

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER COMMISSION CHAMBERS
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, September 26, 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
Michael Leopard
Jesse Stephens
Ryan Krueger

Absent: Paul Zullo

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

III. APPROVAL OF MINUTES:

Minutes of the June 27, 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

Request by CKL Property Management LLC for a variance from the 25-foot perimeter setback in the proposed Planned Light Industrial (M-LP) zoning district for an existing warehouse on 4.15 acres located at 7400 I-70 Drive SE, Columbia. (Zoning Regulations, Section 6.9.1) Open public hearing.

Senior Planner, Thad Yonke gave the following staff report:

This 4.15-acre tract consists of Lots 125, 126 & 127 of the Sunrise Estates Subdivision. The current zoning is Planned General Commercial (C-GP) and General Commercial (C-G). The applicants have submitted a request to the Planning & Zoning Commission to rezone the property to Planned Light Industrial (M-LP). The zoning to the north, across I-70 is Agriculture (A-2), to the east is Single-Family Residential (R-S), to the south is Moderate-Density Residential (R-M) and R-S and to the west is R-S. The site is located on I-70 Drive Southeast at the southeast corner of Sunny Vale Drive and is located in Sunrise Estates Subdivision. There is a commercial building on the property that was constructed in the 1960's and a commercial billboard has been on the property since at least 2000. The applicant intends to apply to rezone the property to Planned Light Industrial; the existing warehouse will be within the required 25-foot perimeter setback if the rezoning request is approved. The original zoning for this property is Single-Family Residential. In 1988, the western 2.33-acre portion of the property was rezoned to C-G; in 2011, the eastern 1.82 acres was rezoned to C-GP, a review plan and final development plan were also approved. The requested variance is from Zoning Regulations, Section 6.9.1 which states: Perimeter setback in a planned industrial development. A minimum 25-foot setback shall be provided around the boundaries of the planned development. Staff notified 69 property owners about this request.

Facts:

- The 2.33-acre portion of the property was not part of the 2011 request even though the planned rezoning request was to support uses proposed for the 2.33-acre portion.
- The current request proposes the entire 4.15-acres of the property be rezoned to M-LP.
- The possible uses allowed under an M-LP zoning are more intensive than those allowed in C-G; the rezoning sets the stage for an intensification of use of the property.
- As a planned development the plan has a perimeter setback of 25 feet along all out-boundary property lines: part of the existing building encroaches into this required setback.
- The existing building meets the setbacks of the existing C-G zoning district; non-compliance with the perimeter setback is created by the rezoning request.
- The remodeling of the structure will require the involvement of a Design Professional such as an Architect licensed to practice in the State of Missouri.

Staff Analysis & Recommendation:

Zoning Regulation Variance:

Zoning Regulations, Section 6.9.1. Perimeter Setback in a Planned Industrial Development. A minimum 25-foot setback shall be provided around the boundaries of the planned development.

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:

The need for the variance is triggered by a pending rezoning request that is necessary to intensify use of the site.

The future rezoning, in one respect, is an intensification in that it opens up a list of more intensive uses to choose to propose when compared to the current C-G zoning. In practice, a planned rezoning request with a very limited suite of “Allowed Uses” is more capable of ensuring compatibility with the existing neighborhood. The Planning and Zoning Commission and County Commission can enhance neighborhood compatibility by placing additional conditions on the rezoning such as buffering or limits to hours of operation.

The specific use proposed for the rezoning is predominantly related to extensive fenced outdoor storage. The remodeling of the building to legally create multiple tenant suites likely is not anticipated to require substantial structural modification to the building, or alteration of its current footprint.

While it may be arguable that the granting of the variance would not obviously rise to the level of deprivation of use of the property the grant of the variance with conditions, in this case, allows the property to remain in context with its existing relationship with the adjacent residential neighborhood and provide enhanced opportunity to improve the compatibility through imposing related conditions.

