



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

Phone: 417 546-7225 / 7226 • Fax: 417 546-6861

website: www.taneycounty.org

AGENDA

TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, OCTOBER 16, 2013, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum

Explanation of Public Hearing Procedures

Presentation of Exhibits

Governing Statutes

Public Hearing:

Erick and Tracy Walker

Review and Action:

Minutes, August, 2013

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT

VARIANCE STAFF REPORT

HEARING DATE: October 16, 2013

CASE NUMBER: 2013-0007V

PROJECT: Erick & Tracy Walker Setback Variance

APPLICANTS: Erick & Tracy Walker

LOCATION: The subject property is located at 8253 U.S. Highway 160, Walnut Shade, MO; Jasper Township; Section 34, Township 24, Range 21.

REQUEST: The applicants, Erick & Tracy Walker are requesting a variance from the provisions of Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. The applicants are requesting a variance from the required 50' front of lot setback requirement, in order to allow for the addition of a carport structure to the west elevation (front) of the attached garage.

BACKGROUND and SITE HISTORY:

The subject property is described as Lot 2 of Plot 4 of Bull Creek Valley Camp Subdivision, containing a total of approximately .97 acres (Utilizing the Assessor's information via Beacon). The property is currently utilized as the Walker's private residence. According to the Assessor's information, a portion of the original structure was originally constructed as a store in 1952, prior to the adoption of Planning and Zoning and is therefore viewed as a legally non-conforming (grandfathered) structure. However, the new carport structure addition will be required to be built in conformance with the requirements of the Development Guidance Code, including all setback requirements, unless a variance is granted.

The existing garage is located +/- 52' (at the closest point) from the front property boundary (right-of-way of U.S. Highway 160).

GENERAL DESCRIPTION:

The subject property is located at 8253 U.S. Highway 160, Walnut Shade, MO and is described Lot 2 of Plot 4 of Bull Creek Valley Camp Subdivision.

The applicants, Erick & Tracy Walker are seeking a variance from the provisions of Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. Per the provisions of Section 7, Table 1, a structure is required to be setback 50' from the front property line adjoining a State or Federal Highway. Measurements to the structure are made to the portion of the structure that is

closest to the property line, which in this instance is the roof overhang. The applicants are requesting a 15' setback variance from the west property line (adjoining U.S. Highway 160); allowing the new carport structure to be constructed 35' (at the closest point) from the front property line.

REVIEW:

The applicants are seeking a 15' setback variance from the front (west) property line (adjoining U.S. Highway 160); allowing for the construction of the new carport structure 35' (at the closest point) from the front property line.

In 2003 the Missouri Department of Transportation (MoDOT) constructed a new bridge on U.S. Highway 160 and made a number of other improvements / modifications to the roadway near the property in question. At the time that the improvements / modifications were made a large Sycamore tree line was moved approximately 100 feet further west. The applicants have indicated that as a result of the removal of the tree line, the building in question does not see any shade on the west elevation until around 8:00 PM.

The applicants have expressed that the variance may be granted without substantial detriment to the public, as the road moved considerably to the west although the highway easement did not change.

STATUTORY REQUIREMENTS OF APPROVAL:

Per the requirements of Missouri Revised Statutes the Board of Adjustment shall have the have the following powers and it shall be its duty:

“Where, by reason of exceptional narrowness, shallowness, shape or topography or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under sections 64.845 to 64.880 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 distinguished from the mere grant of a privilege, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the demonstrable difficulties or hardships, 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 the zoning regulations and map.”

STAFF RECOMMENDATIONS:

If the Taney County Board of Adjustment approves this variance request, the following requirements shall apply, unless revised by the Board:

1. Approval of a setback variance of 15' from the west property line (adjoining U.S. Highway 160); allowing the new carport structure to be constructed 35' (at the closest point) from the front property line.
2. Compliance with all of the other provisions of the Taney County Development Guidance Code.
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 of the Taney County Development Guidance Code).

