

BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY GOVERNMENT CENTER COMMISSION CHAMBERS
801 E. WALNUT ST., COLUMBIA, MO.
Thursday, December 5, 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
Jesse Stephens
Ryan Krueger

Absent: Michael Leopard
Vacant Seat

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

III. APPROVAL OF MINUTES:

Minutes of the September 26, 2024 meeting were approved as written.

IV. CHAIRPERSON STATEMENT

Chairperson Thomas read following statement:

Ladies and Gentlemen, the Boone County Board of Adjustment is now in session.

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

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

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

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

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

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

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

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

V. ORDER OF BUSINESS

Member Krueger made, and Chairperson Thomas seconded a motion to change the order of business to the following order: Old Business, Requests, then New Business:

All members voted in favor.

VI. OLD BUSINESS

1. Case 2022-002

Review permit issued to Kyle Nichols for a mobile home as a second dwelling on 10 acres, more or less, located at 2851 W Hwy 124, Harrisburg. (First granted 2/2020) (Zoning Regulations, Section 15. C.4.d) open public hearing.

Planner, Uriah Mach gave the following staff report:

This site is located on State Highway 124, approximately 2.5 miles west of Highway 63 and is zoned Agriculture 2 (A-2). The property to the north, east and west is also zoned A-2; to the south is Planned General Commercial (C-GP) and A-2. There is a modular home, several accessory structures and a singlewide on the property. The applicant requests renewal of permission to place a mobile home temporarily on the property, for a period of two years, due to practical difficulty or unnecessary hardship. The original variance was granted to the previous owner, Anna Nichols, in 2020. Since the original approval, the property was transferred to Ms. Nichols' grandson, the current applicant. In 2022, the Board granted permission to the current applicant to place a singlewide as a temporary dwelling. The requested permission is temporary and can only be granted for periods of two years; therefore, the Board must find that the conditions under which the original approval was granted, still exist. The original zoning for this site is A-2. The only previous request for this property was the permission granted by the

Board in 2020. The applicant requests approval under Zoning Regulations, Section 15.C (4) (d). To permit, in case of practical difficulty or unnecessary hardship, for a period of two years, the location of a mobile home on a lot. Staff notified 18 property owners.

Staff Analysis and Recommendation:

Facts:

- After receiving approval from BOA under the previous owner, a singlewide was placed under building permit M1821 and did get inspections.
- Wastewater is a lagoon that appears to have been Health Department approved.
- The ownership of the property changed in 2020 but not the situation.
- The request was renewed for a period of two years in 2022.

Analysis:

The parties occupying the property are the same as the original approval.

The renewal application indicates that the facts that supported the original approval still persist.

If the applicant confirms that the practical difficulty or unnecessary hardship still exists, Staff recommends renewal of the permission.

Present representing the request:

Kyle Nichols, 2851 W Hwy 124, Harrisburg

Kyle Nichols: Nothing has changed since 2022 so I would appreciate the continuation of the variance.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Member Stephens made, and Member Kruger seconded a motion to approve renewal, for a period of two years, the permit issued to Kyle Nichols for a mobile home as a second dwelling on 10 acres, more or less, located at 2851 W Hwy 124, Harrisburg:

Member Thomas	Yes	Member Stephens	Yes
Member Krueger	Yes		

Motion to approve the renewal passes unanimously

2. Case 2001-009

Review permit issued to Tim Waller for a variance to place a mobile home as a second dwelling for a period of two years on 5 acres located at 11160 N Route B, Hallsville. (First granted 9/2001) (Zoning Regulations, Section 15. C.4.d) open public hearing.

Planner, Uriah Mach gave the following staff report:

This site is located on State Highway B, approximately two miles south of the Hallsville municipal limits and is zoned Agriculture 2 (A-2); all surrounding property is also zoned A-2. There is a single-family dwelling, an accessory structure and singlewide on the property. The applicant wishes to renew permission to temporarily place a mobile home on the property, for a period of two years, due to practical difficulty or unnecessary hardship. The original zoning for this site is A-2, it was platted as part of M & M Subdivision in 1987. This property was granted permission to place a temporary mobile home on the property by the Board in 2001, which has been renewed several times. The applicant requests approval under Zoning Regulations, Section 15.C (4) (d). To permit, in case of practical difficulty or unnecessary hardship, for a period of two years, the location of a mobile home on a lot. Staff notified 8 property owners.

