

**PLANNING AND ZONING BOA MAY 2006 PACKET**

**AGENDA  
TANEY COUNTY BOARD OF ADJUSTMENT  
WEDNESDAY, MAY 16, 2006, 7:00 P.M.  
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM  
TANEY COUNTY COURTHOUSE**

Call to Order:

*Establishment of Quorum  
Explanation of Public Hearing Procedures  
Presentation of Exhibits  
Governing Statutes*

Public Hearings:

*Lonnie & Melanie Smith Etal.  
Donnie C. Halbrook  
J.R. Spurlock  
Judy C. Campbell  
Robert D. Morrissey*

Old and New Business.

Review and Action:

*Minutes, April 2006*

Adjournment.

## TANEY COUNTY BOARD OF ADJUSTMENT

*STAFF REPORT*

***DONNIE C. HALBROOK***

***#06-8***

Public Hearing for Donnie C. Halbrook, located at 117 Wabash Lane, in the Branson Township, Sec. 21 Twp. 23 Rng. 21.

The applicant requests a variance from Chapter 3 Sec. 5B of the Taney County Development Guidance Code for the subdivision of an existing lot for the placement of a single-family dwelling.

History: The existing lot is part of North View Heights Subdivision and is 1.87 acres in size. There is a house on the property.

General Description: The property is located at the corner of Wabash Lane and Bee Creek Road. The adjoining properties to the request consist of commercial, multi-family, the Boys and Girls Club, and residential.

Review: The variance request will consist of allowing the applicant to place a temporary septic system on the property until the county sewer is ready. A new 100 x 150 lot will be subdivided off for the construction of a single-family dwelling.

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

1. Compliance with the provisions of the Taney County Development Guidance Code as they apply to this request.
2. Compliance letters from the Fire, Water, and Sewer Districts.
3. The variance is for the subdivision of a 1.67-acre lot into a 100 x 150 size lot to allow a single-family dwelling and a temporary septic system.
4. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

## TANEY COUNTY BOARD OF ADJUSTMENT

*STAFF REPORT*

***ROBERT D. MORRISSEY***

***#06-10***

Public Hearing for Robert Morrissey located at Park Place Dr. Lot 16A Big Bear Estates in the Oliver Township, Sec. 36 Twp. 22 Rng. 22.

The applicant Robert D. Morrissey requests a variance from the Taney County Development Guidance Code front setback requirements and from the frontage requirements.

General Description: The property contains 5,334 sq. ft. and is a triangular shaped lot at the end of Park Place Dr.

History: This project was heard by the Board on March 15, 2006 and denied based on non-conformance to the provisions of the Development Code. This application is for a new variance request.

Review: The property is shaped in such a way that it would make construction of a house difficult, and the lot slopes toward the back. Telephone poles and lines border two of the three sides of the triangular shaped property. The street dead-ends at the site.

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

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

## TANEY COUNTY BOARD OF ADJUSTMENT

*STAFF REPORT*

***J.R. SPURLOCK***

***#06-9***

Public Hearing for J.R. Spurlock located at 116 Star View Dr., in the Branson Township, Sec. 26 Twp. 23 Rng. 22.

The applicant requests a variance from the front setback requirements of the Development Code to 10'.

History: The property is located in Forest Park Phase 1, and contains a park model RV.

General Description: The lot is 6,300 sq. ft. in size and is located on the corner of Star View Dr. and Royal Oak Dr. The adjoining properties to the request consist of single-family residential.

Review: The variance request will consist of a three-foot encroachment. The current setback is 13' on the west side of the property and the applicant would like a variance to 10' in order to construct a garage.

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

1. Variance is for the setback difference of 3' on the west side of the property for the construction of a garage. (Appendix H, Table 12, Setbacks, Taney County Development Guidance Code)
2. Compliance letter from the Fire District.
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

## TANEY COUNTY BOARD OF ADJUSTMENT

*STAFF REPORT*

***JUDY C. CAMPBELL***

***#06-7***

Public Hearing for Judy C. Campbell located at 160-121 Animal Ave. in the Branson Township Sec. 1 Twp. 21 Rng. 22.

