

MINUTES OF BOARD OF ADJUSTMENT
NOVEMBER 8, 2018
BUFFALO COUNTY COURTHOUSE COMMISSIONERS ROOM
4:00 P.M.

Chairperson Wilke opened the meeting at 4:00 P.M. at the Buffalo County Courthouse on November 8, 2018.

Agenda for such meeting was regularly posted as required by law. Present were: Lloyd Wilke, Barb Pemberton Riege, Marlin Heiden, and alternate Rich White. Absent: Larry Fox, J.C. Ourada. Also present were Zoning Administrator Jason Wozniak. We do have a quorum.

Chairperson Wilke 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 opened at 4:00 P.M. No one was present. The public forum closed at 4:01 P.M.

Chairperson Wilke opened the public hearing at 4:01 P.M. submitted by Mitchell Humphrey on behalf of Wild Horse Ranch, LLC c/o Steve Scoville for property described as A tract of land being part of the Southeast Quarter of the Southeast Quarter (SE 1/4 SE1/ 4) of Section Five (5) Township Nine (9) North, Range Eighteen (18) West of the Sixth Principal Meridian , Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southeast Quarter of said Section 5 and assuming the South line of the Southeast Quarter of said Section 5 as bearing S 89°28'27" W and all bearings contained herein are relative thereto; thence S 89°28'27" W and on the South line of the Southeast Quarter of said Section 5 a distance of 1019.93 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the South line of the Southeast Quarter of said Section 5, S 89°28'27" W a distance of 316. 17 feet to a point on the East property line of a Public Road (Turkey Creek Road); thence N 01°52'36" E on the East property line of said Public Road (Turkey Creek Road) a distance of 345.84 feet; thence leaving the East property line of said Public Road (Turkey Creek Road), N 89°33'41" E a distance of 262.01 feet; thence S 20°48'19" E a distance of 85.33 feet; thence S 02°42'24" E a distance of 265.28 feet to the place of beginning. Containing 2.37 acres, more or less, of which 0.24 acres, more or less, are presently being used for road purposes on the South side, Buffalo County, Nebraska.

Mitchell Humphrey was present and he is representing the Wild Horse Ranch, LLC c/o Steve Scoville and is the area represented in red. A majority of the site is currently being used for the Wild Horse Ranch Burro program leased by the Federal Government. They transition horses from the western rangeland to new owners. The Scoville house site is on the corner and contains the 2.37 acres, which is shown on the plat. This is outside of the fenced in area that is leased to the federal government for the horse ranch. The home site is what shown in the plat. The federal government has a long- term lease on that area fenced not including the house site. To change the lease is a hard task. We would like to create a subdivision around the existing house site outside the leased area. We are seeking approval to deviate from the lot size of 3.0 acres or more according to Section 5.16. Upon approval, I would submit the plat for approval of the subdivision. The house has a separate well and septic from the office. The house tract has its own separate use. The office has its own set up.

Heiden ask the Keeps want to do this.

Humphrey says the Keeps and Scoville's.

Heiden asks who are the owners.

Humphrey explains that Steve Scoville, wife, Willie, and Barb Keep are the owners. I have provided Jason with a plat that shows the boundary of the Lot.

White asks if Lot 1 is north adjacent to the house.

Humphrey it includes the house.

Heiden everything inside the red line is owned

Humphrey owned by Wild Horse Ranch, LLC which is the entity that owns the property and they have a lease with the Wild Horse Ranch program and everything that is fenced in which excludes the house site.

Wilke asks Wild Horse Ranch, LLC is the Scoville's and Keep's.

Humphrey correct

White it has a government name

Wilke that is their entity, which is leased to the federal government

Humphrey correct

Wilke asks they leased out the fenced in area and kept out the house area

Humphrey correct the Federal Government did not want anything to do with the home site so they accepted that out of the leased area

Wilke ownership is the red outlined area lease is within the fenced area

Wilke these people have nothing to do with the operation of the ranch

Riege Government employees take care of the horses

Wilke we are looking at a plat outside the fenced area not leased by the Federal Government.

