



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, AUGUST 15, 2012, 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:

Terry Gentle

Review and Action:

Minutes, July 2012

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT VARIANCE STAFF REPORT

HEARING DATE: August 15, 2012

CASE NUMBER: 2012-0005V

APPLICANT: Terry & Judith Gentle

LOCATION: The subject property is located at 2275 State Highway O; Swan Township; Section 12, Township 23, Range 20.

REQUEST: The applicants, Terry & Judith Gentle are requesting a variance from Table 1, Setbacks of the Taney County Development Guidance Code. The applicant is requesting a variance from the required 50' front property line setback requirement, in order to allow of the construction of a 40' x 60' accessory building.

BACKGROUND and SITE HISTORY:

The subject property is a meets and bounds described parcel of land, containing an existing residence which was constructed in 1957, per the Assessor's information. The applicant has indicated that the property has been bisected by a power line, running parallel with State Highway O, since the 1960s.

GENERAL DESCRIPTION:

The subject property is a triangular shaped, meets and bounds described parcel of land containing a total of approximately 2.77 acres (per the Assessor's information). The property fronts on State Highway O and is bisected by a 30' White River Electric Cooperative power line easement.

REVIEW:

The applicants are requesting a 35' front property line setback variance, in order to allow for the construction of a 40' x 60' accessory building that would be built as close as 15 feet from the front property line. The buildable space within the property is limited by the location of an existing White River Electric Cooperative power line easement that bisects the property. The applicants have proposed two possible options for the orientation of the proposed building, as shown on the attached aerial photo. The applicants have indicated that they would prefer to orient the building as shown as option 1, because of the location of an existing pond that would have to be filled and the extension of the driveway, which would fall under the power lines, if the applicants were to construct the building as shown in option 2. The applicants have recently requested a boundary survey, which will be presented during the public hearing, showing the location of the power line and easement.

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."

SUMMARY:

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

1. Approval a variance of 35 feet from the front property line adjoining State Highway O, allowing for the construction of an accessory building that will be located 15 feet from this 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 Taney County Development Guidance Code).



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

12-2

(Circle one)

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

PLEASE PRINT

DATE 6/25/2012

Applicant TERRY GEMDE Phone 936-566-5334

Address, City, State, Zip 191 SPRINGVIEW DR LIVINGSTON, TX 77351

Representative Phone

Owner of Record TERRY + JUDI GEMDE Signature: TERRY GEMDE

Name of Project: METAL BUILDING

Section of Code Protested: (office entry) SETBACK RULE Table 1 - Setbacks

Address and Location of site: 2275 STATE HWY 0

Kissee Mills, Mo.

Subdivision (if applicable) N/A

Section 12 Township 23N Range 20W Number of Acres or Sq. Ft. 2.77 ACRES

Parcel Number 09-1.0-12-000-000-074.000

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.

Describe in detail the reason for your request:

PLACE A 40' X 60' SHOP/GARAGE
BUILDING ON PROPERTY.

PREFER OPTION 1 (ATTACHED AERIAL PHOTO)
DUE TO ACCESS FROM POWER LINE
ACCESS ROAD.

WE CANNOT BUILD UNDER POWER LINE
ROW. WE DO NOT WANT ACCESS
FROM HWY 0 DUE TO TRAFFIC CONCERNS.

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.

Terry Gentle
Signature of Applicant

6/25/2012
Date of Application

STATE OF MISSOURI)

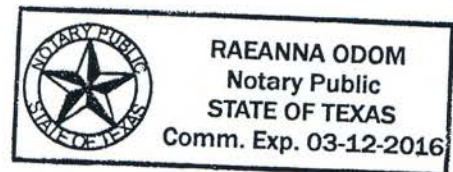
S.S. On this 25 day of June, 2012

COUNTY OF TANEY)