The applicant requests a variance for the reduction of the side and front setbacks of the property due to the placement of a garage.

History: Lot #121 is part of the Big Bear Resort and contains a park model home and garage. The garage is newly built too close to the property line.

General Description: The subject property is 26.7 x 52.59 in size and is located on the corner of Animal Ave. and Sunny Circle. The adjoining properties to the request are residential.

Review: The variance request will consist of a 1-foot encroachment of the existing garage into Sunny Circle and a 15' encroachment into Animal Avenue.

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

1. Variance is for the setback difference of 1 foot for the existing garage on Sunny Circle and 15 feet on Animal Avenue. (Appendix H, Table 12, Setbacks, Taney County Development Guidance Code)
2. Compliance letter from the Fire District.
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

## TANEY COUNTY BOARD OF ADJUSTMENT

### *STAFF REPORT*

***LONNIE AND MELANIE SMITH, WILLIAM CUMMINGS,  
MARY PARKER, MEMBERS OF THE JEHOVAH'S WITNESS KINGDOM  
HALL, ETAL.***

***#06-3***

Public Hearing for the appeal of Yeary Redi-Mix, Inc. located at 13181 E. St. Hwy. 76 in the Swan Township, Sec. 25 Twp. 24 Rng. 20.

The applicant's request an appeal of the approval by the Planning Commission based on failure to follow the guidelines of the Development Code, and incompatibility to the surrounding area.

History: Approved by the Planning Commission on April 17, 2006 for the placement of a redi-mix plant on property owned by James T. Horner. The parcel contains a house and antique business.

General Description: The subject property contains approximately 7 ½ acres and is located just past the jct. Of St. Hwy. 76 and 160. The adjoining properties to the development consist of commercial and residential with a church adjoining the property on the north side.

Review: The proposed site will be backfilled and leveled leaving the house and garage. The property will contain a concrete plant and up to four trucks, with an existing septic tank and well. Access will be from St. Hwy. 76.

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

1. Division III Permit #06-21 is hereby revoked and declared invalid.
2. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire. (Chapter II Item 6)

**MINUTES  
TANEY COUNTY BOARD OF ADJUSTMENT  
WEDNESDAY, MARCH 15, 2006, 7:00 P.M.  
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM  
TANEY COUNTY COURTHOUSE**

Call to Order:

Chairman Dave Clemenson called the meeting to order at 7:00 p.m. A quorum was established with three members present. They were: Dave Clemenson, Bob Anderson, and Keith Davis. Staff present: Kurt Larsen, Bonita Kisse, Larry Rowland, and Bob Paulson.

A statement explaining the meeting procedures was read and the Taney County Development Guidance Code was placed into evidence as Exhibit A, the Staff Report as Exhibit B, and the staff files, including all pertinent information, as Exhibit C, and the Taney County Board of Adjustment bylaws as Exhibit D. The State Statutes that empower and govern the Board of Adjustment were read by Kurt Larsen. The speakers were sworn in before each case was heard. Mr. Clemenson gave the applicants the opportunity to postpone until next month because the full board was not present. No one chose to do so.

Public Hearings:

James Wesley Godwin: a request by Mr. Godwin for a variance for a side setback requirement due to a lot split located at 162 Oak Knoll Dr. Mr. Larsen read the staff report and presented pictures and a video of the site. Mr. Godwin explained that he wants to sell the apartments at some point and would like to retain his home. After discussion, Bob Anderson made a motion to approve the setback request based upon the Decision of Record. The motion is based on the addition of the minimum setback requirements has changed since the apartments were built and if this property is split would not comply with the current Code. Keith Davis seconded. The vote to approve was unanimous. The lot split must occur within the next year for the approval to be valid.

