



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, DECEMBER 16, 2015, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum

Governing Statutes

Explanation of Public Hearing Procedures/Presentation of Exhibits

Public Hearing:

Randall A. Gilleylen, Variance from Minimum Lots Size

Review and Action:

Minutes; November 18, 2015

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT

VARIANCE STAFF REPORT

HEARING DATE: December 16, 2015

CASE NUMBER: 2015-0013V

APPLICANTS: Randall & Debbie Gilleylen

LOCATION: The subject property is located at 135 Warehouse Drive, Branson, MO; Branson Township; Section 16, Township 23, Range 21.

REQUEST: The applicants, Randall & Debbie Gilleylen are requesting a variance from Section 7, Table 3, (*Lot Size & Frontage Requirements*) of the Taney County Development Guidance Code and Article 9, Section 3, Table 1 of the Taney County Subdivision Regulations concerning the two (2) acre minimum lot size, for properties served by an On-Site Wastewater Treatment System and also the 70 foot minimum road frontage requirements, for all lots.

GENERAL DESCRIPTION BACKGROUND and SITE HISTORY:

On August 18, 1997 the Planning Commission approved Division III Permit # 1997-0029 authorizing the development of the Branson Warehouse Center, which was to be a twelve (12) lot commercial / industrial subdivision on 17 acres. This Division III Permit authorized land uses that include centralized warehousing for suppliers of products and / or services and the supporting offices for warehousing (suppliers), sub-contractors (building trades), light manufacturing (trusses, building trades, etc.), storage for the food industry, storage for building distributing and general contractors offices and storage.

The subject property is a 1.12 acre lot (as indicated on the Final Plat) and is known as Lot 10 of the Branson Warehouse Center. Lot 10 contains two (2) separate warehouse style buildings. The building furthest to the west is approximately 9,000 square feet (50' x 180') in size and contains a total of six (6) rental units, as indicated upon the site plan. The building to the east (nearest to Warehouse Drive) is approximately 4,500 square feet (50' x 90') in size and contains a total of three (3) rental units, as indicated upon the site plan. The majority of the six units within the back (furthest east) building are currently vacant. The three (3) units within the front (nearest to Warehouse Drive) building are currently leased by Scott and Larry Pickens and are home to the S & L Collision Center.

On January 23, 2003 the Taney County Regional Sewer District issued Septic Permit # 2003-0171 authorizing the construction of the On-Site Wastewater Treatment System designed to serve the 9,000 square foot building (six rental units).

On February 7, 2003 the Planning Department issued Division II Permit # 2003-0007 authorizing the construction of the 9,000 square foot building (six rental units).

On February 11, 2004 the Taney County Regional Sewer District issued Septic Permit # 2004-0100 authorizing the construction of a second 1,000 gallon septic tank and grease trap and connection to the existing lateral field. This system was designed to serve the 4,500 square foot building (three rental units).

On February 23, 2004 the Planning Department issued Division II Permit # 2004-0006 authorizing the construction of the 4,500 square foot building (six rental units).

The applicant's are now wishing to subdivide the 1.12 acre property in question into two (2) lots, in which each building would then be on a separate lot. If the variance is approved the applicants would retain ownership of the new lot to the west containing the 9,000 square foot building; with the current lessees, Scott and Larry Pickens purchasing the lot closest to Warehouse Drive containing the current location for the S & L Collision Center.

The applicants, Randall & Debbie Gilleylen are requesting a variance from Section 7, Table 3, (*Lot Size & Frontage Requirements*) of the Taney County Development Guidance Code and Article 9, Section 3, Table 1 of the Taney County Subdivision Regulations concerning the two (2) acre minimum lot size, for properties served by an On-Site Wastewater Treatment System and also the 70 foot minimum road frontage requirements.

REVIEW:

Per the provisions of Section 7, Table 3, (*Lot Size & Frontage Requirements*) of the Taney County Development Guidance Code and Article 9, Section 3, Table 1 of the Taney County Subdivision Regulations the minimum lot area for tracts of land served by On-Site Wastewater Treatment Systems is two (2) acres. The applicants are requesting a variance from these minimum lot area requirements, allowing for Lot 10 to be subdivided into two lots.

Please note that the two (2) acre minimum lot size applies only to properties served by On-Site Wastewater Treatment Systems. There is an existing Branson municipal sewer main located in approximately the center of Warehouse Drive, directly in front of the property in question. Therefore, in order to further subdivide an existing, legally non-conforming (grandfathered) lot, of less than two (2) acres, the applicants would be required to connect to Branson municipal sewer. The Development Guidance Code and Subdivision Regulations allow for a minimum lot size of 8,000 square feet for properties served by public or central sewer. The applicants and lessees have both indicated that they have contacted the City of Branson in regard to sewer connection. The City of Branson requires applicants / property owners wishing to connect to municipal sewer to sign a Pre-Annexation Agreement and also to comply with municipal regulations regarding building and development. The City of Branson has been placing these requirements on applicants located within the Bee Creek drainage basin based upon their interpretation of the Bee Creek Sewer System Agreement between Taney County, the Taney County Regional Sewer District and the City of Branson. The applicants and lessees did not connect to Branson Municipal Sewer due in large part to the requirements that the City of Branson have tied directly to the issuance of a Sewer Connection Permit.

