



AGENDA

Board of Zoning Adjustment

Regular Meeting

July 18, 2018

4:00 p.m.

City Hall

1000 City Parkway

Osage Beach, Missouri

REGULAR MEETING AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES FROM THE NOVEMBER 15, 2017 MEETING
4. NEW BUSINESS
 - A) Variance Case No. 329 Wayne J Stephens Trust; Leonard Shelton Trustee
5. ADJOURN MEETING

**PUBLIC HEARING FOR VARIANCE CASE # 328
OF THE BOARD OF ZONING ADJUSTMENT
FOR THE CITY OF OSAGE BEACH, MISSOURI**

November 15, 2017

The Board of Zoning Adjustment for the City of Osage Beach, Missouri, met to conduct a hearing on Variance Case #328 on November 15, 2017 at 4:00p.m., at City Hall in said City. The following Board Members were present: Chairman Louis Mayer, Larry Jones, Jerry Frank, Gloria O Keefe, and Don Sturn. Also present were City Attorney Edward Rucker, City Planner Cary Patterson, and Department Secretary Brook Cason who kept a journal of the proceedings. Midwest Litigation Court Reporter Patricia Stewart was also present.

MINUTES:

Chairman Mayer asked if there were any corrections or additions to the Minutes from the September 20, 2017 meeting.

Larry Jones stated that there was an error at the end of the document naming him as Chairman instead of Louis Mayer.

Department Secretary stated that the correction had been made prior to the meeting.

The Board amended and approved the correction in consensus. A motion was made and seconded, and the minutes for the September 20, 2017 meeting were unanimously approved.

NEW BUSINESS:

Chairman Louis Mayer presided and read the criteria for granting a variance. He also read RSMo.1986§89 regarding the legal authority for the creation of the Board of Zoning Adjustment.

Chairman Mayer called Case # 328 to order.

Chairman Mayer asked Planner Patterson if all legal notices were met.

Planner Patterson answered in the affirmative.

Chairman Mayer asked Planner Patterson if the City made a prudent effort to notify, by mail, adjacent and otherwise obviously affected property owners.

Planner Patterson answered in the affirmative.

Chairman Mayer asked Planner Patterson to please describe the Variance request.

The Code Book and file containing Variance Case #328 were entered into the record as Exhibit 1 and 2 by Planner Patterson.

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ZONING ADJUSTMENT**

Date: November 15, 2017

Case Number: 328

Minutes
Board of Zoning Adjustment

Applicant: Kemp Shepard
Location: 1267 Greenwood Circle
Petition: Variance from minimum setback requirements
Purpose: Home reconstruction
Existing Use: Single-family home
Zoning: R-1a (Single Family)
Tract Size: Approximately 11,079 square feet

Case History **Case #** **Date**

None

Utilities

<u>Water:</u> City	<u>Gas:</u> None
<u>Electricity:</u> Ameren	<u>Sewer:</u> City

Access: The subject property derives access from Greenwood Circle

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot known as Lot 24 of Harbor Heights Estates and is designated with the physical address 1267 Greenwood Circle.
2. The applicant is requesting a variance to rebuild a home on the existing foundation. According to the letter submitted by the applicant, the existing structure was found unsuitable to handle the remodel that they initially planned. The reconstruction of the home on the existing foundation with an entry addition would bring the home to within seven feet five and half inches from the front property line and the existing 8.47 feet for the east side property line. You will remember that the applicant was given approval in March for an attached garage onto the home that would extend to within 5.125 feet from the side property line creating an encroachment within the required ten- foot setback. The minimum required setback in the front yard is twenty- five (25') feet from the front property line in the R-1a zone.
3. We received a letter (enclosed) from John Gamble, the neighbor to the east, saying they have no objection provided the addition did not affect their view of the lake. The rear of the home is in conformance with the setback regulations and candidly, if the city required the applicant to build the home meeting the setbacks, it would then almost completely block the neighbors view by setting the home a minimum of an additional eighteen-feet back toward the lake.
4. Of course, if approved the addition cannot be built on or over any public utilities or easements.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony, and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the new construction and all other zoning codes be adhered to.