Robert V. and Corrine A. Abel: a request by Mr. and Mrs. Abel to divide Lot 7 in the First Addition of Hummingbird Hills Estates into two lots located at 411 Santa Fe Ave. Mr. Larsen read the staff report and presented pictures and a video of the site. Mr. Abel explained to the Board the reason the Planning

Commission recommended this Board hear the request was that one of the lots would not comply with the Code as requested. He presented a site plan of the property and explained where the split would occur, the size of each lot, and where the road would come in. Mr. Paulson explained that because the rules require two acres for a septic system, one of the lots would not comply. Mr. Larsen stated that the sewer treatment plant is within a couple of weeks until completion, and that the original approval for the first subdivision was for a minimum lot size of one acre. After discussion a motion was made by Keith Davis to approve the request based upon the Decision of Record with the addition of, the smaller lot must be hooked to central sewer when it becomes available. Bob Anderson seconded. The vote to approve was unanimous.

Friendly Hills Property Owners Association: a request for an appeal of the approval of the Taney County Planning Commission to allow Greer Condominiums LLC to construct a 345-unit condominium timeshare project at 265 Gunner Hill Road. Mr. Larsen read the staff report and presented pictures and a video of the site. Gary Allman presented the case and stated in his opinion the Planning Commission did not follow the Code in their approval of this project. Mr. Allman presented the minutes of the Planning Commission meeting as evidence and discussed the policy checklist and compatibility factors. He asked that this project be reconsidered by the Planning Commission. A property owner stated the concerns of the surrounding property owners including, traffic safety, noise, pollution, property values, density, and compatibility. He wanted some type of guarantee that the items of the decision of record would be complied with if the project proceeds. Discussion followed. Mr. Larsen explained the scoring system, the location in the Code and that the Commission had the option of using it or not. Mr. Paulson asked Mr. Larsen to his knowledge did this project violate any of the policies. Mr. Larsen stated that there were none that he knew of. Discussion continued. Mr. Allman made some suggestions how the Planning Commission should consider a project. Chuck Pennel discussed buffering with the Board. Mr. Clemenson stated that buffering was only one of the issues. After further discussion a motion was made by Bob Anderson not to approve the appeal because not enough information was presented to overturn the Planning Commission decision. Keith Davis seconded. The vote to deny was unanimous.

Robert D. Morrissey: a request by Mr. Morrissey for a variance of 18' from the Taney County Development Guidance Code front setback requirements for Lot 16A of Big Bear Estates on Park Place Dr. Mr. Larsen read the staff report and presented pictures and a video of the site. Mr. Larsen stated that the only frontage to the property is the road. Mr. Morrissey stated his reason for the request being that electrical lines border both sides, the slope in the back, and the road in the front and that, therefore, the size of the house he has planned would not fit the lot. The staff gave some history of the site that it is an old subdivision and was platted before planning and zoning existed. The property in

question is a new addition to the old subdivision. This is the reason the roads are so narrow. Mr. Paulson clarified the request to be 7' sides and front. An adjacent property owner questioned how a car could be backed in and out of the front with only a 7' setback and the rules of the subdivision state that cars cannot be parked on the street. Another property owner stated that in his opinion this is not a buildable lot because of electrical, water, topographical issues. He stated that if a structure was built on this lot it would be approximately 26' from his front door. He stated that he had offered to buy the property from the previous owners. Discussion followed. Mr. Anderson stated that in his opinion there is just no way a structure could be built on this property even with the variance. He made a motion to deny the request based upon non-conformance. Keith Davis seconded. The vote to deny was unanimous. The applicant asked what his recourse was, and the staff made some suggestions.

#### Old and New Business:

Bob Anderson asked Mr. Pennel where the County stands on the Master Plan issue since he missed the joint session. Discussion followed. Mr. Paulson stated that the County Commission would like to see a revision of the Code, but are not in favor of a new Master Plan. Discussion continued.

#### Review and Action:

Minutes, February 2006: with no additions or corrections a motion was made by Bob Anderson to approve the minutes as written. Seconded by Keith Davis. The vote to approve was unanimous.

#### Adjournment:

With no other business on the agenda for March 15, 2006 a motion was made by Bob Anderson to adjourn. Seconded by Keith Davis. The vote to adjourn was unanimous. The meeting adjourned at.