

MINUTES OF BOARD OF ADJUSTMENT
JULY 8, 2021
BUFFALO COUNTY COURTHOUSE COMMISSIONER'S ROOM
4:00 p.m.

Interim Chairperson Wilke opened the meeting at 4:03 p.m. at the Buffalo County Courthouse on July 8, 2021.

Agenda for such meeting was regularly posted as required by law.

Present were: Rodney Gangwish, Barb Pemberton-Riege, Lloyd Wilke, and alternate Rich White. Absent: Randy Vest and Larry Hardesty. Also present were Deputy County Attorney Kari Fisk, Zoning Administrator Dennise Daniels and several members of the public. We do have a quorum.

Interim Chairperson Wilke began the Re-Organizational Meeting of Officers and called for nominations for Chairperson. A nomination was made by Interim Vice-Chairperson Barb Pemberton-Riege to appoint Lloyd Wilke for Chairperson. Interim Chairperson Wilke declined the appointment.

Interim Chairperson Wilke reopened nominations for Chairperson and called for nominations three times. Interim Chairperson Wilke nominated Barb Pemberton-Riege, for Chairperson. She accepted.

Motion was made by Gangwish, seconded by White to cast a unanimous vote for Barb Pemberton-Riege for Chairperson.

Interim Chairperson Wilke declared a unanimous ballot. Motion was made by White, seconded by Gangwish to cast a unanimous ballot for Barb Pemberton-Riege as Chairperson.

Voting "Aye" were: Gangwish, Wilke, and White.

Abstain: Pemberton-Riege.

Voting "Nay": None.

Absent: Vest and Hardesty.

Motion passed.

Chairperson Pemberton-Riege called for nominations for Vice-Chairperson. Mr. Wilke nominated Rodney Gangwish for Vice-Chairperson. White seconded. Chairperson Pemberton-Riege called for additional nominations.

Voting "Aye" were: Riege, Wilke, White.

Abstain: Gangwish.

Voting "Nay": None.

Absent: Hardesty and Vest.

Motion passed.

Chairperson Pemberton-Riege called for nominations for Second Vice-Chairperson. Mr. Gangwish nominated Mr. White for Second Vice-Chairperson. Chairperson Pemberton-Riege called for additional nominations. A motion was made by Gangwish, seconded by Wilke to cease nominations for Second Vice-Chairperson.

Voting “aye” were: Gangwish, Riege, Wilke, White.
Abstain: None.
Voting “Nay”: None.
Absent: Vest and Hardesty.
Motion passed.

A unanimous roll call vote to appoint Rich White as Second Vice-Chairperson.
Voting “aye” were: Gangwish, Riege, Wilke, White.
Abstain: None.
Voting “Nay”: None.
Absent: Vest and Hardesty.
Motion passed.

Chairperson Pemberton-Riege 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.

The public forum was opened at 4:10 p.m. Several citizens of the public were present, but no one provided any comment. However, Deputy County Attorney Kari Fisk reminded The Board of their rights, responsibilities, powers and the duties in their positions. She recapped the Quasi-Judicial powers, reviewed the statutes regarding their fact-finding missions, and provided real-world examples. The public forum closed at 4:14 p.m.

Chairperson Pemberton-Riege opened the public hearing at 4:14 p.m. for a Zoning Variance, received from Thomas Miles Maddux, under Section 5.17, Buffalo County Zoning Regulations, Minimum Yard Requirements, in the Agriculture (AG) District, requiring a minimum side yard of ten (10) feet, located on a tract in Government Lot 3, in Section Twelve (12), Township Eight (8) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Chairperson Pemberton-Riege requested that any parties that would be presenting this application to step forward. Mitch Humphrey, Licensed Land Surveyor, with Buffalo Surveying, located at 5308 Parklane Drive, Kearney, Nebraska, stepped forward to present this application. Mr. Humphrey reviewed a PowerPoint presentation with The Board. He stated Paul Brungardt was scheduled to do this presentation, but was unable to attend and Mr. Humphrey would be presenting in his place.

Mr. Humphrey stated that he is familiar with Mr. Maddux’s project. He said that he believes there is a reason to allow a variance. He provided location for The Board, using a PowerPoint Presentation. He explained that this parcel is situated off Lowell Road; it was surveyed in 2002. He went on to say Zoning Regulations were enacted in 2003, the same year as when the home was constructed. He was not sure of the completion date. He explained that the home construction date potentially could have been before the enactment of zoning.

