

MINUTES OF BOARD OF ADJUSTMENT
MARCH 23, 2006
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 March 23, 2006 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 Barb Pemberton Riege. Absent: none. Also present were Deputy Buffalo County Attorney Andrew Hoffmeister, Deputy County Attorney Melodie Bellamy, Buffalo County Zoning Administrator LeAnn Klein and 6 members of the public.

The public forum was opened at 4:00 P.M. There was no one present to speak. The public forum closed at 4:00 P.M.

Chairperson Bosshamer opened the hearing at 4:01 P.M. for the application for zoning variance received from Daniel K. Stephens for property described as a tract of land being part of Northeast Quarter of the Southeast Quarter located in Section 20, Township 9 North, Range 14 W of the 6th p.m., Buffalo County Nebraska. Thereafter Board heard testimony from Daniel K. Stephens.

Daniel stated he would like to put an addition to his existing home which includes an addition to the north side of home, a garage and shop and an 8' covered wrap around porch on north, east and south side of existing house. The Commission questioned the width of Ravenna Road and the jog of 7' in the road right-of-way. Stephens stated the 7' jog was that way when he purchased the property and doesn't know the reason for this.

Martin asked if the porch will have a roof and if he would be asking for an additional 8' in addition to enlargement on the north side of house. Stephens said the porch will be open with just a roof.

Wilke stated the covered porch would not be a livable area.

Bosshamer read as per 2.52 of the Buffalo County Zoning regulations:

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

Also submitted for review by the Board and considered as a part of the record was application of variance together with schematic building plan for the proposed addition to the existing house, of which the easternmost portion was already within the fifty (50) foot front yard setback from

county road. The road width to the east of the existing building was shown on the plan and various members of the Board raised concerns about what was the road width to the east of applicant's property. Hoffmeister surmised that the road was initially a 66' right of way county road that was at some time in the past made an 80' right of way road. That would be his explanation for why the road width would make a seven (7) foot jog along the eastern side of applicant's property where it would appear the road width changed from 80' to 66' directly to the east of the existing residence. Such seven (7) feet on the west side of the road when added to seven (7) feet on the east side would make a 66' road into an 80' road right of way.

The Commission also questioned the placement of the septic system. Stephens said the septic field might be moved further north of the existing location.

Heiden is concerned of the 7' jog in the right-of-way in front of Stephens' house.

Wilke asked Bob Bendfeldt, a property owner to the north in attendance, if his right-of-way was the exact way. Bendfeldt replied he didn't know.

Applicant submitted to the Board that his situation is not encroaching any more than the existing house now situated on the premises.

Hoffmeister asked if there would be any steps off covered porch. Stephens replied he might have one or two steps. Hoffmeister reminded the Commission that steps do not count towards setbacks.

Wilke inquired how long Stephens owned this property. Stephens replied he had owned it since 1995.

Stephens questioned how the Commission had arrived at 50' setbacks in the zoning regulations.

Farrell questioned if there is an existing basement under home and was told by Stephens there is only a partial basement on the west part.

The hearing closed at 4:20 P.M.

Moved by Wilke, seconded by Farrell to find that proposed addition does not either create any additional nonconformity or increase the degree of existing nonconformity and to allow an additional 8' relaxation of setbacks to the existing east side of residence and to allow same eight foot (8') relaxation for proposed addition on north and south sides extending to the east of now existing house provided that in area of relaxation there not be allowed living areas of a residence, thereby establishing a thirty-two feet front yard setback for additions to existing residential structure situated on property described as a tract of land located in the Northeast Quarter of the Southeast Quarter of Section Twenty (20), Township Nine (9) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County Nebraska described as follows: Beginning at the Northeast corner of the Southeast Quarter of Section 20; running thence South on the East line thereof, a distance of 100.00 feet; thence with a deflection angle to the right of 93.0° 40' a distance of 40.08 feet to the actual place of beginning, (said place of beginning being on the west