Staff Analysis & Recommendation:

Facts:

- After receiving approval from BOA, singlewide was placed under building permit M1440 and did get inspections.
- Wastewater is a Lagoon that appears to have been Health Department approved.

Analysis:

The renewal application indicates that the facts that supported the original approval still persist. If the applicant confirms that the practical difficulty or unnecessary hardship still exists, Staff recommends renewal of the permission.

Present representing the request:

Tim Waller, 11150 N Route B, Hallsville
Angela Waller, 11150 N Route B, Hallsville

The applicants submitted a letter from Dr. Nancy Mabe explaining the health of Joyce Sheffield and the need for the variance.

Angela Waller: My mother turned 90 a couple of weeks ago and we are happy that we have been able to keep her there as long as we have and we know the day is coming when she can no longer stay there. We would like to ask that she still be allowed to stay there for now. Once she is no longer living there, we know there is a time frame in which we need to remove the mobile home, what is the time frame?

Bill Florea: Technically it should be immediate but we understand that it takes some time; staff would be happy to work with the applicants on a reasonable time frame.

Open to public hearing.

No one spoke in favor or opposition to the request.

Closed to public hearing.

Chairperson Thomas made, and Member Krueger seconded a motion to approve renewal, for a period of two years, the permit issued to Tim Waller for a variance to place a mobile home as a second dwelling on 5 acres located at 11160 N Route B, Hallsville:

Member Thomas	Yes	Member Stephens	Yes
Member Krueger	Yes		

Motion to approve the renewal passes unanimously

VII. REQUESTS

1. Case 2024-007

Request by Bethel Baptist Church, Inc for a variance from the minimum lot depth in the Single-Family Residential (R-S) zoning district on 7.2 acres located at 201 E Old Plank Rd, Columbia. (Subdivision Regulations, Appendix B, Section 1.8.2, Table A). open public hearing.

NOTE: Exhibits A – E and Figures 1 – 3 are attached at the end of these minutes.

Director, Bill Florea gave the following staff report:

This 7.2-acre site is zoned Single-Family Residential (R-S). Property to the north and east are inside the Columbia Municipal limits, to the south is Columbia Municipal limits and R-S and to the west is R-S. The site is located on Old Plank Road at the northeastern corner of the intersection with Bethel Church Road. There is a church and cemetery on the property. The applicant wishes to divide the property into two tracts; proposed lot 1 will consist of 3.36-acres and will contain the church; proposed lot 2 will consist of 3.67-acres. The proposed configuration of lot 1 will not meet the minimum lot depth required for the proposed lot size (see Figure 1). The original zoning for this property is R-S, there have been no previous requests for this property. The requested variances are from Subdivision Regulations, Appendix B, Section 1.8.2, Table A which requires a minimum lot depth of 250-feet for a lot of 2.5 acres or greater and from Zoning Regulations, Section 2, Definitions, Yard, Front. Staff notified 138 property owners about this request.

FACTS:

- The property lies at the immediate northeastern corner of the intersection of Old Plank Road & Bethel Church Road. As a corner lot each road frontage is treated as a Front Yard for setback purposes.
- On a corner lot the narrower frontage is used to determine which is the rear lot line therefore also determining depth and width. *Subdivision Regulations Definitions 1.4.17 Lot, Front of and Zoning Regulation, Section 2, Definitions Yard, Front.*
- The portions of the proposed lot that do not meet the 250 feet minimum depth are indicated on Figure 1.
- The Church owns an adjoining property that contains a cemetery and is in control of another adjoining cemetery property. These two properties could be included into a plat of proposed Lot 1 and eliminate the need for the variance.
- The zoning for the property is R-S which allows creation of lots as small as 7,000 square feet when public sewer is available.
- Proposed Lot 2 is being created for sale and further development.
- There are several options for subdividing the property that result in compliant lots without the need for the variance (Figures 2 & 3).
- Each lot in a subdivision plat served by central public sewer must have direct access to a public sewer main. This typically means sewer main extensions are part of subdivisions with public sewer. This is true regardless of the number of lots in the subdivision.

