



AGENDA

Jackson County Board of Zoning Adjustment

Members

*Larry Antey - Chairman
Jack Crawford - Vice Chairman
Ralph Monaco, Denise Ryerkerk,
Robert Smead, William Farrar,
Justice Horn & Roger Lake*

Meeting

*Thursday, September 19, 2024
8:30 a.m.*

Location

*Historic Truman Courthouse
Large Conference Room, 2nd Floor
112 W. Lexington, Independence, MO*

PROCEDURE FOR PUBLIC HEARING TESTIMONY

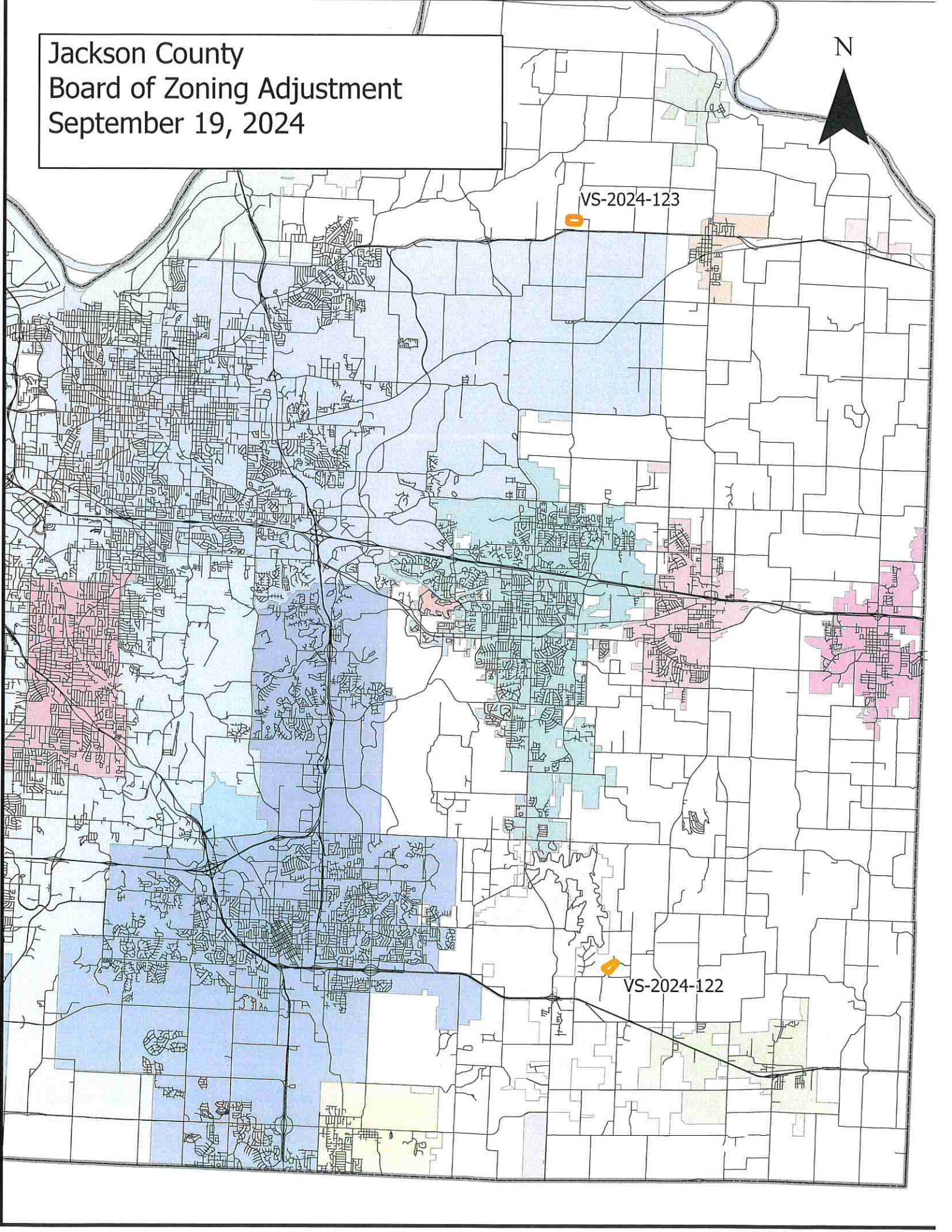
- * The Chairman will open the public hearing and ask those wishing to testify, please stand, raise right hand and be sworn in by the Chairman.
- * The Chairman will call for exhibits from the Staff.
- * Staff comments will be heard.
- * The applicant or his representative will speak.
- * Witnesses in favor of the petition will be called to speak.
- * Witnesses opposed to the petition will be called to speak.

If you wish to testify, please raise your hand to be recognized. When you are recognized by the Chairman, please come forward. State your name and address, then make your comments to the Commission/Board. Please refrain from repeating points made by others.

- * Questions and General Discussion
(Applicant or his representative may be recalled to respond to questions)
- * Hearing Closed
- * After all testimony has been made, the Board will consider the facts and approve or deny the request.
- * As a courtesy to the audience and the Board of Zoning Adjustment, please turn off your cellular phone and mobile beeper.

The decision of the Board of Zoning Adjustment is the final determination.
Appeals may be made only to the Circuit Court of Jackson County, Missouri.

Jackson County
Board of Zoning Adjustment
September 19, 2024



VS-2024-123

VS-2024-122

AGENDA
Jackson County Board of Zoning Adjustment
Thursday, September 19, 2024 @ 8:30 a.m.

A. Approval of September 21, 2023 Meeting

B. Public Hearings

1. VS-2024-122 – Matthew Osborne

Requesting a non-use variance of 9 foot to the required 30-foot side yard setback (Section 24004.4.f.1; UDC) in District AG (Agricultural) on a 10.02 ± acre tract located at 29901 E. Windmill Ridge Lane

2. VS-2024-123 – Brook Madick & Kenneth Boone

Requesting a non-use variance of 15 feet to the required 30-foot side yard setback (Section 24004.4.f.1; UDC) in District AG (Agricultural) on a 5.23 ± acre tract located at 2324 N. Hoover Road.

C. MEETING ADJOURNED

JACKSON COUNTY BOARD OF ZONING ADJUSTMENT SUMMARY OF PUBLIC HEARING

Date: September 21, 2023
Place: Historic Truman Courthouse
Large Conference Room, 2nd Floor
112 W. Lexington, Independence, MO

Attendance: Larry Antey – Chairman

Roger Lake
Ralph Monaco
William Farrar
Andrew Johnson

Staff: Randy Diehl
Amy Keister
Josh Haner

Call to Order/Roll Call

Chairman Antey call to order the meeting of the Plan Commission at 8:30 am and asked the roll call be taken.

Mr. Diehl informed the Commission that Mr. Crawford and Ms. Ryerkerk would be attending.

Election of Vice-Chair

A motion was to nominate Mr. Crawford as Vice-Chair.
All "aye" to elect Jack Crawford as Vice-Chair.

Approval of Record

Mr. Lake made a motion to approve the record of March 16, 2023.

Mr. Farrar seconded.

All: Aye.

Public Hearings

Chairman Antey swore in all persons who would like to give testimony at the public hearings.

Randy Diehl gave the Staff Report

VS-2023-120

Applicant / Property Owner: Allen & Grace Betts

Location: 1917 N Hines Road

Area: 0.99 acres

Current Zoning: District AG (Agricultural)

Request: Requesting a non-use variance of 17 to the required 30-foot side yard setback (Section 24004.4.f.1; UDC) in District AG (Agricultural) on a 0.99 ± acre tract located at 1917 N. Hines Road.

Comments:

The County Legislature adopted the Unified Development Code (UDC) in June 1995. The UDC implements the goals and policies of the County Master Plan that was adopted in 1994.

In accordance with Section 24003.23(i.) of the Unified Development Code, the applicant must meet each of the following requirements to support the granting of the requested variance:

- a. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- b. The granting of the variance will not be opposed to the general spirit and intent of the UDC from which the variance is sought.
- c. The variance requested will not adversely affect the public health, safety or general welfare.
- d. The variance requested arises from a condition which is unique and peculiar to the property in question, and which is not ordinarily found in the same zoning district and further, is not created by an action or actions of the property owner or applicant.
- e. Substantial justice will be done by the granting of this variance.