Planner Patterson reminded the Board that earlier in the year they had approved Mr. Kemps original request for a garage addition. Since then, it has been found that the house is in far worse disrepair than originally thought. So, Mr. Kemp is coming before the Board to obtain a new Variance to tear down the structure to the foundation, and rebuild on the existing foundation. This remodel includes the garage from the previous variance request.

Chairman Mayer asked if there was anyone who wished to speak for or against this request.

No one came forward to address the request.

Chairman Mayer asked if Council wished to add anything

Attorney Ed Rucker stated that the file was complete and ready for the Boards decision.

Planner Patterson added, that approving variance requests like this one keep the specific development patterns in the subdivision similar. Asking them to push back the house would go against the subdivision development.

Chairman Mayor stated that this was one of the unique qualities of living on the lake, and asked for a motion on Variance Case 328. Larry Jones moved to approve Variance Case 328, Gloria O Keefe seconded the motion. A roll call vote was taken, and Variance Case 328 unanimously passed.

REPORTS:

Chairman Mayer asked if there were any reports or comments from the staff. There being no further business to come before the Board of Zoning Adjustment, the meeting adjourned at 4:13 p.m.

I, Brook Cason, Planning Department Secretary for the City of Osage Beach, Missouri, do hereby certify that the above foregoing is true and complete journal of proceedings of the regular meeting of the Board of Zoning Adjustment for the City of Osage Beach, Missouri held on November 15, 2017.

Brook Cason
Department Secretary

Louis Mayer
Chairman

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: July 18, 2018

Case Number: 329

Applicant: Wayne J. Stephens Trust/ Leonard Shelton Trustee

Location: 5600 Three Seasons Road

Petition: Variance from minimum setback requirements

Purpose: Relieve non-conforming status from existing structure

Existing Use: Single-family home

Zoning: R-1a (Single Family)

Tract Size: Approximately 21,00 sq.ft.

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	None
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property derives access from Three Seasons Road

Analysis:

1. The applicant is a representative for the Trustee of the Wayne J. Stephens Trust, who is the owner of the property in question. The property is a platted lot known as Lot 34 of Lake Center Subdivision #1 and is designated with the physical address 5600 Three Seasons Road.
2. The applicant is requesting a variance that would give the existing structure to be legal as it pertains to the zoning Code. The City has been involved with this situation since the original owner began construction. Mr. Stephens did not build the structure in conformance with the approved site plan along with never putting the primary structure on the property. The main issue was that the existing structure was to be an accessory structure with a garage and storage with a home as the primary structure. At a point after construction had commenced, the owner decided to make the existing structure a home. The issue now is that the structure does not meet setbacks for a primary structure and also has not been given a Certificate of Occupancy. At this point, Mr. Stephens has passed, and his Trust is now faced with the issues that are involved. A variance in this case will allow the Building Department to go in and do the necessary inspections for building code compliance and occupancy can then be approved. The trust would then be able to sell the property and the structure as a home. The existing structure is built to within 6.3 feet from the rear property line, with the deck being 5 feet from the same, and 9.8 feet from the south side property line. The minimum required setback in the rear yard is twenty (20') feet and ten (10') from the side property line in the R-1a zone.
3. If a variance is approved, the applicant will need to coordinate with the City's Building Department to assure the necessary inspections can be done. Only after a Certificate of Occupancy is given for the structure, can it legally be inhabited.
4. The existing structure is not built on any existing City facilities.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony and make the decision that is appropriate.

If this request is approved, the following conditions shall apply:

1. The structure must remain in accordance with the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. All required building inspections will be required for the issuance of a Certificate of Occupancy.

