



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, SEPTEMBER 20, 2017 6:00 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:

#17-10V Northpointe Development Co. LLC

Review and Action:

Minutes, July 2017

Old and New Business:

#17-06A Rehearing Request, Permanent Residents of Branson Creek

Adjournment

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

Posted: 09/14/2017 By: MP Time: 10:00 am

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.



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TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT
FOR VARIANCE OR APPEAL

(Circle one)

17-10V



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

PLEASE PRINT

DATE 8-21-17

Applicant Northpointe Development Co, LLC Phone 417-263-1744

Address, City, State, Zip 117 TROPHY RUN RD, BRANSON, MO 65616

Representative Ross Summers Phone 417-263-1744

Owner of Record Northpointe Development Signature: Ross Summers

Name of Project:

Section of Code Protested: (office entry)

Address and Location of site: 511 Bee Creek Rd, BRANSON, MO
Branson Township

Subdivision (if applicable)

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

Parcel Number 08-5.0-21.003-002-010-000

Does the property lie in the 100-year floodplain? (Circle one) Yes [checked] 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.

Meeting Date: 9-20-17 email = R.Summers13@yahoo.com

Describe in detail the reason for your request.

Subject Property: 511 Bee Creek Rd., Branson, MO

Northpointe Development Co. LLC owns the former medical building at 511 Bee Creek Rd. The building sits on approximately 2 acres and has been vacant for approximately five years.

The subject property is under contract to be sold, with the offer calling for the building and one acre of land to be included in the sale. The building is currently on a septic system with sewer available but not connected.

Applicant requests that a lot split of less than two acres be granted, with the stipulation that the property will connect to Branson City sewer prior to any certificate of occupancy being granted. Buyer has indicated that this condition is acceptable and willing to enter any agreement in accordance to such requirement.

Exhibit "A"

Northpoint Development LLC (Seller)
Kendall Combs and or assigns (Buyer)



511 Bee Creek, Branson Mo 65616 Taney County
Approximately 8000 +/- sqft together with one (1)
acre of land. Final legal to be determined by survey.

Seller Initials _____

Buyer Initials _____



Taney County Board of Adjustment Staff Report

HEARING DATE: September 20, 2017

CASE NUMBER: 2017-10V

PROJECT: Lot size Variance

APPLICANT: Northpointe Development Company LLC

REPRESENTATIVE: Ross Summers

LOCATION: The subject property is located at 511 Bee Creek Road, Branson, Missouri, Branson Township; Section 21, Township 23, Range 21.

REQUEST:

The applicant, Northpointe Development Company LLC, represented by Ross Summers, are requesting a lot size variance from the provisions of Article 9, Section 3, Table 1 (lot size) of the Taney County Development Guidance Code Subdivision regulations. The request is for a variance from the required two (2) acre minimum lot size for a structure on septic. The applicant is requesting to split one (1) acre from the twenty three (23.1) acre parcel to include the former medical building located at 511 Bee Creek Road.

BACKGROUND and SITE HISTORY and GENERAL DESCRIPTION:

As per the Taney County Assessor’s information the subject property is 23.1 acres in size. There is currently a medical office building on the property, built in 1982.

REVIEW:

The building on the proposed one (1) acre parcel has the availability to connect to the City of Branson sewer and this has been confirmed in conversation with Kendall Powell of the Branson City Utilities Department. The one (1) acre lot would need a minimum area of eight thousand (8,000) square feet and seventy (70) feet of road frontage which will be met from the proposed

drawing provided. The property to the north of the building is currently the Branson Dental Center with US highway 65 to the west and undeveloped properties to the south and east. The applicant has requested the variance with the added agreement that in the Decision of Record the building will not receive the Certificate of Compliance until connected to City of Branson sewer and the septic system is disconnected.

STATUTORY REQUIREMENTS of APPROVAL of a VARIANCE:

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 Variance Request Case #2017-10V, the following requirements shall apply, unless revised by the Board:

1. Approval of minimum lot size (Article 9, Section 3, Table 1) for lots on septic of two (2) acres to a minimum of eight thousand (8,000) square feet with the requirement to connect to City of Branson sewer before a Certificate of Compliance will be issued.
2. No occupancy or opening for business before the Certificate of Compliance has been issued.
3. Compliance letter from the Western Taney County Fire Protection District.
4. Compliance with all of the other provisions of the Taney County Development Guidance Code.
5. A Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 Days or the approval shall expire (Appendix D, Step 6).