Statement of Non-Use Variance Criteria

Further, in accordance with Section 24003.23(i.) of the UDC, the applicant must meet each of the following requirements to support the granting of the requested non-use variance.

Practical difficulties exist that would make it impossible to carry out the strict letter of the Unified Development Code when considered in light of the following factors:

- a. How substantial the requested variation is in relation to the requirement of the Code.
- b. The effect of increased population density, if any, on available public facilities and services, if the variance is allowed.
- c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created if the variance is allowed.
- d. Whether it is feasible for the applicant to pursue a method, other than a variance, to alleviate the practical difficulty.
- e. Whether the interests of justice will be served by allowing the variance, in view of the manner in which the practical difficulty arose in consideration of all of the above factors.
- f. Conditions of the land in question, and not conditions personal to the landowner. (The Board will not consider evidence of the applicant's or landowner's personal financial hardship unrelated to any economic impact on the land.)

Facts

Blue Skyline Acres, Lots 52 through 99, was created in 1963, and is within District AG (Agricultural) which requires a 30-foot side yard setback. The applicant owns lots 68 & 69. The residence sits on Lot 69.

The applicant started construction on a 24 x 16 addition on the north side of the residence. Codes staff contacted the owner to inform them they needed a building permit for the structure. During the review of the building permit application, it was discovered that the structure encroached into the side-yard setback. Staff discussed the various options with the applicant to bring the property back into compliance with Codes.

Rezoning would not be feasible. Lot size does not conform to any zoning district. District RU (Residential Urban) allow for lots of this size, however these size lots are appropriate for areas that are served by a centralized sanitary sewer system, not an onsite wastewater system.

There have been 15 variances granted within this development since 1965.

Granting the variance will allow the applicant's building permit to be issued.

The adjacent property owner to the north has provided the applicant with a letter of support for their request.

There will be no increase in population density, available public facilities, or services.

No substantial change in the character of the neighborhood, or a substantial detriment to adjoining the properties as well.

Recommendation:

In reviewing the application and evidence provided, Staff has no objection to the variance requested. There are findings which support uncommon circumstances that constitute practical difficulties upon the applicant.

Staff recommends APPROVAL of VS-2023-120.

Randy Diehl
Administrator
Jackson County Public Works

Development Division

Mr. Antey: Are there any questions for Randy?

There were none.

Mr. Antey: Is the applicant here?

Allen & Grace Betts: 1917 N Hines Road.

Mr. Antey: Do you have anything to add to the report?

Mr. Betts: No. He was thorough.

Mr. Johnson: What kind of addition will this be?

Mr. Betts: Storage.

Mrs. Betts: It's a lean-to.

Mr. Betts: It does not have access to the house. One door on the outside. Open in the back, closed in the front.

Mrs. Betts: Storage of lawn mowers and stuff.

Mr. Betts: I have had some stuff stolen. This will help to curb that.

Mr. Antey: Is there anyone else who is in favor of this application?

There were none.

Mr. Antey: Is there anyone who is opposed or has questions regarding this application?

There were none.

Motion to take under advisement.

Mr. Lake moved to take under advisement. Mr. Johnson seconded.

Discussion under advisement

Mr. Lake moved to approve. Mr. Farrar seconded.

Mr. Lake	Approve
Mr. Farrar	Approve
Mr. Johnson	Approve
Mr. Monaco	Approve
Chairman Antey	Approve

Motion Carried 5 – 0

Meeting Adjourned: 08:40 am

STAFF REPORT

BOARD OF ZONING ADJUSTMENT

September 19, 2024

VS-2024-122

Applicant / Property Owner: Matthew Osborne

Location: 29901 E. Windmill Ridge Lane

Area: 10.02 acres

Current Zoning: District AG (Agricultural)

Request: Requesting a non-use variance of 9 foot to the required 30-foot side yard setback (Section 24004.4.f.1; UDC).

Comments:

The County Legislature adopted the Unified Development Code (UDC) in June 1995. The UDC implements the goals and policies of the County Master Plan that was adopted in 1994.

In accordance with Section 24003.23(i.) of the Unified Development Code, the applicant must meet each of the following requirements to support the granting of the requested variance:

- a. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- b. The granting of the variance will not be opposed to the general spirit and intent of the UDC from which the variance is sought.
- c. The variance requested will not adversely affect the public health, safety or general welfare.
- d. The variance requested arises from a condition which is unique and peculiar to the property in question, and which is not ordinarily found in the same zoning district and further, is not created by an action or actions of the property owner or applicant.
- e. Substantial justice will be done by the granting of this variance.

Statement of Non-Use Variance Criteria

Further, in accordance with Section 24003.23(i.) of the UDC, the applicant must meet each of the following requirements to support the granting of the requested non-use variance.

Practical difficulties exist that would make it impossible to carry out the strict letter of the Unified Development Code when considered in light of the following factors:

- a. How substantial the requested variation is in relation to the requirement of the Code.
- b. The effect of increased population density, if any, on available public facilities and services, if the variance is allowed.
- c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created if the variance is allowed.
- d. Whether it is feasible for the applicant to pursue a method, other than a variance, to alleviate the practical difficulty.
- e. Whether the interests of justice will be served by allowing the variance, in view of the manner in which the practical difficulty arose in consideration of all of the above factors.
- f. Conditions of the land in question, and not conditions personal to the landowner. (The Board will not consider evidence of the applicant's or landowner's personal financial hardship unrelated to any economic impact on the land.)

Facts

This development was created in 2005 by Certificate of Survey (Document 200510084434) and is within District AG (Agricultural) which requires a 30-foot side yard setback.

The applicant is wishing to construct a 90 by 60-foot detached garage on the north side of the residence.

At the time of construction, the homes placement was limited due to a rock shelf.

The grade gradually gets steeper further to the West.

The septic tanks are placed on the south side of the home and the lateral lines for the on-site wastewater system are in the front yard.

Staff looked at the possibility of rezoning the property to District RR (Residential Ranchette).

Since all the tracts in this development are at least 10.00 acres in size. They are served by a private road.

It was determined that a variance would be the best course of action since this tract did not front on a public road and was not part of a platted subdivision development.

The adjacent property owner to the northwest has provided the applicant with a letter of support for their request.

There will be no increase in population density, available public facilities, or services.

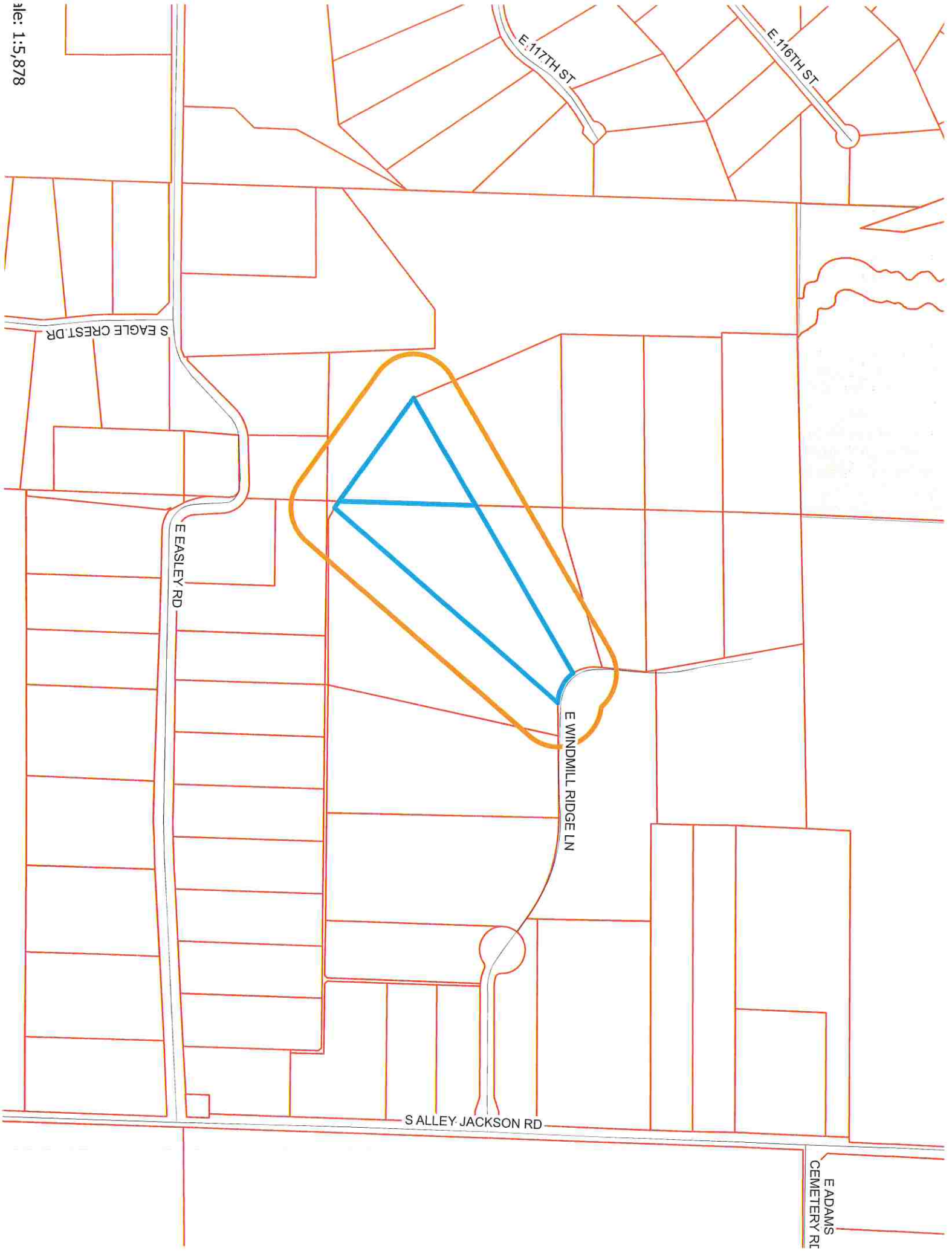
No substantial change in the character of the neighborhood, or a substantial detriment to adjoining the properties as well.

