



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, NOVEMBER 21, 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 Hearings:

Mike & Sharon Walker, variance request

Review and Action:

Minutes, September 2012

Old and New Business:

Tentative

Adjournment

Copies of this notice may be obtained by contacting the Planning Office at the above address and phone number.

Posted: 11/14/2012

By: MP

Time: 12:00 pm

Posted At: David St. entrance to the Taney County Courthouse bulletin board, outside the County Commission meeting room
At the Taney County Courthouse and the office of Planning and Zoning.



TANEY COUNTY BOARD OF ADJUSTMENT

VARIANCE STAFF REPORT

HEARING DATE: November 19, 2012

CASE NUMBER: 2012-0008V

APPLICANTS: Mike & Sharon Walker

REPRESENTATIVE: David Haney

LOCATION: The subject property is located at 1189 A.B. Fine Road; Cedar Creek Township; Section 1, Township 21, Range 19.

REQUEST: The applicants, Mike & Sharon Walker are requesting a variance from Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. The applicant is requesting a variance from the required 25' front property line setback requirement, in order to allow for the construction of a 3,400 square foot single-family residence.

BACKGROUND and SITE HISTORY:

The subject property is currently described as Lots 36 and 124 of the A.B. Fine Subdivision. The applicants own contiguous Lots 34, 35, 36, 124, 125 and 126 of the A.B. Fine Subdivision. An existing house is currently located on Lots 34, 35, 125 and 126.

On October 3, 2012 the property owner applied for a Division I Permit for the construction of a 3,400 square foot single-family residence on Lots 36 and 124 of the A.B. Fine Subdivision. Upon inspection of the property by the Division I & II Inspector it was found that a portion of the foundation had been constructed within the required side lot setback. It was determined that by replating these six (50' x 100') lots into two lots that the side setback issue could be mitigated. These six (6) lots are being replated into two (2) lots, Lot 34A and Lot 35A. (Please refer to the enclosed copy of the Amended Plat of Lots 34, 35, 36, 124, 125 & 126, A B Fine Subdivision.) Upon completing the amended plat it was discovered that a portion of the foundation has also been constructed within the required front of lot setback.

The A.B. Fine Subdivision was originally platted in 1925, with the majority of the lots in question being platted in 1956. In 1956, A.B. Fine Road was platted with a 71' wide right-of-way. Per the provisions of the Taney County Road Standards, the maximum right-of-way width that would be required for a new residential subdivision road is 50'.

The property will be served by an on-site wastewater treatment system and private well.

GENERAL DESCRIPTION:

The subject property is currently described as Lots 36 and 124 of the A.B. Fine Subdivision. Upon approval of the Amended Plat the subject property will be described as Lot 35 A of the A.B. Fine Subdivision.

The applicants, Mike & Sharon Walker are seeking a variance from the provisions of Section 7, Table 1 of the Taney County Development Guidance Code concerning the required front of lot setback. Per the provisions of Section 7, Table 1, a structure is required to be setback 25' from the front property line next to the road. Measurements to the structure are made to the portion of the structure that is closest to the property line. The applicants are requesting a 15' front setback variance, allowing the single-family residence to be constructed within 10' of the front property line.

REVIEW:

The applicants are requesting a 15' front setback variance, allowing the single-family residence to be constructed within 10' of the front property line. The buildable space within the property is limited by the location of an existing 30' power line easement that bisects the center portion of the property.

The topography of the site will also limit the area of the lot that will be available for the placement of the on-site waste water system, particularly the lateral field.

Due in part to the 71' right-of-way width, the majority of the neighboring houses within the subdivision are each located approximately 10' from the front property line. The bulk of the neighboring residences were constructed in the 1960s and 1970s and would simply not meet the requirements of the Development Guidance Code, if they were being built today.

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 of a variance of 15 feet from the front property line adjoining A.B. Fine Road, allowing for the construction of a single-family residence that will be located 10 feet 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 Taney County Development Guidance Code).



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TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT

FOR VARIANCE OR APPEAL

(Circle one)

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

PLEASE PRINT

DATE

Applicant Mike + Sharon Walker Phone 417-794-3551

Address, City, State, Zip 1181 A.B. Fine Rd.

Representative David Haney Phone Sharon Walker

Owner of Record Mike + Sharon Walker Signature: Mike Walker

Name of Project: Walker House

Section of Code Protested: (office entry) Section 7, Table 1 (Setbacks)

Address and Location of site: 1181 A.B. Fine Rd.