13-74

TANEY COUNTY BOARD OF ADJUSTMENT
APPLICATION and AFFIDAVIT
FOR VARIANCE OR APPEAL

(Circle one)

Variance (\$125.00) Appeal (\$125.00)

PLEASE PRINT

DATE

Applicant ERICK & TRACY WALKER Phone 417-294-0291

Address, City, State, Zip 8253 US HWY 160 WALNUT SHADE 65771

Representative ERICK WALKER Phone SAME

Owner of Record same Signature: [Signature]

Name of Project: NA

Section of Code Protested: (office entry) Table 1, Section 7 (Property line setbacks)

Address and Location of site: 8253 US HWY 160 WALNUT SHADE

FRONT ELEVATION OF MAIN RESIDENCE

Subdivision (if applicable) _____

Section 34 Township 24 Range 21 Number of Acres or Sq. Ft. ≈ .97 Acres

Parcel Number 05-8.0-34-000-000-035.000

Does the property lie in the 100-year floodplain? (Circle one) _____ Yes X No.

Required Submittals:

- ☐ Typewritten legal description of property involved in the request
- ☐ Postage for notifying property owners within 600 feet of the project
- ☐ Proof of public notification in a newspaper of county-wide circulation
- ☐ Proof of ownership or approval to proceed with request by the owner
- ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.

Describe in detail the reason for your request:


WE PROPOSE TO ADD A CAR PORT STRUCTURE
TO THE WEST ELEVATION OF THE ATTACHED
GARAGE. THE PROPOSED CAR PORT WOULD
COVER THE EXISTING CONCRETE APRON.

APPROXIMATE DIMENSIONS ARE 15' WIDE
BY 45' LONG WITH AN EAVE HEIGHT OF
APPROXIMATELY 16'.

See Attached

VERIFICATION

In signing this application, I fully understand, and will comply with, the responsibilities given me by the Taney County Development Guidance Code. I certify that all submittals are true and correct to the best of my knowledge and belief, and that my request may or may not be approved by the Taney County Planning Commission's Board Of Adjustment.

 9/13/13
Signature of Applicant ERICK WALKER /Date of Application

STATE OF MISSOURI)

S.S. On this 13th day of Sept., 2013

COUNTY OF TANEY)

Before me Personally appeared Erick Walker, to me known to be the person described in and who executed the foregoing instrument.

In testimony Whereof, I have hereunto set my hand and affixed my official seal, at my office in Forsyth, Mo. The day and year first above written. My term of office as Notary Public will expire 2/6/2014.


Bonita Kisse, Notary Public



BONITA KISSEE
My Commission Expires
February 6, 2014
Taney County
Commission #10440057

Bob,

Please see attached Exhibits A-D that will help illustrate our case. Ultimately the reason for this request is to bring some shade back that was once on the west elevation of our main building.

Currently our building is approximately 52' east of the west property line running parallel to Hwy. 160. We are proposing a variance of approximately 15 feet into the 50' setback. We are proposing a setback of 35 feet.

Prior to the road improvements that took place in 2003 we could expect shade on the west elevation about 4pm in the afternoon during the summer months. This shade was provided by a tall stand of Sycamore trees that were just on the west side of the highway. When the bridge was reconstructed the treeline was moved approximately 100 feet further west and the elevation dropped considerably. This improvement/modification to the road position created an undue hardship for us because of the dramatic change in topography. As a result of these road improvements we do not see any shade on the west elevation until around 8pm. During the late afternoon hours it is truly unbearable dealing with the heat that comes off the front of the building.

We feel this variance could be granted without substantial detriment to the public as the road moved considerably to the west although the highway easement did not change.

The aerial views that you provided help illustrate this. Exhibit C shows the new treeline during the road construction. You can clearly see where it once was compared to the new treeline.

This is our reason in a nut shell. If you have any questions please let me know.

