting at is I understand not putting a tent on a hard surface but I am interested in a county road, a state park and the parking facility.

Jay Gebhardt: The state has a license agreement with Muddy Mo Landing for...

Member Zullo: Muddy Mo, that is not Mr. King that is the entity.

Jay Gebhardt: It is Mr. King.

Member Zullo: The applicant has an agreement with the state?

Jay Gebhardt: It is a license agreement and it specifies certain areas that Mr. King can use on the state's property. Some are for camping, some are for sewer disposal, some are for parking along the road which is what we are talking about. My understanding is the state gives permission to use that parking but the county's requirements require it to be paved.

Member Zullo: Right, so the state is not getting involved with paying for that, they are just giving the applicant the opportunity to do so.

Jay Gebhardt: Correct. They are giving us permission to use it for parking and if we need to comply with the county regulations we will but we are asking for a variance for that because of the unique situation there. The other issue with that is the landing itself.

Member Zullo: I am just trying to see how something can happen with that part and if it is three different entities involved I want to know how it will happen.

Jay Gebhardt: It would be the applicant paving it if the variance isn't granted.

Member Zullo: The state will have the applicants pay for paving it and then you will have dust from the county road blowing on top of it. I understand the moot part of that.

Bill Florea: As a point of clarification, there was a statement that there would be tent camping on a paved surfaces, there is nothing in our regulations that require a tent site to be paved. I don't know where that came from.

Jay Gebhardt: The landing is flexible in how it is used. When there are performances on the stage some people don't want to be in the spaces right next to the stage they want to be away, that is what I call boondocking, there are no services up there but they camp there in their RVs, but in a normal day-to-day operation the RVs are down by the stage and that area is used for tent camping. It is used for both and because we drive on it...

Member Zullo: What can be used as an impermeable surface in a camping situation? That is what staff is asking for, to have dust-free surface on the tent spaces.

Bill Florea: No, just the drive and parking surfaces. This is a new concept, I've never heard this used.

Lucia Bourgeois: If we are to create dust free surfacing across all of the area as required per the ordinance where there is automobile activity that is going to significantly cut into the area that is currently being used for both tent camping as well as event space and it is not only restricted to RV spaces but if it is being used for RV spaces the ordinance dictates that we would need to pave it.

Chairperson Thomas: It sounds like you have a very liberal interpretation of what needs to be paved and that is what we are trying to ask staff. It says all driveway, loading and parking areas are to be dust free. Who determines what those areas are on the site?

Bill Florea: You are required to have a certain amount of parking so there is a minimum number of parking spaces they are required to have for this use and then there will be driving surfaces to get to and from those parking areas and I presume also driving to their RV sites, that is a driving surface as well. With a site plan that shows where all of these surfaces are would make this decision for the Board much easier. The way I see it right now is you are hearing one thing from staff and hearing another from the applicant and the only thing that would really clarify that to the Board is to see a graphic representation of what surfaces are used how and what staff feels should be paved and what shouldn't be paved and what the applicants don't think should be paved as well which is probably everything.

Jay Gebhardt: We have a visual of Cooper's on the screen and the northern part is the sanitary sewer drip field; that will never be driven on because it will compact the soil and impact the use of the sewer system. If you look at that, there is pretty much just a sandy soil everywhere. I have been at the landing when there are three or four people camping there in RVs, I have been there when people are using that same area for tent camping. It is not like a designated state park where there is RV parking in one area and primitive camping in another area; it is pretty much used throughout. For me to do a site plan that shows the possibility where someone could drive a vehicle it would pretty much be everywhere you can drive a vehicle. There are some areas that are too steep, some areas have trees but it is a significant amount of the property.

Bill Florea: There are no driving lanes? People can drive wherever they want?

Jay Gebhardt: When you get north of the building pretty much. There is a power pole that serves the food trucks then north of that if you are camping you can camp up there during certain events.

Member Zullo: By not dictating where the hard surfaces are you have the opportunity to have RV parking and tent camping.

Jay Gebhardt: Correct.

Member Zullo: At the same time you are still not giving me the opportunity to decide what you are doing. RVs definitely have to be impermeable but you don't want it for tent camping. I can't make a decision for the county when I can't see what to say yes to.