- The Boone County Regional Sewer District (BCRSD) provided comment on the proposed plat indicating sewer main extensions are required (Exhibit D).
- The City of Columbia has provided comment that they will need plans for public sewer extension as part of the plat if there is desire to connect to their system with the proposed plat (Exhibit F)
- Sewer main extensions will need to be installed prior to the Plat being allowed to be taken forward to the County Commission to be received and accepted.
- The County is not requiring a four-lot subdivision, only acknowledging that the property has options that meet the regulations without need for the variance.
- The choice of where to place the lot line dividing the two new lots is what is creating the “need” for this request. There are other options to divide the land without the need for the variance.
- Subdivision Regulations, 1.4.17 Definitions: Yard, Front of : is not located in Appendix A or B of the Subdivision Regulations and is therefore not eligible for a variance under the Subdivision Regulations, 1.9.2 Board of Adjustment Variances.

STAFF ANALYSIS & RECOMMENDATION:

General Standards, Concepts, & Tests Applicable to Board of Adjustment Variance Requests in General.

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 seven general tests are:

1. 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.
2. The property must have unique characteristics that, when the regulation is applied, prevents development of that property.
3. 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. The Board may not grant a variance when an amendment of the zoning regulations is indicated. Amendment of the Zoning Regulations is the responsibility of the Planning and Zoning Commission and County Commission. Granting variances in this case would be a grant of special privilege favoring the applicant over the rest of the population.
4. A variance cannot be granted when the need for the variance is self-created or created by a previous owner of the property.
5. 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.
6. The variance sought must be the minimum variance needed to achieve the desired purpose.
7. A variance cannot be granted when there is another viable alternative to achieve use of the property 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. This is especially true for

variances requested to Subdivision Regulations since there is no inherent right to subdivide land into additional lots except in total conformance with all the regulations and standards set forth in the Subdivision Regulations.

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

The Board may grant a variance from the 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.

The Subdivision Regulations allow variances only from Appendix A or B 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. Either the applicant or the Director may appeal or seek judicial review of any decision of the Board as may be provided by law.

Variances:

Subdivision Regulations, Appendix B, Section 1.8.2, Table A Minimum Lot Depth.
Zoning Regulations, Section 2, Definitions: Yard, Front

Analysis:

Subdivision Regulations, 1.4.17, Definitions: Yard, Front is found in the regulations portion of the Subdivision Regulations and not in either Appendix A or Appendix B. Under section 1.9.2 Board of Adjustment Variances, it states – “The Boone County Board of Adjustment organized and existing under the zoning regulations of Boone County, Missouri as now and hereafter in effect shall have jurisdiction to and be charged with the duty of hearing and deciding applications for variances from the strict application of the provisions of any provision of Appendix A or B of these regulations”. The definitions and regulations are not in Appendix A or B so no variances may be granted to, or even applied for, from this portion of the Subdivision Regulations.

The language from the Subdivision Regulations that can't be varied is 1.4.17 Lot, Front of – “The front of a lot shall be considered to be that part of a lot which has access upon a public street; except for corner lots, the front shall face the shortest street dimension of the lot.” The relevant language is virtually

identical to the portion of the language under the Zoning Regulations, Section 2, Definitions Yard, Front concerning corner lots.

While technically able to file an application for a variance from the Zoning Regulations, Section 2, Definitions: Yard, Front: which states in part “On corner lots the front yard shall face the shortest street dimension of the lot, except that if the lot is square or almost square, i.e., has dimensions in a ratio of from 3:2 to 3:3, then the front yard may face either street.”

However, requesting a variance from that provision of the Zoning Ordinance is rendered moot. Even if granted, it would have no effect due to the parallel regulation in the Subdivision Regulations that cannot be varied by the Board.

For the subdivision regulation criteria (a)

The applicant will not incur unreasonable and unnecessary hardship if a variance is not granted. The Church is present now and will remain as a legal use whether the land is divided or not. As mentioned previously, 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.

As Exhibit B (provided by the applicant with the application) indicates “To comply with these restraints [sic] and create a four-lot subdivision would be required to meet the regulations.” The applicants are confirming that the property can be divided in compliance with the regulatory standards they refer to as “restraints”. This on its own negates the ability for a variance to be granted as dividing the property in compliance with the regulations is not only possible, the applicant confirms it is possible, just not in the exact configuration desired.

The other two lots are indicated to be the church parking lots (Figure 2 Lots 3 & 4). This would leave the Church with three serviced marketable lots that could be retained by the Church or sold in the future as separate lots of enhanced value for further development.