Respectfully,
Erick Walker, Native Signs
ewalker@nativesigns.com
[417-294-0291](tel:417-294-0291)

Erick and Tracy Walker
8253 US HWY 160
Walnut Shade MO 65771

EXHIBIT A

Re: Variance request



This picture taken in August of 2001 before the road/bridge improvements.



This picture taken in October of 2013

EXHIBIT B



EXHIBIT C



EXHIBIT D



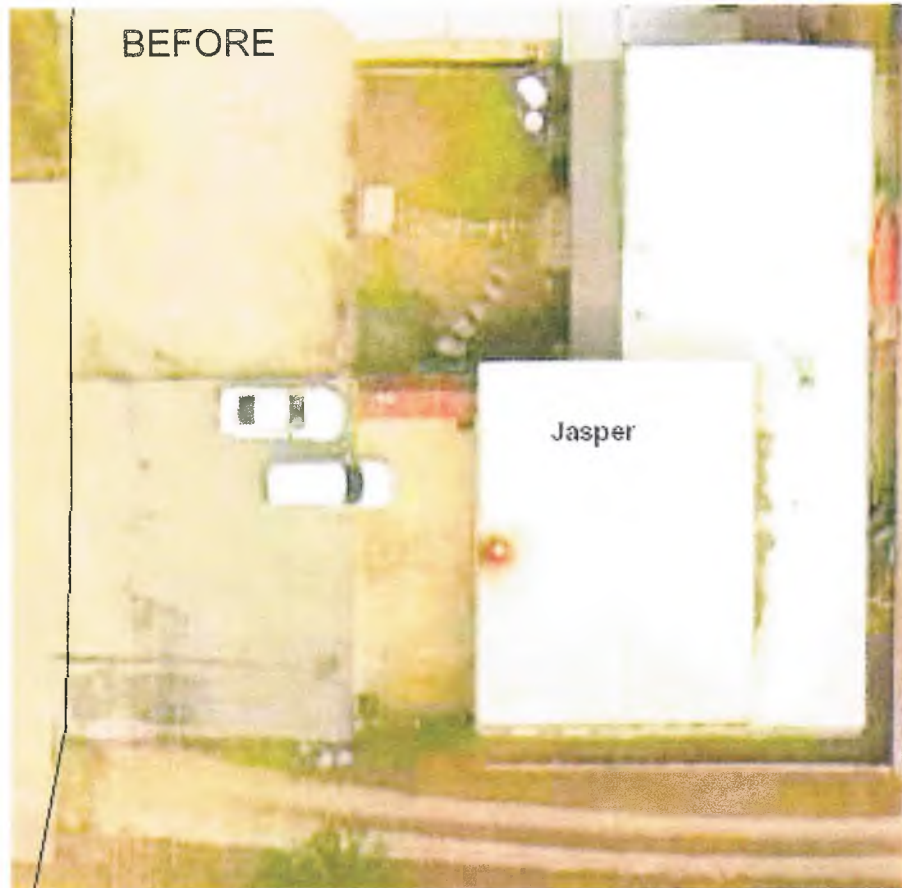
8253 U.S. 160, Walnut Shade, MO 65771, USA

