



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 16, 2016, 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:

Josh and Sara Franks, Variance

Review and Action:

Minutes: September 2016

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT

VARIANCE STAFF REPORT

HEARING DATE: November 16, 2016

CASE NUMBER: 2016-0007V

APPLICANTS: Josh & Sara Franks

LOCATION: The subject property is located at 671 and 675 Freeman Lane, Hollister, MO; Oliver Township; Section 20, Township 22, Range 21.

REQUEST: The applicants, Josh & Sara Franks are requesting a variance from 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 concerning the two (2) acre minimum lot size, for properties not having access to public / central sewer.

BACKGROUND and SITE HISTORY:

The subject property is a +/- 3.97 acre meets and bounds described tract of land (per the Certificate of Survey – completed by Larry Gardner on July 25, 1994). The property in question currently contains a stick built, single-family residence; a shop building; a well-house; and a mobile home. The stick-built residence is addressed at 675 Freeman Lane and the mobile home is addressed at 671 Freeman Lane.

The applicants have indicated that on December 29, 2015 their home caught fire, sustaining significant damage, requiring a complete gutting and rebuild of the house.

The applicant's are now wishing to subdivide the +/- 3.97 acre tract of land into two (2) lots via a minor subdivision of the property in question. The applicants have indicated that should the variance be approved that the +/- 3.97 acre tract of land would be subdivided into a two (2) acre tract containing their residence and a +/- 1.97 acre tract of land, containing the mobile home. The applicants have indicated that they are seeking to subdivide the tract in question, in order to allow for the separation of the occupied mobile home (the mobile home is being rented) from their single-family residence; allowing for the bank refinance of the property in question.

GENERAL DESCRIPTION:

The property in question is a +/- 3.97 acre meet and bounds described parcel of property (Per the Certificate of Survey) and contains the applicant's single-family residence, a shop building, a well-house, and a mobile home.

The applicants, Josh & Sara Franks are requesting a variance from 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 concerning the two (2) acre minimum lot size. Per the provisions of these regulations, the minimum lot size for a property served by an on-site wastewater treatment system is two (2) acres.

REVIEW:

The applicants have indicated that they are seeking to subdivide the +/- 3.97 acre meets and bounds described parcel of property into one (1), two (2) acre lot containing their existing, single-family residence and one (1) +/- 1.97 acre lot containing the existing mobile home. The 3.97 acre parcel is only three hundredths (.03 acre or 1,306.8 square feet) of an acre less than the two (2) acre minimum lot size. The applicants have indicated that they are wishing to subdivide the property strictly to allow for the refinance of the property in question. The bank will not approve the refinance of the property in question until either the property is subdivided or the occupied mobile home has been removed.

On December 29, 2015 the applicant's home was severely damaged in a fire, requiring the complete gutting and rebuild of the single-family residence. Now that the home is complete, the applicants have indicated that they are in need of a mortgage refinance so that they can use some equity to replace personal property lost during the fire and also in order to help relieve additional debt that they incurred during the rebuild.

The applicants have indicated that nothing will physically change upon the property in question. Each residence is currently served by an individual septic system and a shared well. The applicants have further stated that they have no plans to add other buildings on the property or perform any major changes to the landscape. The applicants have concluded that it is their intent to refinance their home with two acres of land, in order to restore from the disaster of December 2015 and also to allow for the continued rental of the mobile home that has been in place for the past fifteen (15) years.

The applicants feel that there will be no ill effects on any neighboring property or rights-of-way, and the granting of said variance will not affect the planning or zoning of the area.

STATUTORY REQUIREMENTS OF APPROVAL:

Per the requirements of Missouri Revised Statutes the Board of Adjustment shall 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 for the creation of a +/-1.97 acre lot.
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 Josh and Sara Franks Phone 417-230-1823 (Josh) 417-230-1824 (Sara)

Address, City, State, Zip 675 Freeman Lane, Hollister, MO 65672

Representative same as above Phone

Owner of Record same as above Signature: [Signature]

Name of Project: lot-size variance

Section of Code Protested: (office entry) Section 7, Table 3 Code & Article 1, Section 3 subdivision R.

Address and Location of site: 675 Freeman Lane, Hollister, MO 65672

Subdivision (if applicable) N/A

Section 20 Township 22 Range 21 Number of Acres or Sq. Ft. 3.97 acres

Parcel Number 17-4.0-20-000-000-025.000

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.