Recommendation:

In reviewing the application and evidence provided, Staff has no objection to the variance requested. There are findings which support uncommon circumstances that constitute practical difficulties upon the applicant.

Staff recommends APPROVAL of VS-2024-122.

Randy Diehl
Administrator
Jackson County Public Works
Development Division



E 117TH ST

E 116TH ST

S EAGLE CREST DR

E EASLEY RD

E WINDMILL RIDGE LN

S ALLEY JACKSON RD

E ADAMS
CEMETERY RD

Board of Zoning Adjustment September 19, 2024

VS-2024-122

Property Owners Within 185 feet

parcel	owner	address	city	state	zip
59-600-02-08-01-3-00-000	WINDMILL RIDGE ESTATES HOMES ASSOC	29604 E EASLEY RD	LEES SUMMIT	MO	64086
59-600-02-28-00-0-00-000	MINOR KIRBY L & ANNA D	09 1/2 W LEXINGTON AVE	INDEPENDENCE	MO	64050
59-600-02-24-00-0-00-000	BASKETT KIMBERLY	29909 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086
59-600-02-17-00-0-00-000	PASZKIEWICZ FRANK J & LAURA E	29818 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086
59-600-02-21-00-0-00-000	PASZKIEWICZ FRANK J & LAURA E	29818 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086
59-600-02-29-00-0-00-000	MINOR KIRBY L & ANNA D	4424 SW LODESTONE DR	LEES SUMMIT	MO	64082
59-600-02-23-00-0-00-000	KRAUS ANTHONY M & GWEN A	29905 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086
59-600-01-10-00-0-00-000	RASH STEVEN P & DIANE E - TR	29900 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086
59-600-02-20-00-0-00-000	BOYDA TRUST DATED 11/14/2016	29806 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086
59-600-02-22-00-0-00-000	OSBORNE MATTHEW & SARAH	29901 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086
59-600-02-18-00-0-00-000	OSBORNE MATTHEW & SARAH	29901 E WINDMILL RIDGE LN	LEES SUMMIT	MO	64086



JACKSON COUNTY Public Works Department

Jackson County Technology Center
303 West Walnut Street
Independence, Missouri 64050
jacksongov.org

(816) 881-4530
Fax: (816) 881-4448

September 4, 2024

RE: Public Hearing; VS-2024-122
Matthew Osborn

Dear Property Owner:

You are hereby invited to participate in a public hearing to be held by the Jackson County Board of Zoning Adjustment on a request by Matthew Osborn requesting a non-use variance of 9 foot to the required 30-foot side yard setback (Section 24004.4.f.1; UDC) in District AG (Agricultural) on a 10.02 ± acre tract located at 29901 E. Windmill Ridge Lane.

The public hearing on this matter will be held by the Board of Zoning Adjustment on Thursday, September 19, 2024 at 8:30 a.m. in the Large Conference Room, 2nd Floor, Historic Truman Courthouse, 112 W. Lexington, Independence, MO.

If you know of any interested party who may not have received a copy of this letter, it would be appreciated if you would inform them of the time and place of the hearing.

If you have any questions concerning this matter, please contact the Planning and Development Division at 881-4649.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randy Diehl".

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Frank White, Jr., County Executive

**JACKSON COUNTY, MISSOURI
DEPARTMENT OF PUBLIC WORKS
PLANNING AND DEVELOPMENT DIVISION
NON-USE VARIANCE APPLICATION**

(A non-use variance allows a property owner to deviate from a restriction related to the permitted use such as height of structure or setback from property line.)

APPLICANT INFORMATION

1. Application must be filed with the Jackson County Planning and Development Division, 303 W. Walnut, Independence, Missouri 64050, by the deadline on the Board of Zoning Adjustment Calendar.
 2. Applications must be typed or printed in a legible manner.
 3. All applicable sections must be completed. If you need more space to provide information, please use separate 8 1/2"x11" paper, reference the application number and attach it to the application. Incomplete applications will not be accepted and will be returned to the applicant.
 4. The application shall be accompanied by at least one set of drawings to clearly indicate the requested variance in relation to the property and/or structures. These include a plot plan, plat, site plan, survey and/or building elevation(s). Pictures can be submitted with the application and drawings but cannot replace the drawings. **These drawings must be able to be clearly read as well as being reproduced. If the drawings are larger than 11" by 17", a smaller copy of the drawings shall also be provided.**
 5. **Filing fee of \$350.00 (non-refundable) must accompany application.**
(Check payable to: Manager of Finance)
-

TO BE COMPLETED BY OFFICE PERSONNEL ONLY

Variance case number VS- 2024-122

Date filed _____ Date of Hearing _____

Date advertised _____ Date property owners notified _____

Date signs posted _____

Hearings: Heard by _____ Date _____ Decision _____

Heard by _____ Date _____ Decision _____

NOTICE TO APPLICANTS:

1. A variance is defined as a modification of or departure from the provisions of the Unified Development Code (UDC) which, if applied to a specific parcel, would significantly interfere with the use of the particular property.
2. The Board of Zoning Adjustment may authorize in specific cases a variance from the specific terms of this Development Code which will not be contrary to the public interest and where, owing to specific conditions, a literal enforcement of the provisions of this Development Code

will, in an individual case, result in unnecessary hardship in the case of a use variance or practical difficulties in the case of a non-use variance, provided that the spirit of this Development Code shall be observed, public safety and welfare secured and substantial justice done.

3. The Board's authority is limited by the statutes of the State of Missouri and the UDC. The Board may only grant a variance if, in its discretion, each of the variance criteria is met. (See statements of Variance Criteria.) **It is the applicant's responsibility to demonstrate to the Board that each of these criteria has been met.** The Board may evaluate the evidence in the record, and exercise its discretion on whether each of these criteria has been met on a case by case basis.

BEGIN APPLICATION HERE:

1. Data on Applicant(s) and Property Owner(s):

a. Applicant(s) Name: Matthew Osborne
Address: 29901 E. Windmill Ridge Lane
Lees Summit, MO 64086
Phone: N/A Cell: 816-365-0486
E-mail Address: mbosborne24@gmail.com

b. Property Owner(s) Name: Same As Above
Address: _____

Phone: _____ Cell: _____
E-mail Address: _____

c. Agent(s) Name: N/A
Address: _____

Phone: _____ Cell: _____
E-mail Address: _____

d. Applicant's interest in Property: Owner

2. Variance Request: (Give description of variance(s) requested and cite the section(s) of the UDC from which variance(s) is/are requested.) 24004.2.F.1 (Exhibit 240.8)

I would like to build a 60x90 outbuilding and a portion of the NW corner will be closer than the 30 Foot stipulation.

