

MINUTES OF BOARD OF ADJUSTMENT
OCTOBER 6, 2005
BUFFALO COUNTY COURTHOUSE BOARDROOM
4:00 P.M.

Chairperson Bosshamer called the meeting to order at 4:00 o'clock P.M. with a quorum present on October 6, 2005 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, Marlin Heiden, Lloyd Wilke and Alternate Barb Pemberton Riege. Absent: Dennis Farrell and Sharon Martin. Also present were Deputy Buffalo County Attorney Andrew Hoffmeister, Ginger Axtell, former owner Deb Stone-Haga, four adjoining neighbors and Buffalo County Zoning Administrator LeAnn Klein.

The public forum was opened at 4:01 P.M. There was no one present to speak. The public forum closed at 4:01 P.M.

Chairperson Bosshamer opened the hearing at 4:01 P.M. for the variance application for Donald and Ginger Axtell. Thereafter Board heard testimony regarding application for variance concerning property described as Lot 139, Original Town of Odessa, Buffalo County Nebraska, together with the vacated east 7 feet of Grant Street abutting said Lot on the West, and together with the vacated North 17 feet of Strong Avenue abutting said Lot and said portion of Grant Street, above mentioned on the South.

Applicant Ginger Axtell stated she wants to build an 8' x 16' kitchen on the south side of her house. There is no adequate space for her family in the current kitchen and is a hardship for her and her family. She stated none of the neighbors object to this addition.

Stanley Kent, a neighbor, said he didn't know why they had zoning since they were never able to vote on it. He felt they were being discriminated against.

Deputy County Attorney Hoffmeister explained this was not the issue here but they were here to address this variance request and if he had complaints he could take it up with the County Board.

Neighbors Evelyn Kreutzer and Ivan Lybarger also were present and didn't object to the addition.

Zoning Administrator Klein stated Donald & Ginger Axtell had applied for a zoning permit and this was denied because of the required setbacks. Klein also noted this lot was only 147' x 67' and because of the 50' setbacks requirement, they would not be able to be in compliance.

Heiden questioned if the street was being closed and Klein stated the original street was 100' wide and 17' of Strong Avenue was vacated but the addition would be going on the south side of the house.

Chairperson Bosshamer stated the Board needs to address the following Section 9.31#3 regarding this 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.

Riege asked where the power company drive way is located. She noted there were currently power poles and overhead wires in the area where the addition will be going. Axtell said she had contacted Dawson Public Power District and they didn't have any objections to the addition. Riege also questioned the exact location of the addition. Axtell stated the addition would be 8' in width and run 16' east and west and will be added on the south side of the house where there is a jog in the structure.

Heiden also noted that to the east where the post office is located and other buildings are currently closer to the road than what the addition would be. He also questioned what type of well and septic systems are in Odessa and was told they all have their own well and septic systems.

Hoffmeister asked if this situation was shared by other property owners in Odessa which the Board agreed it was.

The Board questioned the location of the well and septic. The well is located northwest of the lot on Grant Street and the septic is located in the southeast corner of the lot.

The hearing closed at 4:20 P.M.

Moved by Heiden, seconded by Wilke to relax the setback 5 feet to allow the variance request for the 8' x 16' addition on the south side of the existing house:

- 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.

Per zoning regulation Sec. 9.32 this Board finds the hardship is these lots are non-conforming lots that have improvements on these lots and there are other buildings that are closer to the road than this structure.

Copy of these minutes shall be filed of record by Buffalo County against said property as shown in Inst. 2005-7539 as filed in Register of Deeds office in Buffalo County on August 26, 2005 described as follows:

Lot 139, Original Town of Odessa, Buffalo County Nebraska, together with the vacated east 7 feet of Grant Street abutting said Lot on the West, and together with the vacated North 17 feet of Strong Avenue abutting said Lot and said portion of Grant Street, above mentioned on the South.

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

Hoffmeister informed them that building must commence within 120 days and completed within two years.

Barb Pemberton Riege wanted the minutes to reflect the threat Stanley Kent had made towards the Board of Adjustment before the meeting commenced. She had considered this a personal threat and does not appreciate the statement that was made.

Moved by Riege, seconded by Heiden to approve the minutes of April 14, 2005 meeting of the Board of Adjustment as mailed. Voting yes were Riege, Heiden, Bosshamer and Wilke. Absent: Farrell and Martin. Motion carried.

Moved to adjourn at 4:25 P.M.

Ann Bosshamer, Chairperson