Variance Request

Background:

In 2001, we, Josh and Sara Franks, acquired 675 Freeman Lane, Hollister, Missouri, as our first significant purchase of our marriage. The 3.97 acres includes our home, a shop building, a well-house, and a mobile home that is a rental. Over the years, we have remodeled our home, improved the landscape, and performed necessary maintenance for the few different tenants of the mobile residence.

On December 29, 2015, our home caught on fire and sustained significant damage requiring a complete gutting and rebuild of our house. Now that our home is complete, we need to refinance so that we can use some equity to replace personal property lost during the fire and help relieve additional debt incurred during the rebuild.

Problem:

We have unforeseen issues with our land. First, in order for the bank to proceed with our refinance we must divide our land or remove the occupied mobile home. We have no reservations subdividing the land. However, the second problem is our 3.97 acres of land is three hundredths (.03) of an acre less than the two-acre minimum requirement of the Taney County Development Guide Code.

Request:

Our request is that the Board grant a variance to allow the 1.97 parcel for the mobile home. Each residence already has an individual septic system and share one well. The property is bordered by public roadway on both the east and west sides: US Hwy 65 is on the east, and Freeman Lane is on the west. To the north is a field and to the south is open land and neighboring residence. We have no plans to add other buildings on the property or perform any major changes to the landscape. Our intent is as aforementioned to refinance our home with two acres of land, in order to restore from the disaster in December; and, to keep the existing mobile home, as a rental, as we have for the past 15 years.

Resolve:

If granted the variance, there will be no ill effects on any neighboring property or rights-of-way, and doing such will not affect the zoning or planning of the area.

Thank you for your time and consideration.

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.

[Signature]
Signature of Applicant

October 18, 2016
Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY)

S.S. On this 18th day of Oct., 2016.

Before me Personally appeared [Signature], to me know 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.

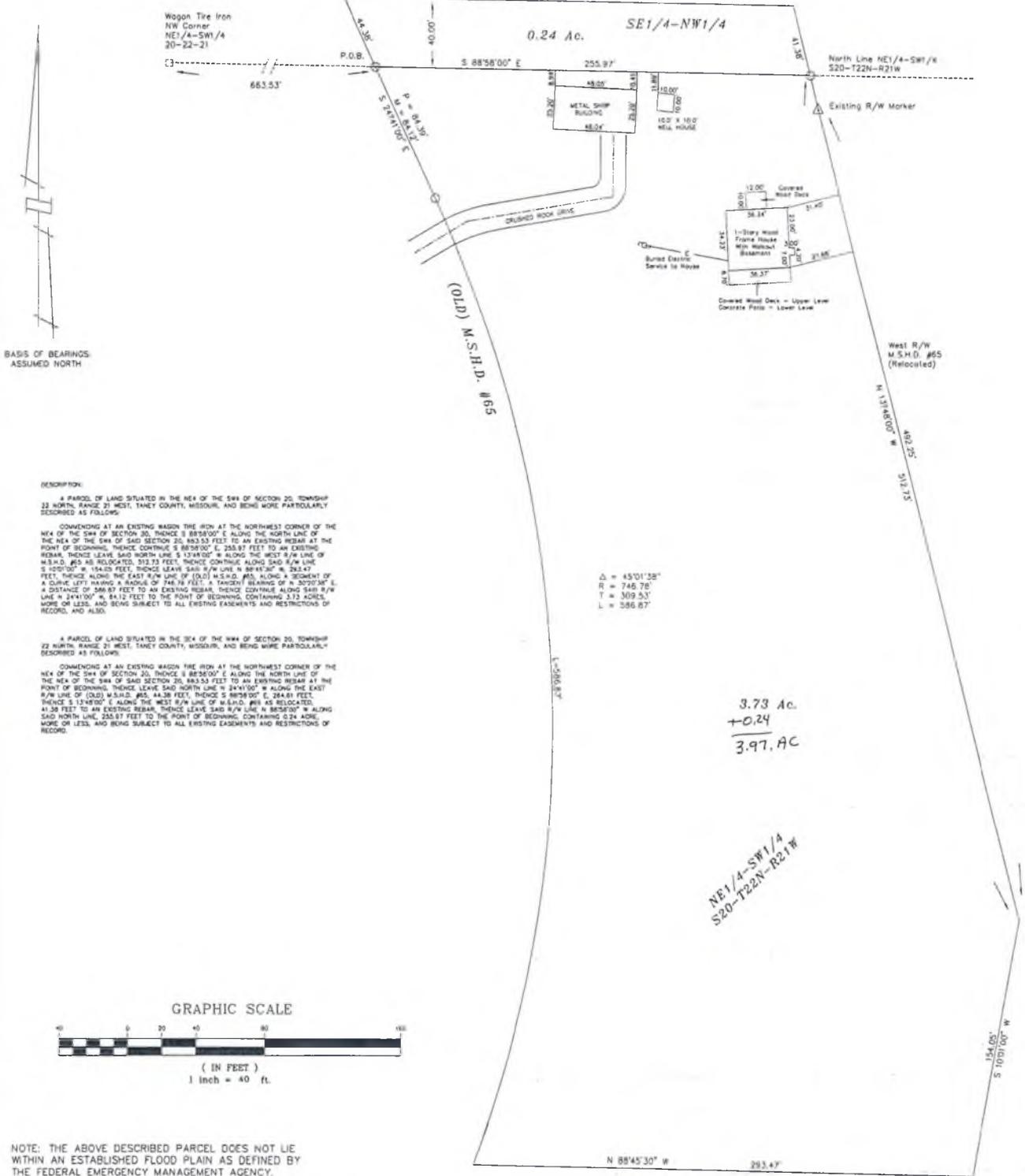
[Signature]
Bonita Kissee-Souttee, Notary Public



