



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, MARCH 20, 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:

Rick Schmidt

Review and Action:

Minutes, January-February 2013

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT

VARIANCE STAFF REPORT

HEARING DATE: March 20, 2013

CASE NUMBER: 2013-0001V

APPLICANT: Rick Schmidt

REPRESENTATIVE: Rochelle Croteau

LOCATION: The subject property is located at 287 Green Acres Road, Branson, MO; Branson Township; Section 5, Township 23, Range 21.

REQUEST: The applicant, Rick Schmidt is requesting a variance from the provisions of Appendix B, Step 2 (c) (*Division I Permit Application Requirements*) which states that, "No more than one dwelling shall be allowed per two (2) acre lot when using an on-site septic system."

BACKGROUND and SITE HISTORY:

The subject property is described as all of Lot Twelve (12) of the Green Acres Subdivision and contains approximately 2.29 acres according to the Assessor's information. The property contains an existing residence which is currently served by an individual well and septic system, due to the unavailability of a public/central sewer system.

The applicant is seeking to construct a second residence on the +/- 2.29 acre lot.

GENERAL DESCRIPTION:

The applicant, Rick Schmidt is seeking a variance from the provisions of Appendix B, Step 2 (c) (*Division I Permit Application Requirements*) of the Taney County Development Guidance Code in order to allow for the construction of a second residence on the +/- 2.29 acre lot served by on-site septic systems.

REVIEW:

The applicant is requesting a variance from the requirement that only a single dwelling, served by an on-site septic system may be allowed on a single two (2) acre lot, in order to allow for the construction of a second residence on the +/- 2.29 acre lot. The Representative, Ms. Croteau has indicated that due to her age and health restrictions the applicant (her son) is seeking a variance allowing for the construction of a second dwelling in the rear of the property, enabling Mr. Schmidt to provide on-site care for his mother.

A number of the adjoining lots within the Green Acres Subdivision have contained multiple residences for many years.

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 from the provisions of Appendix B, Step 2 (c) (*Division I Permit Application Requirements*) of the Taney County Development Guidance Code concerning the requirement that no more than one dwelling shall be allowed per two (2) acre lot when using an on-site septic system .
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).



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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 5-19-13

Applicant Rick Schmidt Phone 417-501-8396

Address, City, State, Zip 1446 St Louis St Springfield Mo 65802

Representative Rochelle Croteau Phone 417-335-5138

Owner of Record Rick Schmidt Signature: Rick Schmidt

Name of Project: Variance Request - Lot 12 Green Acres Subdivision

Section of Code Protested: (office entry) Appendix B, Step 2 (c)

Address and Location of site: 287 Green Acres Rd BRANSON, MO 65616

Subdivision (if applicable) Green Acres Subdivision

Section 5 Township 23 Range 21 Number of Acres or Sq. Ft. 2.29

Parcel Number 08-3.0-05-000.000.008.000

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:

do to age and health restrictions
I will need Rick's help with my
care therefore we request
permission to add a small house
in the rear of this 2.29 Acre
piece of property Mrs Rachelle Craton



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

Establishment of Quorum:

Mr. Atchley called the roll and could not establish a quorum with only two members present. They were; Dave Nelson, and new member Tony Mullen. Staff present; Bob Atchley and Bonita Kisse.

Election of 2013 Officers:

This will be acted on at the next meeting.

Public Hearings:

Greg and Stephanie Smith, Request for Rehearing;
No one was present.

Brit James Russell:

A request for a variance from Section 7, Table 3 of the Taney County Development Guidance Code and Article 9 Section 3, Table 1 of the Taney County Subdivision Regulations concerning the two acre minimum lot size, on property located at 879 Brockman Road. The property is currently a three acre parcel which was previously part of a 68 acre farm owned by the applicant's father who uses the property for cattle grazing. The applicant's wish to sell the property containing the residence, and allow his father to utilize 2 acres for his farm leaving only one acre for the residence. This will be heard at the next meeting.

Sterling Estates Condominium Owners Association:

A request for a variance from Section 9, Table 1, Section 5.3.1 of the Taney County Development Guidance Code for property located at Iowa Colony Road and Sterling Way. The subject property currently consists of five duplex patio homes held in condominium style ownership. The property owners are wishing to dissolve the condominium owners association and become a whole ownership subdivision and allow the replotting of the ten existing condominium units as a zero lot line. This will be heard at the next meeting.

Review and Action:

Minutes, December 2012; This will be acted on at the next meeting.

Old and New Business:

No discussion.

Adjournment:

With no other business on the agenda for January 16, 2012 the meeting adjourned at 7:01 p.m.



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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, FEBRUARY 20, 2013, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Establishment of Quorum:

Mr. Atchley established a quorum with five members present. They were; Dave Clemenson, Tony Mullen, Dave Nelson, Tom Gideon, and Mark Weisz. Staff present, Bob Atchley and Bonita Kissee.

Election of 2013 Officers:

Dave Nelson nominated Dave Clemenson for Chairman. Tom Gideon seconded. The vote to elect Dave Clemenson as Chairman was unanimous. Tom Gideon nominated Dave Nelson for Vice-Chairman. Seconded by Mark Weisz. The vote to elect Dave Nelson for Vice-Chairman was unanimous.

Call to Order:

Chairman called the meeting to order. 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 by Dave Nelson.

Chairman Clemenson swore in the speakers before their respective hearings.

Public Hearings:

Greg and Stephanie Smith: request for rehearing on a request for an appeal of the Planning Commission denial of a special use permit to utilize an existing, single-family residence for a nightly rental located at 1662 Hill Haven Road which was heard and denied by the Board December 19, 2012. No one was present to speak to the request. Mr. Clemenson entertained a motion to deny. Mr. Nelson made the motion. Seconded by Tom Gideon. The vote to deny was unanimous.

Brit James Russell: a request for variance from Section 7, Table 3, (lot size and frontage requirements) of the Taney County Development Guidance Code and Article 9, Section 3, Table 1 of the Taney County Subdivision Regulations concerning the 2 acre minimum lot size. The property is located at 879 Brockman Road. Mr. Atchley read the staff report, presented pictures and video of the property. Mr. and Mrs. Russell were

present. Jimmy Russell father and surrounding property owner explained the reason for the request being that his son Brit wishes to sell the property allowing his father to absorb the remainder for pasture. Mr. Clemenson clarified that there is a septic tank for wastewater disposal on the site. He discussed with Mr. Russell that to grant the variance would violate the Code and be granting a privilege. Mr. Russell stated that if he couldn't get the variance he would have to move structures and fences. He pointed out that if this property was sold that possibly in the future the property owner could ask for a variance and put another house with septic on it. Mr. Weisz stated that in his opinion this kind of request is in the spirit of how the requirements were written. Mr. Nelson felt that to move fences might create a hardship and that he is in favor of the variance. Mr. Gideon felt the variance should be granted because Mr. Russell owns all the surrounding property and initially it belonged to Mr. Russell anyway. Mr. Weisz also felt it might be a hardship and that it is very low density. After discussion a motion was made by Dave Nelson to approve the request. Seconded by Mark Weisz. The vote to approve was four in favor and one not in favor of the request.

Sterling Estates Condominium Owners Association: a request for a series of variances from Section 9, Table 1 (property line setbacks) and Section 5.3.1 (Lot size and frontage requirements) of the Taney County Development Guidance Code. The property is located on Sterling Way off Iowa Colony Road. Mr. Atchley read the staff report, and presented pictures and video of the property. Ken Buchanan and Pat Lambert, were present to explain the reason for the request. Mr. Buchanan stated that since all properties are sold, all owners take care of their properties themselves making the need for an association unnecessary. The turnaround has been made larger helping to make the setbacks less. Mr. Clemenson reported that the language of the Code has been changed making it possible to do this. Mr. Weisz stated that in his opinion this would be beneficial to the property owners and would not be detrimental to either the neighborhood or property owners. Mr. Weisz made a motion to approve based upon the decision of record. Seconded by Tom Gideon. The vote to approve was unanimous.

Review and Action:

Minutes, December 2012: with no additions or corrections a motion was made by Dave Nelson to approve the minutes as written. Seconded by Tom Gideon. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Atchley reported that the County Commission will consider the latest nightly rental amendment at their next meeting. Discussion followed.

Adjournment:

With no other business on the agenda for February 20, 2013 the meeting adjourned at 7:39 p.m.