Google earth

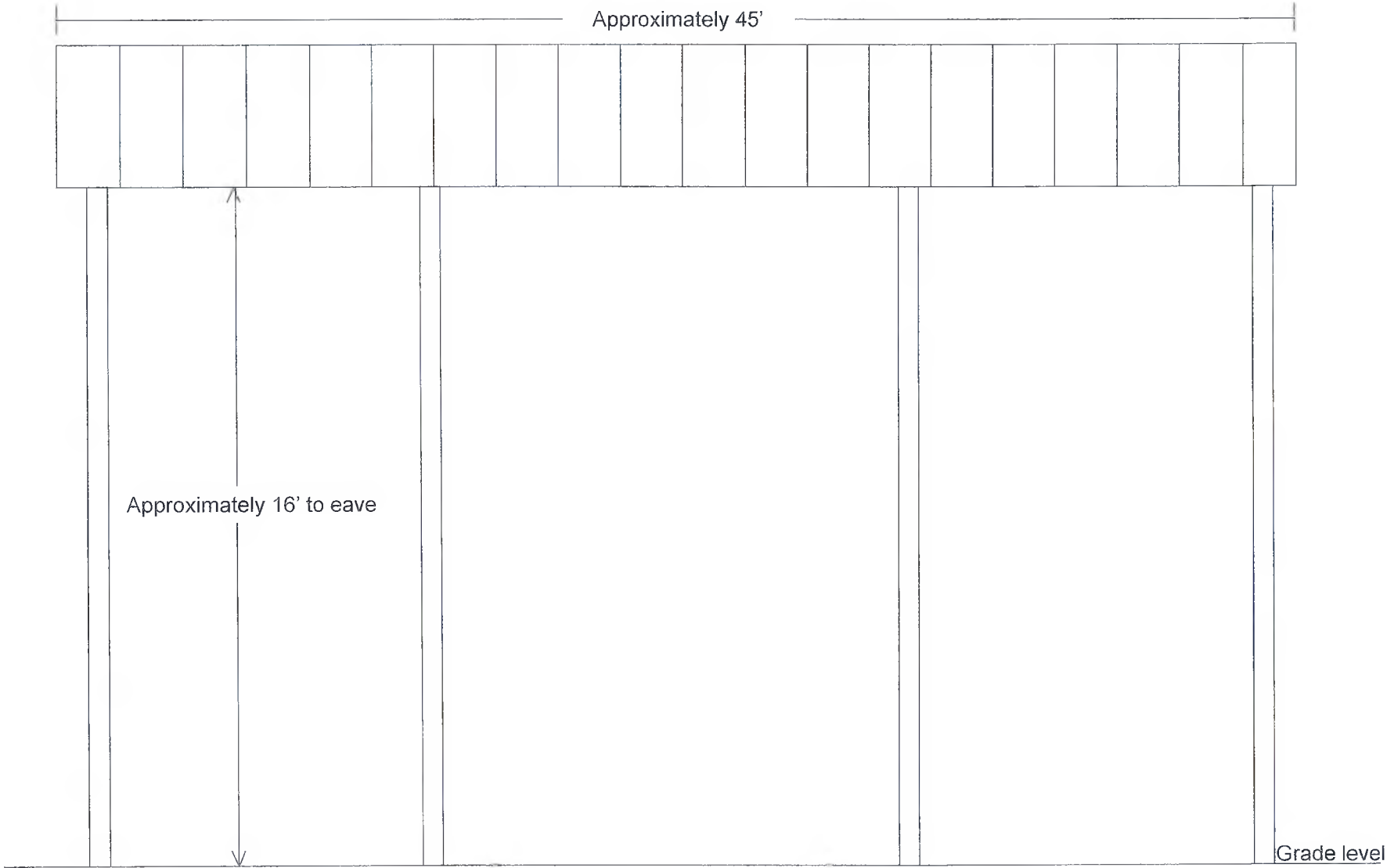
Imagery Date: 4/13/2013 36°43'51.80" N 93°11'34.48" W elev 759 ft eye alt 3022 ft