Date Submitted 6/8/18

CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
REQUEST FOR REVIEW

NAME OF APPLICANT: THE WAYNE J. STEPHENS TRUST LEONARD S. HART
7 REVISED

MAILING ADDRESS: 1260 ELM GROVE CHURCH RD
RICHLAND MD 65556

TELEPHONE: 573-765-8519

LOCATION OF PROPERTY: (Be specific. Give directions to property. Include Lake Road and lot number. Attach legal description of property to this application. Please mark property in some way, i.e., distance from property lines with red paint, flags or stakes, indicating location of proposed variance.

5624/5600 THREE SEASONS RD LOT 34
OSAGE BEACH MD 65065

VARIANCE FOR/FROM: DISTANCE FROM LOT LINE

APPEAL FOR/FROM:

List names and mailing addresses of the current adjoining property owners:
(Attach a separate sheet if necessary)

NAME COMPLETE ADDRESS/WITH ZIP CODE

SEE ATTACHMENT

CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
QUESTIONNAIRE

1. SIZE OF PROPERTY: 35,308 sq. ft.

2. SOURCE OF UTILITIES: WATER: city/well GAS: Summit
SEWER: city ELECTRIC: Ameren

3. PRESENT USE OF PROPERTY: R-1 single family

4. PRESENT ZONING OF PROPERTY: R-1

5. HAVE YOU PREVIOUSLY APPLIED FOR A VARIANCE ON THIS PROPERTY? No
IF SO, WHEN?

6. HOW LONG HAVE YOU OWNED THE SUBJECT PROPERTY? 1 yr.

7. PLEASE LIST ANY EXISTING STRUCTURES ON THE PROPERTY AND THE YEAR BUILT.

8. DO YOU OWN ANY PROPERTY ADJACENT TO THE SUBJECT PROPERTY? No

9. WHY, IN YOUR OPINION IS YOUR CURRENT SITUATION, AND OR THE EXISTING
SIZE /EXTENT OF THE USE NOT ACCEPTABLE?
Please see attached letter.

10. IS THERE ANY PARTICULAR HARDSHIP RELATED TO YOU OR YOUR PROPERTY OF
WHICH THE BOARD SHOULD BE AWARE?
Please see attached letter.

11. LIST SPECIAL CIRCUMSTANCES WHICH ARE PECULIAR TO THE LAND STRUCTURE
OR BUILDING IN QUESTION AND DO NOT GENERALLY APPLY TO THE NEIGHBORING
LANDS, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT OR VICINITY.
Please see attached letter.

12. LIST REASONS WHY STRICT APPLICATION OF THE PROVISIONS OF THE ZONING ORDINANCE WOULD DEPRIVE YOU OF REASONABLE USE OF THE LAND, STRUCTURE OR BUILDING IN A MANNER EQUIVALENT TO THE USE PERMITTED TO BE MADE BY OTHER OWNERS OF NEIGHBORING LANDS, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT.

13. WERE THESE SPECIAL CIRCUMSTANCES THE RESULT OF ANY ACTION TAKEN SUBSEQUENT TO MAY 10, 1984? YES NO

NOTE: Applications must be accompanied by additional information as outlined in the Board of Adjustment Application Procedures. (Page 1 of this packet). The Administrative Officer of the Zoning Ordinance will review the application for Variance and determine if sufficient data is contained to adequately describe the situation to the Board of Adjustment. If the data is not adequate, the Administrative Officer shall return the application to the applicant for additional information. Only completed applications shall be forwarded to the Board of Adjustment.

SIGNATURE OF APPLICANT: [Signature]

SIGNATURE OF PROPERTY OWNER: Leonard Shelton

Checks should be made payable to the City of Osage Beach. Postage costs should be calculated and submitted with the \$330.00 filing fee.

STATE OF MISSOURI,

COUNTY OF CAMDEN,

Subscribed and sworn to me before me, the 22 day of June 2018

Notary Public [Signature]

My Commission expires: (stamp) (seal)

BROOK CASON
Notary Public - Notary Seal
STATE OF MISSOURI
Comm. Number 17643410
Camden County
My Commission Expires: Feb. 28, 2021

June 8, 2018

Board of Adjustments
1000 City Parkway
Osage Beach MO 65065

Dear Sirs;

This letter is a request for a variance regarding property setbacks at 5600/5626 Three Seasons Road.