He declared that this area was zoned AG (Agriculture). He said that when codes were originally established, in the Agriculture (AG) District, there were no required side yard setbacks for residential structures. Now, he disclosed, Buffalo County does require a 10-foot setback.

Mr. Humphrey reviewed the next slide, a Site Aerial Photo from Buffalo County's GIS Website. He believed this aerial was taken from 2020 and the foundation of the addition is being constructed. Mr. Humphrey said that the red outlines with the "PL" labelling is indicative of "Property Line". He said that it is pretty accurate, except the Maddux tract does not go to the center of the road. He said it should be flush with the southeasterly line of the Schuster tract, the neighbor to the northeast. He stated he was unsure what had been done regarding permitting. He said that he assumed that the permitting was submitted before construction started.

Mr. Humphrey reviewed the drawing created by Mr. Brungardt. He explained that Mr. Brungardt has indicated on this image that the distance from the edge of the addition to the property line is 8.5 feet. He believed that 8.5 feet was an accurate representation, based on his measurements. He, then, handed out, photocopies of the PowerPoint to The Board. He stated this project was developed by Paul Brungardt. He said that Mr. Brungardt is a professional structural engineer and that "he is aware of the additions".

Mr. Humphrey reviewed the photos of the property through the remainder of the presentation and presented a visual of the house to the property line. He stated that Mr. Maddux is in violation, but it was unintentional and it is not overly noticeable to someone driving by. He was unsure of why it was constructed within the setbacks.

He explained that he sat through other variance hearings and said that other public bodies found that construction in the setbacks does not create additional concerns, but said that this board would need to review and analyze the request. He continued to review the photos in the presentation. He assured The Board Mr. Maddux is 19 inches short of the required setback. He stated that the distance between the Schuster house and the Maddux house is a considerable distance apart.

He went on to review the requirements of the Board of Adjustment and how he felt that this situation was applicable:

1. ***The strict application of the regulation would produce undue hardship:*** He testified the addition was constructed and he assumed a zoning permit had been granted, but was unsure if an inspection was conducted. He also assumed that proper procedures were followed, and it was not Mr. Maddux's intent to construct a structure in the setback. Mr. Maddux has constructed, enclosed, and shingled the structure; he was unsure of how much interior work had been done at this point. He said it would be an expensive fix for Mr. Maddux.
2. ***Such hardship is not shared generally by other properties in the same zoning district and the same vicinity:*** He said, based on his experience with different surveys, most of the properties are similar in appearance and they are set back from the lines. It is unusual that this house does not meet the required setbacks. He reviewed how the City of Kearney would handle this particular issue, and it would be allowable as long as it lined up with other homes in the area.

- 3. 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:*** Mr. Humphrey affirmed this variance would not have an adverse affect on the neighbors around it. He stated that 19 inches wasn't a huge difference and most people wouldn't notice the difference. He explained there are no utilities that cross through this property line and all the utilities are situated near the roadway. He highlighted the requirements for the creation of an administrative subdivision in Buffalo County: a 10-foot easement is required around the proposed subdivision. He said that he believed that such a minor encroachment would not affect the neighbor's property values and the work that Mr. Maddux has done to his home would add value to the other homes in the neighborhood.

Mr. Humphrey, reviewed the requirements with fire code. He stated that he spoke with Paul Brungardt regarding the setbacks and fire hazard. Mr. Humphrey went on to say that, according to the current building codes (national building code), you are able to have buildings as close as 10 feet apart, without requiring fire-rated assemblies. If they are closer than 10 feet, then fire-rated firewalls are required. He stated, with that in mind, the Schuster property and the Maddux property are more than 10 feet apart. Therefore, there should be no requirement for a firewall.

- 4. 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:*** Mr. Humphrey stated that he reads the requirement as "Did the applicant do it on purpose or for profit?". Deputy County Attorney Fisk defined caprice for The Board as "for malice or for spite." Mr. Humphrey said that the neighbors all get along and that Mr. Maddux did not construct the addition out of spite. He stated that there was no intent to do wrong or to make a profit. He went on to explain that Mr. Maddux went to the neighbors and asked if they would sign a petition supporting his request for the variance.