The applicants are now requesting a variance from Section 7, Table 3, (*Lot Size & Frontage Requirements*) of the Taney County Development Guidance Code and Article 9, Section 3, Table 1 of the Taney County Subdivision Regulations concerning the two (2) acre minimum lot size, for properties served by an On-Site Wastewater Treatment System. In accordance with the Applicants' drawing, the proposed lot closest to Warehouse Drive would be approximately 17,357 square feet in

size and the lot furthest west would be approximately 31,350 square feet in size. Both buildings currently share a single septic lateral field.

The applicants are further requesting a minimum road frontage variance, allowing for the proposed lot furthest to the west to be subdivided with approximately 56 feet of road frontage on Warehouse Drive.

The applicant's have indicated that the reason for the proposed subdivision of Lot 10 of the Branson Warehouse Center because of the hardship the property has caused the applicants based upon a weak economy and lack of businesses being able to afford such a space. The applicants and the lessees have indicated that nothing will physically change on the property in question.

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 variance from the two (2) acre minimum lot size requirement, allowing Lot 10 of the Branson Warehouse Center to be replatted into two (2) new lots.
2. Approval of a variance from the 70 foot minimum road frontage requirement allowing for the western-most lot to have a total road frontage of 56 feet.
3. Prior to the approval and subsequent recording of the Replat of Lot 10 of the Branson Warehouse Center, an agreement shall be formed between the two (2) property owners in regard to the On-Site Wastewater Treatment System. Said agreement shall be filed with the Taney County Recorder's Office within 120 days of variance approval. A copy of said agreement shall also be provided to the Planning & Zoning office.
4. Compliance with all of the other provisions of the Taney County Development Guidance Code.
5. 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 Taney County Development Guidance Code).

15-12

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

(Circle one)

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

PLEASE PRINT DATE 10-9-15 HOME 417-337-7711
Applicant RANDALL A GILLEYLEN Phone Cell 517-403-5207
Address, City, State, Zip 151 Vixen Circle Unit E Branson MO 65616
Representative Randy Gilleylen Phone 517-403-5207
Owner of Record RANDALL + Debbie Gilleylen Signature: RANDALL A Gilleylen
Name of Project: 135 Warehouse DRIVE
Section of Code Protested: (office entry) Minimum lot size & Footage Table 3 - Code Book
Address and Location of site: 135 Warehouse DR Branson MO, 65616 Article 9, Sec. 3 Table 1
Subdivision Regulation
Subdivision (if applicable) Branson Warehouse Center
Section 16 Township 23^N Range 2^W Number of Acres or Sq. Ft. 48,708 sq ft or 1.125 ac
Parcel Number 08-5.0-16-000-000-012.016
Does the property lie in the 100-year floodplain? (Circle one) Yes 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.

The reason for the split would be because of the hardship the property has caused from a weak economy and lack of businesses being able to afford such a space. When we purchased the warehouse in 2007 all the units were rented out at the rate of 650.00 per month with one renting for 1,000 per month, little by little they became empty and hard to rent at that rate so I decided to reduce them all to 600.00 per month. At the closing I was told the previous owners were getting ready to raise the rents to 700.00 and I could add 1 or 2 units on that property making it very profitable, little did I know there would be little demand in the future for that type of warehouse unit. Approximately a year ago Scott and Lanny Pickens rented out units 7, 8 and 9. After a few months of renting they approached me about buying the three units and wondered if I could sell them. After thinking about it I said I would check knowing they were good people.

And That they would be an Asset
To The Community.

Our original plan was to keep
the property as a source of income
to supplement our retirement. I am
63 and this would allow us to reduce
the stress and debt and continue to
meet our goal, Thanks for your consideration

Randy and Debbie Milleylen

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.

Randall A. Gilleys
Signature of Applicant

11/13/15
Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY)