3. Property Address: 29901 E. Windmill Ridge Lane
Lees Summit, MO 64086

Legal Description:

SEC-09 TWP-47 RNG-30---PT NW 1/4 DAF: BEG NW COR NW 1/4 TH N 89 DEG 11 MIN 11 SEC E 586.09' TH S 01 DEG 34 MIN 07 SEC W 320.06' TH N 89 DEG 59 MIN 42 SEC E 21' TH S 01 DEG 34 MIN 07 SEC W 677.54' TH S; 22 DEG 51 MIN 02 SEC E 679.32' TH N 59 DEG 58 MIN 22 SEC E 500' MOL TO TRU POB TH N 59 DEG 58 MIN 22 SEC E 831' MOL TH SEY ALG CURV LF RAD 150' DIST 144.74' TH S 41 DEG 00 MIN 35 SEC W 1266.35' TH N; 51 DEG 31 MIN 31 SEC W 34' MOL TH NLY 583' MOL TO TRU POB (KNOWN AS PT TR 4 CERT SUR T-22 PG-55)

5. Size of Property (indicate square feet or acres): 10.02 Acres
6. Current Zoning Classification: Agricultural
7. Present Land Use: Primary Residence

8. Actions by applicant on property:

- a) Building permit applied for and denied (date) N/A Waiting on Variance
- b) Building permit application number N/A
- c) If no building permit was applied for, explain: It would be denied if the variance isn't approved.

9. **Statement of Variance Criteria**

In accordance with Section 24003.23(i.) of the Unified Development Code, the applicant must meet each of the following requirements to support the granting of the requested variance. Failure to complete each may result in an incomplete application. Describe in detail how this application meets each of the following requirements.

- a. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.

I've spoken to my neighbors to the West that share the property line and they're in support of the structure encroaching 5 Feet closer to our property line. The shape of my property limits the width of the structure as it currently sits.

- b. The granting of the variance will not be opposed to the general spirit and intent of the UDC from which the variance is sought.

All aspects of the building will meet the current requirements of the UDC Other than a portion of the structure being closer than 30 feet to the west property line.

- c. The variance requested will not adversely affect the public health, safety or general

welfare.

There is nothing about this structure that will in any way negatively effect anyone within the community. I've been very transparent with my neighbors and they're willing to give consent in writing if needed.

- d. The variance requested arises from a condition which is unique and peculiar to the property in question and which is not ordinarily found in the same zoning district and further, is not created by an action or actions of the property owner or applicant.

When building our home we were presented with a unique challenge of where to place our home. Both neighbors had already built and one was further back and one was further in front of the stipulated build lines. There is also a rock shelf that limited the location of our home.

- e. Substantial justice will be done by the granting of this variance.

Justice might be the wrong word but granting this variance would allow my family to benefit/utilize our property in a more meaningful way without directly effecting or harming the community around us. The natural features of the property limit the areas that can be developed. (Lot Shape, rock shelf, and slope)

10. Statement of Non-Use Variance Criteria

Further, in accordance with Section 24003.23(i.) of the UDC, the applicant must meet each of the following requirements to support the granting of the requested non-use variance.

Practical difficulties exist that would make it impossible to carry out the strict letter of the Unified Development Code when considered in light of the following factors:

- a. How substantial the requested variation is in relation to the requirement of the Code.

We are asking to utilize 10 feet of the 30 foot setback for only a portion of the structure. The non conforming shape of the property doesn't lend well to the current home layout and keeping the building adjacent at 90 degrees.

- b. The effect of increased population density, if any, on available public facilities and services, if the variance is allowed.

There is no effect on population density as it relates to public facilities or services.

- c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created if the variance is allowed.

This building will match the likeness of every other building in our

community currently. The only difference will be the proximity to the established property line.

- d. Whether it is feasible for the applicant to pursue a method, other than a variance, to obviate the practical difficulty.

The shape of the property, rock shelf that dictated the home location, septic tank, and lateral lines have all contributed to the current situation. Moving the building back doesn't help as the grade gets steeper.



- e. Whether the interests of justice will be served by allowing the variance, in view of the manner in which the practical difficulty arose in consideration of all of the above factors.

The natural and existing features of the property are the sole reasons for requesting the variance. The factors mentioned above are things that can not be changed, or avoided.

- f. Conditions of the land in question, and not conditions personal to the landowner. (The Board will not consider evidence of the applicant's or landowner's personal financial hardship unrelated to any economic impact on the land.)

The natural rock shelf, topography and steep grade all contribute to the requested variance.


11. Verification: I (We) hereby certify that all of the foregoing statements contained in any papers and/or plans submitted herewith are true to the best of my (our) knowledge and belief.

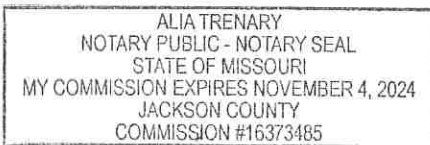
	Signature	Date
Property Owner(s)	<u></u> Matt Osborne	<u>7/18/24</u>
Applicant(s):	<u></u> Matt Osborne	<u>7/18/24</u>
Contract Purchaser(s):	_____	_____
	_____	_____

STATE OF MO
COUNTY OF Jackson

On this 18th day of July, in the year of 24, before me the undersigned notary public, personally appeared Matt Osborne known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

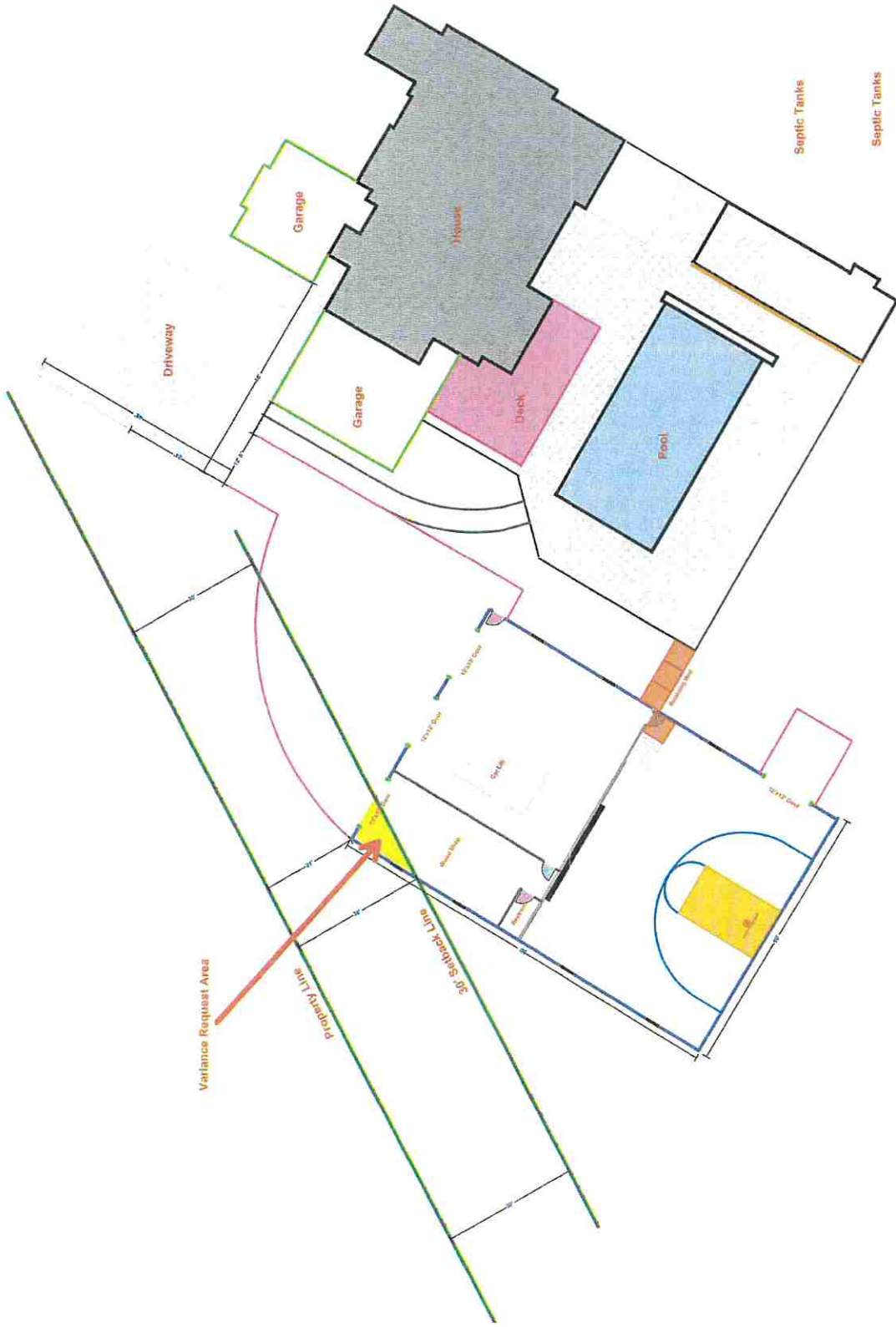
In witness whereof, I hereunto set my hand and official seal.

