

MINUTES OF BOARD OF ADJUSTMENT
OCTOBER 14, 2004
BUFFALO COUNTY COURTHOUSE BOARDROOM
4:00 P.M.

Chairperson Bosshamer called the meeting to order at 4:15 o'clock P.M. with a quorum present on October 14, 2004 at the Buffalo County Board of Supervisors room in the Buffalo County Courthouse, Kearney, Nebraska.

Agenda for such meeting was regularly posted as required by law. Present were: Chairperson Ann Bosshamer, Dennis Farrell, Sharon Martin and Lloyd Wilke. Absent: Marlin Heiden and alternate Carol Porter. Also present were Deputy Buffalo County Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and Siegfried Brauer.

The public forum was opened at 4:16 P.M. No one spoke.

Chairperson Bosshamer opened the hearing at 4:16 P.M. for the variance filed by J. H. Schroeder, Trustee for the Loyal W. Sheen Family Trust. Thereafter, Board heard testimony regarding application for variance submitted by Siegfried Brauer, representing the Trustees for the Loyal W. Sheen Family Trust concerning property described as part of Government Lot 18 & part of Government Lot 19 in Section 31, Township 9 North, Range 16 West of the 6th P.M., Buffalo County Nebraska also known as 2715 Evergreen Road. Mr. Brauer addressed the Board regarding the request to reduce the reduction of the three acre minimum so that the home on this property could be sold. Mr. Brauer gave each person present a copy of the variance application listing nine items as well as a sketch of the area. He stated there are 3 primary issues dealing with this property. They are:

1. Trustees want to sell property instead of continuing to rent the home.
2. Three acre requirement creates some hurdles because of aged trees north side of home and there is an access road to alfalfa field.
3. Location of pumping station which is approximately 50' east of alfalfa field located on the southeast side of home.

Brauer stated he had not been out to the site prior to this meeting because of the 11th hour notification. Klein said she had an aerial photo of this area and presented this photo to Mr. Brauer. He explained the areas on the aerial photo to the Board.

Farrell questioned if they couldn't angle this line to include the tree area on the north side of the house and than it might possibly be 3 acres and they would still have access to the pumping station and alfalfa field.

Bosshamer asked if there was additional property available. The Sheen Trust owns property to the north, east, south and west of this home site. There is another home site to the north of this property.

Brauer said this homestead has been used this way for decades and it won't change a thing because of the usage or how it affects this area. The question he would raise if this is practical or

effectual basis for not granting variance other than because its' technically as a big picture item in the County zoning regulations. We know every circumstance has its own individual particulars and when you are creating something like County Zoning Regulations that took an extensive amount of time to try to cover as many items doesn't mean it should apply in every circumstance and that is probably why there have been requests for variances. He knows his client doesn't want to incur costs in having to make changes to the pumping station. There is some interest in the house but they don't want three acres with it.

Hoffmeister questioned the dimensions of this property. Brauer thought it was over one acre. The bigger problem, Hoffmeister stated, was the lateral for septic or an alternate site needed at a future time. He also expressed concern if we would allow a minimum one acre for future AGR home sites what precedence that would set. He also asked how far from City of Kearney zoning which was 1 mile from their jurisdiction. Hoffmeister suggested giving an easement to the area in question.

Wilke asked if the house had been sold and Brauer said it had not.

Farrell said there is sufficient property on the north side to add to this site and would be a viable alternative to this problem to arrive at three acres and would not affect the alfalfa field. Tree area is not of use to anyone by itself. He also stated he didn't think they had shown a hardship and it was more for convenience and economic gain. The Planning & Zoning Commission has put much thought in establishing the three acre minimum. He also asked who owns the canal and where is the property line?

Martin said we need to be in sync with zoning regulations and now would be the natural time to make the change when the property is sold so that it fits the zoning guidelines.

Hoffmeister suggested they could make a subdivision and this would than be allowed in AGR with at least 70,000 square feet to comply with the Department of Environmental Quality requirement.

Brauer said he is having a hard time seeing where this violates the intent or purpose of County Zoning Regulations with the exception of the septic lateral which would be needed.

Hoffmeister stated if we would allow one acre pieces, this would depreciate the value of adjoining pieces of property.

Klein referred to 9.3, subsection #3 of the Buffalo County Zoning Regulations in granting of the variance

- a. The strict application of the regulation would produce undue hardship;
- b. Such hardship is not shared generally by other properties in the same zoning district and the 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.

Brauer would be hopeful in getting some idea what the Trust could do to get a more definitive proposal to come back before the Board until more information is obtained and a survey can be completed. It would be helpful to see what this body might consider acceptable to this Board.

No one spoke in opposition. The hearing closed at 5:10 P.M.

Motion was made by Farrell, seconded by Martin to continue this hearing until November 12, 2004 and request that a survey be completed and more information obtained such as location of property lines, acres at this location, ownership and property line of Kearney Canal and what type of easement the Trust has been granted by Nebraska Public Power District.

Voting yes were Farrell, Martin, Bosshamer and Wilke. Voting no: none. Absent: Heiden and Porter. Motion carried.

Moved by Martin, seconded by Farrell to approve the minutes of August 12, 2004 meeting of the Board of Adjustment as mailed. Voting yes were Martin, Farrell, Bosshamer and Wilke. Absent: Heiden and Porter. Voting no: none: Motion carried.

Klein told the Board she had received the resignation of Carol Porter because of added duties at her place of employment and family responsibilities and had forwarded this to the County Board. She also asked when they want to meet since the second Thursday of November is a Holiday and the Courthouse will be closed. They agreed to meet on Friday, November 12. Farrell asked if they could move the time back to 3:00 P.M. if they have more than one hearing.

Moved to adjourn at 5:15 P.M. until November 12, 2004 at 3:00 P.M.