Wozniak explains the variance is being requested because the property will be less than 3.0 acres and due to the lease cannot add additional acreage to the home site.

Wilke Why do they want to do this?

Humphrey They want to partition this off from the leased land area and be separated.

White In case they do want to sell they need to have this by itself. They do not want to put another house here.

Humphrey No

Riege they are aware of the setbacks of the property.

Humphrey yes

Humphrey The uniqueness is the Federal Government has a long-term lease on this property not allowing for additional land from the leased area.

Riege Was the lease done around the time zoning became enforced

Humphrey About the time zoning was started

Heiden zoning had been in place when lease was done

Humphrey around 2004 the lease took place

Wozniak 2003 is the date zoning was starting to be enforced

Wilke closed the public hearing at 4:27

Wilke goes over the questions and the board finds that

- a. the undue hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- b. Such hardship is not shared generally by other properties in the same zoning district and 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.

Thereafter, Riege moved, and White seconded, that the Board relax the required minimum lot size of 3.0 acres to the area described in the subject property should the Wild Horse Ranch, LLC need to create an administrative subdivision for the subject property. This in turn additionally authorizes a relation of minimum lot size for described legal, A tract of land being part of the Southeast Quarter of the Southeast Quarter (SE 1/4 SE1/ 4) of Section Five (5) Township Nine (9) North, Range Eighteen (18) West of the Sixth Principal Meridian , Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southeast Quarter of said Section 5 and assuming the South line of the Southeast Quarter of said Section 5 as bearing S 89°28'27" W and all bearings contained herein are relative thereto; thence S 89°28'27" W and on the South line of the Southeast Quarter of said Section 5 a distance of 1019.93 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the South line of the Southeast Quarter of said Section 5, S 89°28'27" W a distance of 316. 17 feet to a point on the East property line of a Public Road (Turkey Creek Road); thence N 01°52'36" E on the East property line of said Public Road (Turkey Creek Road) a distance of 345.84 feet; thence leaving the East property line of said Public Road (Turkey Creek Road), N 89°33'41" E a distance of 262.01 feet; thence S 20°48'19" E a distance of 85.33 feet; thence S 02°42'24" E a distance of 265.28 feet to the place of beginning. Containing 2.37 acres, more or less, of which 0.24 acres, more or less, are presently being used for road purposes on the South side, Buffalo County, Nebraska. excepting therefrom the subject property.

The effect of this relaxation shall mean, that should the applicants so chose, they shall be allowed to proceed with the creation of an Administrative Subdivision comprised of the subject property.

1. That the applicant has demonstrated that a strict application of the regulations would produce an undue hardship in the form of lot size, that the requirement does not serve the need of the people, unduly limit of development and because of the size.
2. That this hardship is not shared by other properties in the Agricultural-zoning district and/or in the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent properties.
4. The character of the Agricultural district will not be changed by the granting of the variance.
5. We find that the granting of such variance is based upon reasons of demonstrable and exceptional hardship. Specifically, that the hardship has been demonstrated as inability to obtain addition land due to the lease.
6. We find that this undue hardship is not merely a matter of convenience to the applicant.

7. We find that this undue hardship is not merely a matter of rendering the land or desired plans more economical, profitable, or valuable than it is or would be without the variance.
8. We find that the undue hardship is not for the purposes of caprice (whim, notion, impulse or fad).

Voting yes were Wilke, Riege, Heiden, White. Voting no: none. Absent: Fox, Ourada. 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 Heiden, seconded by White to approve the minutes of the July 12, 2018 meeting of the Board of Adjustment as mailed. Voting yes were Wilke, Riege, Heiden, and White. Voting no: none. Abstain: none. Absent: Fox, Ourada. Motion carried.

Chairperson Wilke adjourned the meeting at 4:35 P.M. until such time they will be called into session.