Mr. Humphrey closed out his presentation and thanked The Board for their time.

Chairperson Pemberton-Riege asked if anyone else wished to testify. A gentleman from the audience, who identified himself as Roger Schuster, the owner of 1426 Lowell Road and the neighbor to the east of Mr. Maddux, stood up. He stated he opposed the variance. He testified that he contacted Mr. Maddux, during initial construction. He said that the owner/applicant, Mr. Maddux, when confronted by Mr. Schuster about the concern for setbacks, had stated that "he had it handled."

Mr. Schuster testified if Mr. Maddux had taken the proper precautions and gotten the proper permitting, then The Board wouldn't have needed to meet today. He said that he also had additional concerns about the eave. He thinks it further encroached into the setback. With that taken into consideration, he believed that the 1.5 foot distance that Mr. Maddux is short of the setback, the eave makes it more non-compliant.

Mr. Schuster indicated that he had reviewed, with his realtor, the situation, and if would affect his property value. He stated that his realtor told him that it could negatively affect his home value, due to the violation. He testified that his realtor explained potential owners may not be interested in purchasing the property because the homes are so close.

Mr. Schuster declared that the rules are in place for a reason and, if Mr. Maddux had gone through the proper channels during initial construction, this situation could have been avoided. He believed it had not been done.

Mr. Schuster added and relayed his discussion with his insurance agent, regarding the fire issues. He stated that his insurance agent told him, if his house started on fire, it could potentially start Mr. Maddux's home on fire. He alleges that his insurance agent indicated any potential buyers of his home, could be responsible, should Mr. Maddux's house catch fire, as well.

In closing, Mr. Schuster reminded The Board that he felt the setbacks are required for a reason and had Mr. Maddux chosen to take proper precautions, there wouldn't have been an issue. He thanked The Board for their time.

Chairperson Pemberton-Riege asked if The Board had any questions. No questions arose.

Chairperson Pemberton-Riege asked if anyone else wished to testify. Nicole Leonard, another citizen from the public hearing, wished to speak. She stated she is related to the neighbors of Mr. Maddux. She presented her case by stating that she called the Buffalo County Zoning Office and requested a copy of all the Zoning Permits related to this property. She reviewed the application, which was submitted, after her request. She reviewed the application and reminded The Board that it was submitted to the Zoning Office May, 2021. Ms. Leonard stated that she also received the denial and explained the permit was denied, due to the setback issues. She indicated that this particular permit was all that she received, and had not received additional zoning permits for this property.

Ms. Leonard declared that the structure was started in 2020, per Mr. Humphrey's presentation, and the permit was filed in May of 2021. She stated that she believed that it was a little late to file a permit for something that had begun so much earlier. She testified that she talked to The Zoning Office and the gal she spoke with, said that a permit should be issued before any structure work begins.

Ms. Leonard, then, reviewed the hardship requirements that The Board is charged with establishing. She stated that she believed that a "self-inflicted hardship" really isn't a hardship. She said that making a decision to construct a structure within the required setbacks is not necessarily a hardship. She reviewed the last part of The Board's contingencies: "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." She stated that Mr. Maddux's situation was more towards that of convenience.

Ms. Leonard also reviewed the fire concerns. She stated that she believed City of Kearney Fire Codes are different from rural Buffalo County Fire Codes because the Rural Fire Department services these areas. She said that the response time is considerably different.

Chairperson Pemberton-Riege asked Ms. Leonard if she lived on the lake and Ms. Leonard replied that she did not, she is the daughter of the adjacent property owner and the daughter-in-law of the other adjacent property owner.

Deputy County Attorney Fisk asked Chairperson Pemberton-Riege if she could ask Zoning Administrator Daniels a few questions. Chairperson Pemberton-Riege approved the request.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if the lot was created before or after zoning was enacted and Zoning Administrator Daniels stated before.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if the house was built before or after the creation of zoning and Zoning Administrator Daniels stated before, depending on the month.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if a permit was drawn before the construction began on the addition. Zoning Administrator Daniels stated there had been no permit before construction.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if she conducted a site inspection after the permit was received. Zoning Administrator Daniels stated that she did.