S.S. On this 13th day of Nov, 2015

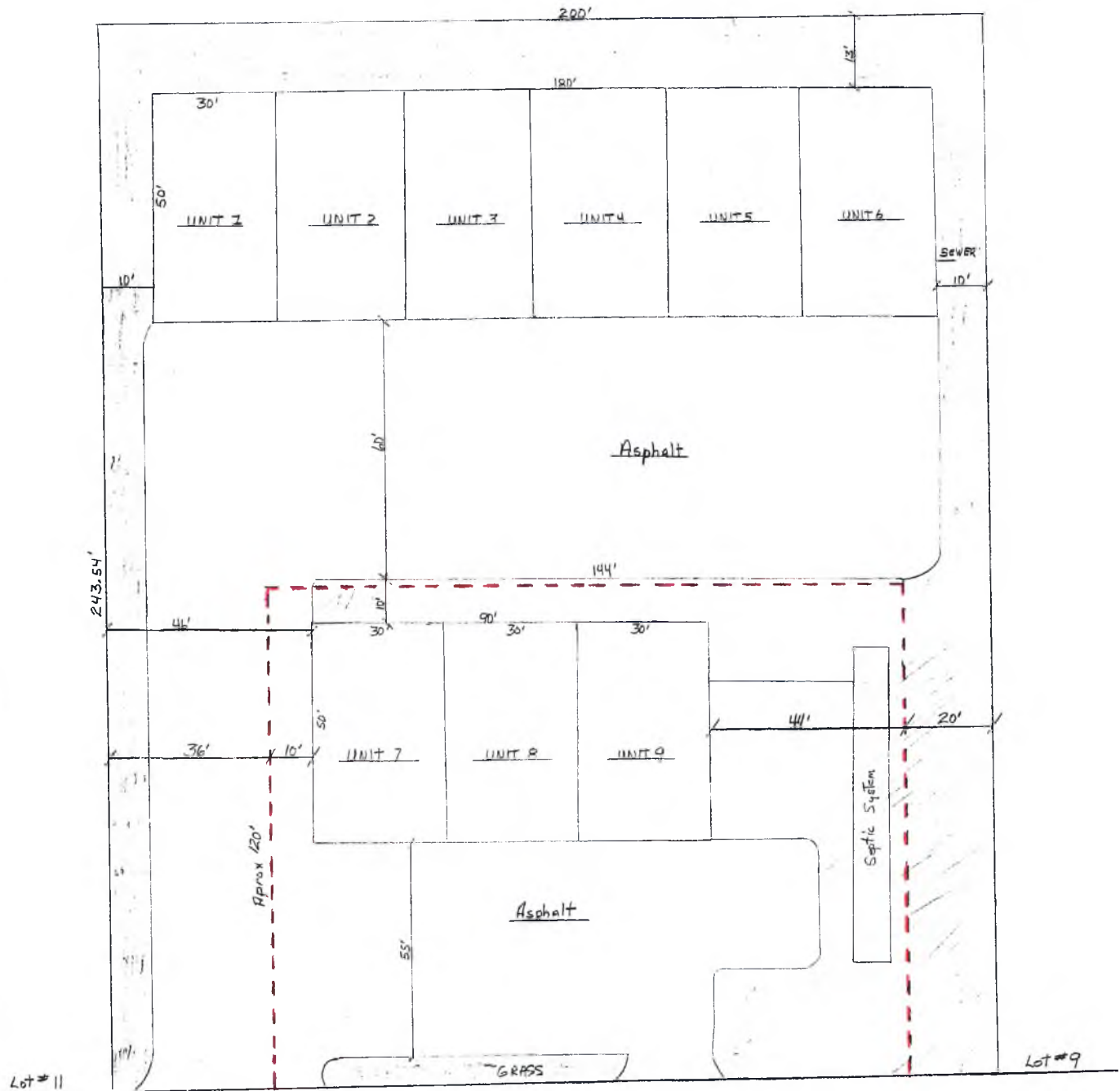
Before me Personally appeared Randall A. Gilleys, to me known to be the person described in and who executed the foregoing instrument.

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 2/6/2018.

Bonita Kisse-Soutter
Bonita Kisse, Notary Public



BONITA KISSEE-SOUTEE
My Commission Expires
February 6, 2018
Taney County
Commission #10440057