 Commission Expires 11-4-27
Notary Public



E WINDMILL RIDGE LN





FRANK AND LAURA PASZKIEWICZ

29818 E Windmill Ridge Lane
Lees Summit, MO 64086

7/11/24

Non Use Variance Approval

Matt and Sarah Osborne
Neighbors w/ Shared Property Line
29901 E Windmill Ridge Lane
Lees Summit, MO 64086

Dear Board of Zoning:

Matt and Sarah Osborne approached us regarding a building they plan to construct between our properties. It was mentioned that they are in the process of applying for a Non-Use Variance that would allow them to encroach up to 10' into the side yard setback.

While we fully understand the Unified Development Code (UDC) stipulates the setback on the side yard is to be 30' we see no issue with them building closer to the property line up to 10' should the variance be granted.

Please accept this signed letter as our support and approval for Matt and Sarah Osborne to construct this building up to 20' off our shared property line.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frank and Laura Paszkiewicz", written over a circular stamp or seal.

Frank and Laura Paszkiewicz

STAFF REPORT

BOARD OF ZONING ADJUSTMENT
September 19, 2024

VS-2024-123

Applicant / Property Owner: Brook Madick & Kenneth Boone

Location: 2324 N Hoover Road

Area: 5.23 acres

Current Zoning: District AG (Agricultural)

Request: Requesting a non-use variance of 15 to the required 30-foot side yard setback (Section 24004.4.f.1; UDC) in District AG (Agricultural) on a 5.23 ± acre tract located at 2324 N. Hoover Road.

Comments:

The County Legislature adopted the Unified Development Code (UDC) in June 1995. The UDC implements the goals and policies of the County Master Plan that was adopted in 1994.

In accordance with Section 24003.23(i.) of the Unified Development Code, the applicant must meet each of the following requirements to support the granting of the requested variance:

- a. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- b. The granting of the variance will not be opposed to the general spirit and intent of the UDC from which the variance is sought.
- c. The variance requested will not adversely affect the public health, safety or general welfare.
- d. The variance requested arises from a condition which is unique and peculiar to the property in question, and which is not ordinarily found in the same zoning district and further, is not created by an action or actions of the property owner or applicant.
- e. Substantial justice will be done by the granting of this variance.

Statement of Non-Use Variance Criteria

Further, in accordance with Section 24003.23(i.) of the UDC, the applicant must meet each of the following requirements to support the granting of the requested non-use variance.

Practical difficulties exist that would make it impossible to carry out the strict letter of the Unified Development Code when considered in light of the following factors:

- a. How substantial the requested variation is in relation to the requirement of the Code.
- b. The effect of increased population density, if any, on available public facilities and services, if the variance is allowed.
- c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created if the variance is allowed.
- d. Whether it is feasible for the applicant to pursue a method, other than a variance, to alleviate the practical difficulty.
- e. Whether the interests of justice will be served by allowing the variance, in view of the manner in which the practical difficulty arose in consideration of all of the above factors.
- f. Conditions of the land in question, and not conditions personal to the landowner. (The Board will not consider evidence of the applicant's or landowner's personal financial hardship unrelated to any economic impact on the land.)

Facts

The applicants wish to construct an addition on the north of the current dwelling. The addition will be ground level living space for the mother of the current owner, who was the original owner of the residence.

The property is within District AG (Agricultural) which require a 30-foot side yard setback.

The applicants have owned the property since June 2024. The previous owner took title in 1981.

The 5.32 acres were created by Warranty Deed, September 1977.

Prior to April of 1978, property divisions less than 10 acres were not required to be platted. This tract is Legal Non-Conforming.

Platting and rezoning the property would not be an option. The tract does not have sufficient frontage to meet the subdivision requirements.

Site conditions prevent the addition to be placed on the East side of the residence. A natural drainage way that's flows to the north is below grade. The septic tanks and onsite wastewater field are to the south of the residence.

The adjacent property owner to the north has provided the applicant with a letter of support for their request.

There will be no increase in population density, available public facilities, or services.

They are wanting to provide a safe ground level environment to take care of the elderly family member as well as having it accessible to the existing driveway.

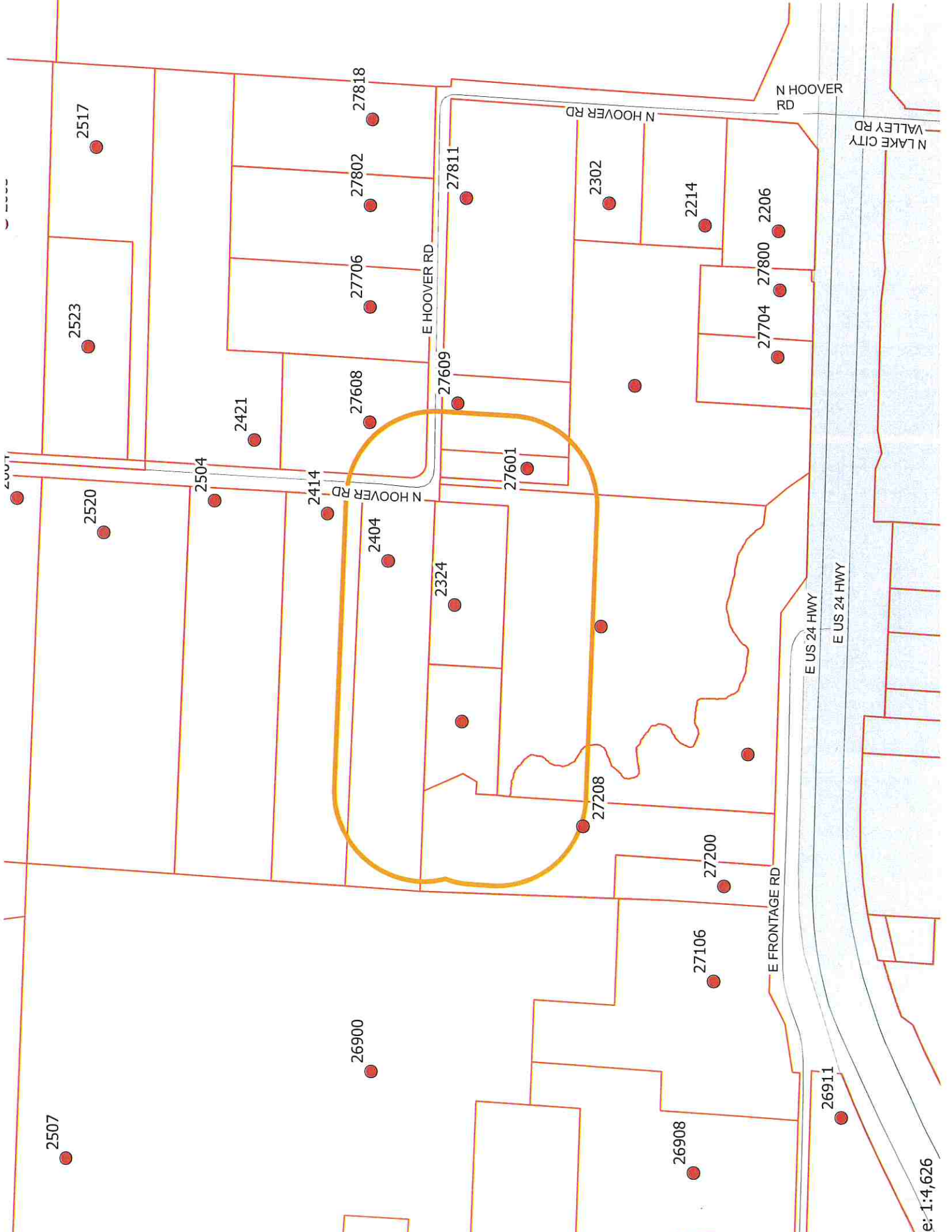
No substantial change in the character of the neighborhood, or a substantial detriment to adjoining the properties as well.

