

MINUTES OF BOARD OF ADJUSTMENT  
MAY 13, 2004  
BUFFALO COUNTY COURTHOUSE BOARDROOM  
4:00 P.M.

Chairperson Bosshamer called the meeting to order at 4:00 o'clock P.M. with a quorum present on May 13, 2004 at the Buffalo County Board of Supervisors room in the Buffalo County Courthouse, Kearney, Nebraska.

Agenda for such meeting was regularly posted as required by law. Present were: Chairperson Ann Bosshamer, Dennis Farrell, Marlin Heiden, Sharon Martin, Lloyd Wilke and alternate Carol Porter. Also present were Buffalo County Zoning Administrator LeAnn Klein and Ryan Page.

The public forum was opened at 4:00 P.M. No one spoke.

Chairperson Bosshamer opened the hearing for the variance for Ryan and Marlene Page at 4:01 P.M. Thereafter, Board heard testimony regarding application for zoning variance submitted by Ryan Page, concerning property located by property address of 5560 W 85<sup>th</sup> St., Kearney, NE. Mr. Page addressed the Board about the proposed 36' x 48' building for the storage of a boat and children's cars. He stated he had met with the Zoning Administrator and had applied for a zoning permit for this building on 12/3/03 but could not comply with the required 50' setback and then had filed for the variance. He has a 22' boat and together with the engine and hitch of the trailer would extend to 32'-34' so that is why he is asking for a 10' variance. This building would be located southeast of home and would be west of adjacent 56<sup>th</sup> Ave.

No one spoke in opposition.

Board member Martin questioned the height of the east wall facing the road. Mr. Page said the building would be between 3'-4' above ground surface and would be underground about 6'-8'. He also said there are trees currently planted to shield the proposed building from the road.

Board member Heiden questioned if there would be other places on this property to place building. He also questioned if a building could be added to existing barn on west side. Mr. Page said the well is west of this area and is on a slope. He said there is a distance of about 25' to the well.

Board member Porter also asked about adding on to west side of barn.

Board member Farrell asked how far barn is from road ROW and if he could add building to east side of barn. Mr. Page said barn is about 85' from road ROW and hasn't thought about adding this building at that location. The barn is approximately 150' from home.

Board member Farrell said 56<sup>th</sup> Ave is only 60' wide at the north end and the narrowness of the road is a concern. One of the options is to put a 24' garage at this location and that would accommodate a garage and still could put a small building to house boat on the east end of existing barn.

The hearing closed at 4:19 P.M.

Zoning Administrator Klein referred to the letter received from Deputy County Attorney that was sent to all the Board of Adjustment members and also that this area is within 1 mile of the City of Kearney's jurisdiction. She also referred to the Buffalo County Zoning Regulations 9.3, subsection #3:

3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:
  - a. The strict application of the regulation would produce undue hardship;
  - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
  - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

Board member Martin said that no doubt this would be a beautiful building but she had deep concerns of the width of the road at this location. If we would pass this, the Board would be setting a precedent.

Board member Farrell asked if Mr. Page could come up with an alternative plan, either to put in a smaller garage or add onto existing barn. He does not think this is a hardship.

Board Chairperson Bosshamer said a hardship is not for convenience, profit or caprice.

Motion was made by Wilke, seconded by Heiden to deny the 10' variance requested by Ryan Page on property described as: A tract of land in the Northeast ¼ of the Northwest ¼ of Section 17, Township 9 North, Range 16 west of the 6<sup>th</sup> pm, Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of the Northwest 1/4 of said Section 17 and assuming the north line of said Northwest ¼ as bearing N 89° 51' W and all

bearings contained herein are relative thereto; then N 89° 51' W and on the North line of the Northwest ¼ of said Section a distance of 576.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 89° 51' W and on the North line of said Northwest ¼ a distance of 688.0 feet; thence S 00° 08' 31" W a distance of 1315.0 feet; thence S 89° 51' E and parallel with the North line of the Northwest ¼ of said Section a distance of 688.0 feet; thence N 00° 08' 31" E a distance of 1315.0 feet to the place of beginning. No hardship has been shown and is more for convenience.

Voting yes were Wilke, Heiden, Bosshamer, Farrell and Martin. Voting no: none. Absent: none. Motion carried.

Moved by Martin, seconded by Farrell to approve the minutes of August 14, 2003 meeting of the Board of Adjustment. Voting yes were Martin, Farrell, Bosshamer, Heiden and Martin. Absent: none. Voting no: none: Motion carried.

Moved to adjourn at 4:40 P.M. until time that Board of Adjustment is called into session again.