

**SARPY COUNTY BOARD OF ADJUSTMENT
MINUTES OF MEETING
May 8, 2014**

I. CALL MEETING TO ORDER

A meeting of the Board of Adjustment of Sarpy County, Nebraska was convened in open and public session at the call of Chairman Sharon Hansen at 7:00 P.M. at the Courthouse in Papillion, Nebraska. Chairman Hansen stated that a copy of the "Nebraska Open Meetings Act" is posted on the north wall of the Sarpy County Boardroom. Roll call attendance was taken.

Present: Doug Hill, Pat Lichter, Sharon Hansen, Del Reibold and Doug Kellner.

Notice of the public hearing was given in advance thereto by publication in the Omaha World Herald dba Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor. Proof of Publication is on file in the Planning Department. Notice of the meeting was simultaneously given to all members of the Board of Adjustment of Sarpy County, Nebraska. Availability of the agenda was communicated in the published notice and in the notice to members of the Board of Adjustment of this meeting.

Sarpy County Staff present: Bruce Fountain, Director of Planning & Building Department, Kelly Jeck, Planning & Zoning Assistant, and Michael Smith, Deputy County Attorney.

Bruce Fountain, Planning Director, introduced the new members to the Board of Adjustment: Doug Kellner and Pat Lichter (Planning Commission Representative).

Election of Officers

Chairman Hansen asked for nominations for Chairman.

Pat Lichter nominated Sharon Hansen for Chairman. Nomination seconded by Del Reibold.

With no other nominations, Chairman Hansen declared the nominations for Chairman closed.

By unanimous vote, Sharon Hansen is elected Chairman of the Sarpy County Board of Adjustment.

Chairman Hansen asked for nominations for Vice Chairman.

Pat Lichter nominated Doug Hill for Vice Chairman. Nomination seconded by Del Reibold.

With no other nominations, Chairman Hansen declared the nominations for Vice Chairman closed.

By unanimous vote, Doug Hill is elected Vice-Chairman of the Sarpy County Board of Adjustment.

II. APPROVAL OF MINUTES

1. Approval of Minutes from the August 20, 2012 meeting.

MOTION: Reibold moved, seconded by Hill, to approve the Minutes of the August 20, 2012 Board of Adjustment meeting. **Ballot:** *Ayes –Hill, Hansen and Reibold. Nays: None. Abstain: Lichter and Kellner. Absent: None. Motion carried.*

III. REGULAR AGENDA

1. **PUBLIC HEARING AND RECOMMENDATION** – McGregor Interests, Inc. has submitted an application for variance to the Sarpy County Zoning Regulations Section 23.4.1 and Section 37.3.2 on property legally described as Lot 1 Riffel's First Addition, as surveyed, platted and recorded in Sarpy County, Nebraska.

Bruce Fountain, Planning Director, presented this request as outlined in the Planning Department's Staff Report.

The applicant currently has a purchase agreement on the subject parcel and the abutting parcel to the southwest. The current use on the site is mini storage and outdoor storage. The applicant wishes to consolidate the two parcels and construct additional buildings for convenience storage units which would remove any existing outdoor storage.

The subject parcel has an existing structure that was built in conformance with the zoning regulations in effect at that time which allowed a "0" side yard setback. This parcel was also developed under regulations that did not require landscaping. The applicant is requesting a variance to allow the existing "0" side yard setback for the existing structure along the east property line, and a variance to not provide a 20' wide landscaped buffer area along the street adjacent to the existing structures.

Mr. Fountain noted that any new buildings would be required to meet the minimum setback and landscape buffer requirements.

Mr. Fountain said upon review of this request, the Planning Department finds that this variance application meets the criteria and is in conformance with the requirements of Nebraska Revised Statute 23-168.03 and recommends approval of this request.

Jason Thiellen, E & A Consulting Group, 330 North 117th Street, appeared on behalf of the applicant in support of this request.

With no one else appearing in regard to this request, Chairman Hansen closed the public hearing at 7:20 p.m.

MOTION: Lichter moved, seconded by Reibold, to approve the variance request by McGregor Interest, Inc. as proposed and presented to the Sarpy County Board of Adjustment, finding that at least one hardship has been created by the strict application of the Zoning Ordinance:

1. *There would be peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to other extraordinary and exceptional situation or condition of the piece of property in question.*

Analysis: This property has an existing structure that was built in conformance with zoning regulations in effect at the time that it was constructed which allowed a "0" side yard setback and required no landscaped buffer area. This parcel could continue to exist today as a legal non-conforming structure if the property lines were not changed.

And finding that each specific requirement has been satisfied in compliance with Nebraska Revised Statute 23-168.03:

2. *Variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the applicable County Zoning Regulations.*

Analysis: The purpose of the side yard setback is to minimize issues with fire separation distances and allow for open areas between properties. This site is currently improved with a structure which was constructed in compliance with the regulations at the time. Granting of such variance will not alter the appearance or existing conditions of the site.

Specific requirement: satisfied / not satisfied

3. *The strict application of the requirements of the applicable County Zoning Regulations would produce an undue hardship upon the owner of the property included in the petition.*

Analysis: The strict application of the code would produce an undue hardship on the owner as any replatting of the parcel (change in the property lines) would require that the property be brought into compliance with current code which requires a minimum 10' side yard setback and a minimum 20' landscape buffer along roadways which cannot be accomplished due to the existing structures and improvements.

Specific requirement: satisfied / not satisfied

4. *Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;*

Analysis: This hardship is created due to changes in the zoning regulations over the years. The property was developed in compliance with the regulations adopted at the time. The circumstances of this property are not generally shared by other properties in the area.

Specific requirement: satisfied / not satisfied

5. *The authorization of such variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the variance;*

Analysis: Staff does not believe that this request would be a substantial detriment to adjacent properties or that the character of the IL zoning district will be changed.

Specific requirement: satisfied / not satisfied

6. *The granting of such variance is based upon reasons of demonstrable and exceptional hardship stemming from characteristics of the property involved in the petition and not for reasons of convenience, profit or desire of the property owner;*

Analysis: The variance request would be considered a hardship due to existing characteristics of the property involved (existing legal non-confirming structures).

Specific requirement: satisfied / not satisfied

7. *The condition or situation of the property included in such petition or the intended use of such 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 applicable County zoning regulations.*

Analysis: This condition of this property is unique in that it is improved with existing structures that prohibit the ability to bring the property into compliance with current code without a variance.

Specific requirement: satisfied / not satisfied

Ballot: Ayes – Hill, Lichter, Hansen, Reibold and Kellner. Nays: None. Abstain: None. Absent: None. **Motion carried.**

IV. CORRESPONDENCE AGENDA

1. Next Meeting: Tuesday, June 3, 2014.

V. ADJOURNMENT

Being no further discussion, Chairman Hansen moved to adjourn the meeting. With the unanimous consent of the Board of Adjustment, the meeting adjourned at 7:25 p.m.

Sharon Hansen, Chairman

Kelly Jeck, Recording Secretary