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

CERTIFICATE OF SURVEY

Ordered By: GENE KENYON Date: JULY 25, 1994
 Section 20, Township 22 North, Range 21 West, County Taney, State Missouri



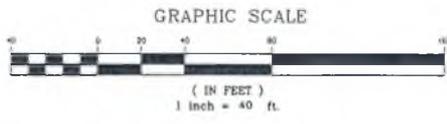
BASIS OF BEARINGS ASSUMED NORTH

DESCRIPTION:
 A PARCEL OF LAND SITUATED IN THE NE 1/4 OF THE SW 1/4 OF SECTION 20, TOWNSHIP 22 NORTH, RANGE 21 WEST, TANEY COUNTY, MISSOURI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT AN EXISTING WAGON TIRE IRON AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SECTION 20, THENCE S 88°58'00" E ALONG THE NORTH LINE OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 20, 863.53 FEET TO AN EXISTING REBAR AT THE POINT OF BEGINNING, THENCE CONTINUE S 88°58'00" E, 255.97 FEET TO AN EXISTING REBAR, THENCE LEAVE SAID NORTH LINE S 17°48'00" W ALONG THE WEST R/W LINE OF M.S.D. #65 AS RELOCATED, 512.73 FEET, THENCE CONTINUE ALONG SAID R/W LINE S 10°00'00" W, 14.00 FEET, THENCE LEAVE SAID R/W LINE, N BEARING S 284.47 FEET, THENCE ALONG THE EAST R/W LINE OF (OLD) M.S.D. #65, ALONG A SEGMENT OF A CURVE LEFT HAND IN RADIUS OF 746.76 FEET, A TANGENT BEARING OF S 30°00'30" E, A DISTANCE OF 588.87 FEET TO AN EXISTING REBAR, THENCE CONTINUE ALONG SAID R/W LINE S 24°41'00" W, 84.12 FEET TO THE POINT OF BEGINNING, CONTAINING 3.12 ACRES, MORE OR LESS, AND BEING SUBJECT TO ALL EXISTING EASEMENTS AND RESTRICTIONS OF RECORD, AND ALSO:

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF THE NW 1/4 OF SECTION 20, TOWNSHIP 22 NORTH, RANGE 21 WEST, TANEY COUNTY, MISSOURI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT AN EXISTING WAGON TIRE IRON AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SECTION 20, THENCE S 88°58'00" E ALONG THE NORTH LINE OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 20, 863.53 FEET TO AN EXISTING REBAR AT THE POINT OF BEGINNING, THENCE LEAVE SAID NORTH LINE S 24°41'00" W ALONG THE EAST R/W LINE OF (OLD) M.S.D. #65, 44.38 FEET, THENCE S 88°58'00" E, 284.61 FEET, THENCE S 13°48'00" E ALONG THE WEST R/W LINE OF M.S.D. #65 AS RELOCATED, 41.38 FEET TO AN EXISTING REBAR, THENCE LEAVE SAID R/W LINE N BEARING S 225.97 FEET TO THE POINT OF BEGINNING, CONTAINING 0.24 ACRES, MORE OR LESS, AND BEING SUBJECT TO ALL EXISTING EASEMENTS AND RESTRICTIONS OF RECORD.