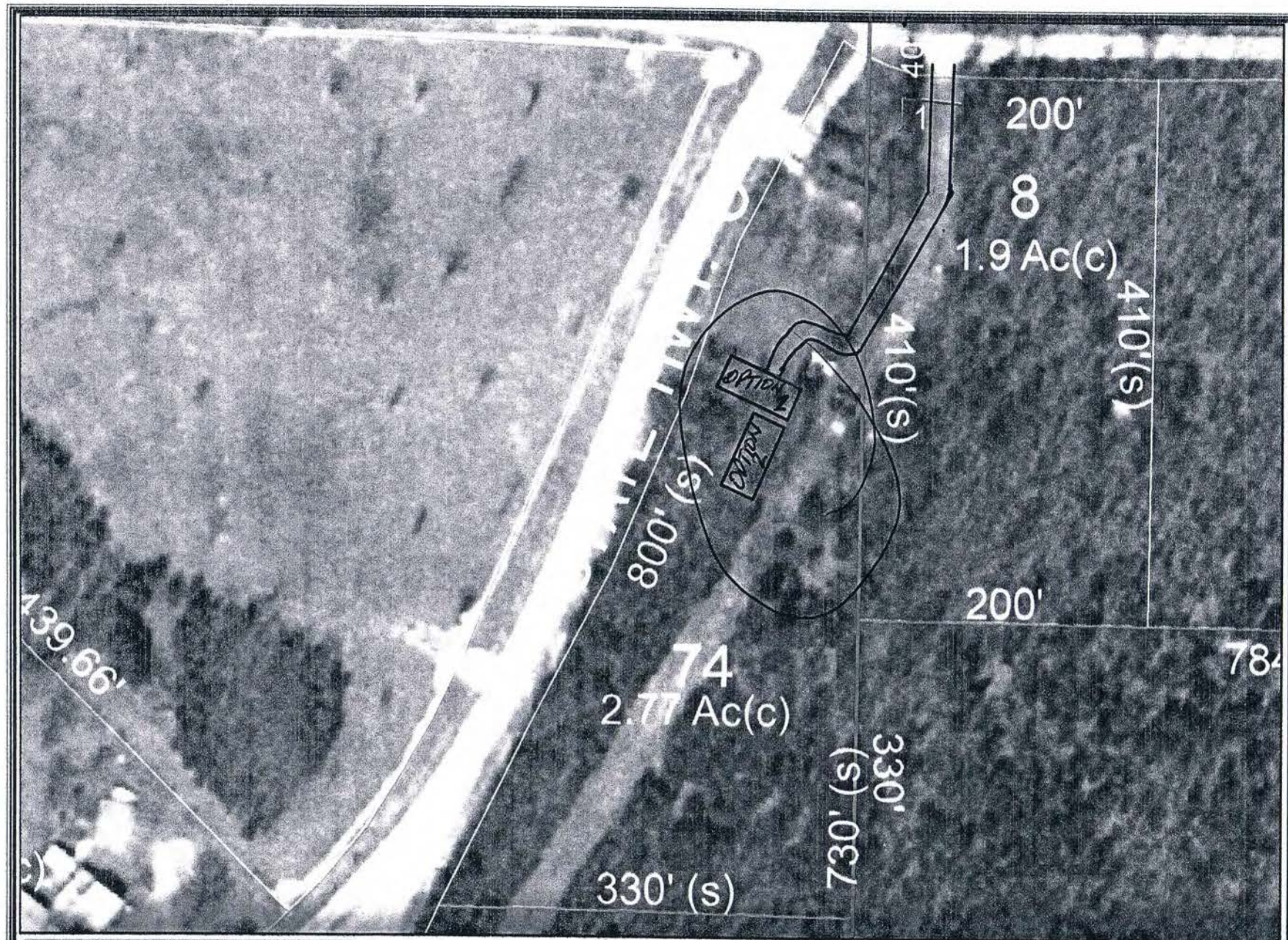
Before me Personally appeared Terry Gentle, to me known to be the person described in and who executed the foregoing instrument.

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



Raeanna Odom



THIS PROPERTY OWNERSHIP MAP IS FOR TAX PURPOSES ONLY. IT IS NOT INTENDED FOR CONVEYANCES. THE ACTUAL LOCATION OF LAND CORNERS SHOULD BE VERIFIED BY A LICENSED SURVEYOR.

