

MINUTES
OF
DOUGLAS COUNTY BOARD OF ADJUSTMENT
3015 MENKE CIRCLE
OMAHA, NEBRASKA 68134
August 16 2006
6:00 p.m.

Vice Chair Trebbian opened the meeting with the following statement:

The meeting is being conducted in accordance with the Open Meeting Law of the State of Nebraska and the provisions of the law are posted in the room at the back.

The meeting was then called to order by Vice Chair Trebbien with roll call.

Members Present: Scott Bruhn, Barbara Hayes, Patricia Trebbien, Steve Wright..

Other County officials, staff, and representatives present: Barb Frohlich (Environmental Services) and Bernie Monbouquette (Deputy County Attorney).

Motion by Ms. Hayes, seconded by Mr. Bruhn to approve minutes of July 19th, 2006.

Voting Yes: Bruhn, Hayes, Trebbien.

Voting No: None.

Abstain: Wright.

APPLICATION V-10-06

REQUEST: Variance to allow building permit for single family residence on property measuring less than 300 feet abutting a public right-of-way

LEGAL: Parcel 1427000001, 20.01 acres, in Section 26, Township 16, Range 10 E. of the 6th P.M.

LOCATION: Approximately 220 and Edgewater Road

INTENDED USE: Single Family Residence

APPLICANT: Perry C. Viers, 4738 South 167th Street, Omaha, NE 68135

Perry C. Viers, 4738 South 167th Street, presented the application with the following comments:

1. He purchased the 20+ acre parcel four years ago with intent of building a home with a driveway. Currently, he does not have access to the property with his own driveway.
2. He was not aware that 300 feet of frontage was required to obtain a building permit.
3. After discussing the problem with Permits staff, the options were to apply for a variance to obtain a building permit or try to get an easement from the neighbor to use his driveway.
4. Prefers to get a variance to have his own driveway access.

Ms. Frohlich stated she had talked to the County Engineer's Office and they will issue a driveway permit.

Ms. Hayes asked Mr. Viers who owns the property adjacent to him. Mr. Viers replied that Dean Hays owns 5 acres to the west and Randy Mehlin owns the property to the east.

Ms. Trebbien asked if Mr. Mehlin's property is where the driveway is now. Mr. Viers replied that the driveway is on Mr. Mehlin's property.

Vice Chair Trebbien opened and closed the public hearing. No one from the public spoke for or against this application.

Discussion, Questions, Comments:

1. Ms. Frohlich asked Mr. Viers when the property was divided into 20 acres because she was not able to find that information. Mr. Viers replied that the property was the Paasch homestead at one time but had been divided some time ago. He stated the original homestead house was on Mr. Hayes' property and the house on Mr. Mehlin's property appears to be about 15 years old.
2. Mr. Wright asked if it had been determined who created the shape of the property. Ms. Frohlich stated she was unable to find that information but a title search would probably find it.
3. Vice Chair Trebbien pointed out that the 300 feet requirement was probably not in effect when the property was divided.
4. Ms. Frohlich stated that it wouldn't have been in effect when it was divided because we just put that 300 feet in the past several years. The County Engineer's Office requested that requirement because they don't like to have driveways closer together than 300 feet.
5. Mr. Wright asked if the Board is giving him a variance to obtain a building permit or a variance for a driveway. Ms. Frohlich stated it would be a variance to get a building permit on a lot less than 300 feet frontage.
6. Deputy County Attorney. Monbouquette stated that the shape of the lot certainly seems to be a factor and that is the condition that is causing the hardship that requires the variance.
7. Ms. Hayes asked how the farmer accessed the property. Mr. Viers replied that he went to the corner of the property next to Randy Mehlin's property and made

an entrance into the 20 acres. He also stated that is how he accesses the property.

Motion by Mr. Wright to grant the variance based on the following findings of fact:

1. The Board finds that the strict application of this particular zoning resolution would produce undue hardship because the shape of the 20+ acres.
2. The Board finds that such hardship is not shared generally by other properties in same zoning and vicinity because they already have driveways.
3. The Board finds that this variance will not be of substantial detriment to adjacent properties because the character of the district will not be changed by the granting of the variance.
4. The Board finds that the granting of the variance of such variance is based upon reasons of demonstrable and exceptional hardship because the property was divided before the regulations were in place. The applicant did not create that hardship. It is distinguished from variations for purposes of convenience, profit or caprice.
5. The Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

Motion second by Ms. Trebbien.

Voting Yes: Wright, Trebbien, Hayes, and Bruhn.

Voting No: None

Abstain: None

Ms. Frohlich announced there is a meeting next month.

Meeting adjourned at 6:13 p.m.

Minutes approved September 20, 2006.