Δ = 45°01'38"
 R = 746.76'
 T = 309.53'
 L = 386.87'

3.73 Ac.
 + 0.24
 3.97 AC



NOTE: THE ABOVE DESCRIBED PARCEL DOES NOT LIE WITHIN AN ESTABLISHED FLOOD PLAIN AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT I HAVE MADE AN ACTUAL AND ACCURATE SURVEY OF THE LANDS DESCRIBED HEREON AND FOUND UNDEVELOPED TO BE AS INDICATED. THIS SURVEY IS IN ACCORDANCE WITH STANDARDS ADOPTED BY THE MISSOURI BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

LARRY A. GARDNER R L.S. 1458

LEGEND

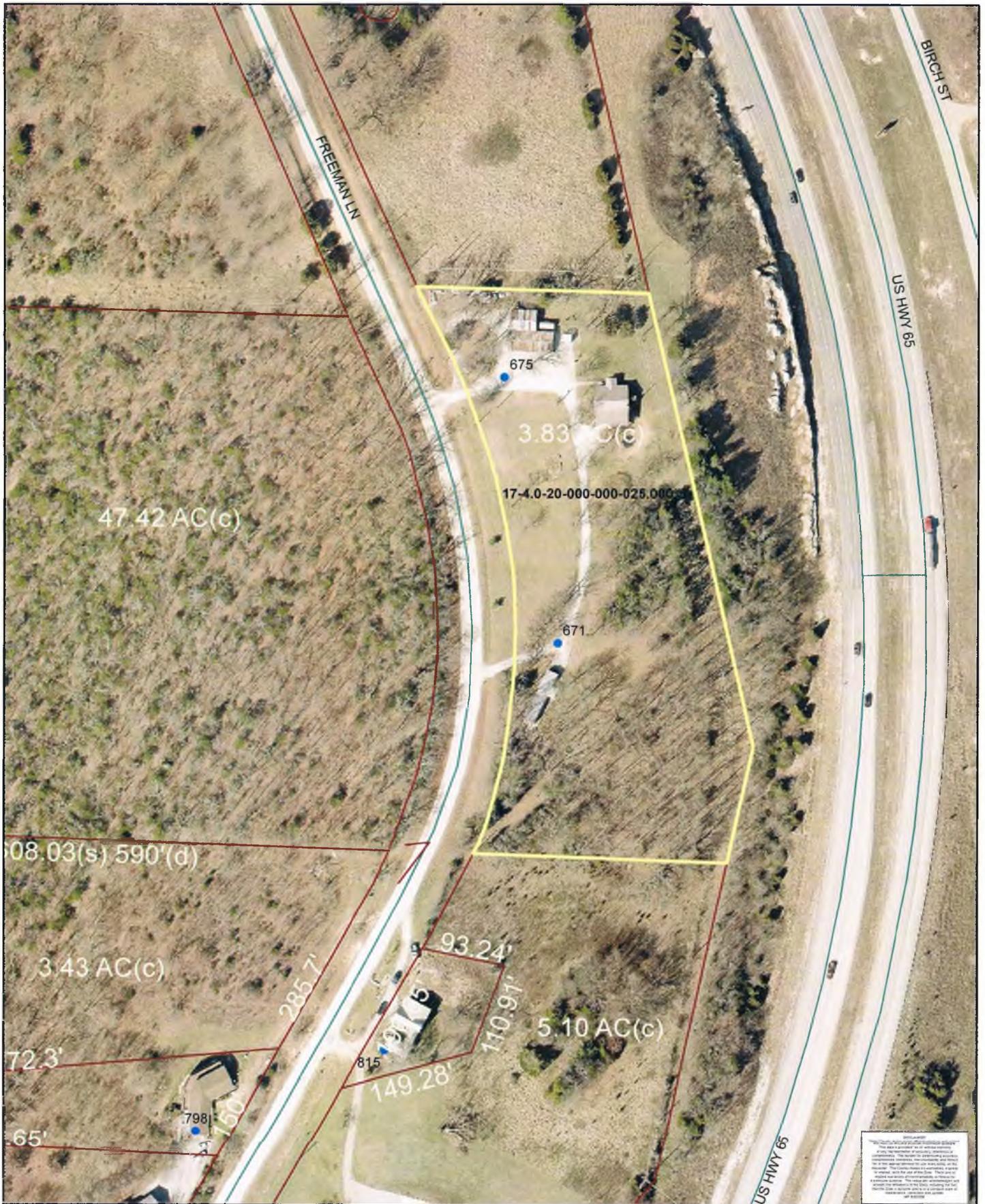
○	= EXISTING IRON PIN, EXCEPT AS NOTED.
●	= 5/8" IRON PIN SET
—○—○—	= CHAIN-LINK FENCE.
—○—○—	= WIRE FENCE.
—○—○—	= WOOD FENCE.