On December 13, 2004 a building application for a Garage was submitted to the City of Osage Beach. The application was then amended to add a second story above the garage March 26, 2005.

The lot was platted in the 1950's and the Osage Beach Boundaries were changed some time later putting half of the lot in the city limits and one half outside the limits. This was done on the section lines which made an easy boundary but created complications as far as zoning is concerned. This was originally planned to be an accessory building to another structure on the property. Early in the construction process Mr. Stephens decided to add a second story including living quarters. This now meant the structure did not meet the set back requirements.

After a complaint from a neighbor alleging that an apartment was being built above the garage, a stop work order was issued on July 24, 2005. This stop work order was ignored and another was posted on August 31, 2005. Work continued on the building until completed without an occupancy permit or inspections.

Even with a stop work order and several letters from the city attorney, the city issued a sewer and water permit for the property and allowed the building to be hooked up to city sewer and have city water available. Mr. Stephens was also allowed to live in the house for over ten years without an occupancy permit and in violation of city ordinances.

In one of the letters from the city attorney, Mr Stephens was advised that "legal action will be commenced against you to enforce the City Codes. Of course, one option would be to have you remove the total structure from the premises". This statement indicated there were other "options." I feel we need to pursue the other options, whatever they may be.

Mr. Stephens passed away last year, so now we need to find an "option" that will make it possible for his family to sell this property.

Fortunately there are no immediate neighbors and the property drops off steeply behind the house so there will never be a building near it. The neighbor to the east has been approached on several occasions and has no interest in selling off ten feet of her property but indicated she would like for the family to be able to sell the property.

We understand that every area needed for inspections will have to be exposed so inspections can be made.

Thank you for your consideration in this matter.

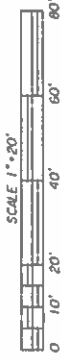
Drennan Cloyd



PLAT OF SURVEY

LOT 32

ROSLAND
BK. 739, PG. 146



FND. #4 BAR

(S83°25'E, PLAT)
S 83°30'26"E 233.61'

LOT 34

WAYNE J. STEPHENS
REVOCABLE LIVING TRUST
BK. 767, PG. 689

LOT 35

RICKER
BK. 494, PG. 597

100.32'

THREE SEASONS ROAD
40' R/W N 01°30'00"E 100.30'

FND. 3-8 ROD

N 00°25'25"W



6.3'

100.98'

S 83°26'03"E 237.04'
(S83°25'E, 236.9' PLAT)

