

**PLANNING AND ZONING APRIL 2007 BOA PACKET**

**TANEY COUNTY BOARD OF ADJUSTMENT**  
**STAFF REPORT**  
**CHARLIE DANIELS**  
**APRIL 18, 2007**  
**#07-05**

Public Hearing for Charlie Daniels located at 146 Riverlake Circle in the Oliver Township, Sec. 18 Twp. 22 Rng. 21.

The applicant represented by Eddie Wolfe request a variance from the Taney County Planning Commission Decision of Record Item 5.

History: Charlie Daniels was authorized by the Planning Commission to develop a condominium project containing 28 units October 16, 2006. The Decision of Record specifies all structures contain only one story.

General Description: The subject property contains 3.17 acres and is located off Acacia Club Road on Riverlake Circle. The adjoining properties to the development consist of single family residential, multi-family, and commercial.

Review: The variance request will consist of omitting #5 from the Decision of Record approval, which states that all buildings shall be one story. Mr. Daniels would like to add a loft to the condominiums.

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

1. Variance from #5 of the Taney County Planning Commission Decision of Record October 16, 2007.
2. Compliance letter from the Fire District. (Chapter VI-VII).
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire. (Chapter II Item 6).

**AGENDA**

**TANEY COUNTY BOARD OF ADJUSTMENT  
WEDNESDAY, APRIL 18, 2007, 7:00 P.M.  
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM  
TANEY COUNTY COURTHOUSE**

Call to Order:

*Establishment of Quorum  
Explanation of Public Hearing Procedures  
Presentation of Exhibits  
Governing Statutes*

Public Hearings:

***LT's Honky Tonk***  
*Charlie Daniels  
Judy Miether*

Old and New Business:

Review and Action:

*Minutes, March 2007*

Adjournment.

**TANEY COUNTY BOARD OF ADJUSTMENT**  
**STAFF REPORT**  
**JUDY MIETHER**  
**APRIL 18, 2007**  
**#07-3**

Public Hearing for Judy Miether located at 116 Bethany Road in the Swan Township Sec.20 Twp. 24 Rng. 20.

The applicant Judy Miether would like to add an additional home to her property.

History: There is an existing RV repair business and U-Haul rental on the property as well as three structures being used as residences. One of those being an RV, which is skirted and hooked to permanent wastewater disposal. Another residence houses a daycare operation. Various storage of RV's and other storage facilities exist on the property.

General Description: The subject property contains 392,000 sq. ft and is located off St. Hwy. 160 on Bethany Road. The adjoining properties to the development consist of residential, agricultural, and commercial.

Review: The variance request will consist of the addition of another single-family residence.

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

1. Variance is for the addition of a single-family residential subdivision (Chapter III Sec. 2C).
2. Compliance letter from the Fire, Water/DNR, and Sewer Districts (Chapter VI-VII).
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).

**TANEY COUNTY BOARD OF ADJUSTMENT**  
**STAFF REPORT**  
**LT'S HONKY TONK LLC**  
**APRIL 18, 2007**  
**#07-4**

Public Hearing for LT'S Honky Tonk located at 3719 Old Ridgedale Road in the Oliver Township Sec. 21 Twp. 21 Rng. 21.

The applicant Lonnie Scott requests approval to operate a restaurant and lounge from an existing building on less than two acres.

History: The project presented their concept before the Planning Commission November 20, 2006, and appeared for public hearing December 11, 2006. The Planning Commission voted unanimously to table the project December 18, 2006 at final vote based upon the applicant presenting plans for buffering, parking, wastewater disposal, and occupancy figures. If these requests were met the applicant was to appear for final vote in January 2007. The project appeared for final vote at the February 2007 meeting where it was denied based upon the property being less than two acres making the request a prior non-conforming use. There is no central sewer system available for this property and to use a private wastewater system a site must be at least two acres.

General Description: The subject property contains 1.86 acres and is located off St. Hwy. 86 to Old Ridgedale Road. The adjoining properties to the request consist of commercial and residential. Since the project first applied for land use change a mobile home has been added on the north side of the building on the adjoining property.

Review: The applicant is asking for a variance from Chapter 3 Section 4 Item 5C of the Taney County Development Code as it applies to lot size for a private sewage system.

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

1. Compliance with the provisions of the Taney County Development Guidance Code, Planning Commission Decision of Record February 2007.
2. Variance from Chapter 3 Section 4 Item 5C of the Development 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 II Item 6).

## **MINUTES**

### **TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, FEBRUARY 21, 2007, 7:00 P.M. ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM 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 Anderson, Alan Lawson, and Carl Pride. Staff present: Eddie Coxie, Bonita Kisse, Marla Pierce, and Kurt Larsen.

Election of Officers: Alan Lawson nominated Dave Clemenson as Chairman. Bob Anderson seconded. The vote to elect Mr. Clemenson as Chairman was unanimous. Bob Anderson nominated Alan Lawson Vice-Chairman. Seconded by Carl Pride. The vote to elect Mr. Lawson as Vice-Chairman was unanimous.