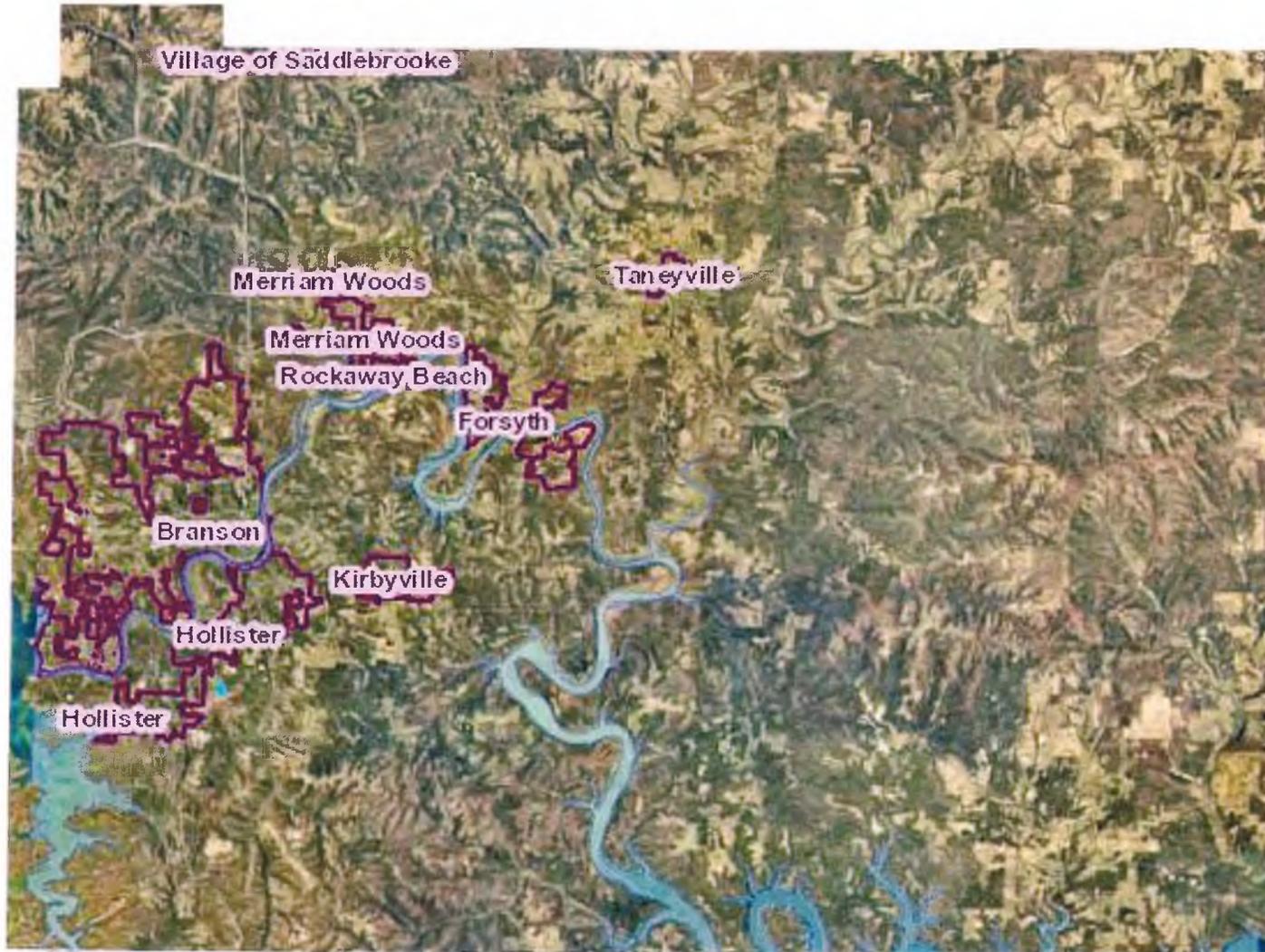
MIDWEST SURVEYORS
 P.O. BOX 754
 BRANSON, MO 65616
 TELEPHONE & FAX (417) 334-5195