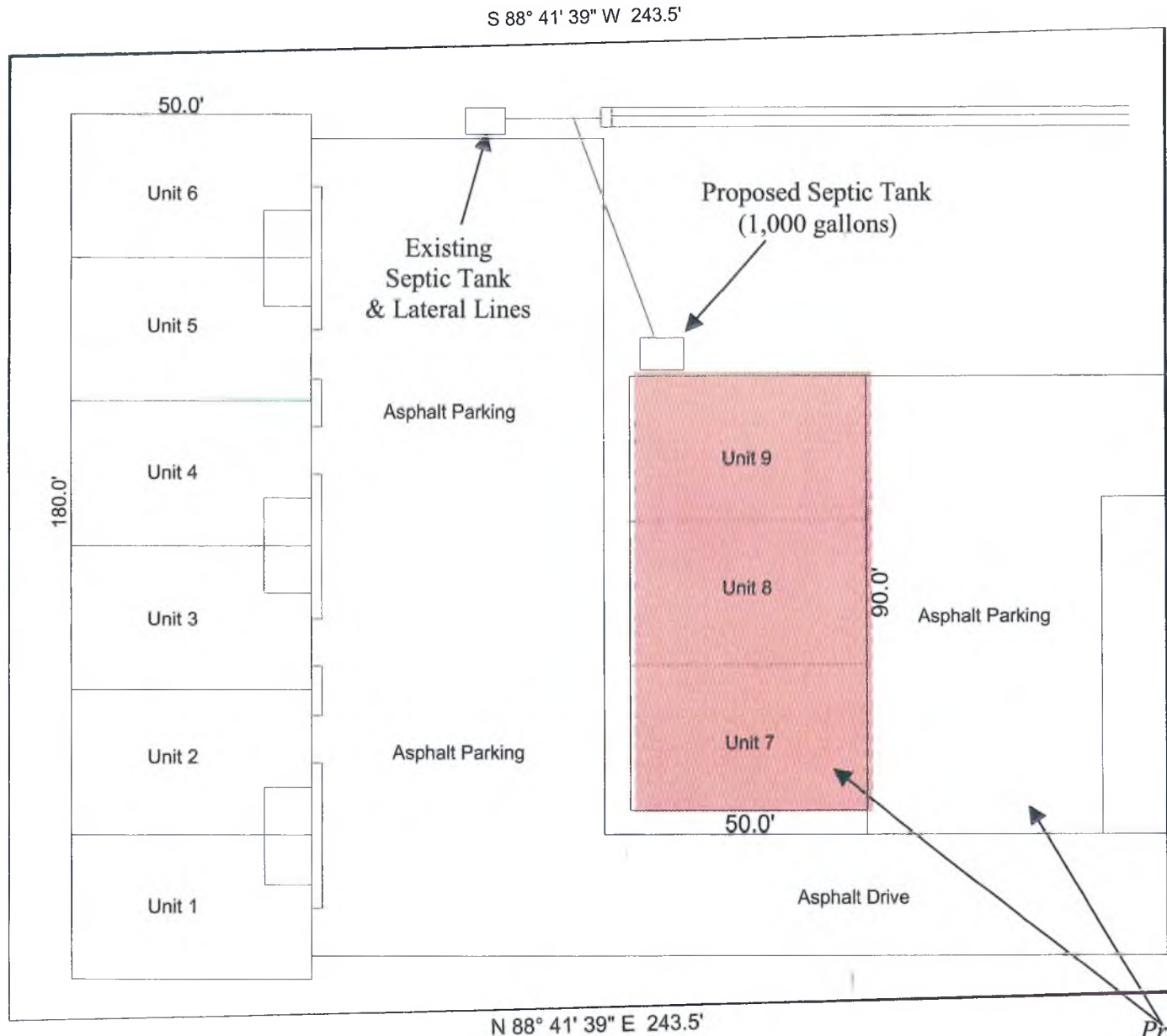


135 WAREHOUSE DRIVE
LOT #10

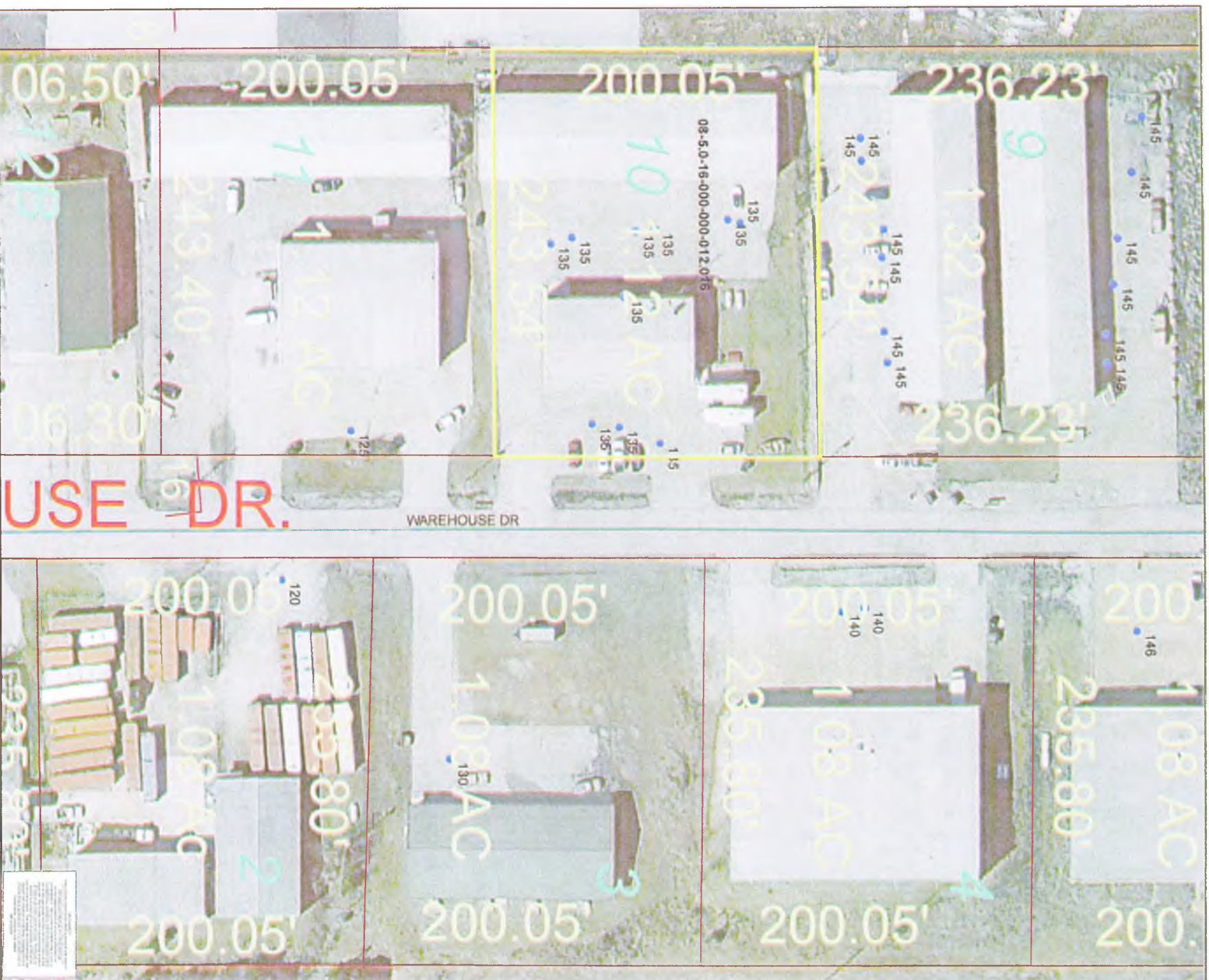
Green = GRASS AREA
