

DRAFT MINUTES

Board of Adjustment

July 28, 2020

The Wahoo Board of Adjustment met in regular session and in accordance with published Notice of Public Hearing and with agenda posted at City Hall, Post Office, and First Bank of Nebraska, with each board member being notified of the agenda prior to the meeting. Meeting was called to order by Chair Glen Wilcox at 7:00 p.m. The public was advised of the posted information regarding State Open Meetings Act and Title VI. The following members were present and answering to roll call: Glen Wilcox, Erik Thomalla, Paul Eddie, Mark Sutton, and Chad Aldrich. Also present was Maureen Freeman-Caddy, City Attorney and Travis Beavers, Building Inspector/Zoning Administrator.

A motion was made by Aldrich, seconded by Thomalla, to approve agenda as presented. Roll call vote: Aldrich, yes; Thomalla, yes; Eddie, yes; Sutton, yes; and Wilcox, yes. Motion carried.

A motion was made by Sutton, seconded by Eddie, to approve the minutes of the June 30, 2020 meeting as presented. Roll call vote: Sutton, yes; Eddie, yes; Wilcox, yes; Thomalla, yes; and Aldrich, yes. Motion carried.

Proof of notification of public hearing was provided per Chairman's request. Verification of a complete application was acknowledged by city staff per Chairman's request. It was noted that normally the Board is called to act upon a request for variance, however this is an appeal of a decision made by the Building Inspector/Zoning Administrator. It was determined by the Chair that the Board had the authority to act on the appeal filed.

Motion was made by Aldrich, seconded by Eddie, to open the public hearing. Roll call vote: Aldrich, yes; Eddie, yes; Sutton, yes; Thomalla, yes; and Wilcox, yes. Motion carried.

Public hearing opened at 7:05 p.m. Exhibits were marked. Information packet containing: Notice of hearing dated July 10, 2020; Proof of Publication; Application for Hearing; Appeal of Decision; calculations submitted by Novotny; Zoning Regulation Section 4.12; Gworks map and Saunders County Assessor information on Novotny property; Memo dated July 20, 2020 from Jeffrey Ray of JEO; and Zoning Regulations Section 5.06 LLR, Section 5.07 R-1, and Section 5.08 R-2, Section 5.09 R-3, and Section 5.11 NRC; was marked as Exhibit #1. The Bylaws and Rules of Procedure of the City of Wahoo Board of Adjustment was marked as Exhibit #2. Guidelines for Board of Adjustments Hearing and Conduct of Public Hearings was marked as Exhibit #3. Checklist for Request for Variance was marked as Exhibit #4. The meeting agenda was marked as Exhibit #5. The exhibits were marked and entered into the record by the Chair serving as the hearing officer.

Don Novotny stated he was appealing the decision to not permit construction of additional accessory structure on his property. Because he owns three additional acres over the three-acre minimum, he contended that section 4.12.07 of the zoning regulations would allow an additional 434 square feet of accessory structure for each acre, or 1,302 square feet. He agreed the footprint of his house is 2,200 square feet, and his interpretation of the regulation was the 1,302 square feet should be added to the house footprint for accessory structure size limit. He stated in 2013 Beavers issued a permit for an accessory building.

Travis Beavers stated in discussions held by the Planning Commission, for all zoning districts, the footprint of the primary structure was determined to be the limiting factor for accessory

structures, and the total square footage of all accessory structures combined should not be greater than the footprint of the house. In the R-1, R-2, R-3, NRC residential districts, there is a forgiveness for additional accessory structure if there is a larger lot size, however the footprint of the house is still the maximum. The percentage of lot coverage is an additional limiting factor to construction in residential areas.

Beavers stated the memo from Jeff Ray of JEO repeats the standard that accessory structures should be subordinate in size to the principal or primary structure. Beavers stated he did permit for a building in 2013, but does not remember how it was calculated at that time. He reported he now uses information from the County Assessor's web site to verify the footprint of the house and accessory structure sizes. He will measure buildings if there is a request to do so or if there appears to be a discrepancy. Beavers uses the footprint of the house/primary structure as the limit for size of accessory structure, and this is a combined total if there are several buildings. Beavers stated according to the Assessor information, the existing accessory buildings on Novotny's property exceed the square footage limit. Beavers also stated this subdivision was originally established under county regulations, but is now within City of Wahoo zoning jurisdiction.

No public comments were offered.

Don Novotny stated all buildings were already on the property when he bought it. It was noted that the 24 x 24 garage he is requesting is actually 576 square feet, not 480 square feet. The combined size of the existing accessory buildings is above the square footage of the house, but Novotny feels he should be allowed the additional square footage up to 3,502 due to the larger lot size.

Motion was made by Thomalla, seconded by Aldrich, to close the public hearing at 7:25 p.m. Roll call vote: Thomalla, yes; Aldrich, yes; Eddie, yes; Sutton, yes; and Wilcox, yes. Motion carried.

Discussion was held on the information presented. It was noted if the house was larger, the accessory building area could be larger. The limit refers to the sum total of all accessory buildings, not each individual building. Wilcox stated the Planning Commission was clear that they did not want accessory structures to overwhelm the house, when the property is intended for residential use. Sutton stated he is in a similar situation, with more ground, but a smaller house, and is unable to build more storage space. It was agreed the language in the regulations could be rephrased to make the limits more clear, and asked the chair to take this to the Planning Commission.

A motion was made by Eddie, seconded by Wilcox, to confirm the decision of the Building Inspector/Zoning Administrator and deny the appeal. Roll call vote: Eddie, yes; Wilcox, yes; Thomalla, yes; Sutton, yes; and Aldrich, yes. Motion carried.

No old business. New business: The Planning Commission will be asked to look at the wording to make it clearer, and avoid confusion and different interpretations on the limits for accessory buildings.

Beavers reported Nancy Stelter has visited with Mayor Johnson, and an additional survey was suggested. Elkhorn Valley Grain has not contacted his office yet. Beavers is also working with someone on a garage/office combination and discussing alternatives, but may result in a variance request.

A motion was made by Eddie, seconded by Sutton, to adjourn the meeting at 7:38 p.m. Roll call vote: Eddie, yes; Sutton, yes; Wilcox, yes; Aldrich, yes; and Thomalla, yes. Motion carried.

Recording secretary:
Lucinda Morrow, City Clerk

Approved: