



## TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

Phone: 417 546-7225 / 7226 • Fax: 417 546-6861

website: [www.taneycounty.org](http://www.taneycounty.org)

### **AGENDA TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, JULY 17, 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:

*Lake Taneycomo Woods Association*

#### Review and Action:

*Minutes, June 2013*

#### Old and New Business:

*Tentative*

#### Adjournment.



## TANEY COUNTY BOARD OF ADJUSTMENT

### VARIANCE STAFF REPORT

**HEARING DATE:** July 17, 2013

**CASE NUMBER:** 2013-0005V

**APPLICANT:** Lake Taneycomo Woods Development Improvement Association

**REPRESENTATIVES:** Barbara Herd and Kay Holland

**LOCATION:** The subject property is located at 1118 Taneycomo Road, Branson, MO; Scott Township; Section 25, Township 23, Range 21.

**REQUEST:** The applicant, the Lake Taneycomo Woods Development Improvement Association is requesting a variance from the provisions of Section 7, Table 1, (Setbacks) and Section 7.3 (Easements) of the Taney County Development Guidance Code. The applicant is requesting a variance from the required 7' side of lot setback requirement and a variance from the required 25' front of lot setback requirement (Section 7, Table 1) and also a variance from the requirements of the Development Guidance Code that permits will not be issued for any structure that encroaches on any recorded easement (Section 7.3), in order to allow for the issuance of a Division II Permit authorizing the rebuilding of the Lake Taneycomo Woods Development Improvement Association clubhouse.

#### **BACKGROUND and SITE HISTORY:**

The subject property is described as Tract 3, Lake Taneycomo Woods Development, containing approximately 14,000 square feet (Utilizing the Assessor's information via Beacon). The property contained the Lake Taneycomo Woods Development Improvement Association clubhouse and pool. The clubhouse was served by a community water system and a shared septic system, due to the unavailability of a public/central sewer system.

On May 23, 2013 the Lake Taneycomo Woods Development clubhouse was destroyed by fire. The clubhouse was originally constructed in 1972 (per the Assessor's information), prior to the adoption of Planning and Zoning and was therefore viewed as a legally non-conforming (grandfathered) structure. However, upon the demolition of the former clubhouse structure the new structure is required to meet all of the requirements of the Development Guidance Code.

According to a recent boundary survey (as enclosed), the clubhouse was constructed directly upon the western-most property line, with the roof overhang infringing upon the adjoining property. The clubhouse was also located within a 10' easement, as indicated on the recent boundary survey. However, the applicants have indicated that there are no actual utilities physically located within the easement in question.

## **GENERAL DESCRIPTION:**

The subject property is located at 1118 Taneycomo Road, Branson, MO and is described as Tract 3, Lake Taneycomo Woods Development.

The applicant, the Lake Taneycomo Woods Development Improvement Association is seeking a variance from the provisions of Section 7, Table 1, (Setbacks) and Section 7.3 (Easements) of the Taney County Development Guidance Code. Per the provisions of Section 7, Table 1, a structure is required to be setback 25' from the front property line adjoining a subdivision or county road and also 7' from the side property line. Measurements to the structure are made to the portion of the structure that is closest to the property line, which in this instance is the roof overhang. The applicant is requesting a 1.5' setback variance from the front property line, allowing the proposed clubhouse to be constructed 23.5' (at the closest point) from the front property line. The applicant is further requesting a 1.6' setback variance from the western property line, allowing the proposed clubhouse to be constructed 5.4' (at the closest point) from the western side property line. Finally the applicant is also seeking a variance from the requirements of the Development Guidance Code which state that permits will not be issued for any structure that encroaches on any recorded easement, in order to allow for the issuance of a Division II Permit authorizing the rebuilding of the clubhouse which would continue to infringe upon the platted 10' easement.

The applicant is proposing to rebuild the clubhouse which would also be constructed so as to serve as a safe room (built to FEMA standards) for the benefit of the residents within the Lake Taneycomo Woods Development.

## **REVIEW:**

The applicant is requesting a 1.5' setback variance from the front property line, allowing the proposed clubhouse to be rebuilt 23.5' from the front property line. The applicant is further requesting a 1.6' setback variance from the western property line, allowing the proposed clubhouse to be rebuilt 5.4' from the western side property line. Finally the applicant is also seeking a variance from the requirements of Section 7.3 of the Development Guidance Code which states that permits will not be issued for any structure that encroaches on any recorded easement, in order to allow for the issuance of a Division II Permit authorizing the rebuilding of the clubhouse which would continue to infringe upon the platted 10' easement.

The buildable space within Tract 3 is greatly limited due to the location of the existing Lake Taneycomo Woods Development Pool (as shown on the attached GIS aerial photo), the irregular shape of the lot (Particularly the western-most property boundary), the location of the shared septic system and also the on-site topography. The former clubhouse and an adjacent residence located on Tract 1 (as shown on the boundary survey) shared on on-site wastewater (septic) treatment system. The lateral field for this shared wastewater treatment system is located upon the southern portion of Tract 3. The topography of the site is such that it falls off rapidly from the front of the property to the rear of the tract, requiring an extremely large amount of fill material.

Meeting both the setback requirements and ensuring that the building did not encroach upon the 10' easement would greatly limit the size of the structure, also limiting the size of the storm safe room, providing protection for the residents of the subdivision.

## **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 setback variance of 1.5' from the front property line, allowing the clubhouse to be rebuilt 23.5' from the front property line.
2. Approval of a setback variance of 1.6' from the western property line, allowing the clubhouse to be rebuilt 5.4' from the western side property line.
3. Approval of a variance from the provisions of Section 7.3 of the Development Guidance Code allowing for the issuance of a Division II Permit authorizing the rebuilding of the clubhouse which would continue to infringe upon the platted 10' easement.
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 of the Taney County Development Guidance Code).



13-52

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

(Circle one)

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

**PLEASE PRINT**

**DATE** 6-17-13

**Applicant** Lake Taneycomo Woods Association **Phone** 417 335-8481

**Address, City, State, Zip** P.O. Box 6178, Branson, MO 65615

**Representative** Barbara Hard, Kay Holland **Phone** 417 335-8481

**Owner of Record** Lake Taneycomo Woods Assoc. **Signature:** Barbara Hard, Kay Holland

**Name of Project:** Setback Variance and Easement Variance

**Section of Code Protested: (office entry)** Section 7, Table 1 and Section 7.3

**Address and Location of site:** P.O. Box 6178, 1118 Taneycomo Road,  
Branson, MO

**Subdivision (if applicable)** Lake Taneycomo Woods Development Improvement Association

**Section** 25 **Township** 23 **Range** 21 **Number of Acres or Sq. Ft.** 120 X 154.22

**Parcel Number** 08-7.0-25-001-003-047.000

**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.

Lake Taneycomo Woods Dev. Imp. Association, Inc.  
P.O. Box 6178  
1118 Taneycomo Road  
Branson, MO 65615

Re: Variance approval  
Attachment

For several years Kay Holland, secretary of the association, has felt we should have the association's lot at the clubhouse location surveyed. On an instinct, she and I called J-Mark Survey and asked them to survey this area for the association. This was done on May 17<sup>th</sup>. Sad to say, our clubhouse was destroyed by fire by an unknown cause which is the report given by the Western Taney Fire Department on May 23<sup>rd</sup>.

The insurance company totaled the building and it had to be demolished. Almost all of the flat area was the concrete slab still in place. The building was constructed in 1972 and was built on the property line. We understand that since the building had to be demolished that the association should comply with the Taney County Code which says it has to be 10 feet from the property line.

When the building was demolished the wall touching the property line was left standing. The wall left standing is poured concrete. The reason we left it standing is that the wall serves as a retaining wall on the property line. The proposed building including roof overhang is 20'X50'. You may refer to drawing.

1. We are asking for a 7 foot easement that includes the building overhang.
2. There are no utilities in the easement area, they are across the road.
3. Moving the building forward could possibly put stress on the swimming pool wall.
4. There are topographic issues as this is a steep site and the building takes up most of the space.
5. The shape of the lot is irregular. The size of the lot is 120X154.22 which includes the base area of the clubhouse which is 1248 square feet, swimming pool area is 800 square feet and the concrete paving is 1144 square feet. The clubhouse is above the pool and paved area. The fence for the pool is at an angle and narrows the area as it goes to the back of the lot. The septic system is also noted on the survey being on the south end of the building.
6. The pre existing building was destroyed by fire and had to be demolished.
7. Our desire in rebuilding the clubhouse is that it would serve as a reinforced storm shelter that would benefit all members living in the association area. This would also serve as the association office and a common room for the monthly board meeting and for use by the members of the association.
8. The previous building has 1248 square feet. If we must use the easement plan this would mean that our association building could only be approximately 650 square feet which would be one half the size it was before the fire. The 7 foot easement would allow us to have approximately another 350 square feet which would help with having two restrooms, one for the outside entrance for those using the pool and another for inside entrance and also an office area that would be separate from the common room.

RUSS SCHENEWERK & ASSOCIATES, LLC  
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LACEY CHANDLER, OFFICE MANAGER  
JOANN SANTULLI, PARALEGAL  
KATHY PEDIGO, LEGAL SECRETARY

(LICENSED IN MO AND U.S. DISTRICT COURT\*)  
(LICENSED IN MO, LA & U.S. DIST. COURT\*\*)

June 18, 2013

Mr. Bob Atchley, Administrator  
Taney County Planning Commission  
P.O. Box 383  
Forsyth, MO 65653

*Re: 1118 Taneycomo Road  
Lake Taneycomo Woods Development Improvement Association*

Dear Mr. Atchley:

Kindly be informed that this firm represents Barbara Grisham. This letter is being written to ensure that the Planning Commission is aware of a potential dispute over the construction of a structure along a mutual property line. Ms. Grisham owns property located at 1092 Taneycomo Road, Branson, MO 65616. Lake Taneycomo Woods Development Improvement Association (hereinafter the "Association") owns the property at 1118 Taneycomo Road, Branson, MO 65616, which is to the east of Ms. Grisham's property.

The Association tore down its clubhouse located at 1118 Taneycomo Road and intends to start rebuilding it soon. Ms. Grisham is concerned that the Association intends to construct the new clubhouse on her property line. I have advised Ms. Grisham, as well as the Association, that the Taney County Development Guidance Code requires there to be a setback of at least seven feet (7') from the side property lines.

Thank you in advance for any assistance with this matter. Hopefully it is simply a misunderstanding between the two parties and will not be an issue. However, if it does become an issue we respectfully request that the Planning Commission ensure that the Association complies with the Guidance Code requirements for setbacks. If you have any questions or concerns please feel free to contact our office.

Sincerely,

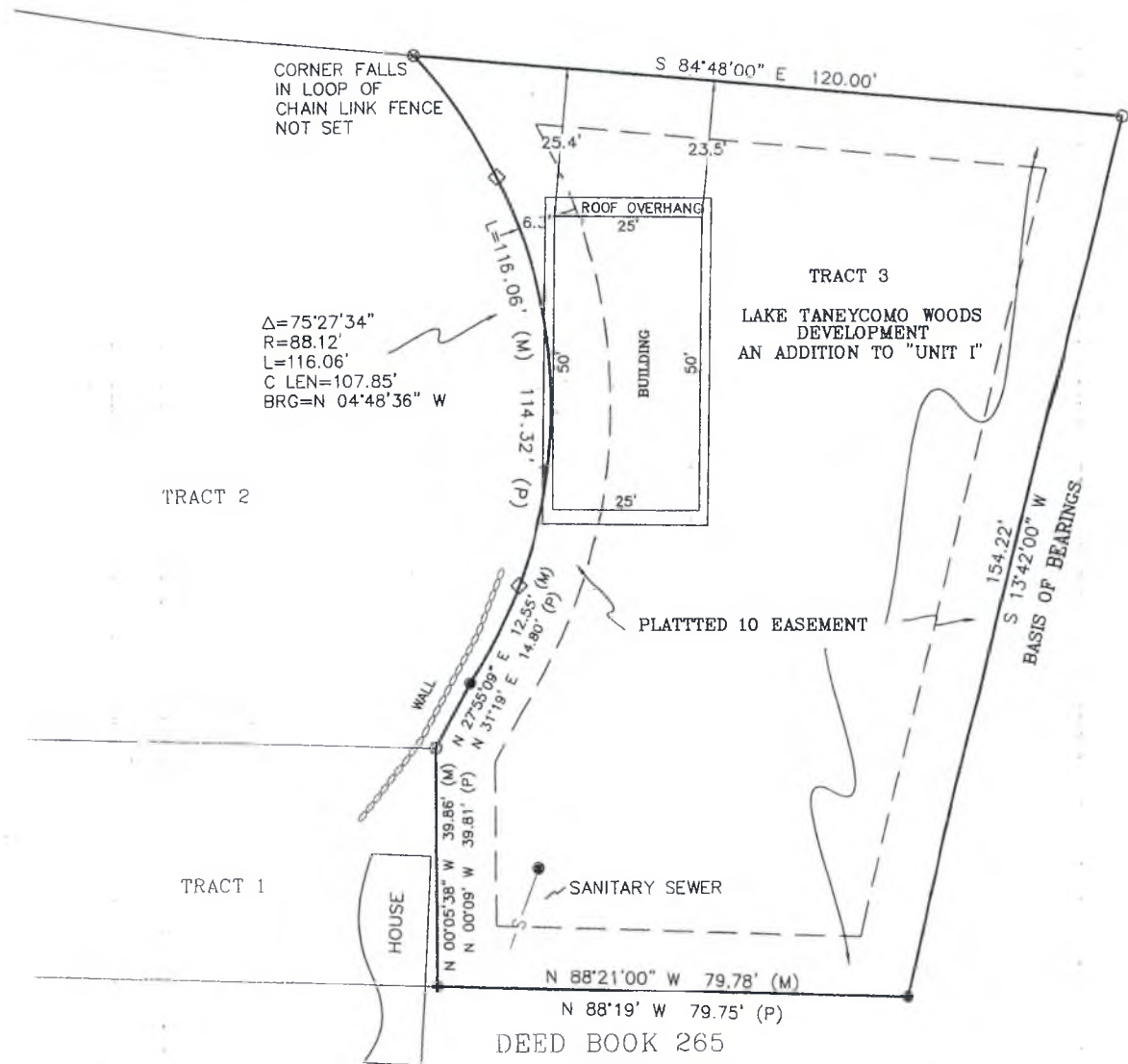
  
Cody A. Fenton  
cc: Client

# Survey - Location of Former Clubhouse

## SURVEY DESCRIPTION

TRACT 3, LAKETANEY  
I" A SUBDIVISION I  
RECORDED PLAT THE  
ENCUMBRANCES AND I

TANEYCOMO ROAD  
ATTED 40' RIGHT-OF-WAY





BASIS OF BEARING:  
EAST LINE ACCORDING TO  
RECORDED PLAT

PLAT REFERENCE:  
BOOK 15 PAGE 39

DEED REFERENCE:  
BOOK 253 PAGE 832

ALL DATA MEASURED  
UNLESS OTHERWISE NOTED

SURVEY TYPE  
SUBURBAN

# Survey - Location of Proposed Clubhouse

## RESULTS OF SURVEY

### SURVEY DESCRIPTION:

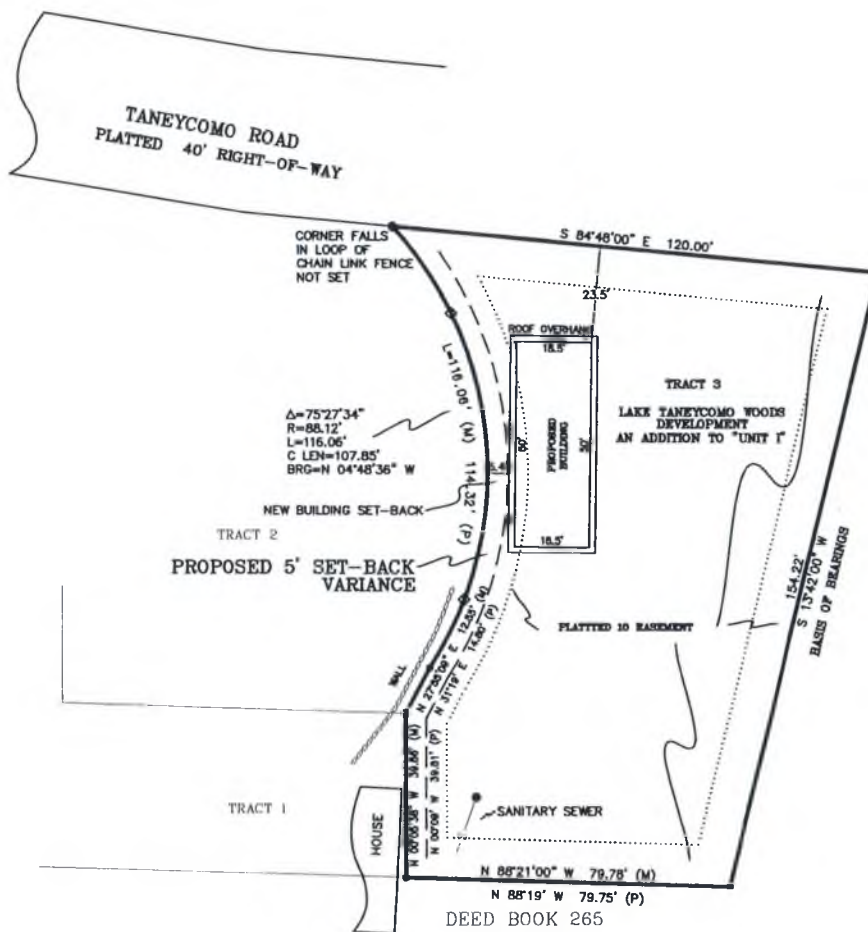
TRACT 3, LAKETANEYCOMO WOODS DEVELOPMENT AN ADDITION TO "UNIT 1" A SUBDIVISION LOCATED IN TANEY COUNTY, MISSOURI. PER THE RECORDED PLAT THEREOF BOOK 15 PAGE 39. SUBJECT TO ANY AND ALL ENCUMBRANCES AND RIGHTS RECORDED OR UNRECORDED.



### LEGEND

- EXISTING IRON PIN
- SET PIN WITH CAP
- ◇ SET WOODEN STAKE ON LINE
- COMPUTED POSITION (NOT SET)
- (M) MEASURED DATA
- (P) RECORDED PLAT DATA

Δ= CURVE DELTA  
R= CURVE RADIUS  
L= ARC LENGTH  
C LEN= CHORD LENGTH  
BRG= CHORD BEARING



TO THE BEST OF MY INFORMATION,  
KNOWLEDGE AND BELIEF, THIS SURVEY  
WAS EXECUTED IN ACCORDANCE WITH THE  
CURRENT MISSOURI MINIMUM STANDARDS  
FOR PROPERTY BOUNDARY SURVEYS.

RICKEY D. KEMP PLS-2006016631

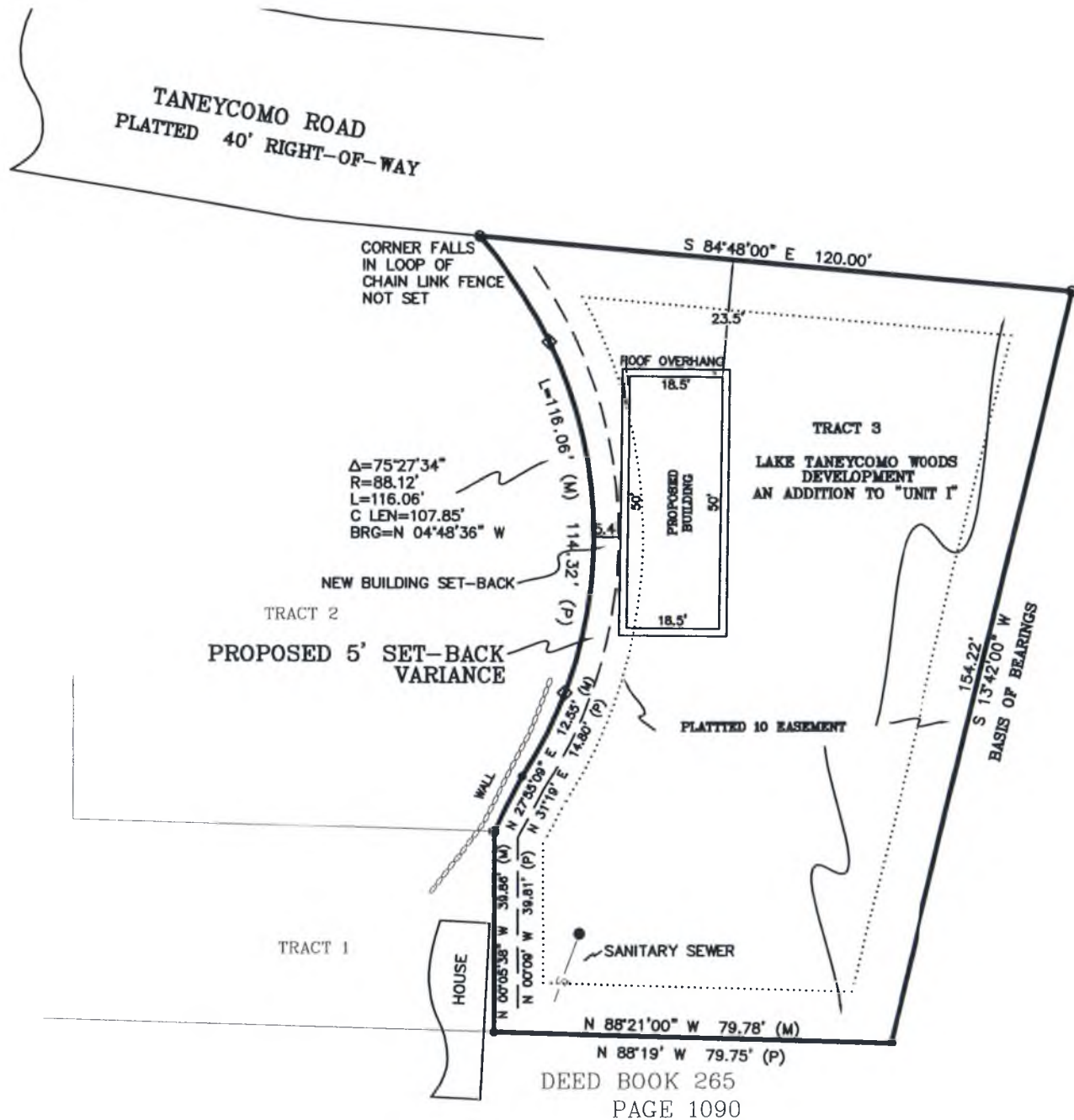


PREPARED FOR: LAKE TANEYCOMO WOODS DEVELOPMENT IMPROVEMENT ASSOCIATION			
SCALE: 1"=20'	LOCATION: 100-400 SECTION 25	DRAWN BY: C/ NICK	
DATE: 06/28/2013	TOWNSHIP: 23-N RANGE: 21-W	COUNTY: TANEY	
PREPARED BY: J-MARK SURVEYING P.O. BOX 623 HOLLISTER, MISSOURI 65673 (417-739-4517)			
RESULTS OF BOUNDARY SURVEY: TRACT 3 LAKE TANEYCOMO WOODS "UNIT 1"			DRAWING NUMBER: 13-086 A

# LEGEND

- EXISTING IRON PIN
- SET PIN WITH CAP
- ◇ SET WOODEN STAKE ON LINE
- ⊗ COMPUTED POSITION (NOT SET)
- (M) MEASURED DATA
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Δ= CURVE DELTA  
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 C LEN= CHORD LENGTH  
 BRG= CHORD BEARING



Survey - Location of Proposed Clubhouse











# NOTICE OF PUBLIC HEARING

## *THE TANEY COUNTY BOARD OF ADJUSTMENT*

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

Applicant: Lake Taneycomo Woods  
Homeowners Association

Request: Variance from Setback  
Req. & Easement Req.

Property Location: 1118 Taneycomo Rd

Hearing Location: Taney County Courthouse  
Time: 7:00pm Date: Wednesday, 7-17-13  
Phone: (417) 326-7225

































## TANEY COUNTY PLANNING COMMISSION

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### **MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, JUNE 19, 2013, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE**

#### Call to Order:

Chairman David Clemenson called the meeting to order. A quorum was established with five members present. They were: David Clemenson, Tony Mullen, Tom Gideon, Mark Weisz, and Dave Nelson. Staff present, Bob Atchley and Bonita Kisse.

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 Mr. Nelson.

Chairman Clemenson swore in the speaker before the hearing.

#### Public Hearing:

Western Taney County Fire Protection District; a request for a variance from the provisions of Section 3.13.3 and Section 7, Table 3 (Lot size and frontage requirements) of the Taney Development Guidance Code, requiring a two-family dwelling (duplex) served by an on-site (septic) system to be located on a minimum lot area of four acres, (two acres per dwelling unit). The property is located at 142 Briggs Road. Mr. Atchley read the staff report and presented pictures and video of the site. Mr. Clemenson asked about the insurance rating. Mr. Single representing the fire district explained that any property served by this section would be rated better because of having a firefighter on site. Mr. Gideon asked about the well and septic system. Mr. Single stated that the well and wastewater system was relatively new. He also explained how close the houses were to the property, and the location of the planned construction. Construction will begin in the fall if approval is given. Mr. Nelson made a motion to approve based upon the decision of record. Seconded by Tom Gideon. The vote to approve was unanimous.

Richard Brown; withdrawn.

#### Review and Action:

Minutes, May 2013; with a correction by Mark Weisz to change a word in the first paragraph of the Tri-Sons discussion from identify to empathize. With this change a motion was made by Dave Nelson to approve the minutes. Seconded by Tom Gideon. The vote to approve the minutes was unanimous.

#### Old and New Business;

Mr. Atchley discussed changing the procedure of cross examination as addressed in the Board of Adjustment Bylaws. Discussion followed. Mr. Nelson felt that this might not be the correct forum for cross examination, and that staff should not be cross examined, only asked questions. Mr. Clemenson suggested getting a legal opinion.

Mr. Atchley reported that there are two requests on the agenda for next month.

#### Adjournment;

With no other business on the agenda for June 19, 2013 the meeting adjourned at 7:25 p.m.