

MINUTES OF BOARD OF ADJUSTMENT
OCTOBER 10, 2019
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 October 10, 2019

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

Wilke asked for nominations for Chairperson. A motion was made by Ourada, seconded by Riege to appoint Lloyd Wilke for Chairperson. Voting yes were Riege, White, Ourada, Heiden, Wilke. Voting no: none. Absent: Fox Motion passed.

Wilke asked for nominations for Vice-Chairperson. A motion was made by Ourada, seconded by White to appoint Barb Pemberton Riege for Vice-Chairperson. Voting yes were Wilke, Heiden, Fox, Riege and White. Voting no: none. Abstain: Absent: Fox. Motion passed.

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 was opened at 4:06 P.M. Two people were present, but no one provided any comment. The public forum closed at 4:06 P.M.

Chairperson Wilke opened the public hearing at 4:07 P.M. submitted by LaBerta G. Olson for a tract of land being part of Tax Lot 8 in Section 12, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska

Darcy Olson: was present and he is representing the Olson's and he told the Board they want to take a chunk of land where the south house is located and sell off 1.50 acres to the grandson. This is under the required 3.0 acres required by subdivision regulations.

Heiden: asked how big is your strip of land?

Darcy: Approximately 40 acres.

Wozniak: shows where the house is located on the map.

Darcy: It's only the narrow two pieces running along Highway 10. Piece to west has other family members as part of the ownership.

Hoffmeister: Is piece to west owned by relative?

Darcy: Yes my wife, myself and other family members

Hoffmeister: Who owns the house across the road to east?

Darcy: Lonny Leach

Hoffmeister: Is that a farm?

Darcy: Yes, that is a farm. My residence is on the north end of that long strip we are talking about today.

Ourada: States that the two houses have to be over 1,000 feet apart per regulations. They look like they are over 1,000 feet.

Hoffmeister: No they are closer than 1,000.

Wozniak: I come up with 907

Ourada: House across the road is closer than the one to north.

Wozniak: They are in different sections so they can be.

Ourada: Nothing we can do about the 1,000 feet.

Hoffmeister: Houses pre-date zoning. Issue is if one is destroyed, can you rebuild. Could do an AGR rezoning which is a 70,000 square feet minimum lot size. Is there a reason you need to be under the 3.0 acres?

Darcy: Financial situation is main reason

Riege: Do you both use the same well system?

Darcy: No

Riege: Does the well with this house also serve the outbuildings?

Darcy: Yes one hydrant by machine shed

Wilke: Where is septic system located?

Darcy: South of house towards cornfield

Wilke: What is your water table like there?

Darcy: It's low right now; you could dig a posthole and not get water. I would say 10 feet.

Wozniak: Property is located in a Floodplain

Wilke: Have you had any septic system problems?

Darcy: No never have

Wozniak: Reason we are talking about the 1,000 feet between dwellings is in our AG zoning area dwellings in same section need to be 1,000 feet apart.

Hoffmeister: Unless it is a farm or a family member

Ourada: So if this is split into a separate piece, and house is destroyed one or the other will have to move.

Hoffmeister: Yes, have to be 1,000 feet apart. Could rezone to AGR then 70,000 square feet is minimum. Trouble with AGR you are not deemed a farmer with anything under 20 acres. If you are a farmer then you are exempt from the zoning permit but still follow the setbacks.

Wozniak: We do allow houses to be within 1,000 feet of each other in our AGR zoning. Minimum is 70,000 square feet which is closer to your 1.5 acres however you do need DEQ approval

Hoffmeister: May require that if you get a loan on that property. The percolation test is exempt state wide on any property over 3.0 acres. That is one thing we looked at on minimum lot size.

Darcy: So any property over 3.0 acres does not need the DEQ approval?

Hoffmeister: State wide they are exempt

Riege: State says you have to take it down to bedrock

Ourada: Where is the section line?

Wilke: Behind the buildings

Ourada: Do you give easement to state but keep ownership of Right-of-Way

Riege: No

Hoffmeister: Not any more. In addition, code says roads are excluded

Wilke: Reads the four criteria for a variance. What is hardship?

Darcy: Trying to buy what he can afford

Wilke: Any other items you would like to bring up to board?

Darcy: No just what I have stated

Ourada: Does not look like we can approve variance based on the criteria we have. We have certain rules that must be followed.

There was no one present in opposition.

Chairperson Wilke closed the public hearing at 4:31 P.M.

A motion was made by Ourada, seconded by Riege to deny the request for the variance for minimum lot size under 3.0 acres.on the following legal description for a tract of land being part of Tax Lot 8 in Section 12, Township 8 North, Range 15 West of the Sixth Principal Meridian, Buffalo County, Nebraska

This Board finds that an undue hardship has not been demonstrated because the following conditions exists: available land surrounding the property to come up with the 3.0 Acres.

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

Moved by Heiden, seconded by White to approve the minutes of the November 8, 2018 meeting of the Board of Adjustment as mailed. Voting yes were Heiden, White, Ourada, Riege, and Wilke. Voting no: none. Abstain: None Absent: Fox. Motion carried.

Chairperson Wilke adjourned the meeting at 4:44 P.M. until such time they will be called into session.