BOA Variance Northpointe Development LLC



NOTICE OF PUBLIC HEARING

*THE TANEY COUNTY
BOARD OF ADJUSTMENT*

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

Applicant: *North Pointe Development Co*

Request: *Variance, Lot Split*

Property Location: *511 BEE CREEK RD*

Hearing Location: *Taney County Courthouse*
Time: *6:00pm* Date: *Wednesday, 9-20-17*
Phone: *6171-546-7226*

Scott Starrett

BOA September 20

From: Karen Murphy [klmnjm40@gmail.com]
Sent: Friday, August 18, 2017 7:53 AM
To: Scott Starrett
Subject: Legal Opinion

Please accept this email as my formal request to receive a copy of the legal opinion by attorney, Mr Cottey, on the buffer and other requirements of the nightly rental code.

Please consider re-wording the Staff Report and Decision of Record to show the occupancy and the number of cars allowed.

Also if a buffer is required make that another number on the reports instead of having it be part of number one where it says fulfill all requirements of the guidance code.

It will be interesting to see what Mr Cottey's opinion is on a buffer for The Villas after our discussing the common property line between the villas and the wording about landscape buffer or a wall (not an existing wall) that would replace the landscape requirement.

I appreciated the time you spent with me yesterday. Hopefully I will be back from Oregon to attend the September 20th BOA meeting when the BOA board votes on whether I can have a copy of the opinion.

From: Karen Murphy
Sent from my iPhone



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MINUTES

TANEY COUNTY BOARD OF ADJUSTMENT

WEDNESDAY, JULY 26, 2017, 6:00 P.M.

COUNTY COMMISSION HEARING ROOM

TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dan Boone called the meeting to order at 6:00 p.m. A quorum was established with three members present. They were: Dan Boone, Tony Mullen, and Trent Edwards. Staff present: Scott Starrett and Bonita Kisse-Souttee. The governing statutes were read by Mr. Starrett who also read a statement outlining the procedures for this meeting and presented the exhibits.

Mr. Boone swore in each speaker before their respective hearings, and announced that since there was only three members present each applicant could choose to postpone their hearing only once, when a full board could be present.

Public Hearings:

Gary Billingsley; a request for an appeal of the Planning Commission decision to deny a nightly rental business located at 226 Stoney Pointe Drive, Branson Creek on May 15, 2017. Marie Powers was present to represent the applicant. Mr. Starrett read the staff report and proposed decision of record, from the Planning Commission and Board of Adjustment. He presented location maps and pictures of the site. Several people signed up to speak. Karen Murphy spoke first against the request based on, in her opinion, parking, staff errors, erroneous statements by the applicant, various sections of the Code not adhered to by both staff and applicant, the application was not filled out correctly, and buffering. Susan Smith also spoke against the request on behalf of Paul Frampton regarding the applicant continuing to rent after he was told to apply for a permit, parking was a concern, children in the yard, noise, too many people in the structure, safety, and property values. Lisa Aguirre was also against the request and asked the Board to remember separation of Church and State. She stated that none of the nightly rentals observed the handicapped requirements, she also discussed a conversation she had with Mr. Kitchen regarding his voting and being on both Boards. Gordon Glass another neighbor who was against the request voiced concerns regarding occupancy of the nightly rentals, noise, dogs in the swimming pool, litter, maintenance, property values, enforcement of the Code, incomplete application, health and safety of the community, incompatibility, and buffering. Richard Hurt another neighbor who

