

MINUTES OF BOARD OF ADJUSTMENT
MARCH 14, 2013
BUFFALO COUNTY COURTHOUSE BOARDROOM
4:00 P.M.

Chairperson Fox called the meeting to order at 4:06 P.M. in the Buffalo County Courthouse boardroom on March 14, 2013.

Agenda for such meeting was regularly posted as required by law. Present were: Larry Fox, Sharon Martin, alternate Barb Pemberton Riege, Richard Weiss and Lloyd Wilke. Absent: Marlin Heiden. Also present were Buffalo County Deputy Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and two members of the public.

Chairperson Fox announced we do abide by the open meeting act and copies are available for anyone wanting to see it.

Notice of the meeting was given in advance thereof by publication in the legal newspaper. A copy of the proof of publication is on file in the Zoning Administrator's office. Advance notice of the meeting was also given to the Board of Adjustment and availability of the Agenda was communicated in the advance notice. The agenda is available for anyone wanting a copy of the agenda.

The public forum was opened at 4:06 P.M. No one was present. The public forum closed at 4:06 P.M.

Chairperson Fox opened the public hearing at 4:06 P.M. for the variance request of Evangelical Lutheran Zion Congregation for property located in a tract of land being part of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section Twenty-two (22), Township Eleven (11) North, Range Thirteen (13) West of the Sixth Principal Meridian, Buffalo County, Nebraska more particularly described as follows: Beginning at the Northwest corner of the Northwest Quarter of said Section 22 and assuming the North line of said Northwest Quarter as bearing N 88° 37' 50" E and all bearings contained herein are relative thereto; thence N 88° 37' 50" E on the aforesaid North line a distance of 742.5 feet; thence S 00° 15' 27" E parallel with the West line of said Northwest Quarter a distance of 412.5 feet; thence S 88° 37' 50" W parallel with the aforesaid North line a distance of 742.5 feet to a point on the aforesaid West line; thence N 00° 15' 27" W on the aforesaid West line a distance of 412.5 feet to the place of beginning. They are asking for a variance to relax the 3 acre requirement. Thereafter, the Board heard testimony regarding application of the variance submitted by Surveyor Trenton Snow on behalf of Evangelical Lutheran Zion Congregation concerning property in Buffalo County, Nebraska. Jerry Arnold was also present on behalf of Zion Evangelical Lutheran Church as the legal representative.

The basic reason is if and when the church ever needs to be dissolved they want a separate entity for the cemetery to be able to take care of the cemetery properly. They hope to keep the church going another 100 years. They will be setting up a trust to take care of the cemetery.

Trenton Snow stated Lot 2 is over the required 3 acres but Lot 1 is only 2.42 acres.

Hoffmeister referred to Section 9.3 of the zoning regulations. The primary use of this one lot is a cemetery. Hoffmeister asked if there was a well on Lot 1, Arnold replied there is a well on Lot 2 where the church is located.

Barb Riege asked where the gates were located. Arnold replied there are three entrances, two on the west side and one to the north side. Her concern was if the cemetery was ever sold off, where would the parking be located. Snow said there could be an easement on the east side of the church property. If the church would cease to exist, they possibly would have to drill a new well on the cemetery lot. Trenton said there was approximately 25' access on the west side of the cemetery lot.

Sharon Martin commented when and if the church would ever be sold, they would be able to take care of the cemetery.

Chairperson Fox closed the public hearing at 4:32 P.M.

Motion was made by Weiss, seconded by Wilke to grant the variance request submitted by Evangelical Lutheran Zion Congregation with the following conditions:

1. To relax the minimum acres from 3.00 to 2.42 acres on Lot 1.
2. To relax the yard setback from 50 feet to 0 feet for Lot 1.
3. No dwelling is allowed on Lot 1.
4. Subdivision consistent with plans for subdivision as presented to this Board will be submitted to the County Board for their approval.

This will be on the following legal description:

A tract of land being part of the Northwest Quarter of the Northwest Quarter (NW ¼ NW ¼ of Section Twenty-two (22), Township Eleven (11) North, Range Thirteen (13) West of the Sixth Principal Meridian, Buffalo County, Nebraska more particularly described as follows: Beginning at the Northwest corner of the Northwest Quarter of said Section 22 and assuming the North line of said Northwest Quarter as bearing N 88° 37'50" E and all bearings contained herein are relative thereto; thence N 88° 37'50" E on the aforesaid North line a distance of 742.5 feet; thence S 00° 15' 27" E parallel with the West line of said Northwest Quarter a distance of 412.5 feet; thence S 88° 37' 50" W parallel with the aforesaid North line a distance of 742.5 feet to a point on the aforesaid West line; thence N 00° 15' 27" W on the aforesaid West line a distance of 412.5 feet to the place of beginning.

1. Strict application of the regulations would produce undue hardship on the applicant.
2. The character of the district will not be changed by granting the variance.
3. The granting of this variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

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

A copy of these minutes will be filed with the Register of Deeds and a copy will be sent to the applicant.

Moved by Martin, seconded by Riege to approve the minutes of the September 13, 2012 meeting of the Board of Adjustment as mailed. Voting yes were Martin, Riege, Fox and Weiss. Voting no: none. Abstain: Wilke. Absent: Heiden. Motion carried.

Chairperson Fox adjourned the meeting at 4:45 P.M. until April 11, 2013 at which time they will be called into session.