Chairperson Thomas: Based on the use, staff is saying there is going to be a certain amount of parking that is required.

Bill Florea: Correct.

Chairperson Thomas: That can definitely be determined.

Jay Gebhardt: But that parking is on the state property except for the two ADA spaces.

Member Stephens: Is there anything in the license agreement with the state, obviously the state has ultimate control over what happens on their property, does anything prohibit paving it in a certain way, are they making you leave it as is, or are they agreeable to paving it?

Jay Gebhardt: No one contemplated this when the license agreement was written.

Member Stephens: I don't know if there has been correspondence with them.

Lucia Bourgeois: There has been; it is open for use for business purposes. If that means we need to put up small outhouses or buildings that would qualify as a business use in addition to any parking modifications. If that road is never intended to be paved because it is in a flood zone then the request is to pave a space that is likely to be flooded and it has been acknowledged to be a space that should not be paved because of its flood zone.

Member Leipard: That is where I am going. This property is mostly all in the floodplain?

Lucia Bourgeois: It is 100% in the floodplain.

Member Leipard: The river rules all of this. Our job is to look down the road so the flooding and the river is what really makes this property unique by far. If the river rules it overrules everything we are talking about. If this floods, and it is paved or has chip and seal then that is going to end up in the river and broke up and a mess versus what is there now. It has survived for thousands of years and now there is a building down there that has been there and it has survived. If we chip and seal it or change it and you guys have the engineering that proves that the building will take that but what happens to the chip and seal or the surfaces when the river floods? I think it breaks up the chip and seal and it ends up in the river while what it is now has been good.

Jay Gebhardt: The material that the landing is made out of is sand with some silt mixed into it; it is not the same as a gravel road, it is pretty hard. It is not concrete but it is hard and it does not kick up dust when you drive on it. That is why we have the ability to be flexible and use the space differently. The river deposits sand there and sand typically doesn't create a lot of dust.

Member Leopard: I think down the road the chip and seal turns into pavement and the river comes through and busts it up and washes it into the river; I think it is a problem down the road. The Board has to look at extraordinary or exceptional situations or conditions of a specific ordinance and I think flooding is what makes it that way. If the buildings are engineered and that can be done where the river is not going to affect that but I don't know if there is anything that will prove pavement or chip and seal or anything you change won't end up in the river and be a problem when it floods. That to me makes it an exceptional situation which is one of our criteria. The Board is tied with what the ordinance says. They are saying the river isn't what makes it unusual, but I don't think that is the case. We have been going down there for I don't know how long but when that floods it is scary.

Member Stephens: How far below the 100-year base flood elevation is this?

Jay Gebhardt: If you are standing in the building the depth of the water is about 6-feet.

Member Stephens: Presumably the idea is the lower level is the flood proof portion of the building.

Lucia Bourgeois: Yes, we built a submarine.

Member Stephens: The upper level is high enough above whatever happens and will be okay.

Jay Gebhardt: Right, and it also has the belts and suspenders designed that there is an area for a truck to back up so everything can be loaded into a truck and hauled away. If the building were to fail in a flood there would be nothing inside.

Member Stephens: We are talking about the Missouri River, we aren't talking about a local flood but a regional flood. This flooded in 2019?

Jay Gebhardt: Yes, about three days after the applicant purchased the property.

Member Stephens: How high did it get into the building?

Lucia Bourgeois: About 3 ½ feet.

Member Leopard: My point is what will a flood do to the chip and seal? I think it will destroy it. FEMA does disaster relief, right?

Lucia Bourgeois: We do not hold flood insurance.

Member Leopard: Even with that, the more that you change where it is a problem when it floods, which I think will be if it is paved or chip and seal, I think that creates a problem after a big flood. I don't think FEMA wants anything that causes that kind of problem and I think the pavement and chip and seal, I like it standing where it is. If the road was paved and a flood comes through it will destroy the road and it is longer to fix and repave it. I don't think paving that is a good idea, I think it would be worse if it is paved.

Lucia Bourgeois: Our intent with establishing our willingness to comply along with county development is with the understanding that if that road were to be made impermeable that it would be done with the infrastructure to be able to continue to support the situation and location of where it is at; at which time we would have better accessibility to being able to comply and able to provide a solution that's both environmentally conscience as well as acknowledge their risk that is imposed by being in a floodplain.