Red = Proposed Split

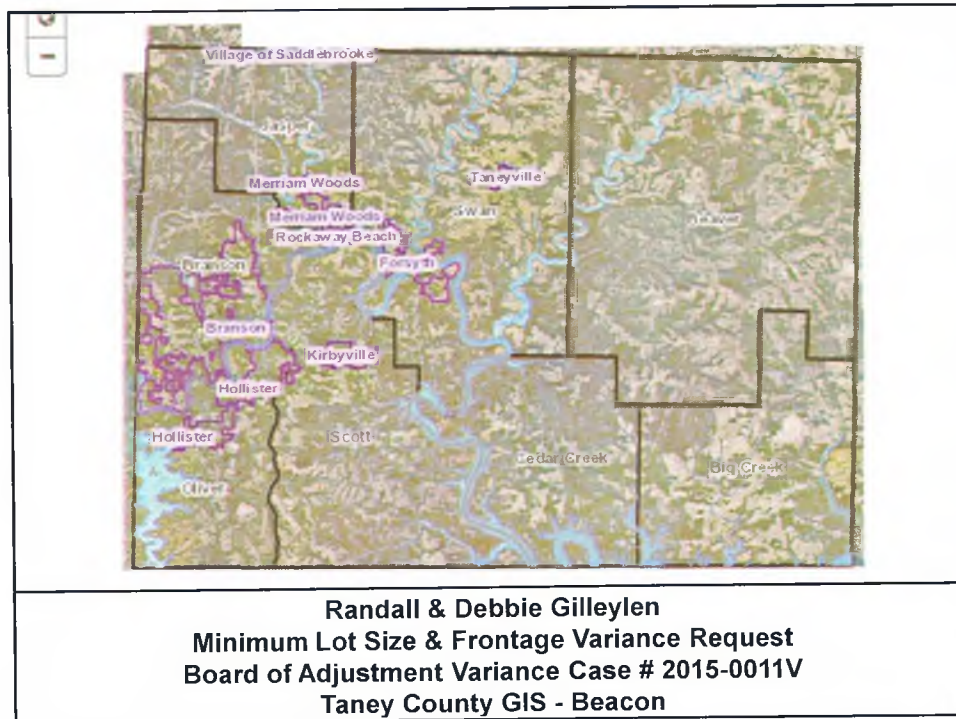


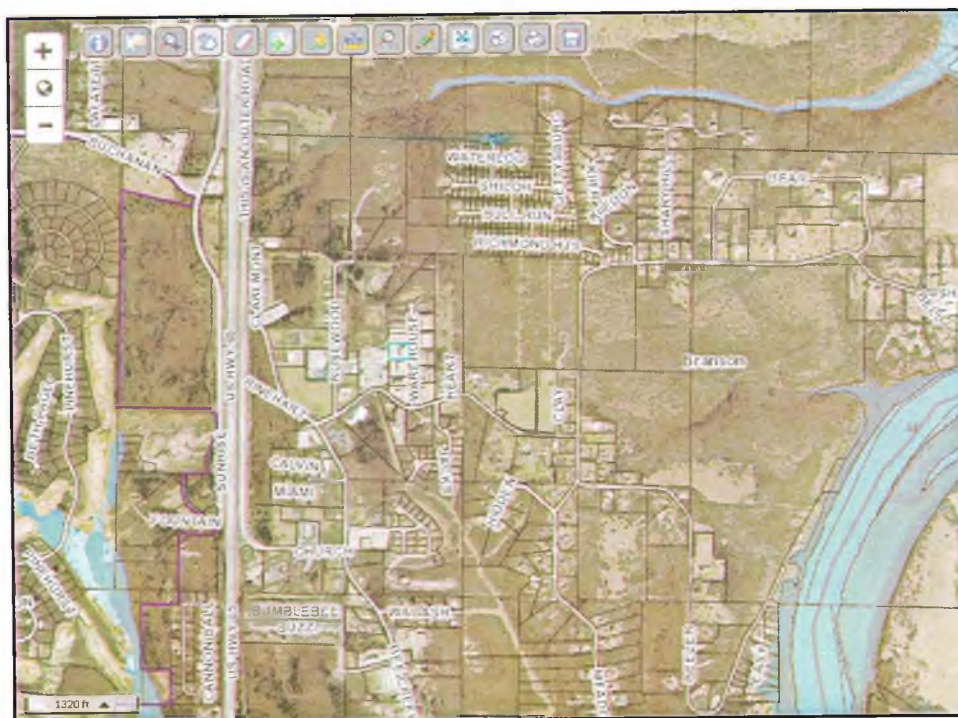
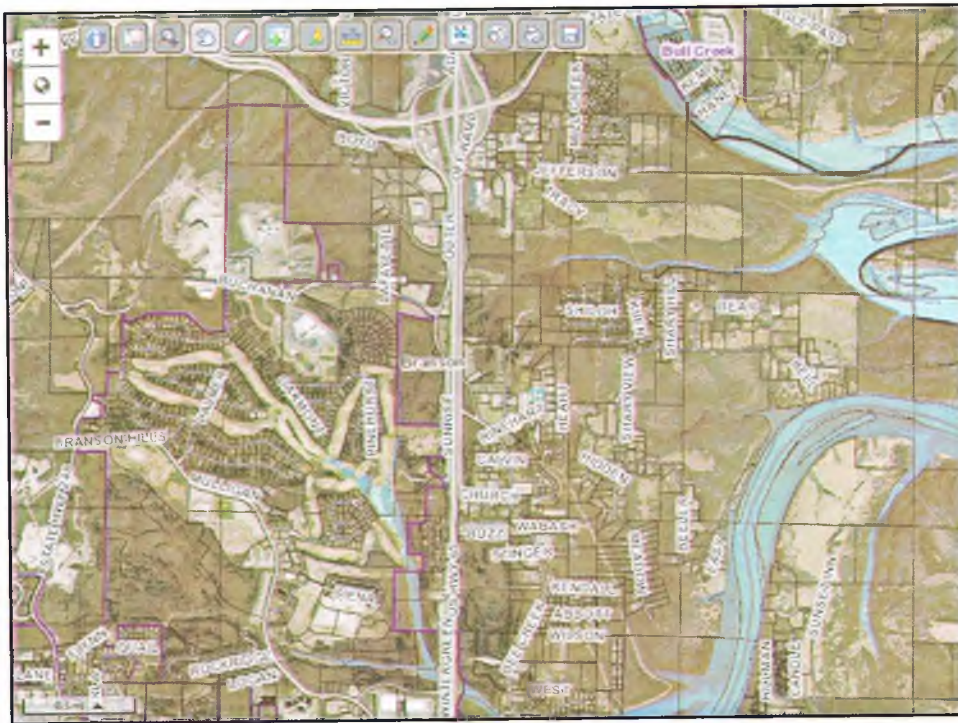