Recommendation:

In reviewing the application and evidence provided, Staff has no objection to the variance requested. There are findings which support uncommon circumstances that constitute practical difficulties upon the applicant.

Staff recommends APPROVAL of VS-2024-123.

Randy Diehl
Administrator
Jackson County Public Works
Development Division



Board of Zoning Adjustment September 19, 2024
 VS-2023-123

Property Owners Within 300 feet

parcel	owner	address	city	state	zip
08-800-03-16-00-0-00-000	STATHAM CHARLES F & CAROL J	27800 E US 24 HWY	BUCKNER	MO	64016
08-900-04-08-00-0-00-000	BRENDEL CHARLOTTE L TRUSTEE	2414 N HOOVER BUCKNER	BUCKNER	MO	64016
08-900-04-20-01-0-00-000	WILLIAMS BRANDON MICHAEL	1807 N ELSEA SMITH RD	INDEPENDENCE	MO	64056
08-900-04-23-00-0-00-000	CENTRANZ INC	27208 E US 24 HWY	INDEPENDENCE	MO	64056
08-800-03-15-00-0-00-000	STATHAM CHARLES F & CAROL J	27800 E US 24 HWY	BUCKNER	MO	64016
08-900-04-21-00-0-00-000	CENTRANZ INC	27208 E US 24 HWY	INDEPENDENCE	MO	64056
08-800-03-26-00-0-00-000	GALLMAN THEODORE K & MARY E - TR	27608 E HOOVER RD	BUCKNER	MO	64016
08-900-04-09-00-0-00-000	BEADEL HAROLD E & BETTY D-TR	2404 N HOOVER RD	BUCKNER	MO	64016
08-800-03-13-01-0-00-000	OLIVAREZ JOSEPH G & JANICE S	27811 E HOOVER RD	BUCKNER	MO	64016
08-900-04-20-02-0-00-000	MADICK BROOKE N & BOONE KENNETH W	2324 N HOOVER RD	BUCKNER	MO	64016
08-900-04-19-00-0-00-000	MADICK BROOKE N & BOONE KENNETH W	2324 N HOOVER RD	BUCKNER	MO	64016



JACKSON COUNTY Public Works Department

Jackson County Technology Center
303 West Walnut Street
Independence, Missouri 64050
jacksongov.org

(816) 881-4530
Fax: (816) 881-4448

September 4, 2024

RE: Public Hearing; VS-2024-123
Brook Madick & Kenneth Boone

Dear Property Owner:

You are hereby invited to participate in a public hearing to be held by the Jackson County Board of Zoning Adjustment on a request by Brook Madick & Kenneth Boone requesting a non-use variance of 15 feet to the required 30-foot side yard setback (Section 24004.4.f.1; UDC) in District AG (Agricultural) on a 5.23 ± acre tract located at 2324 N. Hoover Road.

The public hearing on this matter will be held by the Board of Zoning Adjustment on Thursday, September 19, 2024 at 8:30 a.m. in the Large Conference Room, 2nd Floor, Historic Truman Courthouse, 112 W. Lexington, Independence, MO.

If you know of any interested party who may not have received a copy of this letter, it would be appreciated if you would inform them of the time and place of the hearing.

If you have any questions concerning this matter, please contact the Planning and Development Division at 881-4649.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randy Diehl".

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Frank White, Jr., County Executive

**JACKSON COUNTY, MISSOURI
DEPARTMENT OF PUBLIC WORKS
PLANNING AND DEVELOPMENT DIVISION
NON-USE VARIANCE APPLICATION**

(A non-use variance allows a property owner to deviate from a restriction related to the permitted use such as height of structure or setback from property line.)

APPLICANT INFORMATION

1. Application must be filed with the Jackson County Planning and Development Division, 303 W. Walnut, Independence, Missouri 64050, by the deadline on the Board of Zoning Adjustment Calendar.
 2. Applications must be typed or printed in a legible manner.
 3. All applicable sections must be completed. If you need more space to provide information, please use separate 8 1/2"x11" paper, reference the application number and attach it to the application. Incomplete applications will not be accepted and will be returned to the applicant.
 4. The application shall be accompanied by at least one set of drawings to clearly indicate the requested variance in relation to the property and/or structures. These include a plot plan, plat, site plan, survey and/or building elevation(s). Pictures can be submitted with the application and drawings but cannot replace the drawings. **These drawings must be able to be clearly read as well as being reproduced. If the drawings are larger than 11" by 17", a smaller copy of the drawings shall also be provided.**
 5. **Filing fee of \$350.00 (non-refundable) must accompany application.**
(Check payable to: Manager of Finance)
-

TO BE COMPLETED BY OFFICE PERSONNEL ONLY

Variance case number _____ VS- 2024-123

Date filed _____ Date of Hearing _____

Date advertised _____ Date property owners notified _____

Date signs posted _____

Hearings: Heard by _____ Date _____ Decision _____

Heard by _____ Date _____ Decision _____

NOTICE TO APPLICANTS:

1. A variance is defined as a modification of or departure from the provisions of the Unified Development Code (UDC) which, if applied to a specific parcel, would significantly interfere with the use of the particular property.
2. The Board of Zoning Adjustment may authorize in specific cases a variance from the specific terms of this Development Code which will not be contrary to the public interest and where, owing to specific conditions, a literal enforcement of the provisions of this Development Code

will, in an individual case, result in unnecessary hardship in the case of a use variance or practical difficulties in the case of a non-use variance, provided that the spirit of this Development Code shall be observed, public safety and welfare secured and substantial justice done.

3. The Board's authority is limited by the statutes of the State of Missouri and the UDC. The Board may only grant a variance if, in its discretion, each of the variance criteria is met. (See statements of Variance Criteria.) **It is the applicant's responsibility to demonstrate to the Board that each of these criteria has been met.** The Board may evaluate the evidence in the record, and exercise its discretion on whether each of these criteria has been met on a case by case basis.

BEGIN APPLICATION HERE:

1. Data on Applicant(s) and Property Owner(s):

a. Applicant(s) Name: Brooke N Madick & Kenneth W Boone
Address: 2324 N Hoover
Unicorporated Jackson County, MO 64016
Phone: 816-591-0349 Cell: 816-550-8195
E-mail Address: kboone@olsson.com

b. Property Owner(s) Name: Brooke N Madick & Kenneth W Boone
Address: 17410 E 34th Terr S
Indep, Mo. 64055
Phone: 816-591-0349 Cell: 816-550-8195
E-mail Address: kboone@olsson.com

c. Agent(s) Name: _____
Address: _____

Phone: _____ Cell: _____
E-mail Address: _____

d. Applicant's interest in Property: Owner

2. Variance Request: (Give description of variance(s) requested and cite the section(s) of the UDC from which variance(s) is/are requested.) _____

Variance from Jackson County UDC, Sec 24004.2.f.1, minimum

sideyard setback 30 feet. Variance to sideyard setback of approx 15'

3. Property Address: 2324 N Hoover

Unincorporated Jackson County, MO 64016

4. Legal Description: RNG-30 TWP-50 SEC-18; BEG AT A PT 25' W OF NE COR OF SE 1/4 SE 1/4 OF SD SEC; '

TH W 544' TH S 240' TH E 544.5' TH N 240' TO POB and RNG-30 TWP-50 SEC-18; TH PT OF TH SE SE 1/4 DAF: BEG AT A PT 569.50' W OF NE;

COR OF SE SE 1/4 TH S 240' TH W 419.82' TO TH E LI OF; TH W 10 AC OF SD 1/4 1/4 TH N 70' TO TH C/L OF BRANCH; TH S 87 DEG E 37.04'

TH N 31 DEG E ALG SD BRANCH; 52.81' TH N 26 DEG W 141.33' TH E TO POB

5. Size of Property (indicate square feet or acres): 5.32 acres

6. Current Zoning Classification: AG

7. Present Land Use: Single Family Home

8. Actions by applicant on property:

a) Building permit applied for and denied (date) _____

b) Building permit application number _____

c) If no building permit was applied for, explain: Submitted, no action taken, variance needed

9. **Statement of Variance Criteria**

In accordance with Section 24003.23(i.) of the Unified Development Code, the applicant must meet each of the following requirements to support the granting of the requested variance.