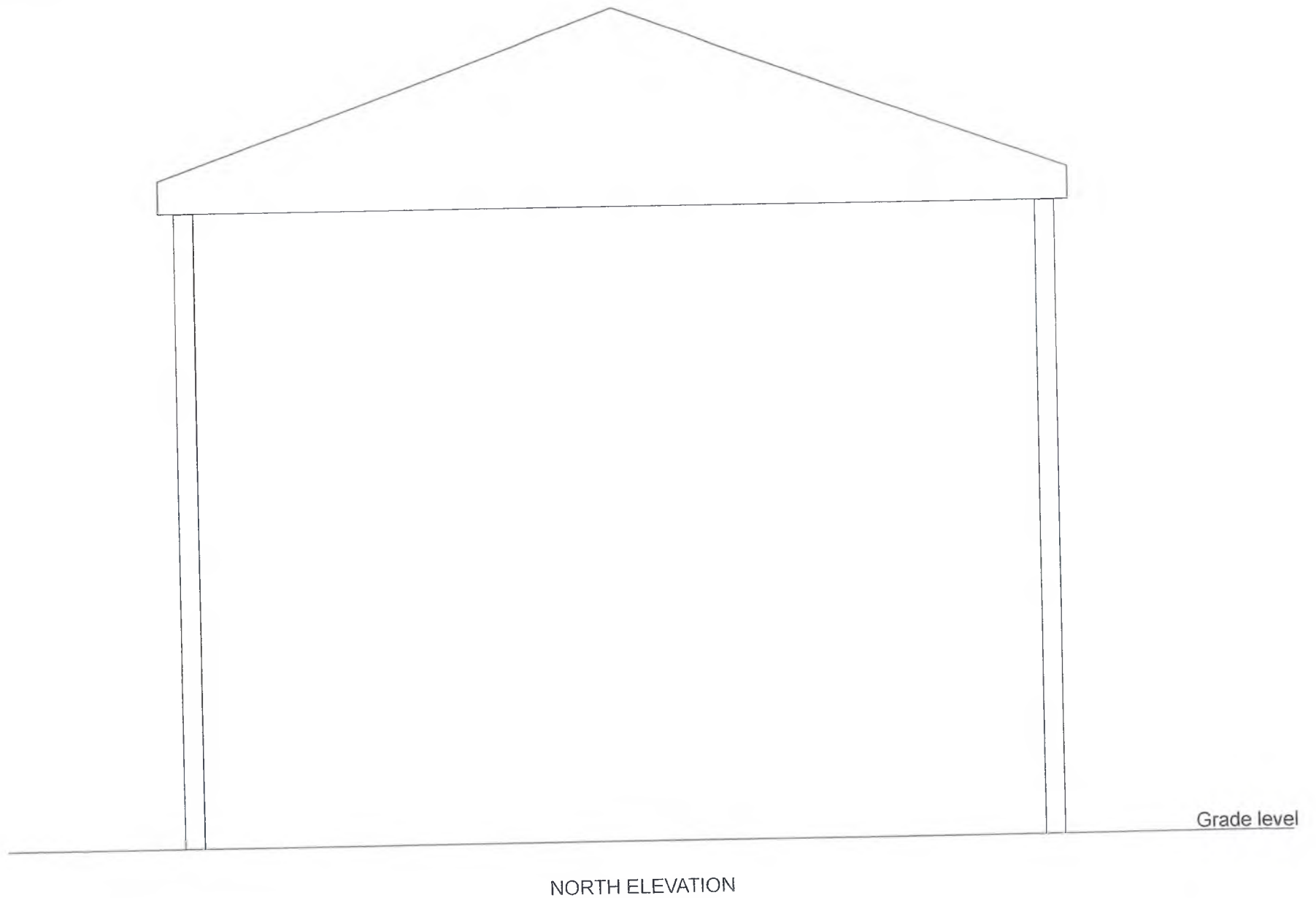
Erick and Tracy Walker, residence
8253 US HWY 160
Walnut Shade MO



Erick and Tracy Walker, residence
8253 US HWY 160
Walnut Shade MO



Erick and Tracy Walker, residence
8253 US HWY 160
Walnut Shade MO





CONFLICT

240'(s)

50'(s)

189'(s)

124.12

280'(s)


120'

478.92'

2.12Ac(c)

Walnut Shade General Baptist Church

US HWY 160

A satellite map view from Google Earth showing a rural area with a road, fields, and some buildings. A red location pin is placed on a building. The text "8253 U.S. 160, Walnut Shade, MO 65771, USA" is overlaid on the map.