Member Leopard: I just don't think it is a good idea.

Member Stephens: Do we know how long the original facility has been there?

Jay Gebhardt: It was the Providence Bait Shop when I was in high school and I graduated in 1982.

Lucia Bourgeois: The property rezoned to Recreation in 1986 and I believe Mr. Cooper established it in 1987. The building has been through a few floods.

Member Stephens: Regardless of how we feel about Variance B, even if we grant that what would be the process?

Bill Florea: The applicants would have to apply to amend their conditional use permit.

Member Stephens: That would be a Planning & Zoning and County Commission action?

Bill Florea: Correct.

Lucia Bourgeois: We are willing to support that because we believe it needs to be updated anyway.

Chairperson Thomas: Then why do they need a variance?

Bill Florea: The condition on the conditional use permit just reinforces the code that was already there; sometimes we do that just to make it clear to the applicant that there is a requirement to provide dust free parking and drives.

Member Stephens: Not only do they have to have Planning & Zoning Commission agreeable to this, without a BOA action you basically need Legislative and Judicial decision.

Bill Florea: Correct; both bodies would have to say yes for this variance to go in effect.

Chairperson Thomas: If we say no they can still go to Planning & Zoning and amend their conditional use permit.

Bill Florea: It wouldn't matter because the code requires it. Removing the condition from the conditional use permit has no effect if you say no. Both actions have to occur.

Member Stephens: Obviously the property itself is unique, I don't know that there is any development similar to this.

Lucia Bourgeois: There isn't anything in Boone County.

Member Stephens: I briefly looked on the map up and down the river to see if there was anything like this facility, there is some REC-P property that is undeveloped south of the bridge but I don't know that there is anything developed or has existing structures on it similar to this. I know after 1993 a lot of

residential and agricultural property got bought up, this is about the only thing I can find remaining that exists in terms of setting precedent.

Lucia Bourgeois: The only other REC zoned property within the floodplain along the Missouri River, there is not other parallel properties from that perspective.

Jay Gebhardt: I agree, I don't think we are setting a precedent that we have to worry about. The whole property is unique.

Member Stephens: Any of the agriculture ground that exists now is probably never going to get rezoned in the floodplain to REC-P.

Bill Florea: That is probably true, especially without a source of water or sewer.

Member Stephens: Could this ever be replicated?

Bill Florea: Possibly, but not likely.

Member Stephens: The look of the proposed building is great, that is going to be a nice amenity. I found it interesting that no one spoke in opposition, apparently there were a lot more people in opposition to the original conditional use permit.

Lucia Bourgeois: It was a different property then.

Member Stephens: I hope that speaks to the way it is being run that people are happy with what is there.

Member Leopard: I like the building that is there now.

Member Stephens: I would expect if the neighbors had problems they would have spoken about it. Anything regarding the new building there will be floodproofing of the restroom facilities such that it can devastate the sewer system.

Jay Gebhardt: That is correct. We put concrete over the tanks so they won't come out. We have extra cleanouts so if sand were to get in the pipes we could clean it out. The tanks are sealed off so you theoretically can't get in there; it is going to have six or seven feet of water on it in a 100-year storm so stuff will probably get in it so we designed it so you can clean it out. It was designed for the bathrooms and showers, there were provisions made for food prep in the future but that is not something we are asking for at this point, all the food prep there is from the food trucks and prepackaged; there is no processing of food on the site.

Member Stephens: Assuming the Board votes in favor of the dust free variance you are still facing a hurdle with a rezoning action too. Is there some entertainment with the idea of working within the county program on dust control for the road? I would agree the gravel road is the primary source of dust at Coopers Landing so the idea of doing dust free on site I agree wouldn't necessarily solve the issue that is there; there is probably another solution to that problem.

Jay Gebhardt: We have talked to staff a lot about this and there have been proposals of different alternatives than chip and seal such as some kind of rock that doesn't produce dust but most of the time river rock is like marbles and you can't drive on it; using a geotech fabric or a geogrid and filling it full of rock was a suggestion and it could be done but it wouldn't be any better than the sand that is out there,

it wouldn't be an improvement as far as the dust because there isn't any dust produced from the landing itself.

Member Leipard: Is there anything you could do to the road to help with dust?