DATE: JULY 25, 1994	DRAWN BY: RJA
SCALE: 1" = 40'	CHECKED BY: LAG
JOB NO.:	DRAWING NO.: 80-3527

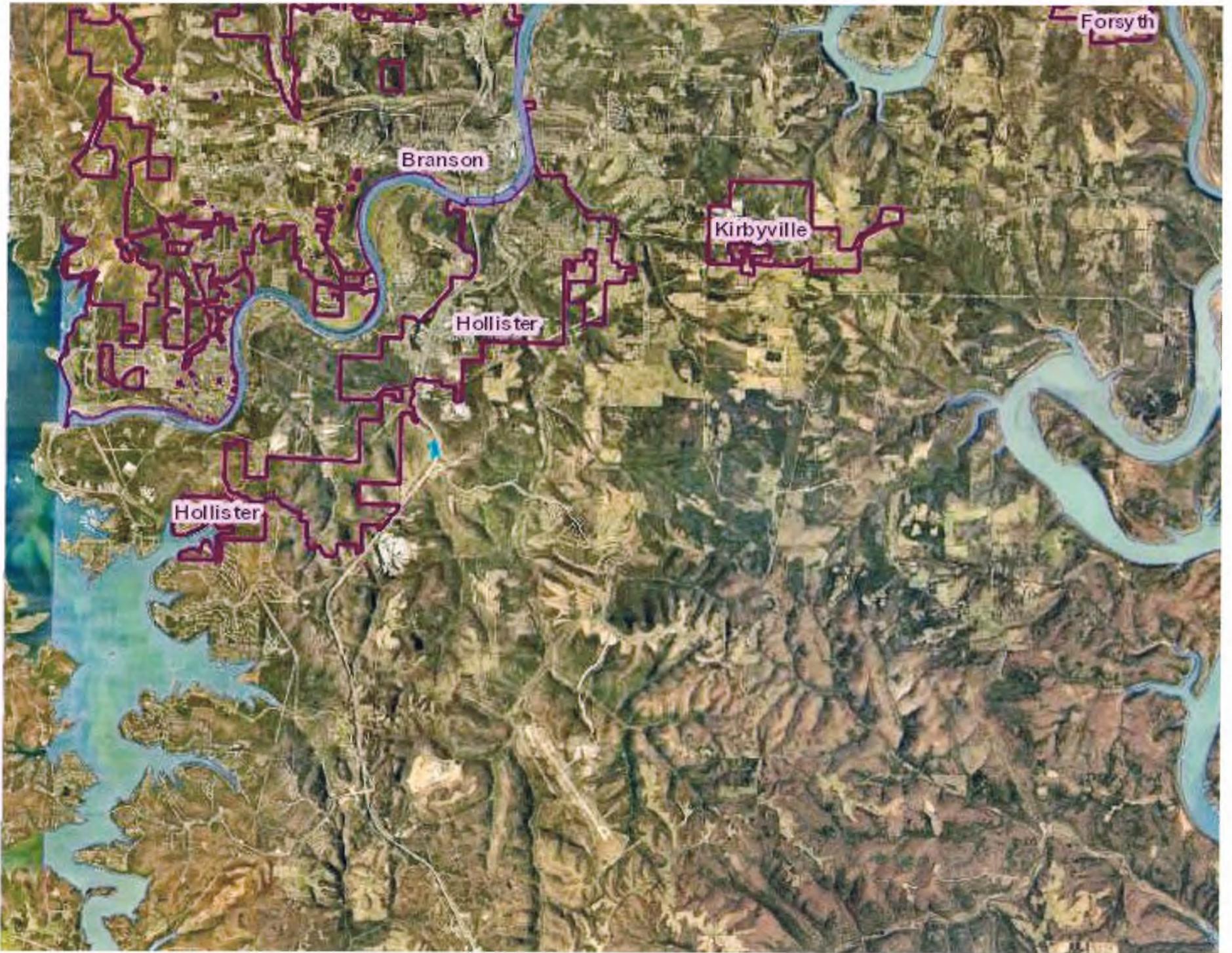


BOA Josh and Sara Franks





**Josh & Sara Franks Minimum Lot Size Variance Request
671 and 675 Freeman Lane, Hollister, MO
Case # 2016-0007V
Taney County GIS - Beacon**













**Josh & Sara Franks Minimum Lot Size Variance Request
671 and 675 Freeman Lane, Hollister, MO
Case # 2016-0007V
Pictometry – View from the North**



