

MINUTES OF BOARD OF ADJUSTMENT  
OCTOBER 25, 2010  
BUFFALO COUNTY COURTHOUSE BOARDROOM  
4:00 P.M.

Zoning Administrator LeAnn Klein, in the absence of a Chairperson, called the meeting to order at 4:00 o'clock P.M. with a quorum present on October 25, 2010, 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: Larry Fox, Marlin Heiden, Sharon Martin and Lloyd Wilke. Absent: alternate Barb Pemberton Riege. Also present were Buffalo County Deputy Attorney Andrew Hoffmeister, Mitch Humphrey, Roger Standage and Buffalo County Zoning Administrator LeAnn Klein.

Klein wanted to thank Ann Bosshamer for serving on the Board of Adjustment as Chairperson since 2003.

Klein asked for nominations for a Chairperson.

Motion was made by Martin, seconded by Wilke to nominate Larry Fox as Chairperson for the Buffalo County Board of Adjustment.

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

Klein then turned the meeting over to Chairperson Fox.

Chairperson Fox announced we do abide by the open meeting act, there is a copy posted in the County Board room and copies are available for anyone wanting to see it.

The public forum was opened at 4:02 P.M. No one was present. The public forum closed at 4:02 P.M.

Chairperson Fox opened the public hearing at 4:02 P.M. for the variance request of Section 4.03 and Section 4.06 of the Buffalo County Zoning Regulations for Patricia J. Standage, Trustee of the Patricia J. Standage Revocable Living Trust for the East Half of the Southwest Quarter of Section Twenty Four (24), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska. They are asking for a variance to relax adopted subdivision standards for the maximum length of a cul-de-sac street (Section 4.03) and to relax adopted subdivision standards related to maximum block length (Section 4.06). Thereafter, the Board heard testimony regarding application of the variance submitted by Patricia J. Standage, Trustee concerning property in Buffalo County, Nebraska.

Mitch Humphrey, surveyor with Buffalo Surveying, was present to represent the Standages. He told the Board they had met with a Committee to go over aspects of the proposed Standage Country Acres. They were aware of the block length and cul-de-sac length requirement but there was no other way for this subdivision to be laid out. The adjoining property owner had developed Bridle Acres to the north and east and the Standages had sold off 10-20 acres along

56<sup>th</sup> Street and Sartoria Road. The owner to the north did not want a road adjacent to his property so this was the only way they could lay out these lots. The way the lots are laid out, there is no problem with seeing all the lots from 56<sup>th</sup> Street. It is on a plateau so line of sight is not a problem. Humphrey also told the Board they had found where there was a 1700' road right-of-way that the County Board had established back in 1954 that was a driveway that would be adjacent to Lot 6 but the process had been started to vacate this. He had spoken to the Highway Superintendent and it would be cost prohibitive for the County to improve the road on the north edge of this property. The owner to the north had said he didn't want a road at that location. The lots they have proposed are between seven to eight acres and they will have restrictive covenants on these lots to prevent anyone from selling off lots smaller than five acres. Lot 1 would be the only lot that could be split. The applicants had to have a drainage study done and because of the lay of the land, this is the only way to subdivide these lots. The lots in Bridle Acres are much smaller than the proposed lots in this subdivision. All of this property is zoned Agricultural-Residential.

Hoffmeister noted there is a fire hydrant located directly south of 56<sup>th</sup> Street across from the proposed subdivision. He also agreed line of site is not a problem.

Humphrey told the Board the Planning & Zoning Commission had forwarded this preliminary plat to the County Board with approval subject to cul-de-sac length and block length questions. At the October 12, 2010 meeting, the County Board had wanted them to obtain a variance on these two issues prior to the Board making a decision.

Klein noted the Board of Adjustment had received copies of all this information along with the copies of the pictures Humphrey had supplied to the Commission and County Board.

Hoffmeister asked Humphrey how long he had been a surveyor. Humphrey replied he had been a surveyor since 1982.

Hoffmeister also asked Humphrey if he believed this variance was necessary, otherwise this would be an undue hardship to develop this piece of property.

Humphrey said this property is zoned AGR and there is no way to provide cross streets. When people purchased property surrounding this parcel, this area was zoned AGR and the potential for development was already here.

Fox agreed the potential was already there.

Humphrey also told the Board the utilities are already located here and the electrical lines will be buried.

Hoffmeister said this is the first subdivision that was not an administrative type subdivision in two years. With the rate of development in Buffalo County, we need between 30-50 rural houses per year. It is important to have good development without taking prime agricultural ground out of production.

Martin said at least this isn't prime farm ground.

Mr. Standage told the Board the lots he recently developed have direct access to a County Road. Two lots are accessed off Sartoria Road and the other lots have access off 56<sup>th</sup> Street.

Wilke asked what the setbacks were. He again asked about the restrictive covenants.

Standage responded there are 50' setbacks and restrictive covenants will be filed with this subdivision.

Hoffmeister reminded everyone the County does not enforce restrictive covenants.

Heiden agreed there is a straight line of site to this property.

Humphrey referred everyone to the pictures that had been provided to the Board of Adjustment. He didn't think there would be a problem with line of site even if trees would be planted.

Martin feels a lot of research has gone into this.

Heiden wishes all subdivisions would be this well-documented.

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

Motion was made by Heiden, seconded by Wilke to grant the variance request submitted by Patricia J. Standage, Trustee of the Patricia J. Standage Revocable Living Trust to relax the maximum length of a cul-de-sac street (Section 4.03) and to relax the maximum block length (Section 4.06) as set forth in the Buffalo County Land Subdivision Resolution as adopted for the East Half of the Southwest Quarter of Section Twenty Four (24), Township Nine (9) North, Range Seventeen (17) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska based on the following reasons:

1. The sizes of the lots are large and would be consistent with or lesser than local area density. Therefore, allowing this subdivision to develop in accordance with the applicant's plan of development is consistent with the purposes of the AGR District and its development at its maximum planned density will not adversely affect adjoining property.
2. There is good topographical line of sight vertically and horizontally from the entry road, 56<sup>th</sup> Street, looking north throughout the entire length of the proposed street in the subdivision.
3. There is one obvious road and subdivision road access can only occur on this one road that would be compliant with grade limitations for subdivision development and that would provide for a desirable overall development plan for land subdivision. This is due to the unique topographic conditions of the property sought to be developed.
4. Strict application of the two regulations would produce undue hardship on the applicant.
5. The character of the district will not be changed by granting the variance.
6. The granting of these two variances is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice in that the land cannot be developed in accordance with the overall goals of the AGR District without relaxation of the zoning regulations.

Voting yes were Heiden, Wilke, Martin and Fox. Voting no: None. Absent: Riege. 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 Martin to approve the minutes of the August 19, 2010 meeting of the Board of Adjustment as mailed. Voting yes were Heiden, Martin, Fox and Wilke. Voting no: none. Absent: Riege. Motion carried.

Chairperson Fox adjourned the meeting at 4:35 P.M. until which time the Board of Adjustment is called into session again.