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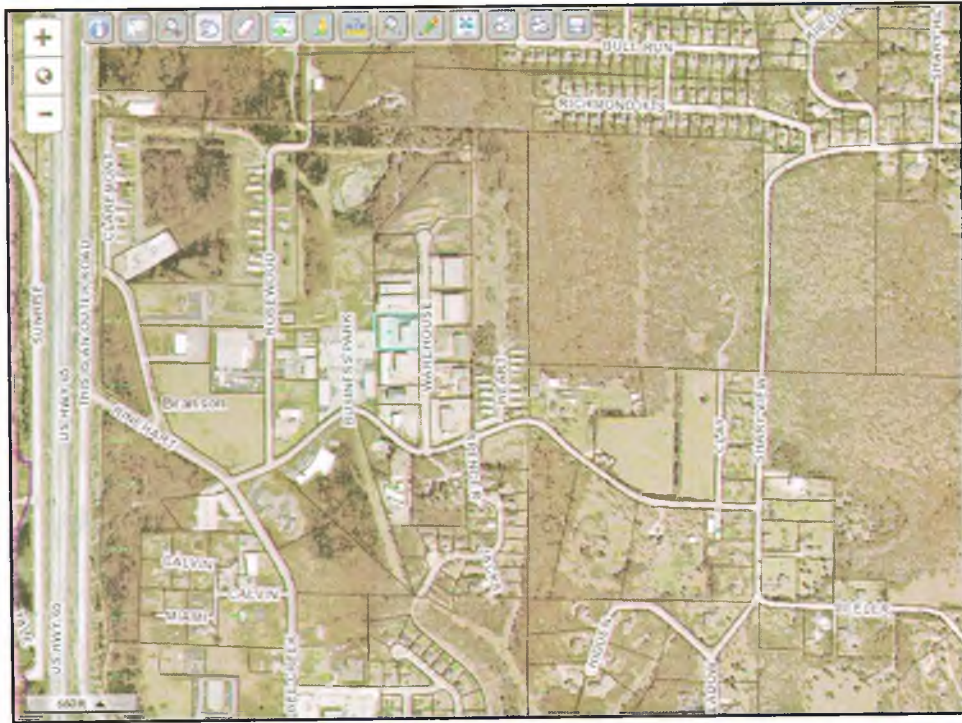


Proposed building and parking area.