Deputy County Attorney Fisk asked Zoning Administrator Daniels how far the construction of the home was when she did her site inspection. Zoning Administrator Daniels stated that she took some photos of the construction and they are enclosed in The Board's packet.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if any additional zoning permits had been drawn against this property other than the current one that was enclosed in The Board's Packet. Zoning Administrator Daniels confirmed that the current Zoning Permit is the only permit of record for this property.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if the current application for zoning permit showed a 15-foot side setback. Zoning Administrator Daniels confirmed. Deputy County Attorney Fisk asked Zoning Administrator Daniels when she did the site inspection, if the side setback was 15 feet as indicated on the application. Zoning Administrator Daniels stated that it was not 15 feet.

Deputy County Attorney Fisk asked Zoning Administrator Daniels to clarify that the structure was already constructed and the permit that was submitted provided false information. Zoning Administrator Daniels confirmed.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if part of this property is in a floodplain. Zoning Administrator Daniels confirmed.

Deputy County Attorney Fisk asked Zoning Administrator Daniels if there were any existing issues with the addition in the floodplain. Zoning Administrator Daniels stated that she was unsure because she had mentioned to the applicant that this property sat in the floodplain, at the time the Application for Zoning Permit was submitted. Zoning Administrator Daniels stated that the applicant assured her that it wasn't because he didn't pay flood insurance. She indicated that he told her that the home had been removed from the floodplain. Deputy County Attorney Fisk asked Zoning Administrator Daniels if she had reviewed the application for floodplain concerns. Zoning Administrator Daniels stated that there did not appear to be any records of this property being removed from the floodplain.

Deputy County Attorney Fisk asked Zoning Administrator Daniels to clarify that the property is in the floodplain. Deputy County Attorney Fisk asked Zoning Administrator Daniels if she would have granted a Zoning Permit for this property. Zoning Administrator Daniels stated that she would not have without receiving additional information regarding the floodplain.

Deputy County Attorney Fisk asked Zoning Administrator Daniels to clarify that regardless of whether this variance is approved, this particular zoning permit would still be denied due to floodplain issues, since a Floodplain Permit had not been submitted and there is no evidence of the structure or the property being removed from the floodplain. Deputy County Attorney Fisk thanked Zoning Administrator Daniels for her answers and concluded her questioning.

Chairperson Pemberton-Riege asked if anyone else wished to testify. A gentleman stepped forward, who identified himself as Miles Maddux, the owner of the property. He stated that the process of the additions started in April of 2019: he worked with an engineer, Paul Brungardt, and a surveyor for the dirt work and design. He requested to use a slide showing the Site Aerial Photo, from Mr. Humphrey's presentation. He testified that when he and Mr. Brungardt began conversations for the design of the project, they were both aware of the setbacks and wanted to get the house as close to the setback as possible. He and Mr. Brungardt wanted to get "as much square footage as possible" next to the property line, but it was not intentional. He said that if he had been aware of the shortage, he would have adapted to the 19 inches that were required to meet the setbacks from his house. Before the foundation was laid, he declared, the corner of the addition was compliant. It only became non-compliant, after the foundation was laid; he is unsure where the error occurred when the project was designed.

Mr. Maddux went on to confirm Mr. Schuster's recollection of events. He stated that Mr. Schuster contacted him during the initial ground preparation for the addition. Mr. Maddux voiced the concerns regarding the setbacks to Mr. Brungardt and Mr. Brungardt assured Mr. Maddux that it would meet the required setbacks. He felt like he did all the due diligence possible.

Mr. Maddux testified he didn't get a permit, because he wasn't aware that he needed a permit for an addition. He explained the concern came when he contacted a solar power company to install solar power on his home, when he discovered that he had needed a permit. At that point, Mr. Maddux said he put the permitting process in motion for the additions, deck and solar panels.

Mr. Maddux stated that he has built other structures, but was unaware of how Buffalo County Zoning's processes worked. He apologized for the inconvenience and stated that he had learned a lot about what is required. He said that he has put a lot of money into this project and thanked The Board for their time.

Mr. Wilke asked if Mr. Maddux was the contractor for this project. Mr. Maddux confirmed that he is the owner and the contractor. Mr. Wilke asked if he builds other houses. Mr. Maddux stated that he primarily does commercial structures. Mr. Wilke asked if Mr. Maddux was familiar with Buffalo County Zoning Regulations. Mr. Maddux said he is not familiar, because he normally works under general contractors and they are primarily responsible for the permitting.