Failure to complete each may result in an incomplete application. Describe in detail how this application meets each of the following requirements.

a. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.

In the attached letter from the property owners to the North, the granting of the variance will not adversely affect the rights of the adjacent property owner. Other adjacent property (to East, South, and West) are not affected.

b. The granting of the variance will not be opposed to the general spirit and intent of the UDC from which the variance is sought.

The granting of the variance, will not be opposed to the general character of the AG zoning.

c. The variance requested will not adversely affect the public health, safety or general

welfare.

The variance is a setback reduction and as such does not affect the public health, safety, or general welfare.

d. The variance requested arises from a condition which is unique and peculiar to the property in question and which is not ordinarily found in the same zoning district and further, is not created by an action or actions of the property owner or applicant. The limiting site conditions of the property prevent an addition of the residence to the east (deep drainage way) and the south (septic tank and field). An addition on the residence is needed to provide for safe living quarters on the ground floor for an elderly resident. Currently, there are only second floor living quarters.

e. Substantial justice will be done by the granting of this variance. The granting of this variance will allow for the residence to continue to provide a safe and accessible home for the original owner and resident of the home and property (mother of current owner).

10. Statement of Non-Use Variance Criteria

Further, in accordance with Section 24003.23(i.) of the UDC, the applicant must meet each of the following requirements to support the granting of the requested non-use variance.

Practical difficulties exist that would make it impossible to carry out the strict letter of the Unified Development Code when considered in light of the following factors:

a. How substantial the requested variation is in relation to the requirement of the Code. The requested variance still provides for ample setback from the property line. Please see attached letter from the property owner to the North.

b. The effect of increased population density, if any, on available public facilities and services, if the variance is allowed. There are no additional impacts on public facilities and services associated with the variance, the variance simply is requesting a reduction in setback due to site constraints.

c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created if the variance is allowed. Please refer to the attached letter from the neighbor to the North that will be the most directly impacted by

granting the variance. They have indicated there will be no detriment to their property now or in the future. In addition granting the variance will not negatively impact existing neighborhood character.

- d. Whether it is feasible for the applicant to pursue a method, other than a variance, to obviate the practical difficulty.

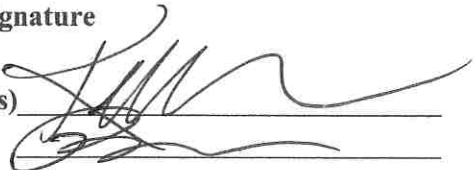
Due to the location and layout of the existing house on the property, and surrounding site constraints, the variance is the most reasonable, practical, and most feasible address the difficulty.

- e. Whether the interests of justice will be served by allowing the variance, in view of the manner in which the practical difficulty arose in consideration of all of the above factors. It is necessary to construct an addition on the existing home so that the previous owner (current owners mother) may continue to live safely in the home on the ground floor to prevent risk of additional injury from falling. Justice will be served by allowing for the safe living and care of the previous owner in the house that her and her deceased husband built for her family to be raised there (daughter is current owner) and that her daughter owns and will now reside.

- f. Conditions of the land in question, and not conditions personal to the landowner. (The Board will not consider evidence of the applicant's or landowner's personal financial hardship unrelated to any economic impact on the land.)

The existing home is oriented NE on the property approximately 60' from the north property line. To the east of the home is a drainageway that is significantly below the finished floor of the house and that drains the properties to the north. It is unbuildable. To the south of the home is the existing septic tank and septic field and is unbuildable. The land to the west and north are available for the addition. The addition is oriented west and north to align with the existing home and be accessible from the existing driveway and provide access to the proposed garage addition.


11. **Verification:** I (We) hereby certify that all of the foregoing statements contained in any papers and/or plans submitted herewith are true to the best of my (our) knowledge and belief.

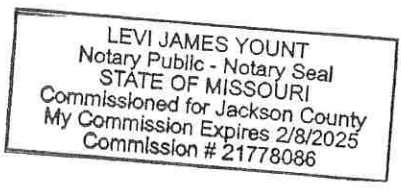
Signature	Date
Property Owner(s) <u></u>	<u>7/30/24</u>
Applicant(s): same as above	<u>2/30/24</u>
Contract Purchaser(s):	
_____	_____
_____	_____

STATE OF Missouri
COUNTY OF Jackson

On this 30th day of July, in the year of 2024, before me the undersigned notary public, personally appeared Kenneth Boone & Brooke Madick known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

 Commission Expires 02/08/2025
Notary Public



July 26, 2024

To Whom It May Concern,

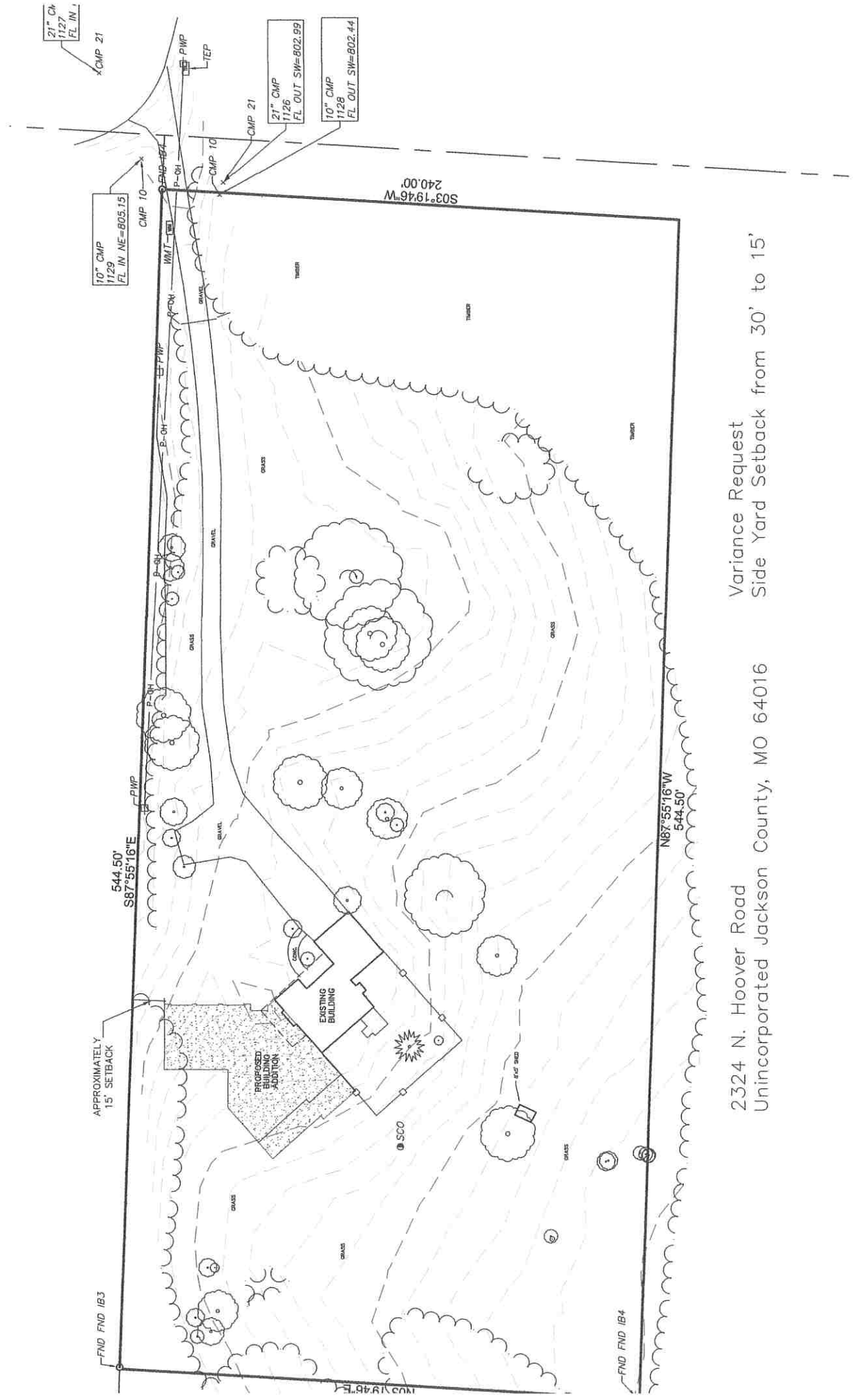
Kenneth Boone and Brooke Madick have explained in detail the building plans for their property. We understand the new build will be approximately 15 feet from the property line. As the neighbor to the North of them at 2404 North Hoover Road, Buckner MO, we have no issue with their building plans. It will not now nor in the future impede on the personal use of our property. We have no reservations with the plans for their property.



