

MINUTES OF BOARD OF ADJUSTMENT
NOVEMBER 13, 2008
BUFFALO COUNTY COURTHOUSE BOARDROOM
4:00 P.M.

Chairperson Bosshamer called the meeting to order at 4:05 o'clock P.M. with a quorum present on November 13, 2008 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, Larry Fox, Sharon Martin and Lloyd Wilke. Absent: Marlin Heiden and alternate Barb Pemberton Riege. Also present were Buffalo County Deputy Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and seven members of the public.

Chairperson Bosshamer announced we do abide by the open meeting act and there is a copy posted in the County Board room and copies are available for anyone wanting to see it. The public forum was opened at 4:05 P.M. No one was present. The public forum closed at 4:05 P.M.

Chairperson Bosshamer opened the hearing at 4:06 P.M. for the zoning variance filed by Robert Buck for the South 40 feet of Lot 124, all of Lot 125 and Lot 126, Village of Odessa, Buffalo County, Nebraska. Thereafter, Board heard testimony regarding application for the amendment of the variance submitted by Mr. and Mrs. Buck, concerning property in the Village of Odessa, Buffalo County, Nebraska.

Janet Buck told the Board of Adjustment they had bought these 2 ½ lots and they have moved a trailer house onto their site and didn't realize there was any zoning. The zoning administrator had contacted them and that is why they are in front of the Board of Adjustment today. They moved the mobile home so that their son and his family could live in this mobile home. Where their kids currently live now is also in a mobile home in Odessa and the landlord won't fix up the mobile home. The last couple of winters even the water would freeze in their other mobile home.

Deputy County Attorney Hoffmeister asked the following questions:

1. He asked where the house currently sits and how many lots they own.
2. He asked what lots were occupied and what lots were vacant lots surrounding their property.
3. He asked the location of the post office and if it was occupied. What do they intend to use the old post office for.
4. He asked if Lot 124 and Lot 125 had separate well and septic and also the location of the well and septic.
5. Does the post office have running water?
6. If the setbacks of the mobile home is the same as the post office?

Buck responded as follows:

1. The house and garage currently sit on part of Lot 124 and all of Lot 125 and they also own Lot 126.
2. Mrs. Buck identified which lots were occupied and which lots are vacant.
3. The post office is not occupied and they plan on using it for storage.
4. There is a separate well and septic on Lots 124 and 125 and a separate well and septic on Lot 126.
5. The post office has running water.
6. The setback is the same as the post office.

Wilke asked if the garage might be on two lots. Buck responded it might.

Martin asked if the mobile home was empty. Buck replied no one is living in the mobile home.

Wilke asked if they want to split off the three lots. Mrs. Buck said they don't want to sell off one lot to their son. Wilke told them if they split off one lot, the mobile home would be allowed and there would be no need for this variance request.

Hoffmeister said the entire Village of Odessa is non-conforming because Buffalo County regulations require 3 acres per lot. They could drop this down to 1 acre if they shared water or sewer and 70,000 square feet if in an approved subdivision and with DEQ and County Board approval.

Two neighbors, Marie Limbach and Terry Buck, spoke and no one here is opposing this mobile home being placed on this lot. They said there use to be a mobile home on this lot about 10 years ago.

Hoffmeister said there is a potential for three separate homes on these 2 ½ lots, with the Buck home, a mobile home and the post office. Hoffmeister said one of the issues would be if the post office would ever be inhabited. The non-conformity already exists.

Applicants and Limbach stated that on Lot 126, prior to the passage of county zoning and while the post office was in use, had situated upon it a mobile home that had separate electrical and other utility hookups. This mobile home and the post office shared water and septic facilities.

Martin said there are concerns about the placement of septic and well being too close together. The entire Village of Odessa has this problem.

Wilke asked if they can guarantee the post office won't ever be inhabited.

Martin asked if residents should have their water tested. Some of the residents said they had their water tested and it was okay.

Chairperson Bosshamer closed the public hearing at 4:30 P.M.

Motion was made by Martin, seconded by Fox to approve this variance to allow placement of mobile home on Lot 126 with the following condition:

1. Post office structure will not be used as housing or commercial purposes. This has been requested by Robert E. and Janet S. Buck for property described as the South 40 feet of Lot 124 and all of Lots 125 and 126, Village of Odessa, Buffalo County, Nebraska, together with the vacated North 17.0 feet of Strong Avenue abutting said Lot 126 on the South, and together with the vacated West 7.0 feet of Webb Street abutting said portion of Lot 124 and all of Lots 125 and 126 on the East and abutting the vacated North 17.0 feet of Strong Avenue (above mentioned) on the East because the factors were met as per 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.

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

Klein stated this resolution would be filed in the Register of Deed's office against the property and a copy would be sent to Mr. & Mrs. Buck.

Moved by Wilke, seconded by Martin to approve the minutes of September 11, 2008 meeting of the Board of Adjustment as mailed. Voting yes were Wilke, Martin, Bosshamer and Wilke. Absent: Heiden. Voting no: none. Motion carried.

Klein asked if the Board of Adjustment could meet on December 4 since she will be attending a meeting on December 11. They said that date would work for them for the next meeting of the Board of Adjustment.

Moved to adjourn at 4:40 P.M. until December 4, 2008.