Exhibit B states “Regulations also require providing sewer services to those lots, which is not logical or feasible outcome for the Church.” This is an argument that is clearly sought primarily to avoid financial expense in complying with the requirements of these regulations and which is not allowed as the second part of criteria (a). It is the cost of providing infrastructure to the two additional lots that is being used as an attempt to justify a variance, which the criteria specifically prohibit.

Additionally, as documented in Exhibits D & E, public sewer extensions are already required so some level of expense should already have been incorporated into the costs for the proposed plat. This is a financial argument.

For criteria (b)

A grant of a variance would not endanger the health, safety or welfare of the public; however, it would clearly be a grant of special privilege bestowed upon this property owner for which others are not entitled. This violates general test 3 above.

For criteria (c)

Grant of this variance will hinder, thwart and circumvent the general intent and specific purpose of these regulations. The standard has been determined to be a minimum requirement of the Subdivision Regulations for orderly development, and as such, this is exactly what the standard is for, and it has been

shown that the property can be divided without the need for this variance. Therefore, granting the variance will clearly thwart and circumvent the intent of the subdivision regulations.

For All variance request:
General Concept Tests

1. There is no undue hardship as a deprivation of use. The property continues to be used as it has been.
2. The property must have unique characteristics that, when the regulation is applied, prevents development of that property: The shape of the property prevents the land division the applicant proposes but does not prevent the land division in general. The land is already developed and can be divided in compliance without need for the variance as the applicants have confirmed in their documentation in Exhibit B and is also shown in Figures 2 & 3.
3. 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. The Board may not grant a variance when an amendment of the zoning regulations is indicated. Amendment of the Zoning Regulations is the responsibility of the Planning and Zoning Commission and County Commission.
4. A variance cannot be granted when need for the variance is self-created or created by a previous owner of the property. Previous land divisions have left the property in the current configuration. Those actions always impose limitations on possible further land division.
5. 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. "Exhibit B" indicates that compliance is possible, but the applicant does not want to incur the expense of complying with the regulations, specifically, providing sewer to the lots.
6. The variance sought must be the minimum variance needed to achieve the desired purpose. This test can't be met because it has been demonstrated that there are ways to achieve the goal of subdividing the property without a grant of the variance.
7. A variance cannot be granted when there is another viable alternative to accomplish the same goal under the regulations without the need for variance.

Staff recommends denial of variance requests for failure to meet the preceding seven tests and the following.

A variance from the Zoning Ordinance Section 2 Definition of Yard, Front can't be granted because doing so would violate the Subdivision Regulations Definition 1.4.17; a regulation that cannot be varied by the Board. Furthermore, a variance even if eligible could not be granted for the Zoning Ordinance, Section 2, Definition of Yard, Front because it would also fail the seven general tests since there is no hardship as a deprivation of use. The arguments are primarily financial to avoid the cost of compliance, and it has been shown that there are ways to develop the property that don't need the variance and meet the regulations.

For the Subdivision Regulations, Appendix B, Section 1.8.2, Table A Minimum Lot Depth request as a Subdivision variance request it would have to meet all three criteria (a), (b) and (c). It specifically fails to meet two of them:

(a) since there is no deprivation of use and the arguments in favor of the variance are primarily to avoid cost of compliance

and

(c) the grant would hinder, thwart or circumvent the general intent or any specific purpose of these regulations as it has been shown that there are alternatives that can comply without need of the variance that accomplish substantially the same goals

Present representing the request:

Ron Shy, Allstate Consultants, 3312 Lemone Industrial Blvd, Columbia

*The applicant presented a large aerial photo which was not submitted to the Board for the record.

Ron Shy: The reason that we are here is because it didn't make much sense to run sewer to a parking lot; that is the main reason and the sewer isn't available, generally, in that whole area. We would be able to get sewer to the tract that they are trying to sell to buy a (unintelligible). My sewer main right here (pointing to aerial), that could come up to service this lot, but to come over here would mean that they would bring it to us over here and it is a cost situation. The other thing said was that we wouldn't need the variances if we added these cemeteries in. One of the cemeteries we don't have control of, the thing we would have to do is dedicate right-of-way which is probably going to involve some of the grave sites; we don't know that for sure, but it does look like it. Those are the reasons we didn't go that way; I didn't want to be responsible for them dedicating right-of-way through someone's grave site. We have looked at about everything we could do and there is not much else they can do but surely there is something that could be done to help them out. I suppose if we go with a four-lot subdivision we would have to bring the sewer over and make it available to those lots which seems kind of redundant but if that is what we have to do then I guess we have to do it.