Harold Beadel

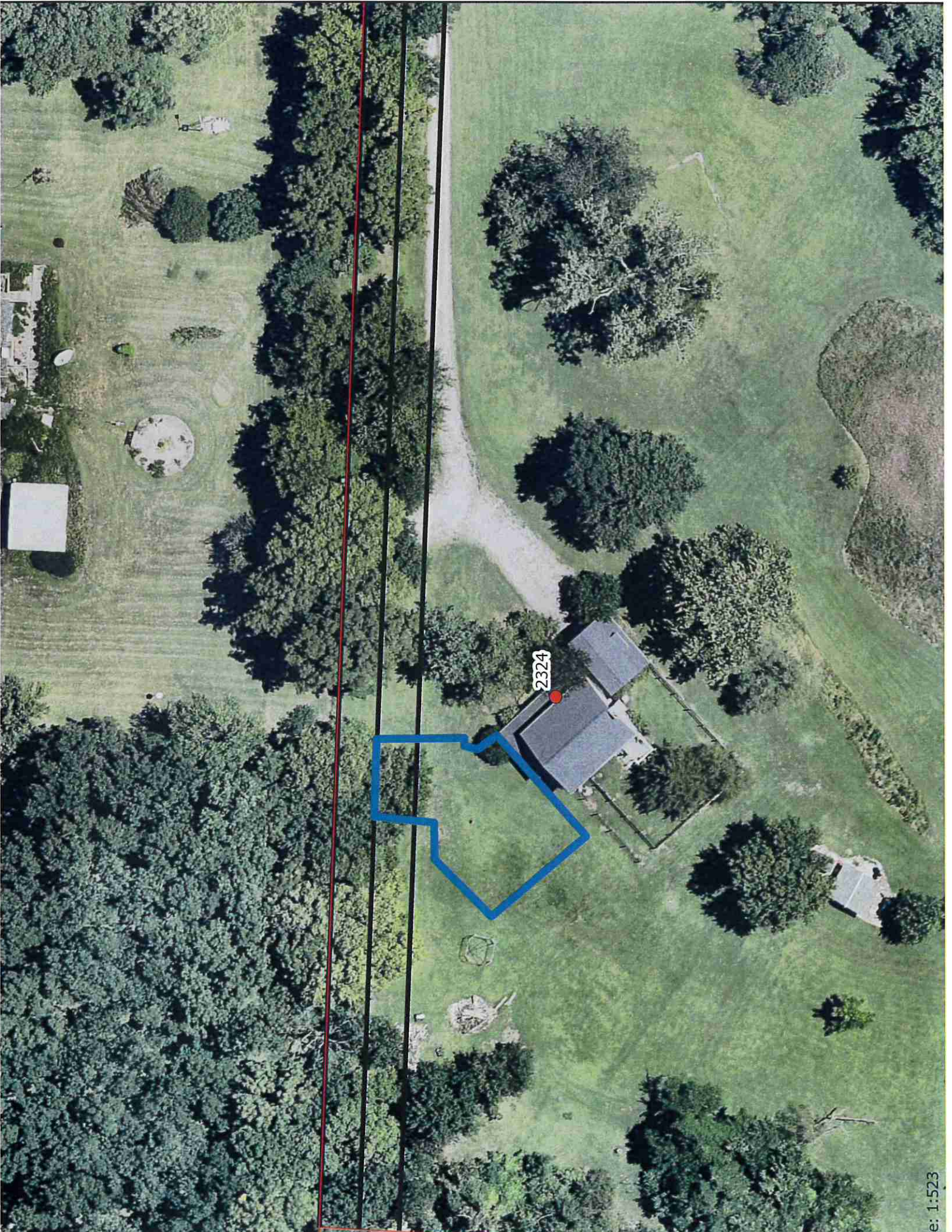


Darlene Beadel



2324 N. Hoover Road
 Unincorporated Jackson County, MO 64016

Variance Request
 Side Yard Setback from 30' to 15'



Missouri Warranty Deed I 7911 931

This Indenture, Made on the 30th day of September A. D., One Thousand Nine Hundred and seventy-seventh and between

John B. Hoover and Bertha N. Hoover, husband and wife
of the County of Jackson, State of Missouri parties of the first part, and
John L. Hoover and Joanna L. Hoover, husband and wife
of the County of Jackson, State of Missouri parties of the second part,
(Mailing address of said first named grantees is R#1, Box 159, Buckner, Missouri 64016)

WITNESSETH: THAT THE SAID PARTIES OF THE FIRST PART, in consideration of the sum of One Dollar and other good and valuable consideration ~~XXXXXX~~ to be paid by said parties of the second part (the receipt of which is hereby acknowledged), do by these presents, Grant, Bargain and Sell, Convey and Confirm unto the said parties of the second part their heirs and assigns, the following described lots, tracts or parcels of land lying, being and situate in the County of Jackson and State of Missouri, to-wit:

In the Southeast 1/4 of the Southeast 1/4 of section 18, Township 50, Range 30, Jackson County, Missouri, described as follows: Beginning at a point in the North Line of said 1/4, 1/4 Section, said point being 25.0 feet West of the Northeast corner of said 1/4, 1/4 Section, thence South parallel to the East line of said 1/4, 1/4 Section 240.0 feet, thence West 544.5 feet, thence North 240.0 feet to the North line of said 1/4, 1/4 Section, thence East 544.5 feet to the point of beginning. Containing .3 acres.

99-18-50-30

TO HAVE AND TO HOLD The premises aforesaid with all and singular, the rights, privileges, appurtenances and immunities thereto belonging or in any wise appertaining unto the said parties of the second part and unto their heirs and assigns forever; the said John B. Hoover and Bertha N. Hoover hereby covenanting that they are lawfully seized of an indefeasible estate in fee of the premises herein conveyed; that they have good right to convey the same; that the said premises are free and clear from any incumbrance done or suffered by them or those under whom they claim; and that they will warrant and defend the title to the said premises unto the said parties of the second part and unto their heirs and assigns forever, against the lawful claims and demands of all persons whomsoever

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year above written.

John B. Hoover (SEAL)
Bertha N. Hoover (SEAL)
_____(SEAL)
_____(SEAL)

I 7911' 932

MISSOURI ACKNOWLEDGMENT—UNMARRIED PERSON

STATE OF..... }
COUNTY OF..... } ss. On this..... day of....., 19.....

before me, a Notary Public, personally appeared

to me known to be the person described in and who executed the foregoing instrument, and acknowledged that.....
executed the same as..... free act and deed, And the said
further declare..... to be single and unmarried.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at
my office in..... the day and year last above written.

My term expires....., 19..... Notary Public in and for said County and State.

MISSOURI ACKNOWLEDGMENT—MAN AND WIFE

STATE OF MISSOURI }
COUNTY OF JACKSON } ss. On this 30th day of September, 1977

before me, the undersigned a Notary Public, personally appeared

John B. Hoover and Bertha N. Hoover

his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged
that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at
Independence
my office in..... the day and year last above written.

My term expires September 2, 1980

Mary K. Ott
Notary Public in and for said County and State.
Mary K. Ott

Y4 1303424
SE 99-185030

Warranty Deed

FROM

JOHN B. HOOVER and
BERTHA N. HOOVER, husband &
wife

TO

JOHN L. HOOVER and
JOANNA L. HOOVER, husband &
wife

Filed for record this..... day
of..... A.D., 19.....
at..... o'clock, minutes, M.
Recorded in Book..... at Page.....
By..... Recorder.
Deputy.
Recorder's Fee, \$.....

AI Hencke, Attorney
221 W. Lexington

MD493-3
McDANIEL TITLE COMPANY

ST
CO
ins
A.

STATE OF MISSOURI)
JACKSON COUNTY) SS
I CERTIFY INSTRUMENT RECEIVED

1977 OCT 3 PM 1 36.4

I 7911' 931
RECORDED BOOK PAGE
STEVEN A. GLORIOSO
DIRECTOR OF RECORDS

100
700
A. Coy. 820