A statement explaining the meeting procedures was read and the Taney County Development Guidance Code was placed into evidences as Exhibit A, the Staff Report as Exhibit B, and the staff files, including all pertinent information, as Exhibit C, and the Taney County Board of Adjustment bylaws as Exhibit D. The State Statutes that empower and govern the Board of Adjustment were read. The speakers were sworn in before each case was heard.

#### **Public Hearings:**

A request by Gary R. Stecklein for a variance from the setback from Birmingham Road for an encroachment of the existing garage onto the required 25' setback. The property contains an existing garage on 8 acres and the applicant constructed an addition to the garage without a permit within the setback area. Mr. Coxie read the staff report and presented pictures and a video of the site. Mr. Stecklein explained the reason for his request. He stated that the building was ordered from a company who told him he didn't need a permit. There are no recorded property lines from the road to his property according to Mr. Stecklein who stated that he discussed moving the road with the County Road and Bridge Dept. and was told that the property owners on one side of the road would donate 25'. Mr. Stecklein stated that he would donate some of his property to have the road moved, but says it isn't imperative to him that this happen. He simply would like to be able to leave his garage as is. Mr. Lawson

asked the applicant if he would donate 25' would he donate 50', the applicant agreed that he would. Mr. Coxie stated that he is 5' off the road and if he were to move his garage, then the house is also out of compliance. Birmingham Road is a very narrow road all the way and is County maintained. Rick Treese a property owner who is against the request stated that if Mr. Stecklein had applied for a permit this problem wouldn't exist. Mr. Treese stated that the traffic is bad on that road in the summertime and is very dangerous. The road goes to the government take line. He feels that the building is too close to the road and is very dangerous. Mr. Clemenson asked Mr. Pennel if he could address the issue. Mr. Pennel stated that the applicant had approached the Commission to move the road, and this was the first request they had to move this road. He reported that no suggestions or decision was made and stated that at certain points on the road would not be practical to widen. Mr. Anderson stated that since no easement is established how would the Board make a decision. Mr. Coxie reported that according to legal counsel measurements would be taken from the edge of the road (blacktop to blacktop). Discussion followed. Mr. Lawson asked if the applicant had applied for a permit, how would staff proceed. Mr. Coxie stated that the county attorney would have been consulted because it is a county road and is not county road standards. Mr. Coxie reported on his findings when he first measured the setbacks. Mr. Treese stated that other property owners who received permits were asked to comply with the current standards. He then stated that he would not like to see Mr. Stecklein have to tear down his building but would like to see the county make the road to their standards and have it moved so it would be safer. Mr. Anderson made a point that at some time in the future since so much development is being done the road would need to be redone by the county. Discussion followed. Mr. Stecklein apologized for misquoting the Commission. Mr. Clemenson stated the issue at hand is the frontage of the property from the structure to the road. Mr. Anderson stated that if the 5' variance is not granted the applicant would be out the expense of moving the structure, and suggested tabling the decision until the Commission decided if they would move the road. Mr. Coxie explained the procedure for coming into compliance. The Board then asked Mr. Pennel if the Commission would negotiate with the applicant on moving the road. Mr. Pennel stated that he is only one of a three member Commission and cannot speak for the entire Commission. Bids would have to be taken and the process would take time to move the road. He stated that he would certainly take the problem into consideration and that there are obvious problems with moving the road. Mr. Lawson stated that he would not ask for an entire road to be moved because of one 5' encroachment, but would like the Commission to take into consideration the road safety and that the applicant is volunteering 50'. Discussion followed. Mr. Larsen suggested that if the road did go through the problem wouldn't exist, if the variance is granted not much of the road would be given up, and suggested granting the variance with the suggestion that the County look into fixing the road. Alan Lawson made a motion to grant the 5' variance based upon

the decision of record. Bob Anderson seconded. The vote to approve the variance was unanimous.

Thomas W. Schaefer: a request for a reconsideration of the denial of an appeal of the Taney County Planning Commission decision of November 20, 2006 to deny approval to develop a condominium project. The representative Dan Ruda explained the reason for the request being the appeal was filed incorrectly because it was not filed under the name of an aggrieved party. It has now been filed again. Mr. Clemenson questioned staff of the requirements to warrant a reconsideration. Discussion followed. Mr. Larsen recommended that this request be postponed until staff can consult with legal counsel. Mr. Clemenson then polled the members to see if a reconsideration would be considered by them. Mr. Lawson stated that this is the same project and same request whether the name is different or not. All members were in agreement to postpone the reconsideration hearing until next month.

Old and New Business:

Staff reported that there is one request for next month.

Review and Action:

Minutes, December 2006: with no additions or corrections a motion was made by Alan Lawson to approve the minutes as written. Seconded by Carl Pride. The vote to approve the minutes was unanimous.

Adjournment.

With no other business on the agenda for February 21, 2007 a motion was made by Bob Anderson to adjourn. Seconded by Alan Lawson. The vote to adjourn was unanimous. The meeting adjourned at 8:10 p.m.