FND. 3-8 ROD

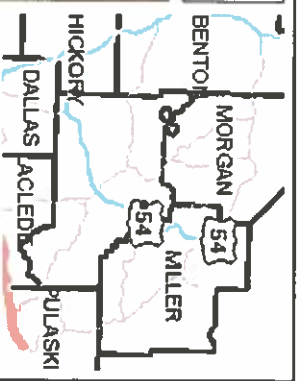
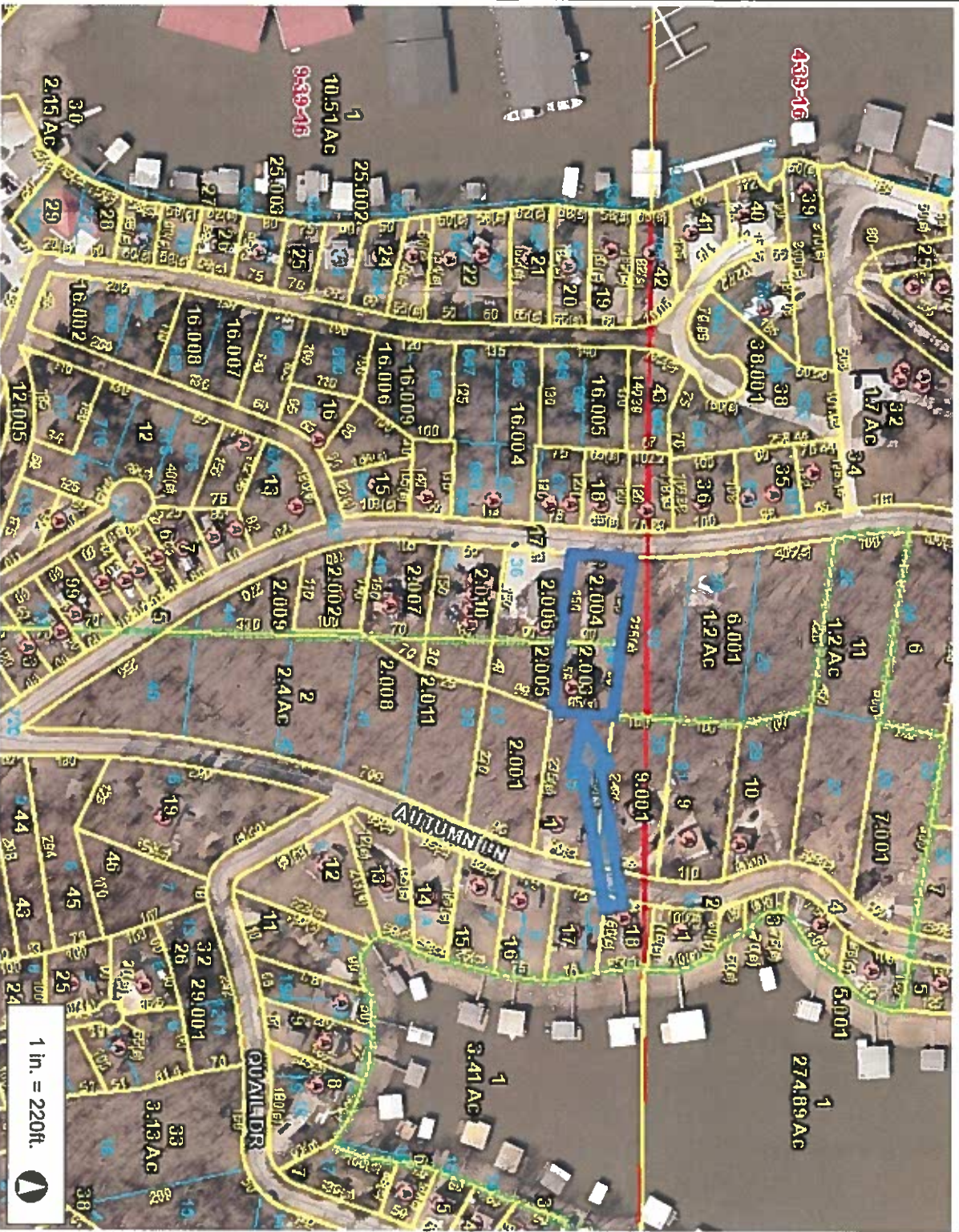
LOT 36

LEBBY
BK. 800, PG. 754

CERTIFICATION: This is to certify that I, Lonny D. Allen, L.S., at the direction of Wayne Stephens Trust, executed a survey of Lot 34, LAKE CENTER SUBDIVISION NO. 1, a subdivision of Camden County, Missouri, and that said survey was performed in accordance with the requirements of the standards for property boundary surveys adopted by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, and that the results of said survey are shown hereon.

