

MINUTES OF BOARD OF ADJUSTMENT
FEBRUARY 12, 2015
BUFFALO COUNTY COURTHOUSE COMMISSIONERS ROOM
4:00 P.M.

Zoning Administrator Klein opened the meeting at 4:00 P.M. at the Buffalo County Courthouse Commissioners Room on February 12, 2015.

Agenda for such meeting was regularly posted as required by law. Present were: Larry Fox, Marlin Heiden, Sharon Martin, Richard Weiss and Lloyd Wilke. Absent: None. Also present were alternate Barb Pemberton Riege, Buffalo County Deputy Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein and one member of the public.

Klein asked for nominations for Chairperson. A motion was made by Wilke, seconded by Martin to appoint Larry Fox for Chairperson. Voting yes were Wilke, Martin, Fox, Heiden and Weiss. Voting no: none. Absent: none.

Klein asked for nominations for Vice-Chairperson. A motion was made by Martin, seconded by Heiden to appoint Lloyd Wilke for Vice-Chairperson. Voting yes were Martin, Heiden, Fox, Weiss and Wilke. Voting no: none. Absent: none.

Klein asked for nominations for Second Vice-Chairperson. A motion was made by Weiss, seconded by Wilke to appoint Sharon Martin for Second Vice-Chairperson. Voting yes were Weiss, Wilke, Fox, Heiden and Martin. Voting no: none. Absent: None.

Klein turned the meeting over to Chairperson Fox.

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 4:04 P.M. No one was present. The public forum closed at 4:04 P.M.

Chairperson Fox opened the public hearing at 4:04 P.M. submitted by Mitchell Humphrey on behalf of Donald Robert Rowe, Sr. for a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 18, Township 12 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska more particularly described as follows: Referring to the Southwest Corner of Government Lot 4 in the Southwest Quarter of said Section 18 and assuming the South line of said Southwest Quarter as bearing EAST and all bearings contained herein are relative thereto; thence EAST and on the aforesaid South line a distance of 1663.42 feet to the ACTUAL PLACE OF BEGINNING; thence continuing EAST on the aforescribed course a distance of 40.0 feet; thence NORTH a distance of 496.76 feet; thence N 87° 29' E a

distance of 91.0 feet; thence N 01° 14' W a distance of 520.0 feet; thence N 79° 33' W a distance of 207.68 feet; thence S 72° 45' W a distance of 201.11 feet; thence S 07° 53' E a distance of 346.0 feet; thence S 54° 55' E a distance of 280.0 feet; thence SOUTH a distance of 495.0 feet to the place of beginning. Containing 4.63 acres, more or less, of which 0.03 acres, more or less, are presently being used for road purposes on the South side.

Mitchell Humphrey was present and told the Board Donald Rowe wants to split this parcel into two lots. The same driveway would be used. They had filed an administrative subdivision with the County Commissioners but the Commissioners would not approve it since the access was only 40' wide. This would remain a private road.

He is asking for the relaxation of the minimum road width of the access road. There are two houses located on this property.

Heiden asked if he couldn't purchase additional land to make it a 66' wide road.

Humphrey said that wasn't an option.

Wilke asked why he is splitting this lot. Humphrey told the Board Rowe originally owned all of this property but started selling these surrounding parcels off in 2000/2001. The southern house will own the road but there will be an easement to the north house on this property.

Hoffmeister checked with the Sheriff's Office and there is only one 911 address for this property.

Humphrey told the Board the south house faces east and the north house faces south. Hoffmeister questioned if they needed to relax the setback for the south residence. After looking at it, they decided a relaxation for the setback for the south residence was not necessary.

Heiden questioned if they needed an easement for the north property. Humphrey told him there would be an easement for Lot 1 for utilities and access to the property.

Martin asked why they were filing this administrative subdivision. Humphrey told her they wanted to sell off the south home.

This property and the surrounding parcels were split prior to zoning being implemented. Rowe owned the entire quarter and sold off the adjoining parcels.

Hoffmeister told the Board they rezoned this to Agricultural-Residential to comply with the 1000' rule since there were two homes on this property.

Martin asked if he had a business on Lot 1. Humphrey replied he didn't think so.

Fox said the main concern is the street to the south driveway. The driveway will be on the east side of Lot 1 and will be a private drive.

Humphrey said the driveway will go on the east side of Lot 1 for access to the north house.

Chairperson Fox closed the public hearing at 4:35 P.M.

Motion was made by Martin, seconded by Heiden to grant the variance for Donald Robert Rowe, Sr. on the following legal description: a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 18, Township 12 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska more particularly described as follows: Referring to the Southwest Corner of Government Lot 4 in the Southwest Quarter of said Section 18 and assuming the South line of said Southwest Quarter as bearing EAST and all bearings contained herein are relative thereto; thence EAST and on the aforesaid South line a distance of 1663.42 feet to the ACTUAL PLACE OF BEGINNING; thence continuing EAST on the aforesaid described course a distance of 40.0 feet; thence NORTH a distance of 496.76 feet; thence N 87° 29' E a distance of 91.0 feet; thence N 01° 14' W a distance of 520.0 feet; thence N 79° 33' W a distance of 207.68 feet; thence S 72° 45' W a distance of 201.11 feet; thence S 07° 53' E a distance of 346.0 feet; thence S 54° 55' E a distance of 280.0 feet; thence SOUTH a distance of 495.0 feet to the place of beginning. Containing 4.63 acres, more or less, of which 0.03 acres, more or less, are presently being used for road purposes on the South side with the following conditions and provisions:

1. That the minimum right-of-way width required in Sec. 4.13(B) of Buffalo County's Subdivision Resolution is relaxed from 66' to 40' for the road right-of-way leading into lots within the proposed administrative subdivision.
2. That the cul-de-sac design standard in Sec. 4.03 of Buffalo County's Subdivision Resolution is relaxed to not require a cul-de-sac at the northern end of the road right-of-way in the proposed subdivision.
3. That no more than one residence per proposed lot is allowed in the proposed subdivision.
4. With all of the foregoing being conditioned upon an administrative subdivision comprised of two lots is submitted to and approved by the Buffalo County Board of Commissioners, the design of which was received as part of and incorporated into the application for this adjustment decision.

In making this decision this Board finds that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution, the strict application of Buffalo County's Zoning and Subdivision Resolutions would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property. This action of the Board allows the applicant a variance from such strict application of zoning regulations so as to relieve the difficulties or hardships these regulations place upon his proposed development. This relief can be granted without a substantial detriment to the public good and without substantially impairing the intent and purpose of Buffalo County's zoning and subdivision regulations, with this Board finding that:

- a. The strict application of the regulations in question would produce undue hardship;
 - b. The hardship caused by a strict application of the regulations in the situation before the Board that is the subject of this hearing is not shared generally by other properties in the same zoning district and the same vicinity;
 - c. The authorization of this variance will not cause a 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 this variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice, of the applicant.

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

Moved by Wilke, seconded by Heiden to approve the minutes of the July 10, 2014 meeting of the Board of Adjustment as mailed. Voting yes were Wilke, Heiden, Fox, Martin and Weiss. Voting no: none. Absent: none. Motion carried.

Chairperson Fox adjourned the meeting at 4:45 P.M. until such time they will be called into session.