PREPARED BY:
TIMOTHY J. HOUTCHENS, PMM
MAPPER
DATE: AUGUST 6, 2008

19-6.0-24-001-021-033.000

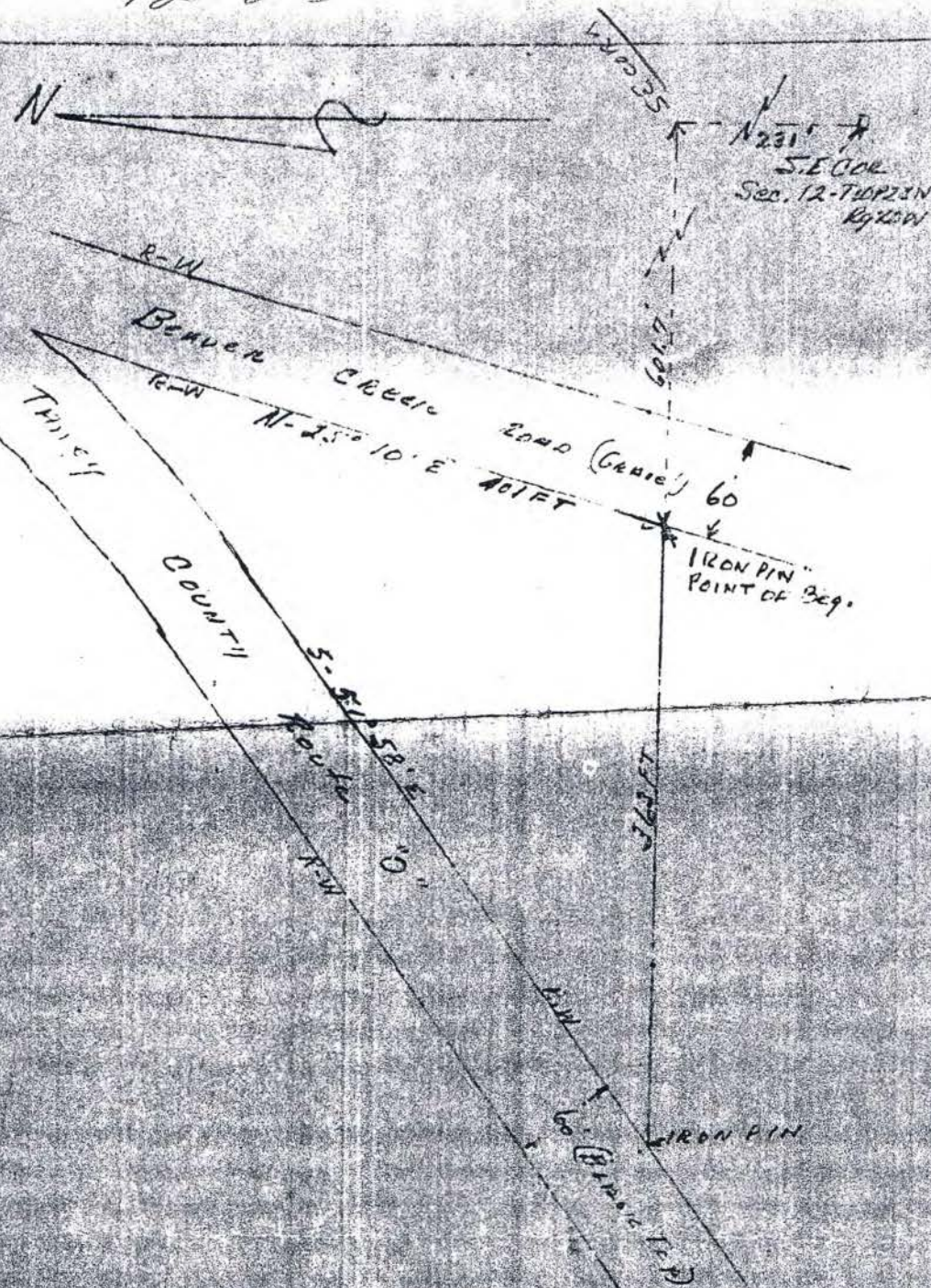
TANEY COUNTY ASSESSORS OFFICE
PO BOX 612
FORSYTH, MO. 65653
JAMES E STRAHAN, ASSESSOR



1 inch = 100 feet

12-23-20

1/32
#400



FILED

DEC 13 1960

Ray Hall

Surveyor and
Ex-officio Recorder,
Taney County, Mo.

Book 6, Page 32

SURVEY FOR FLOYD ROBERTS

Located in the Southeast Quarter of the Southeast Quarter of Section 12, Twp 23N, Rg. 20W in Taney County, Missouri.

The point of beginning is located 231 feet north of and 601.7 feet west of the Southeast corner of the Southeast Quarter of the Southeast Quarter of Section 12, Twp 33N, Rg. 20W in Taney County, Missouri. Said point of beginning is located on the west side of a county road at an iron pin; thence North 25 degrees 10 minutes east 401 feet to an intersection with Taney County Route "O"; thence South 51 degrees 58 minutes west along the south side of said Route "O" 640 feet to an iron pin thence East 363 feet to the point of beginning. This survey was made at the request of Floyd Roberts.

