

MINUTES OF BOARD OF ADJUSTMENT
JULY 12, 2012
BUFFALO COUNTY COURTHOUSE BOARDROOM
4:00 P.M.

Chairperson Fox called the meeting to order at 4:03 P.M. in the Buffalo County Courthouse boardroom on July 12, 2012.

Agenda for such meeting was regularly posted as required by law. Present were: Larry Fox, Sharon Martin, alternate Barb Pemberton Riege, Richard Weiss and Lloyd Wilke. Absent: Marlin Heiden. Also present were Buffalo County Deputy Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and three members of the public.

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.

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 4:04 P.M. No one was present. The public forum closed at 4:04 P.M.

Chairperson Fox opened the public hearing at 4:04 P.M. for the variance request of James and Rosanne Cunningham for property located in part of the Southwest Quarter of the Southwest Quarter (SW ¼ SW ¼) of Section Twenty Four (24), Township Nine (9) North, Range Seventeen (17) West of the 6th p.m., Buffalo County, Nebraska. They are asking for a variance to change the lot lines on two lots they currently own. Thereafter, the Board heard testimony regarding application of the variance submitted by James and Rosanne Cunningham concerning property in Buffalo County, Nebraska.

James and Rosanne Cunningham were present and told the Board they live at 18580 W 56th Road and Sartoria Road. They currently own both of the lots in question. The well sits on the west property and the existing home sits on the east portion of the property. They want to be able to move the lot lines so the well sits on the same lot as the home. They thought it would be a wise idea to have the well situated on the same lot as the home. They want to re-subdivide the two lots so that each lot would be approximately the same size. They would like to have about 10' from the well to the property line. The septic is on the east side of the existing home. They eventually would like to sell off the existing home site and build another home on the west lot. They will put in another well on the west lot.

Hoffmeister told them they would have to have the lots surveyed by a licensed surveyor and also have to dedicate additional road right-of-way off 56th Road and Sartoria Road.

Mrs. Cunningham said they originally had an easement to the well but has run into dead ends with trying to sell the property.

Cunningham's showed a drawing to the Board of what they would like these lots to look like after they are split.

Hoffmeister asked if they own both parcels. Cunningham replied they do own both lots. James owns one lot and Rosanne owns the other lot.

Hoffmeister commented it is not affecting congestion.

Riege thinks it is a good plan.

Martin said it looks like the lots would be narrow and very long.

There is a good view to the west and south and that is the reason they want to split the lot this way.

Hoffmeister stated they would have plenty of room for the septic. Hoffmeister said they could make each lot the same size even after taking the road right-of-way off the west parcel.

Wilke questioned if they had looked at the cost for well drilling and septic installation against the cost of hiring a surveyor.

Cunningham replied no they hadn't.

Hoffmeister stated the plan of development is not increasing the nonconformity and there is no adverse effect on adjoining properties.

Chairperson Fox closed the public hearing at 4:32 P.M.

Motion was made by Martin, seconded by Weiss to grant the variance request submitted by James and Rosanne Cunningham with the following three conditions:

1. Applicants are allowed to move lot lines between and separating the following two tracts of land, with the two resulting lots having an approximate equal area after change, with the Applicants having the option to choose whether the lots are of equal size prior to or after required additional right of way to be quit claimed to Buffalo County for road right of way on the west and south property lines of the following two tracts.
2. That the applicants quit claim deed transfer to Buffalo County, Nebraska, the west forty feet of the "West Tract" and south forty feet of the "West Tract" and the "South Tract" to cause the road widths of Sartoria Road and 56th Street to become compliant with Section 4.03 of Buffalo County's Subdivision Resolution.
3. That a registered surveyor shall redraw, draw plat for filing, and stake, if necessary in his or her professional judgment, new lot line between and separating the following two tracts of land as laid out after change of lot line.

On these two tracts of land:

Legal Description for East Tract

A tract of land being part of the Southwest Quarter of the Southwest Quarter (SW ¼ SW ¼) of Section Twenty Four (24), Township Nine (9) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest Corner of said Section 24; thence easterly on the South line of said section a distance of 192.5 feet to the ACTUAL PLACE OF BEGINNING; thence continuing easterly on the afore described course a distance of 159.5 feet; thence with a deflection angle to the left of 89°12' and parallel with the West line of said section a distance of 618.7 feet; thence left 90° 48' and parallel with the South line of said section a distance of 159.5 feet; thence left 89° 12' and parallel with the West line of said section a distance of 618.7 feet to the place of beginning. Containing 2.27 acres, more or less, of which 0.12 acres, more or less, are presently being used for road purposes on the south side.

Legal Description for West Tract

A tract of land being part of the Southwest Quarter of the Southwest Quarter (SW ¼ SW ¼) of Section Twenty-four (24), Township Nine (9) North, Range Seventeen (17) West of the Sixth Principle Meridian, Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southwest Corner of said Section 24; thence easterly on the South line of said section a distance of 192.5 feet; thence with a deflection angle to the left of 89° 12' and parallel with the West line of said section a distance of 618.7 feet; thence left 90° 48' and parallel with the South line of said section a distance of 192.5 feet to a point on the West line of said section; thence left 89° 12' and on the aforesaid West line a distance of 618.7 feet to the place of beginning. Containing 2.73 acres, more or less, of which 0.59 acres, more or less, are presently being used for road purposes on the south and west sides.

Based on the following reasons:

1. Lots after split would remain of equal size exclusive of any county road dedication.
2. 33' on west and south for road dedication and an additional 7' on south and west side.
3. Property would be re-surveyed.
4. Strict application of the 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 this variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

Voting yes were Martin, Weiss, Fox, Riege and Wilke. Voting no: None. Absent: Heiden. 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 Wilke, seconded by Riege to approve the minutes of the July 14, 2011 meeting of the Board of Adjustment as mailed. Voting yes were Wilke, Riege, Fox, Martin and Weiss. Voting no: none. Absent: Heiden. Motion carried.

Chairperson Fox adjourned the meeting at 4:50 P.M. until which time the Board of Adjustment is called into session again.