Open to public hearing.

Present, speaking in favor:

Linda Coats, Financial Secretary, Bethel Baptist Church, 5901 S River Hills Rd, Columbia

Linda Coats: The church is in a position where we really need to sell some property, we don't use that property and we continue to have to pay someone to mow it which increases our expenses. For financial reasons we need to sell off some of the property to help the church keep its doors open. We have been there since 1855 but times are changing and we just really need to sell off the property we aren't using.

Also present speaking in favor:

Donna Preston, Church Clerk, Bethel Baptist Church, 8501 S Tomlin Hill Rd, Columbia

Donna Preston: I agree with Ms. Coats, financially we just don't have the means, the bodies, or the financial support to keep the doors open and this was a viable solution to sell a portion of the property so we can stay in business.

No one spoke in opposition.

Closed to public hearing.

Chairperson Thomas: What is the sewer now?

Bill Florea: There are two sewers available, the City of Columbia Sewer and Boone County Regional Sewer District. The church may already be getting service from the Sewer District by a private main.

Chairperson Thomas: When they divide, they have to build the infrastructure in to that?

Bill Florea: Yes, regardless of how many lots they create.

Chairperson Thomas: Each lot they subdivide there has to be sewer?

Bill Florea: Yes.

Member Stephens: If I understand there is a private lateral or main that runs along Old Plank Road and that is the existing connection to the church. Regardless of what they do, if they subdivide, they would have to provide a viable main even in the two-lot configuration?

Bill Florea: Yes.

Member Stephens: If you divide it you have to get public main at least to the church.

Ron Shy: The church pumps to a line to a sewer main east of there.

Member Stephens: The issue is, it is private. When you divide the line you are going to sever it and it would be a private collector at that point which wouldn't be allowed so it would have to be a main at least to where the lots are created. That would be a functional problem, but it is solvable and it will cost money to whoever develops it.

Member Krueger: Is there a buyer in mind who is trying to do something specific where they need this or is this just the church subdividing so they can market it?

Ron Shy: The church can't even offer it for sale to anyone; they can offer it but they can't sell it because these problems have to be solved first. They were just trying to sell their excess property and there are people who are interested but there is nothing they can do at this point because we have to have all the sewer issues taken care of.

Member Stephens: Typically, that would be a contingency item in a contract if the church wasn't able to put up the money.

Ron Shy: Someone is going to have to either build it or bond it before you can even record it.

Member Stephens: It think that is going to be a functional problem in any scenario, even if it wasn't a four-lot, that is going to be a problem.

Ron Shy: The only thing that Mr. Florea said we might be able to do, as long as everyone agrees to it, is to go ahead and include those cemeteries in the plat which I really didn't want to do.

Bill Florea: It doesn't have to be a four-lot plat; all we did was show two examples that work under the regulations, there may be other ways to divide the property different than those examples. Those examples demonstrate that there is no need for the variance because it is possible to divide the property without them.

Ron Shy: I think that is true, but I didn't see any reason to run sewer to a parking lot. There is not really anything the sewer district can do for us, we would have to pump into their sewer. The city has said that we can hook on to their sewer because we had a special agreement with the sewer district and the city

that we would remain in the sewer district's territory but we could hook on to it so that is where I came up with that. There is no real sewer that is gravity fed anywhere that we can get to.

Member Stephens: The two cemetery lots don't have sewer now do they?

Bill Florea: I don't think so.

Member Stephens: Presumably that is not required but if the shape of the cemetery lots were to change would that be an issue?

Bill Florea: Yes. As legal lots, until something is proposed to be built on those lots there is really no sewer requirement but if you propose to build on those lots, or incorporate them into a subdivision plat, then they have to become sewerred at that point.

Member Stephens: The only way they could be incorporated into a bigger lot but to actually go the other direction and try to add ground into the cemetery lots wouldn't work.

Bill Florea: I think the idea of adding those two cemetery lots is that it changes the dimension of that lot so that the front is on Old Plank then that eliminates the lot depth issue that is being created by the way the plat is currently being proposed.

Member Stephens: If it were feasible to combine the two cemetery lots; if there is an issue with tombstones being too close to where the proposed right-of-way would have been, would that be a different variance?

Bill Florea: Yes.