Mr. Wilke asked Mr. Maddux why The Application for Zoning Permit shows a 15-foot side setback. Mr. Maddux answered Zoning Administrator Daniels asked him what the setbacks were and Mr. Maddux stated that he just estimated. Chairperson Pemberton-Riege asked why he was using estimates for the setbacks when he is a contractor and had been working closely with an engineer. Mr. Maddux answered that Mr. Brungardt had left town and he wasn't sure what the setbacks were. He also stated that he thought he had missed the required application date by one day and asked Zoning Administrator Daniels if that was correct. Zoning Administrator Daniels stated that she was not sure what the timeline was from the time she notified the owner to when the application was received. Mr. Maddux alleged that, as soon as he was aware of the violation, he contacted the Zoning Office.

Deputy County Attorney Fisk asked Mr. Maddux if he had a General Contractor's License. Mr. Maddux confirmed. She, then, asked if he carried Business Insurance, under his license, for this project. Mr. Maddux stated that he had Builder's Risk for the building. She asked if he had sought any remediation through his Professional Liability Insurance, or through Mr. Brungardt's Professional Liability Insurance. Mr. Maddux said he had not, but was sure he could not receive any compensation through his insurance.

Deputy County Attorney Fisk asked if Mr. Maddux had drawn a Floodplain Permit. Mr. Maddux said he had not, because he has never had to carry Flood Insurance. He testified the original owners built the house up 3-4 feet out of the floodplain. Deputy County Attorney Fisk asked if he has any documentation to corroborate the house is out of the floodplain. Mr. Maddux confirmed. Deputy County Attorney Fisk asked if Mr. Maddux had provided any of that documentation to Zoning Administrator Daniels. Mr. Maddux stated that he did not.

Deputy County Attorney Fisk asked if Mr. Maddux how far the structure was from the waterline of the lake. Mr. Maddux stated that he estimated about 40 feet.

Deputy County Attorney Fisk asked Mr. Maddux how far the overhang extends from the structure. Mr. Maddux stated that his overhang is two feet. However, he stated, he read some material that stated that overhangs aren't regulated. Deputy County Attorney Fisk clarified that only two feet of overhang is allowed in the setback area.

Deputy County Attorney Fisk asked Mr. Maddux how his property is exceptional or remarkable from other properties in this area. Mr. Maddux requested clarification. Deputy County Attorney Fisk asked if he had any cliffs or drop-offs that could make typical construction prohibitive. Mr. Maddux said he had none of those things.

Deputy County Attorney Fisk asked Mr. Maddux what made his lot different from those around him. Mr. Maddux stated that they are all about the same size, and believed it wasn't any different.

Deputy County Attorney Fisk, then, asked Mr. Maddux what he believed was his demonstrable and exceptional hardship, since Mr. Brungardt completed the Variance Application. Mr. Maddux stated that he would need to remove 12 inches on one side and 18 inches off the other side of the house (north and east sides), along with the presidential shingles, soffit, fascia. Deputy County Attorney Fisk clarified that he would have construction expenses incurred. Mr. Maddux confirmed and stated it would cost about \$25,000 to correct it. Deputy County Attorney Fisk

asked if there would be any other hardships other than construction costs and Mr. Maddux stated there was not. Deputy County Attorney Fisk had no other questions.

Chairperson Pemberton-Riege asked if The Board had any questions of Mr. Maddux. Without further questions, Mr. Maddux added that he has spoken with other contractors and several are building without permits in the county. Chairperson Pemberton-Riege thanked Mr. Maddux for his information.

Chairperson Pemberton-Riege asked if anyone else wished to testify. No one stepped forward.

Chairperson Pemberton-Riege asked if The Board had any questions or comments. Mr. Wilke asked Mr. Schuster to provide clarification regarding the conversation held between Mr. Schuster and Mr. Maddux. Mr. Schuster stated that he told Mr. Maddux that he believed that Mr. Maddux was building in the setback area. Mr. Schuster testified that he went out and measured the distance to his property line, based on a survey, and he said Mr. Maddux was already in the setback area. Mr. Wilke asked Mr. Schuster if he was aware of Zoning Regulations. Mr. Schuster confirmed.