spoke against the request was concerned with the noise, buffering, and too many people in the structure. After the property owners spoke, Mrs. Powers addressed their concerns. She stated that she had never rented to more than 10 people at a time. There were contracts already in place when the County attorney gave his opinion that all nightly rentals had to be permitted. It is the responsibility of the HOA to turn the sprinklers on. There is a floor plan in the packets for the house. Mrs. Powers reminded the Board that this property has been a nightly rental since 2008. She lives 15 minutes away and could be called if there is a problem. The property is not advertised as handicapped accessible. She gave a rundown of the history of the request since the beginning. Mr. Boone asked about fire suppression. There isn't any because it wasn't required when it was built. Mrs. Powers stated that in three years since she has managed the property no one has ever called her to complain about anything. Mr. Edwards asked how many properties she managed. She stated that she manages five and has never had any criminal activity happen in any of them. She wrapped up her discussion and pointed out how the vote was taken at the Planning Commission meeting. With no other discussion the public hearing was closed and the Board deliberated. Mr. Mullen asked Mr. Starrett if he could give him a reason for denial by the Planning Commission. Mr. Starrett stated that he could not because they did not give one. Discussion followed. After deliberation, a motion was made by Mr. Mullen to approve the request based upon the decision of record. Seconded by Mr. Edwards. The vote to overturn the denial was two in favor and the Chairman voting no. The vote did not pass. Mrs. Powers asked the reason. Mr. Mullen gave his reason for the motion. Mr. Starrett explained the next step in the process. The Board suggested she ask for a rehearing next month.

112 N. Tuscany Drive Nightly Rental; an appeal of the Planning Commission Decision of February 21, 2017 to approve a nightly rental business in Branson Creek Subdivision. Mr. Starrett read the staff report and proposed decision of record. He presented location maps and pictures of the site. Mrs. Aguirre was present. Mrs. Murphy spoke first in favor of the request, her concerns were; occupancy, safety, compatibility, noise, steep driveway, parking, buffering, and there being no contact numbers posted. Susan Smith also spoke in favor of the request by stating the developers did not follow the requirements of the Code and covenants, parking were a concern, noise, and lack of enforcement by the P&Z staff. Gordon spoke in favor of the request by reiterating the same concerns. Sondra Strange also in favor of the request stating concerns regarding covenants, number of bedrooms and using a loft as a bedroom, compatibility, and commercial property taxation. Wes Strange also a property owner and in favor of the request stated that he and Sondra live across the street. He discussed occupancy, excessive traffic, noise, overcrowding of the pool, parking, and guests carrying guns. Barb Durham who manages the property gave an overview of the properties she manages and clarified where the projects are at this point. She addressed the concerns of the property owners. She stated that she had spoken with some of the property owners and gave them the opportunity to contact her if any problems arose. Lisa Aguirre, the applicant, clarified her request. She discussed

covenants, taxation, fire requirements, contact numbers, Code violations, incomplete applications, enforcement, and lofts as bedrooms. The Board questioned the applicant regarding her concerns. With no other discussion the public hearing was closed and the Board deliberated. After deliberation a motion was made by Mr. Edwards to deny the appeal, stating that in his opinion the Planning Commission did not make any errors in the approval. Seconded by Mr. Mullen. The vote to deny was unanimous. Mr. Boone explained the next step in the process, and asked Mrs. Aguirre if she wished to appeal. She stated that she did.

157 N. Tuscany Drive Nightly Rental; an appeal of the Planning Commission Decision of February 21, 2017 to approval a nightly rental business in Branson Creek Subdivision. The applicant chooses to wait for a full Board, which will be next month.

Wayne & Carrie Price; a request for a variance from the setback requirements on property located at 7885 St. Hwy. 176, from the required fifty' setback front property line for the construction of a 36 x 52 storage building. Mr. Price was present. Mr. Starrett read the staff report and proposed decision of record, and presented location maps and pictures of the site. Mr. Mullen asked if there would be any water or wastewater in the building. Mr. Price stated that there would not be, and the building would not be over the lateral lines. Mr. Mullen made a motion to approve based upon the decision of record. Seconded by Mr. Edwards. The vote to approve was unanimous.

Review and Action:

Minutes, May 17, June 28, 2017; with no additions or corrections a motion was made by Mr. Edwards to approve the minutes as written. Seconded by Mr. Mullens. The vote to approve was unanimous.

Old and New Business:

Mr. Starrett reported that there are two variances for next month's meeting. The Board decided by general consensus to accept the two denials this meeting for rehearing's next month.

Adjournment:

With no other business on the agenda for July 26, 2017 the meeting adjourned at 8:02 p.m.