Member Stephens: The real issue is there isn't enough information to know whether that is an issue; it would have to be surveyed to figure that out.

Roy Shy: We know it encroaches over the fence line at that area.

Bill Florea: The tombstones encroach over the fence line?

Ron Shy: If we dedicate new right-of-way, yes.

Chairperson Thomas: One of the things that staff suggested was incorporating the cemetery into lot 1; was that a suggestion?

Bill Florea: That is a possibility; not a suggestion.

Chairperson Thomas: Why would you not want to keep the church and cemetery lots together?

Member Krueger: A lot of times you want to keep them separate because often times the cemeteries and churches are run completely separately. The cemeteries are often run by a Cemetery Board.

Ron Shy: Hickam Cemetery, the one closest to the church, is not run by the church.

Member Stephens: What if the cemetery in the middle stays its own lot but the other one is incorporated into the church lot? How does that change the scenario?

Bill Florea: I don't know and it really doesn't matter; it is not the job of the Board to try to solve the problem, the job of the Board is to make a decision based on the facts presented to them.

Member Stephens: I understand that, but does it change the length of the road frontage calculation?

Bill Florea: I am not sure what you are asking.

Member Stephens: What would be the calculation of the road frontage is depending on the total length of lot on the road that is presented?

Bill Florea: You are going to have to show me a drawing of what you are asking, and to reiterate, this is not an issue for the Board to solve.

Member Stephens: I understand, I am just trying to get clarification. What is your understanding of the definition of the length will determine the yard frontage if there was a cut out in the middle of it, how would that be incorporated? They don't have control over one of the cemeteries.

Bill Florea: It will probably be the front in that case.

Member Stephens: That is another option that would have to be vetted out.

Member Krueger: It seems right now you are looking for a solution in search of a plan rather than we have a plan looking for a solution. It seems that there are workable solutions.

Ron Shy: The fact that it is more than five acres triggers the 250-feet and that is a big problem.

Bill Florea: It is 2.5-acres where the lot depth becomes 250-feet; it is the resulting lot that is causing the issue. Both of the lots you are proposing to create are greater than 2.5-acres.

Member Krueger: Is it all currently one lot with the two cemeteries?

Bill Florea: No, I believe the cemeteries are separate lots.

Ron Shy: They are separate surveys.

Member Krueger: The private sewer line that is currently fed, if they were able to subdivide and get sewer would they be forced into the sewer from the City that comes off Nikki Way?

Bill Florea: They would get sewer however it is most efficient to get. They can go with the city or the sewer district; whichever is less expensive.

Member Stephens: It is currently served off Old Plank so theoretically there would still be a route off of Old Plank but there is another route too, there is probably more than one potential route and it may have to be pressure sewer.

Ron Shy: Some of it will, yes.

Chairperson Thomas made, and Member Stephens seconded a motion to deny the request by Bethel Baptist Church, Inc for a variance from the minimum lot depth in the Single-Family Residential (R-S) zoning district on 7.2 acres located at 201 E Old Plank Rd, Columbia:

Member Thomas	Yes	Member Stephens	Yes
Member Krueger	Yes		

Motion to deny the variance passes unanimously

VIII. NEW BUSINESS

1. Review of Memo from County Counsel, CJ Dykhouse

Bill Florea stated that documents from County Counsel, CJ Dykhouse were distributed to Board Members in September and asked if the Members had any questions or comments.

Chairperson Thomas stated it was very helpful and he appreciates the clarification that the Board only gets evidence submitted.

Bill Florea reminded the Board that they have to be careful not to enter facts themselves.

Chairperson Thomas stated the previous case was the perfect example of not having enough facts to approve the variance.

Bill Florea stated one thing that we need to discuss is when staff makes a report that has a set of facts that draws one conclusion and if the applicant or someone else brings another set of facts that staff doesn't have and the Board is inclined to vote against staff's recommendation then staff will have to work with the Board to develop some findings of fact to support that decision so that might slow down getting the Certificate of Decision done but that is something that is going to be necessary to make sure that the decision is supported by the record that was built at the hearing.

Chairperson Thomas asked if there was anything else to discuss with this information.