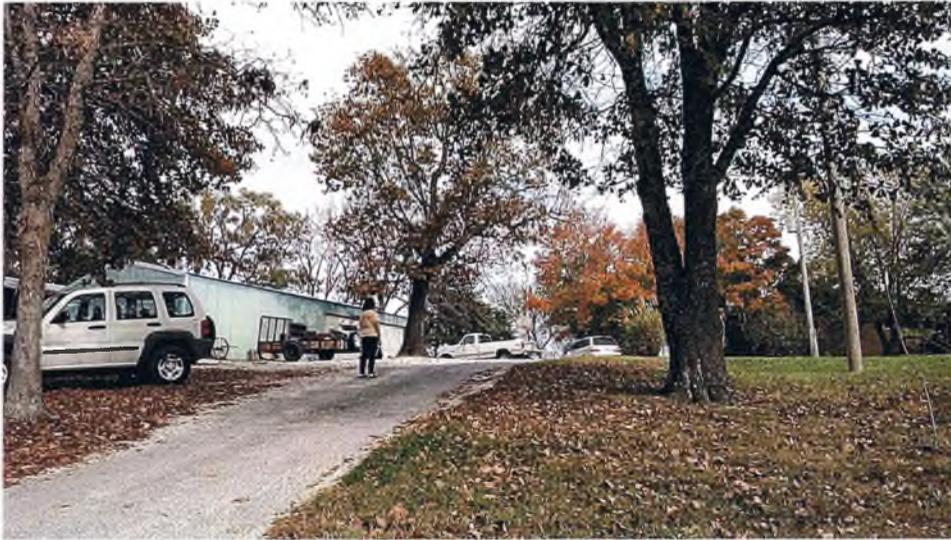
**Josh & Sara Franks Minimum Lot Size Variance Request
671 and 675 Freeman Lane, Hollister, MO
Case # 2016-0007V
Pictometry – View from the South**

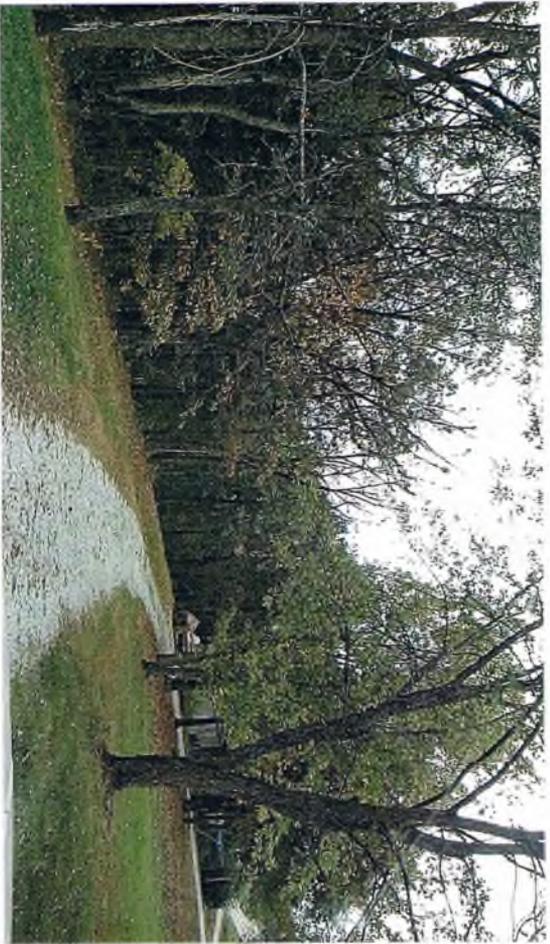
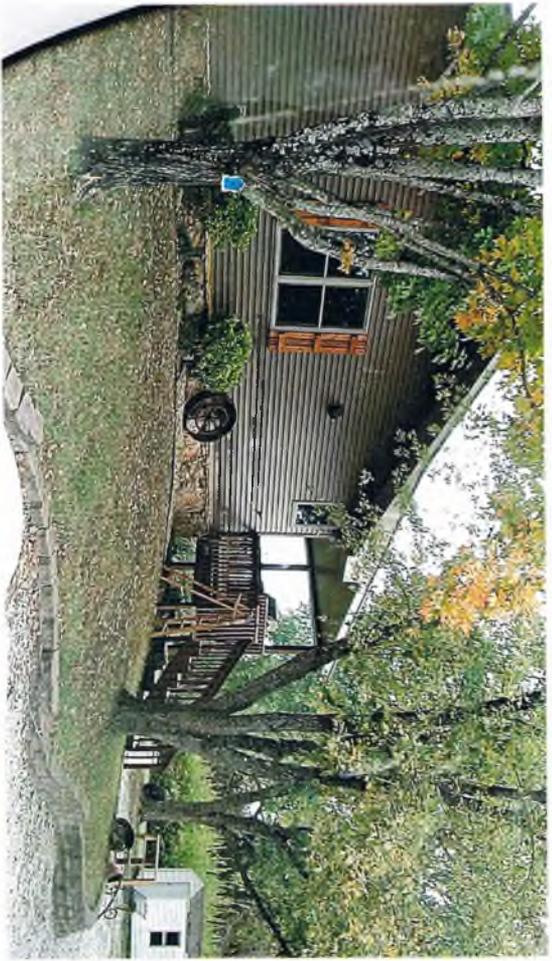