Lonny D. Allen, L.S.
L.S. 11170
4/17/18

Camden County, MO



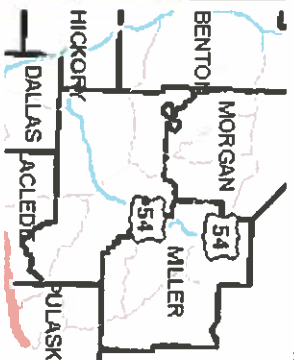
Legend

Notes

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

439.1 0 219.55 439.1 Feet

Camden County, MO



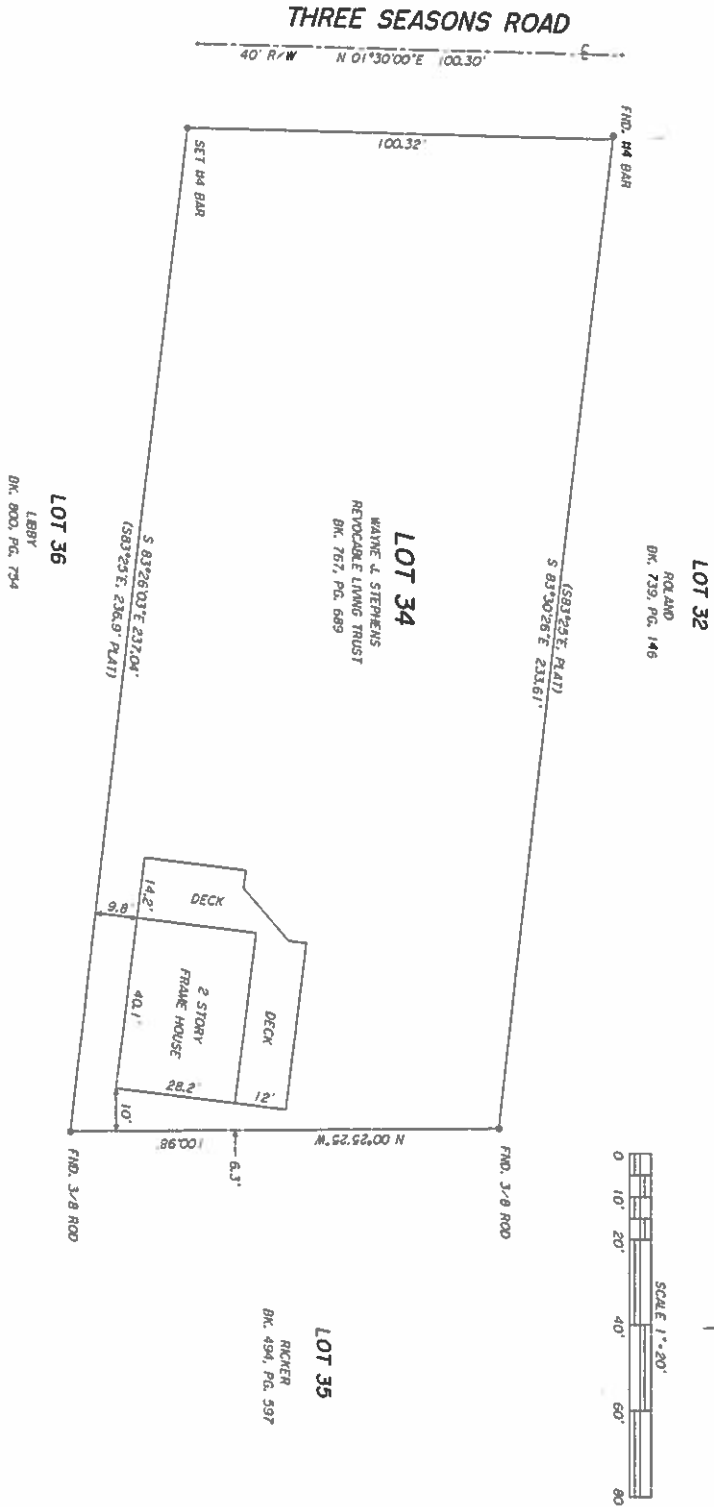
Legend

Notes

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries. THIS MAP IS NOT TO BE USED FOR NAVIGATION

439.1 0 219.55 439.1 Feet

PLAT OF SURVEY



CERTIFICATION: This is to certify that I, Lanny D. Allen, L.S., of the district of Wayne Stephens Trust, executed a survey of Lot 34, LAKE CENTER SUBDIVISION NO. 1, a subdivision of Camden County, Missouri, and that said survey was performed in accordance with the requirements of the standards for property boundary surveys adopted by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, and that the results of said survey are shown herein.

Lanny D. Allen, L.S.
 L.S. #1670
 4/17/19