Bill Florea stated not in particular, the documentation is very clear and staff is trying to structure their staff reports now to be more in line with that so we bring out the facts and make some of the conclusions that are necessary based on the facts in the record. Staff is working on formatting and one thing we do with the Planning & Zoning Commission that we have thought about doing with the Board is when they have a conditional use permit, that is a quasi-judicial permit so it is very similar to what the Board is doing. There are seven specific tests that have to be addressed and we usually print a separate sheet with those tests on them; staff will probably start doing that for the Board too so they will have a cheat-sheet so they can look through as they are listening to testimony and can start making their conclusions based on those tests.

Member Krueger stated that he and Member Stephens were on the same page with the previous request in that the problems can be solved without the variance.

Bill Florea stated that once you see that the problem can be solved without a variance then there is no justification for approving it.

Chairperson Thomas stated that is one thing that people need to understand, there is a cost associated with subdividing property and sometimes it is more than they expect.

2. Certificate of Decision – CKL Property Management

Chairperson Thomas accepted and signed the Certificate of Decision

IX. ADJOURN

Being no further business, the meeting was adjourned at 7:59 p.m.

Respectfully Submitted,

Paula L Evans
Secretary

Minutes approved this 27th day of March, 2025

EXHIBIT A

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 47 NORTH, RANGE 13 WEST, BOONE COUNTY, MISSOURI, BEING PART OF THE TRACTS DESCRIBED BY THE AMENDED JUDGEMENT RECORDED IN BOOK 509, PAGE 393 AND THE QUIT CLAIM DEED RECORDED IN BOOK 516, PAGE 401 AND PART OF THE TRACT DESCRIBED BY THE SURVEY RECORDED IN BOOK 494, PAGE 233 AND TRACT NO. 1 OF THE SURVEY RECORDED IN BOOK 505, PAGE 357 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 1-47-13; THENCE WITH THE TOWNSHIP LINE, S83°57'00"E, 416.50 FEET TO THE NORTHEAST CORNER OF SAID TRACT NO. 1 OF THE SURVEY RECORDED IN BOOK 505, PAGE 357 AND THE POINT OF BEGINNING;

THENCE FROM THE POINT OF BEGINNING, CONTINUING S83°57'00"E, 336.10 FEET TO THE NORTHWEST CORNER OF BETHEL MANOR PLAT 3, RECORDED IN PLAT BOOK 30, PAGE 87; THENCE LEAVING SAID TOWNSHIP LINE AND WITH THE WEST LINE OF SAID BETHEL MANOR PLAT 3, S1°12'40"W, 519.30 FEET TO THE SOUTHWEST CORNER OF SAID BETHEL MANOR PLAT 3 IN THE CENTER OF OLD PLANK ROAD; THENCE LEAVING THE WEST LINE OF SAID BETHEL MANOR PLAT 3 AND WITH SAID CENTER OF OLD PLANK ROAD, S80°17'40"W, 751.75 FEET TO THE WEST LINE OF SAID SECTION 1-47-13; THENCE LEAVING THE CENTER OF OLD PLANK ROAD AND ALONG SAID WEST SECTION LINE N0°16'45"E, 272.65 FEET; THENCE LEAVING SAID SECTION LINE AND ALONG THE SOUTH LINE OF THE JOSEPH W. HICKAM TRACT DESCRIBED BY SAID AMENDED JUDGEMENT RECORDED IN BOOK 509, PAGE 393, S88°24'25"E, 185.95 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE WITH THE EAST LINE OF SAID TRACT N0°07'30"E, 150.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT, THENCE LEAVING THE LINES OF SAID TRACT, N89°46'55"E, 44.15 FEET TO A CORNER OF SAID TRACT NO. 1 OF THE SURVEY RECORDED IN BOOK 505, PAGE 357; THENCE WITH THE LINES OF SAID TRACT NO. 1, N0°32'30"E, 139.05 FEET; THENCE S86°46'45"E, 183.94 FEET; THENCE N0°28'05"E, 135.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 7.85 ACRES.

BEARINGS ARE REFERENCED TO GRID NORTH OF THE MISSOURI STATE PLANE COORDINATE SYSTEM (CENTRAL ZONE) FROM GPS OBSERVATIONS.

ALLSTATE CONSULTANTS LLC

BOUNDARY DESCRIPTION FOR MINOR PLAT OF BETHEL BAPTIST CHURCH
BETHEL BAPTIST CHURCH, INC., OWNER
JOB 24067.01
AUGUST 15, 2024



3312 LEMONE INDUSTRIAL BLVD.
COLUMBIA, MO 65201
573-875-8799
ALLSTATE CONSULTANTS LLC
MO PROFESSIONAL LAND SURVEYING
CERTIFICATE OF AUTHORITY #2007000167

EXHIBIT B

Bethel Baptist Church has occupied this site for more than half a century having an address at 201 E. Old Plank Road. The trustees are now desiring to sell about 3.67 acres from their current 7.85-acre site but are unable to do so because it creates an unnecessary hardship to comply with certain requirements with the Boone County Subdivision Regulations.