Cedar creek, mo 65627

Subdivision (if applicable) A.B. Fine

Section 1 Township 21 Range 19 Number of Acres or Sq. Ft. .45 Acres

Parcel Number 22-1.0-01-000-000-012.000

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.

We would like to request a variance on the front set back to align with our neighboring houses on AB Fine St.

Due to neighboring houses setting approximately ten feet from their front property line and with the narrow lots our new house would look out of place with the current set back of 25Ft, and would decrease the curb appeal and value of our new home.

Furthermore with the steepness and ledge rock behind the house it would create difficulties in putting in our septic system with the current set back. With the electric power line easement in the middle of the lot it makes it difficult to move the house to the current set back, and is most likely why most of the houses on our side of the street are encroaching the set back.

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.

Saron Walker
Michael Walker
Signature of Applicant

10-22-12
Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY)

S.S. On this 22nd day of Oct., 2012

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

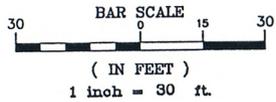
In testimony Whereof, I have hereunto set my hand and affixed my official seal, at my office in Forsyth, Mo. The day and year first above written. My term of office as Notary Public will expire 2/6/2014.

Bonita Kissee
Bonita Kissee, Notary Public



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

BASIS OF BEARING
SOUTHWESTERLY
RIGHT-OF-WAY PER THE
RECORDED PLAT



VICINITY MAP
SECTION 1



CERTIFICATE (C)
MICHAEL WALKER
OWNERS OF THE
JURISDICTION OF
DEDICATE TO THE
EXCEPT THOSE
UNTIL THE OFF

MICHAEL WALKER

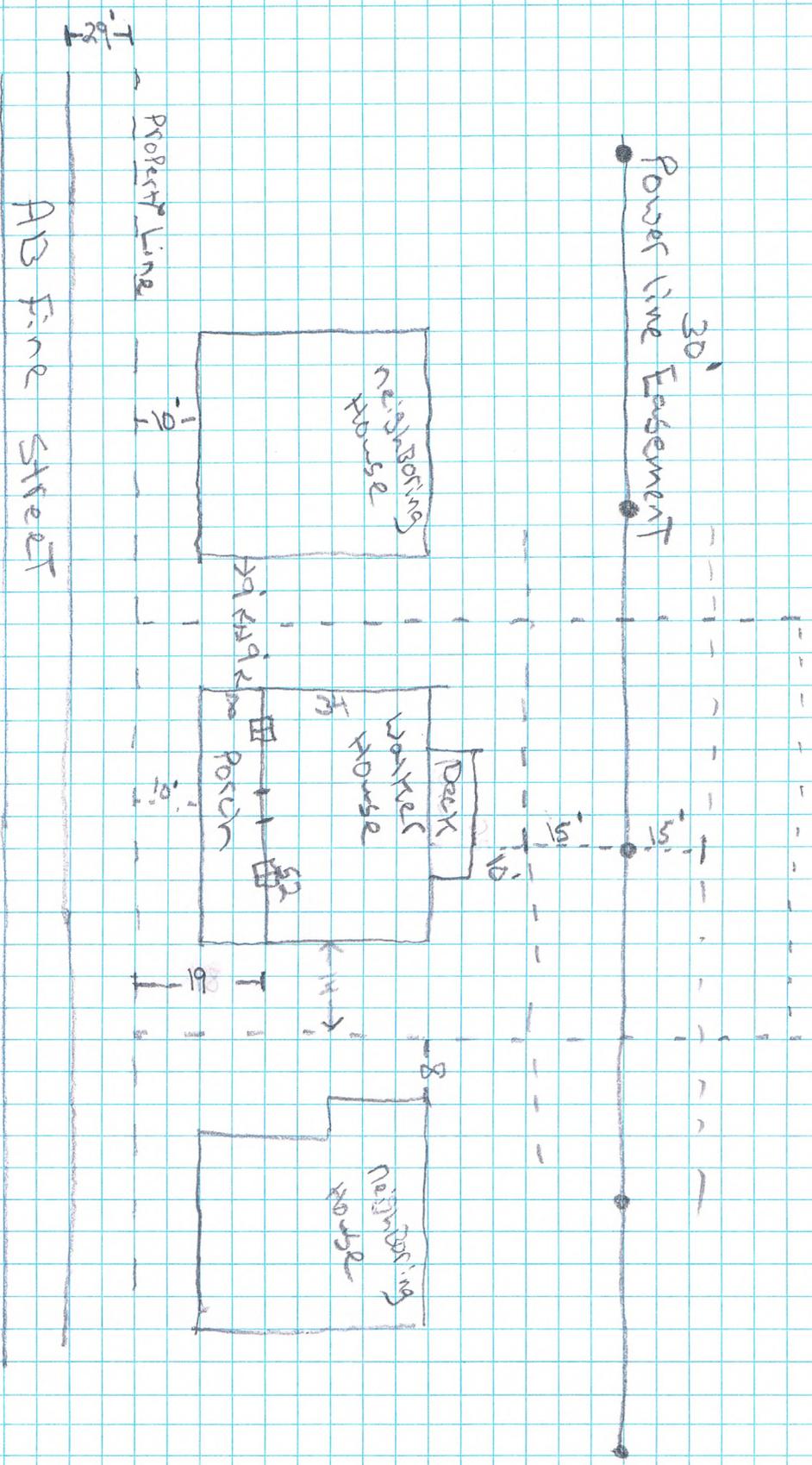
ACKNOWLEDGMENT
STATE OF MISSISSIPPI
COUNTY OF TANTALON
ON THIS 15th DAY OF
PUBLIC, PERSONS DESIGNATED
THEY EXECUTE