8253 U.S. 160, Walnut Shade, MO 65771, USA

Image U.S. Geological Survey

Google earth

Imagery Date: 3/31/1996 36°43'45.86" N 93°11'40.25" W elev 758 ft eye alt 2908 ft

Add Polygon

8253 U.S. 160, Walnut Shade, MO 65771, USA

Image © 2013 DigitalGlobe

Google earth

Imagery Date: 12/18/2003 36°43'49.81" N 93°11'34.79" W elev 772 ft eye alt 2908 ft

A satellite map view from Google Earth showing a rural area. A red location pin is placed on a small white building complex. The surrounding landscape is a mix of green fields, brownish wooded areas, and a winding road. The text '8253 U.S. 160, Walnut Shade, MO 65771, USA' is overlaid on the map.

8253 U.S. 160, Walnut Shade, MO 65771, USA

Google earth

Imagery Date: 4/13/2013 36°43'51.80" N 93°11'34.48" W elev 759 ft eye alt 3022 ft

NOTICE OF PUBLIC HEARING

THE TANEY COUNTY BOARD OF ADJUSTMENT

Will hold a public hearing concerning the
following requested variance or appeal.

Applicant: Erick & Tracy Walker

Request: Variance from Setbacks
from Highway for Carport

Property Location: 8253 ~~41~~ S Hwy 160

Hearing Location: Taney County Courthouse
Time: 7:00pm Date: Wednesday, 10-16-13
Phone: (417) 546-7225

















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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, AUGUST 21, 2013, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dave Clemenson called the meeting to order. A quorum was established with four members present. They were: Dave Clemenson, Tom Gideon, Mark Weisz, and Dave Nelson. Staff present, Bob Atchley and Bonita Kisse. See.

Mr. Atchley read a statement explaining the meeting procedures and placed the Taney County Development Guidance Code into evidence as Exhibit A, the staff report as Exhibit B, and the staff files including all pertinent information as Exhibit C, and the Board of Adjustment Bylaws as Exhibit D. The state statutes that empower and govern the Board of Adjustment were read.

The speakers were sworn in before each hearing.

Public Hearing:

Yokeley's Towing: a request by Rick and Robb Yokeley for a variance from the provisions of Section 7, Table 1, (setbacks) of the Taney County Development Guidance Code. The applicants are requesting a variance from the required 25' side of lot setback requirement, in order to allow for the reconstruction of the Yokeley's Towing building, in the same location as the existing structure at 13797 U.S. Hwy. 160. Mr. Atchley read the staff report and presented pictures and a video of the site. Mr. Yokeley presented a site plan and explained his plans for the new building. He needs more room to turn his trucks around because they are 76' long. He uses the shop to do repairs on his equipment. Mr. Weisz stated that in his opinion there would be another way to turn the building without violating the setback requirements. Mr. Yokeley stated that with the way that it is he would have to unhook the trailer to work on it in the shop, and with the way he wants to build it he would not have to do this. Also he cannot build under the electric lines. He plans to remove the gas island. Mr. Clemenson asked how many people used Mayflower St. Mr. Yokeley stated that there were three residences. The County maintains the street halfway. Discussion followed regarding distance of County maintenance on Mayflower. Mr. Weisz pointed out that the road might be dedicated to the public. With no other discussion a motion was made by Dave Nelson to approve the

variance based upon the decision of record. Tom Gideon seconded. The vote was three in favor and one denial. The request was approved.

