

MINUTES OF BOARD OF ADJUSTMENT  
MARCH 12, 2009  
BUFFALO COUNTY COURTHOUSE BOARDROOM  
4:00 P.M.

Chairperson Ann Bosshamer called the meeting to order at 4:04 o'clock P.M. with a quorum present on March 12, 2009 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: Ann Bosshamer, Marlin Heiden, Larry Fox, Sharon Martin, and alternate Barb Pemberton Riege. Absent: Lloyd Wilke. Also present were Buffalo County Deputy Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and two 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 4:04 P.M. No one was present. The public forum closed at 4:04 P.M.

Chairperson Bosshamer opened the hearing at 4:05 P.M. for the zoning variance filed by Neal and Glenda Parker for Lots 5 and 6, Block 4, Homestead Subdivision located in the NE ¼ of the NW ¼ in Section 20, Township 9 North, Range 16 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska. Thereafter, Board heard testimony regarding application of the variance submitted by Neal and Glenda Parker, concerning property in Buffalo County, Nebraska.

Neal Parker told the Board he would like to split off the west 65' of Lot 5 and add it to Lot 6 in Homestead Addition. His home is situated on Lot 6 and he wants to put up a 30' x 40' garage directly adjacent to his home where he can have access to the garage. Because of the topography of Lot 6 and the small lots, he cannot put up a garage on Lot 6. Currently the plat shows that there is a 10' easement on the original plat on the west side of Lot 5 and also a 10' easement on the east side of Lot 6. He presented a utility easement vacation signed by all the utilities companies to the Board of Adjustment waiving their utility easements. When the W 65' is split off and added to Lot 6, Lot 5 would have .97 acres remaining. He would like to be able to sell off Lot 5 by itself someday.

Martin asked if he had the area staked off where he wanted to put up a garage. Parker replied yes he did.

Deputy County Attorney Hoffmeister told him since we have subdivision regulations; he would need to do a minor subdivision change. Hoffmeister asked if he would be granting a 10' easement around the new lot lines. Parker replied he didn't think the utility companies required an easement since all of the utilities run on the front of the property adjacent to 67<sup>th</sup> Street. The setbacks are 10' for easements as stated in our subdivision regulations.

Parker told the Board he might want to sell off the remainder of Lot 5 to another party in the future. Parker currently owns Lot 4, Lot 5, Lot 6 and Lot 7 in Block 4 of Homestead Subdivision. He would like to place the garage close to his home on Lot 6. Currently he does not have a garage attached to his home because of the narrowness of Lot 6. He is not able to put the garage anywhere on Lot 6 because of the ravine to the west of his home. The garage would be located 50' from the pin on the property lines.

Currently Lot 4 is 1.08 acres, Lot 5 is 1.13 acres, Lot 6 is 1.08 acres and Lot 7 is 1.31 acres. When this subdivision was platted in 1978, all of these lots were small lots. Since zoning was adopted by Buffalo County in 2003, all of these lots are non conforming lots of record.

Riege asked about the placement of the septic and well on Lot 6. Parker showed the Board the placement of both the well and septic field on Lot 6.

Heiden told Parker now the State Department of Environmental Quality requires additional leach fields for future use.

The Board questioned if there was room for fire trucks to access these properties.

Parker told the Board there is room for fire trucks to turn around on the cul-de-sac.

Deputy County Attorney Hoffmeister read and reviewed Section 9.3 of the Buffalo County Zoning Regulations stating the rules allowing interpretations and variances for the Board of Adjustment.

The Board agreed that Lots 8, 9 and 10 are all small lots and there might be problems in the future for additional space for leach fields.

Chairperson Bosshamer closed the public hearing at 4:25 P.M.

Motion was made by Riege, seconded by Heiden to approve the variance received from Neal and Glenda Parker to allow relaxation of Lot 5 to be diminished in size and add onto Lot 6, Block 4, Homestead Subdivision located in the NE ¼ of the NW ¼ in Section Twenty (20), Township Nine (9) North, Range Sixteen (16) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, because it does meet the following based on Section 9.3 of the Buffalo County zoning regulations:

- 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.

The Board finds the degree of nonconformity is shared by the entire neighborhood. This variance would allow the applicant to utilize Lot 6 at the expense of Lot 5, therefore this variance should be allowed to allow a non-residential structure be built on the West 65 feet of Lot 5 that will be transferred to Lot 6. A minor subdivision change will need to be filed to complete this process. This variance allowing transfer of land between two nonconforming lots of record shall commence, by survey or staking, within 120 days after authorization and shall be completed, i.e. filed of record, two years after commencement.

A copy of this motion may be filed with application for minor subdivision change.

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

This resolution will be filed in the Register of Deed's office against the property and a copy will be sent to the Parkers.

The Bylaws of the Buffalo County Board of Adjustment were discussed. Moved by Riege, seconded by Fox to table this discussion and place it on the next agenda as the first item at their next meeting. Voting yes were Riege, Fox, Bosshamer, Heiden and Martin. Voting no: none. Absent: Wilke. Motion carried.

Moved by Martin, seconded by Fox to approve the minutes of January 8, 2009 meeting of the Board of Adjustment as mailed. Voting yes were Martin, Fox, Bosshamer, Heiden and Riege. Voting no: none. Absent: Wilke. Motion carried.

Motion by Fox to adjourn at 5:10 P.M. until which time the Board of Adjustment is called into session again.