IN WITNESS WHEREOF
SAID COUNTY

NOTARY PUBLIC

CERTIFICATE
I HEREBY CERTIFY
TANTALON COUNTY DEVELOPMENT
PLANNING COMMISSION

PLANNING AND ZONING
CERTIFICATE
I HEREBY CERTIFY
TANTALON COUNTY
911 ADMINISTRATOR



JOHN A @SHIRLEY B KYLE

5117 GOODNIGHT

AMARILLO, TEXAS 79109

TANEY COUNTY PLANNING COMMISSION

P O BOX 383

FORSYTH, MO.

IN REGARD TO THE REQUEST BY MIKE AND SHARON WALKER FOR A VARIANCE FROM THE TANEY COUNTY DEVELOPMENT GUIDANCE CODE TABLE 1, SETBACKS, ON PROPERTY LOCATED AT 1181 A B FINE ROAD CEDAR CREEK, MO. FOR A FRONT SETBACK WE HAVE NO OBJECTIONS TO THE REQUEST.

OUR PROPERTY IS LOCATED AT 1195 A B FINE ROAD CEDAR CREEK, MO.

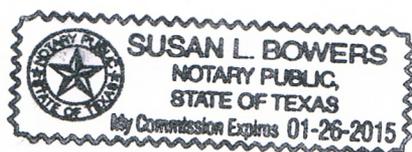
JOHN A KYLE

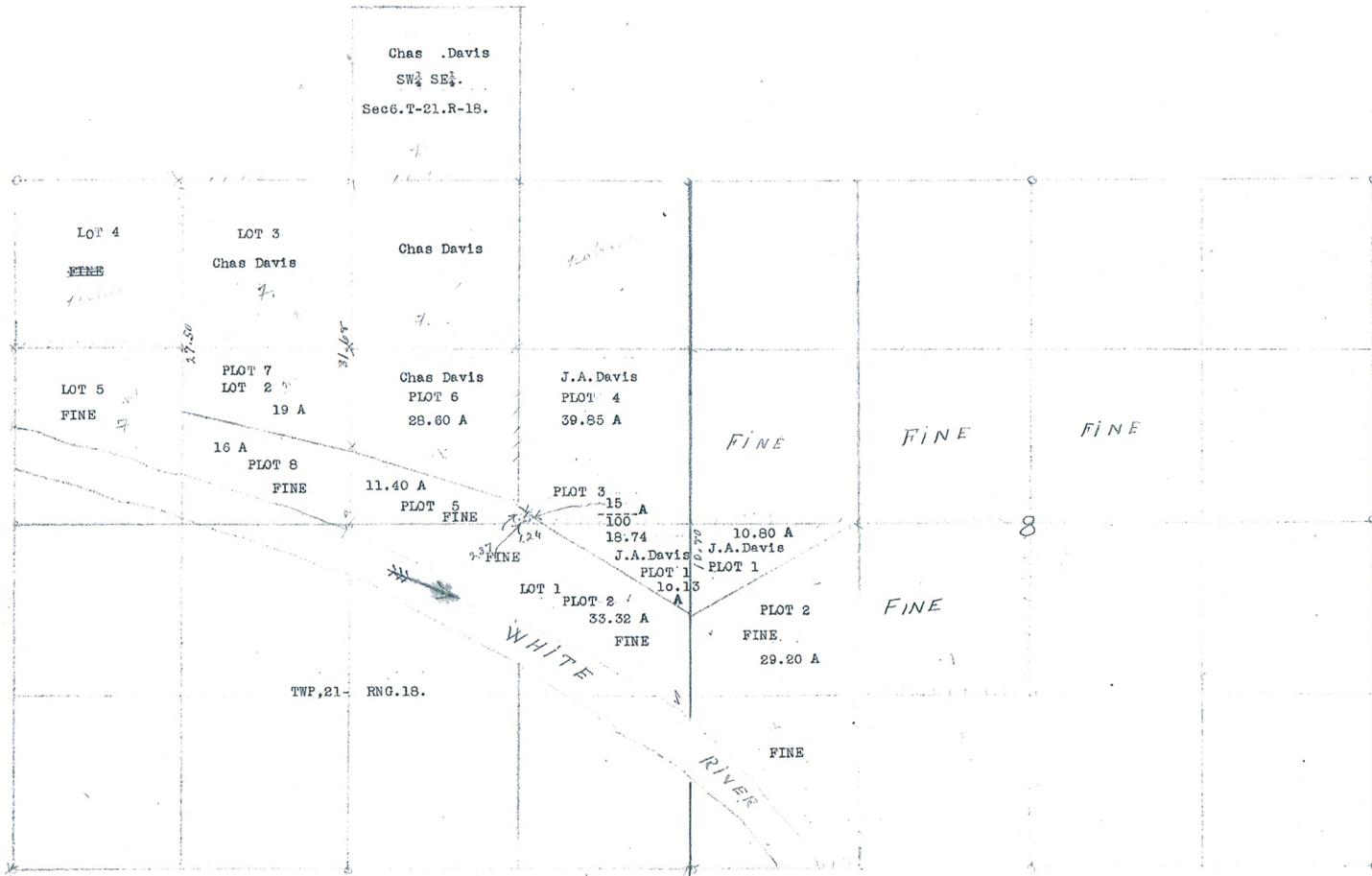


SHIRLEY B KYLE



Sworn to and subscribed before me on
November 6, 2012 by John A. & Shirley B. Kyle.





A. B. FINE - SUBDIVISION.
 A SUBDIVISION OF LOTS 1 AND 2 AND S 1/2 NE 1/4 SEC 7 AND NW 1/4 SW 1/4 SEC 8. ALL
 IN TWP. 21. RNG. 18.

I. N. WALLACE, CO. SURVEYOR IN AND FOR TANEY COUNTY MO.
 HEREBY CERTIFY THAT PLAT HERETO ATTACHED CONFORMS TO MY SURVEY OF
 MARCH 31st 1925.

THIS THE 17th DAY OF APRIL, 1925.

N. D. WALLACE
 CO. SURVEYOR.

SCALE 1" = 660'

Filed for record this 11th day of
 May A. D. 1926 at 11
 O'clock 30 minutes P. M.
 and is recorded in Book 3 Page 445
 By J. H. D. Reporter



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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, SEPTEMBER 19, 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 four members present. They were, Dave Clemenson, Bob Hanzelon, Tom Gideon, Dave Nelson. Staff present, Bob Atchley and Bonita Kissee.

Mr. Atchley 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 before their respective hearings.

Public Hearings:

Richard M. Davis; a request for a variance from the provisions of Sec. 7, Table 1 concerning the required side lot setback along the northern portion of the property located at 191 Eastlake Street. Extensive damage was incurred during the recent tornado making it necessary to replace the roof and siding of the house. When the new trusses were installed the applicant decided to construct a single car garage which would be approximately 23 inches from the side property line. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. Mr. Hanzelon informed the Board that he lives in this neighborhood and asked if anyone had a problem with that. Mr. Clemenson stated that there would not be a problem. Mr. Davis addressed questions from the Board and clarified his request. Mr. Nelson asked where the drains were located. Mr. Davis stated that they are in the front and directs the water to the back where there are grates. The gable overhang will face the neighbor's house. Mr. Hanzelon asked if in an emergency if there is room for a fire truck to get between the houses, or in the windows. Mr. Davis stated that there is room to access the windows, men and hoses, but not to drive a fire truck. He said that there isn't room between any of the houses in the neighborhood. Mr. Clemenson stated there is a letter in the file from two neighbors who is not in favor of the variance. He informed the applicant that the code states there must be 7' from the side setbacks, and that new construction