

MINUTES OF BOARD OF ADJUSTMENT
AUGUST 12, 2004
BUFFALO COUNTY COURTHOUSE BOARDROOM
4:00 P.M.

Chairperson Bosshamer called the meeting to order at 4:02 o'clock P.M. with a quorum present on August 12, 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 Attorney Shawn Eatherton, Buffalo County Zoning Administrator LeAnn Klein and Randall Alexander.

The public forum was opened at 4:03 P.M. No one spoke.

Chairperson Bosshamer opened the hearing at 4:04 P.M. for the variance filed by Randall Alexander. Thereafter, Board heard testimony regarding application for variance submitted by Mr. Alexander, concerning property described as Lot 4, Block 2, Bridle Acres 2nd Subdivision, part of E ½ of Section 24, Township 9 North, Range 17 West of the 6th P.M., Buffalo County Nebraska. Mr. Alexander addressed the Board regarding the request to reduce the set back from 50' to 20' for Lot 4. He said this subdivision was platted prior to zoning being implemented. He stated he had contacted three contractors and there is no way a house can be built on this lot with the required setback because of the steep slope. When this subdivision was laid out, they did not anticipate the problem with this lot. He stated all the utilities are within the 10' setbacks. This is on a cul-de-sac and he complied with all the requirements of the Buffalo County Highway Department as to the width of the adjoining roads. Alexander feels he has met all four requirements of 9.31. The adjoining neighbors do not have any opposition to the setback change.

Klein questioned the setback that was shown on the subdivision. Alexander stated they were set at 50' prior to the zoning going into effect. Heiden also questioned the parking of vehicles in front of these adjoining lots. The cul-de-sac would only affect Lots 4 & 5 since Lot 3's house is located farther north. Heiden also questioned moving the cul-de-sac to the north but that would not be possible since it is already owned by other people.

Alexander said that the front of this lot is 107' in width and parking would not be a problem. There would be ample space for parking. He stated that Yellow Rose Lane is being maintained by the County. The purpose of this subdivision is to keep houses separated and to have big lots. The remainder of Lot 4 is a canyon.

Farrell and Heiden questioned the placement of drain fields for septic but Alexander said that shouldn't be a problem.

Heiden questioned Eatherton if this was approved, would they be setting a precedent for future variance requests. Eatherton stated everything would have to be the exact same factors to set a precedent.

Heiden stated this is a bad situation because of the way this lot was laid out and this lot is different than any other lot.

Bosshamer stated because of the shape and geography of this lot, it might change the flavor of the neighborhood.

Farrell asked if he didn't realize a house could not be built when this was platted. Alexander said it was an oversight of the surveyor and himself. He also questioned if they would have to make exceptions for future development in hilly area.

Once the subdivision regulations are passed, this won't be a problem.

Martin does not like to see changes in the zoning regulations.

No one spoke in opposition. The hearing closed at 4:35 P.M.

Motion was made by Heiden, seconded by Martin to grant a 25' variance as requested to Randall Alexander for property described as: Lot 4, Block 2, Bridle Acres 2nd Subdivision, a part of E ½ of Section 24, Township 9 North, Range 17 west of the 6th pm, Buffalo County, Nebraska 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 Heiden, Martin, Bosshamer, Farrell and Wilke. Voting no: none. Absent: none.
Motion carried.

Moved by Farrell, seconded by Wilke to approve the minutes of June 10, 2004 meeting of the Board of Adjustment. Voting yes were Farrell, Wilke, Bosshamer, and Heiden. 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.