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

Present representing the request:

Cory Bergthold, Engineering Surveys & Services, 1113 Fay St, Columbia
Josh Lange, CKL Property Management, 7400 I-70 Drive SE, Columbia

The applicants made a power point presentation which is attached at the end of these minutes.

Cory Bergthold: The applicants are looking to rezone the property, there is an existing building and as stated, the rezoning would create a 25-foot perimeter setback that the south side of the existing building would encroach upon. The building is currently eight feet from the south property line. The eastern portion of the lot was used for truck parking by the previous owner. The applicants feel this use of the property provides a good transition from Interstate 70 to the residential neighborhood.

The eastern portion of the lot is zoned planned commercial and the western portion is general commercial; there is additional commercial zoning along I-70 southeast and to the northeast is M-LP. In 2019 the property was used for RV storage; the applicant intends to use that area as landscaping material storage, it is not unlike previous uses.

There is an 8-inch water line that runs along the north side of I-70, if it were ever needed to serve the property it is available. There is also an 8-inch sewer main along the south side of the property so all of the utilities needed to serve the property are in the vicinity.

The variance we are asking for is for the building; to make modifications to the building to get it out of the 25-foot perimeter setback would cause a hardship upon the property owner to do so.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas asked if staff heard from any neighboring property owners.

Staff stated that one call was received; the caller did not speak to this request but to the use of the property.

Member Stephens: Do the applicants understand the as is-where is condition if this variance is approved? If something happens to the building it will have to be rebuilt in compliance with the regulations.

Cory Bergthold: Yes; and there are no current plans for any external modifications to the building.

Chairperson Thomas: It is the whole south side of the building that will be in the setback?

Cory Bergthold: Yes, the southwestern portion. It is an attached covered area.

Chairperson Thomas: It is a covered area or a structure?

Cory Bergthold: It is a structure.

Thad Yonke: The presentation that was given shows the structure.

Member Leopard: Is there a loading dock?

Cory Bergthold: Yes.

Member Leipard: Will the other part be fenced?

Josh Lange: There is an existing privacy fence along the portion of the southern property line and those would remain. I believe there is an intent to put a metal wrought-iron fence. On the northeast corner where you can see the highlighted there is an existing fence and gates. In compliance with the new code and the intended tenant, there would be a six-foot tall chain-link fence with a deterrent at the top that would replace the existing.

Thad Yonke: Fences are allowed in the perimeter setback.

Member Stephens made, and Member Leipard seconded a motion to approve the request by CKL Property Management LLC for a variance from the 25-foot perimeter setback in the proposed Planned Light Industrial (M-LP) zoning district for an existing warehouse on 4.15 acres located at 7400 I-70 Drive SE, Columbia with the following condition:

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

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

Motion to approve the variance passes unanimously

VI. OLD BUSINESS

None

VII. NEW BUSINESS

- Annual Election of Officers

This item was added to the agenda on September 26, 2024 due to time sensitivity in order to meet Board of Adjustment by-laws. The by-laws state that annual elections are to take place in July of every year, if there is no meeting in July, then elections should be heard at the next meeting.

The floor was open for nominations for Chairperson. Member Stephens nominated Member Thomas as Chairperson. Member Leipard seconded the nomination. No other nominations were made. All members present voted in favor of Member Thomas as Chairperson.

The floor was open for nominations for Vice-Chairperson. Member Thomas nominated Member Stephens for Vice-Chairperson. Member Krueger seconded the nomination. No other nominations were made. All members present voted in favor of Member Stephens as Vice-Chairperson.

- Review of Memo from County Counsel, CJ Dykhouse

This item was held over for a worksession on October 24, 2024 at 7:00 PM in Room 301 of the Boone County Government Building, 801 E Walnut St, Columbia.

- Certificate of Decision – MuddyMo Landing

Chairperson Thomas accepted and signed the Certificate of Decision

VIII. ADJOURN

Being no further business, the meeting was adjourned at 7:26 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 5th day of December, 2024