Branson Canyon: a request by Branson Canyon, LLC represented by Phil Lopez for an appeal of the Planning Commission's denial of Division III Permit 13-5A in order to modify the original Division III Permit Decision of Record #3-49, allowing for up to 281 permitted condominium units (Branson Canyon Condominiums) to be utilized for nightly rental located at the 800 Block of St. Hwy. P. Mr. Atchley read the staff report and presented pictures and a video of the site. Mr. Lopez addressed the Board regarding the reasons the Planning Commission denied the request. He stated that this project was approved for nightly rental and that they always planned to expand. Plans were to be proactive in requesting approval for the additional units. Mr. Weisz asked if Mr. Lopez was the original developer and since he wasn't why the previous owner didn't ask for 100% in the beginning. Mr. Lopez didn't know. Mr. Clemenson and Mr. Gideon discussed number of residences and nightly rentals with Mr. Lopez. Mr. Gideon asked why Division II approval could not be given. Mr. Atchley stated that the original Division III was only for so many units, and that Division III approval must be given before Division II can be issued. Discussion followed regarding how the project is set up, amount of land, and number of units existing and requested. Mr. Weisz asked about a property manager, if one is existing. Mr. Lopez stated that each unit is individually owned and that they can put a sign in the window stating the information regarding this. Discussion followed regarding how the home owners association operates. Mr. Weisz asked how clean up of the units is handled. Mr. Lopez stated that each one hires their own. Further discussion followed regarding the maintenance. Vickie Hales who is from Big Bear Park next door to this project, voiced concerns regarding the maintenance of the roads, parking, trash, security, access, and usage of the amenities. David McCorkendale is from Big Bear and was concerned about property damage from the nightly rental customers, parking, security, and management. Mr. Lopez addressed the concerns and stated that so far there have been no issues thus far regarding security, trash, usage of the boat launch. There is parking provided to park RV's, boats, at an adjoining storage facility also owned by the applicant. Mr. Weisz asked about parking at the larger units, and Mr. Lopez stated that overflow parking is provided. Mr. Nelson asked if Mr. Lopez is prepared to comply with all 12 items of the decision of record. He stated that what ever is required he will do. Mr. Clemenson stated that in his opinion the Planning Commission was not off base in their decision. Making money is not a concern of the Board. Mr. Gideon felt that this need is further in the future. Mr. Weisz stated that in his opinion the need is there whether it be now or in the future, and this plan deserves a chance to work. This property in his opinion was meant to be used for this type of project. Mr. Gideon agreed with Mr. Weisz in that the Boards could either deal with it now or later. Further discussion followed. Mr. Nelson agreed that this use will happen now or later and that it should follow the requirements set forth. Mr. Gideon discussed how the project was permitted in 2003. Mr. Atchley explained how the Planning Commission arrived at the conditions, and that the staff felt a special use permit would not be needed for each individual nightly rental unit since the project was

approved as it was. Discussion followed. Mr. Weisz pointed out that the project was flexible and that approving single family residential would allow for each to turn into nightly rental in the future. Mr. Weisz made a motion to approve based upon the decision of record. Dave Nelson seconded. Mr. Clemenson clarified the motion. The vote was three in favor and one against. The motion was approved.

Nick and Jo Byma: a request for an appeal in order to further clarify Condition #7 of the Decision of Record for Division III Permit #13-11, as placed by the Planning Commission on the development of the Veterans Victory Village. Condition #7 currently states, "Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road in compliance with Taney County Road and Bridge Standards". The subject property is located at 2657 Sunset Inn Road. Mr. Atchley read the staff report and presented pictures and a video of the site. Scott Beanland represented the applicant. Mr. Clemenson explained that he recused himself from the discussion and vote due to a conflict, and since that left only three members, gave the applicant the option to wait until a full board was present. Mr. Beanland opted to move forward. Mr. Weisz asked the width of the proposed roadway. Mr. Beanland stated 31'. Mr. Weisz clarified the reason for the request. After discussion a motion was made by Mr. Weisz to approve the appeal based upon the decision of record. Mr. Gideon seconded. Discussion followed with the Board clarifying the intent of the approval. The vote to approve was unanimous.

Review and Action:

Minutes, July 2013: With no additions or corrections a motion was made by Mark Weisz to approve the minutes as written. Seconded by Tom Gideon. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Atchley stated there were no requests for next month.

Adjournment:

With no other business on the agenda for August 21, 2013 the meeting adjourned at 8:30 p.m.