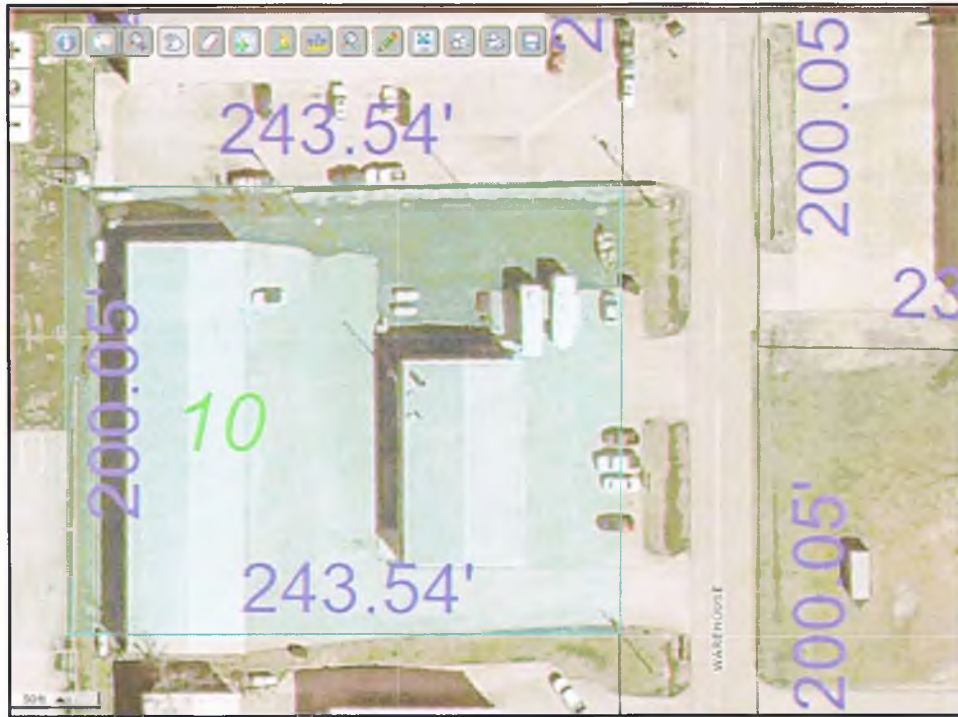












Randall & Debbie Gilleylen
Minimum Lot Size & Frontage Variance Request
Board of Adjustment Variance Case # 2015-0013V
Pictometry – View from the North



**Randall & Debbie Gilleylen
Minimum Lot Size & Frontage Variance Request
Board of Adjustment Variance Case # 2015-0013V
Pictometry – View from the South**



**Randall &
Debbie
Gilleylen

Minimum
Lot Size &
Frontage
Variance
Request

Board of
Adjustment
Variance
Case #
2015-0013V
Pictometry
– View
from the
East**



Randall & Debbie Gilleylen
Minimum Lot Size & Frontage Variance Request
Board of Adjustment Variance Case # 2015-0013V
Pictometry – View from the West













NOTICE OF PUBLIC HEARING

THE TANEY COUNTY BOARD OF ADJUSTMENT

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

Applicant: Randall A. Gilleylen

Request: Variance from the
Setback Requirements

Property Location: 135 Warehouse
Drive

Hearing Location: Taney County Courthouse

Time: 4:00pm Date: Wednesday, 12-16-13

Phone: (417) 46-7224



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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, NOVEMBER 18, 2015, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Shawn Pingleton called the meeting to order at 6:10 p.m. due to a scheduling conflict with the hearing room. A quorum was established with 4 members present. They were; Shawn Pingleton, Mark Weisz, Tony Mullen, and Alan Lawson. Staff present; Bob Atchley, and Bonita Kisse Souttee.

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, the Board of Adjustment Bylaws as Exhibit D, the Taney County Road Standards as Exhibit E, and the Taney County Floodplain Management Ordinance as Exhibit F. The state statutes that empower and govern the Board of Adjustment were read and Mr. Pingleton swore in the speakers before their respective hearings.