Even though the property's address has always been on Old Plank Road, Section 1.4.17 stipulates that the front of a corner lot will be the one that faces the shortest street dimension of the lot. In this case that would be Bethel Church Road on the west side. As a result, to subdivide the tract, due to its shape and size (2.5 acres or larger), Table A Regulation requires a 250' minimum lot depth. To comply with these restraints and create a four-lot subdivision would be required to meet the regulations. Two of those lots would encompass the church parking lots (one east and one west) for the Church building. The Regulations also require providing sewer services to those lots, which is not a logical or feasible outcome for the Church.

Finally, we hereby request a variance to allow the front to be along Old Plank Road and waive the 250' lot depth requirement on Table A. We feel that these conditions would be allowed under Section 15C.C.(4)(c) of the Zoning Regulations stating as follows.

"(c) Where by reason of shape or topography or other extraordinary or exceptional situation or condition of a specific ordinance would result in peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use as relating to the property, a variance from the strict application of this ordinance provided the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zone Plan as embodied in these Regulations and Zoning Map."

Boone County Internet Parcel Map

Prepared by the Boone County Assessor's Office, (573) 886-4262



EXHIBIT C

Exhibit D



1314 North 7th Street
Columbia, MO 65201
p: 573-443-2774
f: 573-499-0489
www.bcrsd.com

September 3, 2024

Bill Florea
Boone County Resource Management
Columbia, MO 65201
By e-mail only

RE: Bethel Baptist Church Plat 1

Dear Mr. Florea:

The Boone County Regional Sewer District (BCRSD) has received the above – referenced plat. The Sewer District offers the following comments at this time.

1. The Bethel Baptist Church property (parcel# 20-307-01-00-004.00 01) is referenced in a connection agreement between the City of Columbia and the BCRSD, dated March 8, 2011.
2. The connection agreement is attached. Exhibit 5 of the agreement shows the referenced property as an “Existing and Proposed BCRSD Customer – No Annexation or Development to City Standards”.
3. The BCRSD currently serves the Bethel Baptist Church property.
4. Subdivision of the property would require an extension of BCRSD public sewer to both properties.
5. The existing sewer connection ultimately flows to the City of Columbia wastewater treatment plant, therefore will require consent from the City of Columbia for an additional sewer connection.

Thank you for the opportunity to comment. If you have any questions, please call me at 443-2774.

Sincerely,
BOONE COUNTY REGIONAL SEWER DISTRICT


Daniel Cunningham
Project Manager

C: File
Thad Yonke, by e-mail only
Uriah Mach, by e-mail only
Andrew Devereux, by e-mail only
Joe Foster, by e-mail only
Lindsey Schaefer, by e-mail only

Exhibit E

Thaddeus Yonke

From: Lindsey Schaefer <Lindsey.Schaefer@como.gov>
Sent: Thursday, August 29, 2024 3:19 PM
To: Andrew Devereux
Cc: Cunningham, Daniel
Subject: Re: Boone County Resource Management - Bethel Baptist Church Plat 1

CAUTION: This email originated outside of **boonecountymo.org**. ONLY use links and attachments which are familiar.

Hi Andrew,

City Sewer has no comments on the plat. We'll need to see a set of sewer plans when they have them, to approve the connection point (unless they end up connecting to BCRSD's main.

Thanks,
Lindsey

Lindsey L. Schaefer, P.E.
Engineer | Utilities Department
City of Columbia | 701 E. Broadway | Columbia, Mo
p: 573.441.5481

On Tue, Aug 27, 2024 at 3:23 PM Andrew Devereux <ADevereux@boonecountymo.org> wrote:

Good Afternoon,

Boone County Resource Management is requesting your comment on the attached **Bethel Baptist Church Plat 1**. Please return comment by September 3rd.

Let us know if you have any questions.

Best,

Andrew Devereux



FILED FOR RECORD, BOONE COUNTY, MISSOURI
BOB NOLTE, RECORDER OF DEEDS.

