

MINUTES OF BOARD OF ADJUSTMENT  
APRIL 11, 2013  
BUFFALO COUNTY JUSTICE CENTER HEARING ROOM B  
4:00 P.M.

Chairperson Fox called the meeting to order at 4:00 P.M. in the Buffalo County Justice Center, Hearing Room B on April 11, 2013.

Agenda for such meeting was regularly posted as required by law. Present were: Larry Fox, Marlin Heiden, Sharon Martin, alternate Barb Pemberton Riege and Lloyd Wilke. Absent: Richard Weiss. Also present were Buffalo County Deputy Attorney Andrew Hoffmeister, Deputy County Attorney Kari Fisk and three 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 4:00 P.M. No one was present. The public forum closed at 4:00 P.M.

Deputy County Attorney Hoffmeister introduced Kari Fish to the Board.

Chairperson Fox opened the public hearing at 4:06 P.M. for the variance request of Lance Otte on behalf of Otte Farms, LLP for property located in a tract of land being the Northeast Quarter and the East Half of the Northwest Quarter of Section Seventeen (17), Township Twelve (12) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska. They are asking for a variance to relax the setback as per Section 5.17. Thereafter, the Board heard testimony regarding application of the variance submitted by Lance Otte concerning property in Buffalo County, Nebraska.

Lance Otte was present and told the Board he wants to build a 39' x 42' addition onto the northwest side of his existing home. This is the only direction he can build because of the slope of the land and his existing septic is on the east side of his house. There is a row of cedar trees next to the minimum maintenance road. The addition would be 68' instead of the 83' from the middle of the minimum maintenance road. 355 Road is the minimum maintenance road and Cherry Road is to the east of his property. It would not affect the visibility since the cedar trees are already there.

Martin stated the new addition would be in line with the barn.

Heiden questioned how far west the minimum maintenance road went. Otte replied it went back one mile. Otte said that road is impassible 3-4 months of the year.

Hoffmeister asked how big the house is. Otte stated the existing house is 39' x 40'. They would like to build a garage, a bedroom and a bathroom in the addition.

Riege asked if it would be one story. Otte said it would.

Heiden asked about the layout of the house. He also asked about the location of the septic tank. Otte told him the septic was located east of the existing house.

Riege asked if there would be any trees taken out. Otte replied he probably would need to take out six evergreens.

Chairperson Fox closed the public hearing at 4:27 P.M.

Motion was made by Martin, seconded by Heiden to grant the variance request submitted by Lance Otte on behalf of Otte Farms, LLP to allow the requested relaxation from 50' to 35' setback from 355 Road, for purposes of construction of an addition on the north side of an existing residence with the condition that should the proposed structure suffer damages of 60 percent or more, a new zoning permit would need to be issued that would conform with existing zoning rules. This was allowed due to the unique geographical situation of the premises and hardships that would be caused if they had to build in a conforming manner.

This will be on the following legal description:

Northeast Quarter and the East Half of the Northwest Quarter of Section Seventeen (17), Township Twelve (12) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Hoffmeister told Mr. Otte they would have 120 days to start and 2 years to complete. This variance will be filed against the real estate and a copy will be sent to the applicant.

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

Chairman Fox opened the next hearing at 4:29 P.M. Surveyor Mitchell Humphrey was present to represent the applicants, Warren and Kimberly Taylor and Gerald & Christine Hunnicutt. The legal description is Lot 2 and Lot 3, Silver Meadow Subdivision, a subdivision being part of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Two (2), Township Nine (9) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska. Humphrey told the Board this is located off 17<sup>th</sup> Ave. and 111<sup>th</sup> St. on the east side of road. The street is 66' in width and the issue is the lots are small lots, below the minimum requirement of three acres. Gerald Hunnicutt platted this property of six lots in 2000. When the Taylor's purchased Lot 3, the entire lot was deeded to them even though the well for Lot 2 was situated on the North 25' of Lot 3.

Martin questioned how many wells were on Lot 3. Humphrey replied two wells.

Hoffmeister also asked if there were any utilities on that section of Lot 3. Humphrey replied there were no utilities on the North 25' of Lot 3. Humphrey also noted that the plat when

accepted by Buffalo County did not have a subdivision resolution, and therefore did not reserve a side of lot utility easement.

A minor subdivision will also need to be filed after this variance is approved to move the lot lines.

Wilke stated they are not changing the character of the neighborhood.

Hoffmeister referred to Section 9.3 subsection 3 noting that a 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 the involved properties in that to not grant the variance would require one lot owner to re-drill a well and reconfigure a residential watering system, while another lot owner would end up with two residential wells on his or her particular lot.

Heiden questioned the hardship.

Hoffmeister responded you can't transfer the land without a well.

Riege said Lot 1 is smaller than Lots 2 or 3.

Heiden had questions on the process.

Hoffmeister explained the process and a minor subdivision would need to be filed. The intent was to deed Lot 3 except the N 25' of that lot but that was never done.

Chairman Fox closed the public hearing at 4:50 P.M.

Motion was made by Heiden, seconded by Wilke to allow the variance splitting off the North 25' of Lot 3 to Lot 2 on the following legal description:

Lot 2 and Lot 3, Silver Meadow Subdivision, a subdivision being part of the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Two (2), Township Nine (9) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

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

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

Moved by Wilke, seconded by Heiden to approve the minutes of the March 14, 2013 meeting of the Board of Adjustment as mailed. Voting yes were Wilke, Heiden, Fox, Martin and Riege. Voting no: none. Absent: Weiss. Motion carried.

Chairperson Fox adjourned the meeting at 4:57 P.M. until such time they will be called into session.