Public Hearings:

Maple Hill Ceramics; a request by Thellsia Surber for two side and front setbacks off of State Hwy. 160 in order to construct an addition to the existing business, located at 9009 US Hwy. 160. Mr. Atchley read the staff report and presented pictures, maps, and a video of the site. Mr. Freeman Payne representing the applicant addressed questions from the Board. Mr. Mullen asked if the applicant had considered putting the addition between the buildings and Mr. Payne stated that was where the septic tank is. He also stated other areas had been looked at but none of them were feasible. Mr. Weisz asked who owned the adjoining property and if they had a problem with the building being a zero lot line. The Board suggested setting back from the property line even just a small amount. Discussion followed regarding the angle of the property line from the building. Mr. Payne revised his request from a 7' variance to a 5' one. After discussion a motion was made by Mr. Mullen to approve the request with the change. Seconded by Mr. Weisz. The vote to approve was unanimous, with the chairman voting yes.

Asher Holdings, LLC; a request by Chad Ellis for a variance from the front property line setback area for the construction of a single family dwelling located at 325 Mesquite Drive. Mr. Atchley read the staff report and presented pictures, maps, and a video of the site. Mr. Ellis was present to address questions from the Board and stated

that he measured some of the houses in the subdivision to see how far they sat back from the road. He thought the measurement was to be taken from the road. He proceeded to pour the footers. Roger Bergford who lives in the neighborhood stated that the applicant had excavated and poured the footers before he applied for the permit and that the house will be within site distance of the road. Karen Bergford who lives next door to this property stated that her concerns were that the plans were supposed to be presented to their homeowners association and were not, and she reiterated some of her husband's concerns. Mrs. Bergford reported that the forms were poured after the applicant said they were. In her opinion the applicant should have known the rules before beginning the project. Mr. Pingleton asked staff if the measurements were taken from the overhang. The applicant stated that it had, then pointed out another house down the road which is similar to this one. Mr. Pingleton pointed out the timelines on the pictures and that the foundation had indeed poured after he said he did. Mr. Weisz clarified that the applicant was using the topography as the hardship in his case. He then commented about the timing of the pouring of the footings and POA. With no other discussion a motion was made by Mr. Weisz to approve based upon the decision of record. Seconded by Alan Lawson. The vote to approve was unanimous, with the Chairman voting yes.

Gary and Trecie Loyd; a request for a variance from the provisions of the Taney County Floodplain Management Ordinance for the construction of a garage within a floodplain area located at 415 Foggy River Road. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. He reported that he talked to the FEMA representative this day and that it was indicated to him that if a variance were granted that they did not agree was a hardship, the County would be put on probation. George Cramer representing the applicants addressed questions from the Board and clarified the request. Mr. Lawson pointed out the danger of granting a variance. Mr. Pingleton stated he agreed that granting the variance would be a concern, and in his opinion granting a variance is not worth losing the County Flood Insurance. Mr. Mullen and Mr. Weisz agreed. With no other discussion a motion was made by Mr. Mullen to deny the request. Seconded by Mr. Weisz. Mr. Lawson asked that the record show that the reason for the denial was because of the attitude of FEMA. Mr. Weisz agreed with Mr. Lawson's statement. The vote to deny was unanimous.

Daryl Soukup; a request for a variance from the front property line setback area for the construction of a new single family residence located at 612 Iowa Colony Road. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. Mr. Soukup was present to address questions from the Board. He clarified the request and stated that because of the topography he only has a certain amount of property to build on. If he filled in the back of the property the ground would be too unstable. He asked for a 2' variance on both sides because when he asked for the variance he didn't realize he had to measure from the overhang. Donald Bishop who lives in the neighborhood stated that in his opinion the applicant knew about the property before he bought it, and why the house needed to be that size, and he didn't like all the trees

cut off the property. Mr. Mullen asked Mr. Bishop what he perceived his hardship to be. Mr. Bishop stated traffic, site distance and house design. Mr. Pingleton stated that the Board does not look at the design of the house. Mr. Weisz asked Mr. Soukup if 10' would be enough in the front. Mr. Soukup stated that he hopes not to have to use as much as he has asked for on all sides, but if he does need it he will have it if the Board allows. Discussion followed regarding the shape of the lot. Mr. Mullen pointed out that it is possible that a variance might not even be needed. Mr. Weisz commented that because of the overhang a variance would allow better site distance. After discussion a motion was made by Mr. Mullen to approve based upon the decision of record as written. Seconded by Mr. Lawson. The vote to approve was unanimous, with the Chairman voting yes.

Review and Action:

Minutes; July 15, 2015 and October 21, 2015; with no additions or corrections a motion was made by Mr. Lawson to approve the minutes of July 15, 2015 as written. Seconded by Mr. Mullen. The vote to approve the July 15, 2015 minutes was unanimous. Mr. Weisz made a motion to approve the October 21, 2015 minutes. Seconded Mr. Mullen. The vote to approve the October 21, 2015 minutes was unanimous.

Old and New Business:

Mr. Atchley reported that we have one request for next month.
Mr. Pingleton announced the passing of Planning Commissioner Ronnie Melton.

Adjournment:

With no other business on the agenda for November 18, 2015 the meeting adjourned at 8:00 p.m.