Mr. Wilke, then, turned to Mr. Maddux and asked why he didn't draw a permit before construction. Mr. Maddux stated that Mr. Brungardt assured him that his setbacks were correct. Discussion occurred regarding property lines and setback requirements. Mr. Jack Wilkins stepped forward, identified himself, and stated that building on property lines and setbacks were different. When asked by Deputy County Attorney Fisk, Mr. Wilkins stated that he is not a neighbor and he is the father-in-law to the owner.

Chairperson Pemberton-Riege asked if The Board had any questions. Vice-Chairperson Gangwish asked Deputy County Attorney Fisk if the floodplain issues brought forth today needed to be considered with this application. Deputy County Attorney Fisk stated that the floodplain issues brought forth were asked to review the uniqueness of the property and the permitting timelines, not for a variance in floodplain issues.

Chairperson Pemberton-Riege asked if The Board had additional questions.

Chairperson Pemberton-Riege closed the public hearing at 5:18 p.m. She clarified that no one was allowed to speak at this point, except The Board.

Vice-Chairperson Gangwish asked Deputy County Attorney Fisk how the permitting and the timelines regarding the permitting affected this decision. Deputy County Attorney Fisk stated that they were reviewed because they are facts surrounding this application. She reviewed the requirements for factual findings.

Mr. Wilke clarified with Zoning Administrator Daniels when the permit was submitted to the Zoning Office. He asked if she received the permit in May of 2021. Zoning Administrator Daniels confirmed. He asked if she denied the permit immediately. She confirmed that the Application for Zoning Permit was denied after a physical inspection of the property and the side setbacks were clearly not satisfactory.

A motion was made by Wilke to disapprove the request for the variance of Section 5.17, Buffalo County Zoning Regulations, Minimum Yard Requirements, which requires a minimum side yard of ten (10) feet, located on a tract in Government Lot 3, in Section 12, Township 8 North, Range 14 West of the 6th p.m., Buffalo County, Nebraska, based on lack of proof of an undue hardship.

Chairperson Pemberton-Riege asked for a second motion. A second motion was not made. She declared the motion dead. She recommended The Board discuss the application further.

Mr. Wilke reviewed an application similar to this with The Board, except it was in error by the previous zoning administrator.

Chairperson Pemberton-Riege voiced concerns to see a contractor using the excuse for not getting a permit, because “everyone is doing it”. She, then, asked if any of The Board members could find a reason to approve the variance based on Nebraska State Law. Mr. Wilke reviewed the requirements for The Board regarding undue hardships.

Vice-Chairperson Gangwish asked how the owner would bring the structure into compliance and how that proceeding process would look. Deputy County Attorney Fisk states that once the structure is brought into compliance, then the owner can reapply with a compliant permit, providing no additional issues existed. She stated that there are several factors to consider and review.

A motion was made by Wilke, seconded by Pemberton-Riege, to disapprove the request for the variance of Section 5.17, Buffalo County Zoning Regulations, Minimum Yard Requirements, which requires a minimum side yard of ten (10) feet, located on a tract in Government Lot 3, in Section 12, Township 8 North, Range 14 West of the 6th p.m., Buffalo County, Nebraska, based on lack of proof of an undue hardship.

This Board finds that an undue hardship has not been demonstrated because the following conditions exists: based on Section 4, “the granting of such variance is based on upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.” This is a matter of convenience.

Voting “Aye”: Gangwish, Pemberton-Riege, Wilke, and White.

Absent: Vest and Hardesty.

Abstain: None.

Voting “Nay”: None.

Motion carried.

Moved by Gangwish, seconded by White to approve the minutes of the September 10, 2020 meeting of the Board of Adjustment as mailed.

Voting “Aye”: Gangwish, Pemberton-Riege, Wilke, & White.

Absent: Vest and Hardesty.

Abstain: None.

Voting “Nay”: None.

Motion carried.

Zoning Administrator Daniels offered The Board the opportunity to attend the Nebraska Planning and Zoning Association Conference. She stated that it is at the Younes Conference on September 15-17. Please let her know if anyone is interested in attending. She will send out additional information for them to review.

Chairperson Pemberton-Riege adjourned the meeting at 5:37 P.M. until such time they will be called into session.