Certification.

I hereby certify that I have made a survey of the above tract and that



BOA Terry Gentle





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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, JULY 18, 2012, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dave Clemenson called the meeting to order at 7:00 p.m. A quorum was established with five members present. They were, Dave Clemenson, Bob Hanzelon, Mark Weisz, Dave Nelson, and Tom Gideon. Staff present, Scott Starrett, and Bonita Kissee.

Mr. Starrett read a statement explaining the meeting procedures and placed the Taney County Development Guidance Code 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 by Mr. Hanzelon.

Mr. Clemenson swore in the speakers.

Request for Reconsideration:

Todd Shuler; Thomas Motley representing Mr. Shuler presented new evidence in his opinion, proving that substantial injustice would result in the variance not being granted. Mr. Clemenson gave a history of the request and stated the reason for the denial. Mr. Motley addressed the Board and gave a basis of the request for rehearing that Mr. Shuler did not understand the procedure or terminology of the process. Mr. Weisz reiterated that at the meeting he remembered the conversation and believed that Mr. Shuler did not understand the process. Mr. Nelson asked if there was new evidence other than the applicant not understanding. Mr. Motley answered that Mr. Shuler did not give any evidence at the time, and that he wished to present that at the rehearing if granted. Mr. Weisz made a motion to allow a reconsideration. Mr. Gideon seconded. Mr. Nelson asked Mr. Weisz if the reason for his motion was because the applicant now has legal counsel. Mr. Weisz answered that it was because he didn't believe Mr. Shuler understood the process at the time. Mr. Nelson stated that he was not comfortable giving a reconsideration just because an applicant did not understand. Discussion followed. The vote was two in favor and two against with the Chairman breaking the tie and voting against the request for reconsideration. Mr. Clemenson informed Mr. Motley that his next step would be an appeal to the Circuit Court.

Public Hearing:

Meyer Land Development Co., LLC; request for a variance from the provisions of Section 5 (subdivision of land) of the Taney County Development Guidance Code in order to allow for 20' wide right of ways on all streets within Whisper Cove Subdivision maintained by the Property Owners Association (all of the land area except parcel 8 as approved on the master plan. A second variance request from Section 9, Table 1 (property line setbacks) concerning front and side lot setbacks in order to make an allowance for a 20' front lot setback and a 5' side lot setback in the parcels approved for both the existing townhomes and the townhomes yet to be constructed (parcels 4,5,6,7 as approved on the master plan. Mr. Starrett read the staff report and presented pictures and a video of the site. Mr. Meyer addressed the Board and explained that the reason for the request is that at the time of approval of the project, condominium style of development was all that was offered. Now the County has given developers the ability to allow whole ownership, they wish to take advantage of this which would require the variances requested. Mr. Clemenson clarified that only the four units were platted with Mr. Meyer stating that the reason why was that they anticipated this change at the time. Mr. Weisz pointed out the hardship in this case was the change in the Code between the inception of the project and now. Mr. Clemenson informed the applicant that measurements always have included the overhang. At this point the units are ten feet apart from the overhang. Mr. Clemenson asked if Mr. Meyer had consulted the plans to see if he could meet the setbacks on the buildings that have not been built. Mr. Meyer stated that all the buildings have been laid out and they wanted to keep the project consistent within itself. Mr. Clemenson continued the discussion regarding other portions of the project with Mr. Meyer stating that this is the only portion requiring a variance. After discussion a motion was made by Mr. Weisz to approve all three requests. Dave Nelson seconded. Further discussion followed with Mr. Hanzelon pointing out that this request is because of the change in the Code. The vote to approve was unanimous.

Review and Action:

Minutes, June 2012; with no corrections or additions a motion was made by Dave Nelson to approve the minutes as written. Seconded by Mark Weisz. The vote to approve the minutes was unanimous.

Old and New Business:

Staff reported there will be a meeting next month for a variance request. Mr. Weisz reported on a meeting he attended at the City of Branson to train their Board of Adjustment. He stated that at that meeting he found out, the Board can have alternates. The Board voted to have their hard copy packets delivered to them.

Adjournment:

With no other business on the agenda for July 18, 2012 the meeting adjourned at 7:58 p.m.