property line of a County Highway); thence continuing Westerly on the above described course, a distance of 332.27 feet; thence left 93°40' and parallel with the East line of the Southeast Quarter of said Section 20, a distance of 611.5 feet to a point on the North property line of U.S. Highway No. 30; thence Northeasterly on the aforesaid North property line a distance of 346.12 feet; thence Northerly and parallel with the East line of said Southeast Quarter a distance of 275.0 feet; thence right 90° 00' a distance of 7 feet, to a point on the West property line of a County Highway; thence Northerly parallel with the East line of said Southeast Quarter a distance of 175.0 feet; thence left 90° 00' a distance of 7 feet; thence right 90° 00', a distance of 41.83 feet to the point of beginning, containing 4.23 acres except a tract of land in the Northeast Quarter of the Southeast Quarter of Section 20, Township 9 North, Range 14 West of the 6th p.m., Buffalo County Nebraska, deeded to the State of Nebraska, Department of Roads at Roll 94, Page 18994, more particularly described as follows: Referring to the Northeast corner of said Quarter Quarter Section; thence Southerly a distance of 478.27 feet along the East line of said Quarter Quarter Section to the point of beginning; thence Southerly deflecting 00° 00' 00" a distance of 99.13 feet along said line to a point on the Northwesterly existing Union Pacific Railroad Company Right-of-Way line; thence Westerly deflecting 073° 24' 00" right, a distance of 128.89 feet along said Right-of-Way line; thence Northeasterly deflecting 148° 51' 20" right, a distance of 183.68 feet to the point of beginning containing 0.14 acres, more or less, which includes 0.08 acres, more or less previously occupied as public highway.

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

Klein stated a copy of this decision would be filed in the Register of Deed's office and she would mail a copy to the applicant.

Chairperson Bosshamer opened the next hearing at 4:24 P.M. for the application for zoning variance received from Steve and Judi Martin for property described as a tract of land being part of Southeast Quarter of the Southeast Quarter located in Section 8, Township 9 North, Range 18 W of the 6th p.m., Buffalo County Nebraska. Thereafter Board heard testimony from Steve and Judi Martin.

Judy Martin stated they had torn off a deck that was located in same location at time of enactment of county zoning regulations and replaced it with a 16' x 20' addition to their home. They had hired a contractor and were told no permits were necessary. The contractor is no longer working on the project. The south end of the current home is closer to the road right-of-way than the new addition. The house is 47' long. Martin showed the Board current pictures of the home. They purchased the property in 1986 and the new home was built in 1992. It will improve the value of the home and this new addition will be used as a sun room. The Martins didn't know a permit was required.

Klein said she had a call from the Holliday family, adjacent property owners, who did not have a problem with the addition.

Heiden asked about the distance from the new addition to the edge of the right-of-way.

Klein stated the distance she had measured was 40' to the edge of the right-of-way. Klein also stated the Buffalo County Highway Department had said 85th Road between Highway #183 and Turkey Creek Road was a 3 rod road.

Farrell questioned when the footings for the deck had been poured. Martin said the footings were poured before the deck had been built so they were existing prior to zoning.

Heiden doesn't see a problem since the new addition will not be any closer than the other part of the existing house.

The hearing closed at 4:30.

Moved by Heiden, seconded by Martin to find that proposed addition does not either create any additional nonconformity or increase the degree of existing nonconformity and that yard setback shall be related from road by ten (10) feet to allow this addition to now existing structure that already encroached yard setback from road prior to proposed addition. All this was as shown on the proposed application of Steve and Judi Martin on property described as a tract of land being part of the Southeast Quarter of the Southeast Quarter of Section Eight (8), Township Nine (9) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County Nebraska more particularly described as follows: Referring to the Southwest corner of the Southeast Quarter of the Southeast Quarter of said Section 8 and assuming the south line of said Southeast Quarter of the Southeast Quarter as bearing EAST, and all bearings contained herein are relative thereto; thence EAST on the south line of the Southeast Quarter of the Southeast Quarter of said section a distance of 403.11 feet to the ACTUAL PLACE OF BEGINNING; thence N 00° 19' 52" E a distance of 374.54 feet; thence N 89° 39' 47" E a distance of 655.51 feet; thence S 03° 07' 07" E a distance of 378.95 feet to a point on the south line of the Southeast Quarter of the Southeast Quarter of said Section 8; thence WEST on the aforesaid south line a distance of 678.28 feet to the place of beginning. Containing 5.764 acres, more or less, of which 0.513 acres, more or less, are presently being used for road purposes on the south side.

Again provisions of Sec 2.52 of Buffalo County Zoning Regulations were mentioned, including: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

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

Klein stated a copy of this decision would be filed in the Register of Deed's office and she would mail a copy to the applicant.

Moved by Farrell, seconded by Heiden to approve the minutes of February 23, 2006 meeting of the Board of Adjustment as mailed. Voting yes were Farrell, Heiden, Bosshamer, Martin and Wilke. Absent: none. Motion carried.

Moved to adjourn at 4:35 P.M.