

MINUTES OF BOARD OF ADJUSTMENT  
AUGUST 19, 2010  
BUFFALO COUNTY COURTHOUSE BOARDROOM  
4:00 P.M.

Chairperson Ann Bosshamer called the meeting to order at 4:00 o'clock P.M. with a quorum present on August 19, 2010, 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, Sharon Martin and Lloyd Wilke. Absent: Larry Fox and alternate Barb Pemberton Riege. Also present were Buffalo County Deputy Attorney Andrew Hoffmeister, Mr. & Mrs. Garringer and Buffalo County Zoning Administrator LeAnn Klein.

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 4:00 P.M. No one was present. The public forum closed at 4:00 P.M.

Chairperson Bosshamer opened the public hearing at 4:01 P.M. for the variance request of Section 5.36 of the Buffalo County Zoning Regulations to relax setback from the road filed by Steve Garringer for property located in Lot 3, Block 2, Miracle Hills Estates located in Section 2, Township 9 North, Range 16 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska. He is asking for a variance of three feet to relax the setback from 17<sup>th</sup> Ave. Thereafter, the Board heard testimony regarding application of the variance submitted by Steve Garringer concerning property in Buffalo County, Nebraska.

Steve Garringer told the Board he had received a letter from the Zoning Administrator notifying him he needed a permit and then he found out he was too close with his footings. He stopped construction on the building and after talking to Mr. Heiden, he decided he would ask for a variance.

Hoffmeister questioned if he was asking for a 3' variance which Garringer replied he was.

Hoffmeister also stated there are covenants filed with this subdivision but he reminded the Board we are not here to enforce those covenants. He also referred to Section 8.41 but the neighborhood standards would not apply here. The 50' setback would apply in this case. Hoffmeister also reminded the Board they have to base their decision on Section 9.3 and there are four points they need to look at to make their decision.

Garringer admitted he had measured wrong and he had placed his building too close to the right-of-way.

Hoffmeister asked if 17<sup>th</sup> Avenue was in the process of being paved. Hoffmeister asked if 17<sup>th</sup> Avenue was a 66' or an 80' road.

Klein replied 17<sup>th</sup> Avenue is a 66' road. Klein noted Miller & Associates had recently surveyed the area for road purposes and the right-of-way had recently been marked by them.

Heiden said monetary reasons are not considered a hardship.

Hoffmeister asked how big the building would be and Garringer replied it would be 30' x 50'.

Klein stated she had sent one letter dated June 15 when she noticed a building had been started without a permit and she sent another letter dated July 1 after she had inspected the setbacks and noticed they were not in compliance and told Garringer what his options were, copies of which were supplied to the Board of Adjustment.

Bosshamer asked if the 2' overhang would be included in the 50' setback. According to the regulations, it would not.

Heiden asked Garringer if there were flags marking the setbacks when he had poured the footings.

Garringer replied he couldn't remember.

Heiden asked Garringer when he had started his building. He replied he thought it was in June.

Bosshamer asked Garringer what would be involved in moving it farther to the east 3'.

Martin stated she couldn't come up with a hardship to grant the variance.

Wilke questioned Garringer if he was in the construction businesses. Garringer told the Board he installs wood floors.

Martin also asked Garringer if he had applied for a permit when he built his home. Garringer responded he had.

Wilke asked if their covenants require them to submit plans to their home association. Wilke told Garringer he sits on their home association in another subdivision and they usually remind people to make sure they get a county permit before they begin.

Martin said she did drive out to the site and if they approved this variance, the building would stick out too far. These rules were written for the County and they have to abide with these rules.

Heiden asked if Garringer had a copy of the map which shows a 75' setback on the west side and a 10' easement. Hoffmeister replied Klein had supplied this map to the Board of Adjustment.

Klein said she had mentioned this 75' setback to Hoffmeister but he didn't know why the 75' setback was on the plat and we won't enforce this other than the 50' setback from the road right-of-way.

Hoffmeister asked Garringer how the surrounding lots are used. He replied the lot to the north is empty, south and east lots are occupied.

Bosshamer replied we need to look at the following points:

- a. Would it produce an undue hardship?
- b. Such hardship is not shared by other properties?
- c. The character of the district will not be changed by granting the variance.
- d. It can't be for purposes of convenience, profit or caprice.

Hoffmeister referred to the accessory use definition and also the drawing of projections of eaves and overhangs as shown in Section 3.90.

Chairperson Bosshamer closed the public hearing at 4:40 P.M.

Heiden questioned if the road was disturbed when Garringer put in the footings and he didn't know where the edge of the road was. He also stated we don't want to set a precedence.

Bosshamer asked if we are finding anything that is a hardship or extraordinary.

Motion was made by Martin, seconded by Wilke to deny the variance for Lot 3, Block 2, Miracle Hills Estates, a subdivision being the Southwest ¼ of Section Two (2), Township Nine (9) North, Range Sixteen (16) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska, on the basis there is no hardship and we have to enforce the rules of the Buffalo County Zoning Regulations.

Voting yes were Martin, Wilke and Bosshamer. Voting no: Heiden. Absent: Fox and Riege. Motion carried. There is no relaxation of the 50' setback.

A copy of these minutes will be sent to the applicant.

Moved by Heiden, seconded by Wilke to approve the minutes of the April 8, 2010, April 15, 2010 and August 12, 2010 meeting of the Board of Adjustment as mailed. Voting yes were Heiden, Wilke, Bosshamer and Martin. Voting no: none. Absent: Fox and Riege. Motion carried.

Chairperson Bosshamer adjourned the meeting at 4:50 P.M. until which time the Board of Adjustment is called into session again.