Jay Gebhardt: We can talk to the applicant; there is a program where you pay to have the road in front of you sprayed with magnesium chloride. There is that but the problem is if you sit at the landing and come along the creek and the bluff and get to the boat hinge area, all that area blows into the landing. Just doing the area in front of the landing where the parking is wouldn't solve the dust because it comes as a big cloud as people come down; most people come from Smith Hatchery.

Member Stephens: The thing about that is you can try it out and see how it works and it doesn't work you don't have to do it again. I find it worth the money.

Member Leipard: I just worry about what is going to end up in the river when a big flood comes in. Would you agree that it would possibly be a lot worse if it was anything than what is there if a 500-year flood comes through?

Jay Gebhardt: When rain falls on the landing now it is a hard surface but it doesn't runoff, it soaks in; it has a high permeability rate.

Member Leipard: It could wipe out whatever you've done into the river.

Jay Gebhardt: It could cause quite a bit of erosion.

Member Leipard: You were talking about working on the ordinance with the dust later?

Member Stephens: No, what they were saying is they have to go to Planning and Zoning Commission.

Jay Gebhardt: If the Board doesn't support the variance we won't ask to revise the conditional use permit because it doesn't matter. If the Board approves it we still have to go to P & Z. It is a two-step process for us to gain approval.

Member Stephens: We haven't really talked about Variance C a lot but I think it is important to consider that this is directly contiguous to the river. This is really not the right location to do stormwater detention; you don't have a local flooding concern in this location, you've got a regional flooding concern that you will have days to prepare for because you will know it is coming.

Chairperson Thomas: The applicants have done a lot of work, research and planning on this; I find it difficult that you haven't been able to come up with a site plan that meets the county's requirements that still meets the applicant's needs. I think all of the planning you have done has shown that you could work and meet the minimum requirements for the impermeable surface or work with staff.

Jay Gebhardt: To put together a site plan for this is a \$25,000-\$30,000 deal and without the variance and having the answers to these questions that is a lot of money to spend and lose.

Chairperson Thomas: That is not a reason to grant a variance. That is back to you creating the situation.

Lucia Bourgeois: Sure, but was the site plan part of the requirement in order to ask for a variance?

Chairperson Thomas: No, I am simply saying that if I had more information then I could make a better decision.

Member Stephens: Do we need to vote on each of these variances individually or can they be grouped?

Bill Florea: I think you can group them as they were presented.

Chairperson Thomas made a motion to approve Variances A1 & A2 for the front and rear setback.
Member Stephens seconded the motion.

Member Leipard: If I were to make a motion this one would have to be turned down before I would make another motion?

Member Stephens: We have to move through this motion and then we will make another motion.

Member Leipard made a motion to approve all four variances. No one seconded the motion.

Bill Florea: We need Variances A, B & C separately.

Chairperson Thomas made, and Member Stephens seconded a motion to approve the request by MuddyMoLanding for variances from the front and rear setbacks for a general store and stage in the Recreation (REC) zoning district on 1.1 acres located at 11505 S Smith Hatchery Road, Columbia:

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Zullo	Yes

Motion to approve Variances A1 & A2 passes unanimously

Member Leipard made, and Member Zullo seconded a motion to approve the request by MuddyMoLanding for a variance from the dust-free parking and drive requirements in the Recreation (REC) zoning district on 1.1 acres located at 11505 S Smith Hatchery Road, Columbia:

Member Thomas	No	Member Leipard	Yes
Member Stephens	Yes	Member Zullo	Yes

Motion to approve Variances B passes 3 YES 1 NO

Member Stephens made, and Member Zullo seconded a motion to approve the request by MuddyMoLanding for a variance from the stormwater quantity and quality control provisions in the Recreation (REC) zoning district on 1.1 acres located at 11505 S Smith Hatchery Road, Columbia:

Member Thomas	Yes	Member Leipard	Yes
Member Stephens	Yes	Member Zullo	Yes

Motion to approve Variances C passes unanimously

VI. OLD BUSINESS

None

VII. NEW BUSINESS

Certificate of Decision – KM Farms

Chairperson Thomas accepted and signed the Certificate of Decision

VIII. ADJOURN

Being no further business, the meeting was adjourned at 8:38 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 26th day of September, 2024