**Josh & Sara Franks Minimum Lot Size Variance Request
671 and 675 Freeman Lane, Hollister, MO
Case # 2016-0007V
Pictometry – View from the East**



**Josh & Sara Franks Minimum Lot Size Variance Request
671 and 675 Freeman Lane, Hollister, MO
Case # 2016-0007V
Pictometry – View from the West**













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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, SEPTEMBER 21, 2016, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dan Boone called the meeting to order and established a quorum with four members present. They were: Dan Boone, Howard Kitchen, Tony Mullen, and Tom Gideon. Staff present; Bob Atchley and Bonita Kisse-Souttee.

The statutes which govern the Board of Adjustment were read and each speaker sworn in before their respective hearings.

Mr. Atchley read a statement explaining the public hearing 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.

Public Hearings:

Cindy Jones-Taylor; a request for a variance from the provisions of Section 7, Table 1, (setbacks) of the Taney County Development Guidance Code on property located at 318 Staake Spur, Kisse Mills, MO. The applicant is requesting a variance from the required side property line setback requirements, 8' side setback variance allowing the new storage shed structure to be construct 4 ½' from the north side property line adjoining Staake Spur. Mr. Atchley read the staff report and presented maps, pictures, and a video of the site. Ms. Jones-Taylor was present to address any questions from the Board. No one from the public signed up to speak. Mr. Kitchen discussed the safety factor of the proposed addition being too close to the road and that it is on a corner. Mr. Mullen asked if it could be placed on the other side of the house. Ms. Jones-Taylor said that she was hoping to put a turnaround on that side. With no other discussion a motion was made by Tom Gideon to approve based upon the decision of record. Seconded by Mr. Kitchen. The vote to approve was unanimous.

Shirley J. Erickson; a request for a variance from the provisions of Section 7, Table 1 (setbacks) of the Taney County Development Guidance Code for property located at 145 Sundae Mountain Pass, Hollister, MO. The applicant is requesting a variance from the required front and side property line setback requirements. A 7' front setback variance allowing the new Carolina Carport structure to be constructed 3' from

the front property line and also a 4' side setback variance allowing the structure to be constructed 1' from the east side of the property. Mr. Atchley read the staff report and presented maps, pictures and a video of the site. Ms. Erickson was present to address any questions from the Board. Two people signed up to speak. Mr. Akley who is a member of the architectural committee stated that they weren't notified when the applicant poured the concrete. In his opinion this request should not be granted because there isn't enough room in the park for everyone to do this. Ms. Erickson stated that in her opinion the concrete isn't taking up any more room than the gravel and cars parked there. She wants this done because it is easier to pull in and out of the driveway, and the carport will protect her RV. In her opinion this has been done all over the park. Mr. Kitchen asked how many neighbors were notified and clarified that the next door neighbor was present. Mr. Gideon asked how 24' was derived; Ms. Erickson stated that she measured the RV with the slide outs open. Mr. Gideon asked why she wanted to open the slide outs if it was just parked. She stated that so she could walk through it if needed. Mr. Gideon asked if she could utilize 20'. Ms. Erickson stated that she couldn't because the slide outs couldn't be opened with the cars parked there. Mr. Mullen clarified what a Carolina car port was. Mr. Kitchen asked if she would ever want to put sides on the carport and she stated that she wouldn't as long as she owned it. Mr. Boone clarified that as long as she owned the property whether or not the variance was granted she would park the RV there. After discussion a motion was made by Mr. Kitchen to approve based upon the decision of record. There was no second. The motion died. A motion was made by Mr. Mullen to deny the request. Mr. Gideon seconded. The vote to deny was three in favor of denial and one against. Mr. Boone explained to the applicant that she can appeal the decision.

Review and Action:

Minutes; July 20, 2016. With no additions or corrections a motion was made by Mr. Mullen to approve the minutes as written. Seconded by Mr. Kitchen. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Atchley stated that there aren't any applications for October.

Adjournment:

With no other business on the agenda for September 21, 2016 the meeting adjourned at 6:43 p.m.