

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 6:32 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: Erik Thomalla Mark Sutton, Chad Aldrich, Glen Wilcox, and Paul Eddie. Also present was Jovan Lausterer, City Attorney and Travis Beavers, Zoning Administrator.

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

A motion was made by Thomalla, seconded by Aldrich, to approve the minutes of the January 28th, 2020 meeting as presented. Roll call vote: Thomalla, yes; Aldrich, yes; Sutton, yes; Eddie, yes; and Wilcox, yes. Motion carried.

Notice of hearing dated June 12, 2020 was marked as exhibit #1, the meeting agenda was marked as exhibit #2, City of Wahoo Zoning Rules and Regulations was marked as exhibit #3, City of Wahoo Board of Adjustments Hearing Rules and Procedures, and the Bylaws of the City of Wahoo Board of Adjustments was marked as exhibit #4, variance application was marked as exhibit #5 and entered into record by the Chair serving as the hearing officer.

Discussion was held regarding the duties and responsibilities of the Board of Adjustment. Members reviewed the bylaws and rules of procedure of the City of Wahoo Board of Adjustment.

Proof of notification of public hearing was provided per Chairman's request. Verification of a complete application was provided by city staff per Chairman's request. It was determined by the Chair that the Board had the authority to act on the application filed with the board.

Public hearing was opened at 6:40 p.m. upon application for variance to allow for the construction of an addition on existing home with less than required setbacks in an R-2 Residential District on property described as a tract of land located in the East side Block 1, Remington Addition also known as 851 N Locust Street, Wahoo, Saunders County, Nebraska, as filed by Nancy Stelter.

Nancy Stelter was present to explain the request. Stelter stated that the strict application of the zoning regulations would produce undue hardship in that it would preclude the addition which will add a handicapped shower and bathroom as well as a main floor laundry, since the laundry is located in the basement. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance in that the addition will not be visible from the street and will be designed to integrate such with the current structure to make it unnoticeable. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience profit or caprice in that it is to provide handicap accessibility. Stelter spent 2 and a half months at South Haven due to a fall and with Endothelial Dysfunction and Osteoporosis, the chances for another fall is high. Stelter also stated that she hired Fine Line Land Surveying to survey the property prior to the purchase of the property and they told her that the proposed addition would fit, so she purchased the property. When the survey documents were provided to the city, the proposed addition was denied due to less than required setbacks so Fine Line Land Surveying was called out again. Again, Stelter was led to believe that the addition

would fit, only to be refused a permit for a second time. Fine Line Land Surveying came out a third time and found the pins. Every time the surveyor came out, property lines were in a different location. An information packet, that was provided by Stelter, was marked as exhibit #6, the picture of the property corner was marked as exhibit #7, and the deed was marked as exhibit #8. Exhibits #6 thru #8 were formally entered into the record by the Chairman and there was no additional testimony or exhibits presented. A motion was made by Aldrich, seconded by Sutton, to close the public hearing at 7:10 p.m. Roll call vote: Aldrich, yes; Sutton, yes; Eddie, yes; Thomalla, yes; and Wilcox, yes. Motion Carried.

Discussion was held on the variance request. No such variance shall be authorized by the Board unless it finds that: 1. The strict application of the Ordinance would produce undue hardship; 2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; 3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and 4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless 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 this Ordinance. Legal counsel explained that the variance request was actually to both disregard the setback requirements as well as to allow for the expansion of a non-conforming structure since the existing building does not appear to meet setbacks at the current time. Members discussed different options for the addition. Members stated that there are several other alternatives that could be pursued to meet the setback requirements and the regulations have not changed since the property was purchased therefore the application of the Ordinance does not produce undue hardship. Legal counsel also pointed out that the surveying company and realtor were alleged to have made claims to the applicant regarding her ability to expand into the area were neither city employees nor acting on behalf of the city when doing so. A motion was made by Aldrich, seconded by Eddie, to deny the variance request based on the findings that the request does not meet requirements #1 thru #4. Roll call vote: Aldrich, yes; Eddie, yes; Thomalla, yes; Sutton, yes; and Wilcox, yes. Motion carried.

Notice of hearing dated June 12, 2020 was marked as exhibit #1, the meeting agenda was marked as exhibit #2, City of Wahoo Zoning Rules and Regulations was marked as exhibit #3, City of Wahoo Board of Adjustments Hearing Rules and Procedures, and the Bylaws of the City of Wahoo Board of Adjustments was marked as exhibit #4, variance application was marked as exhibit #5 and entered into record by the Chair serving as the hearing officer.

Proof of notification of public hearing was provided per Chairman's request. Verification of a complete application was provided by city staff per Chairman's request. It was determined by the Chair that the Board had the authority to act on the application filed with the board.

Public hearing was opened at 7:44 p.m. upon application for variance to allow for the construction of a grain bin with less than required setbacks in an I-2 Heavy Industrial District on property described as a tract of land located in part of the NW quarter lying South of the Southerly right-of-way line of the Union Pacific Railroad all in Section 35, Township 15 North, Range 7 East of the sixth p.m., Saunders County, Nebraska, better known as 1548 Co. Rd. 16, as filed by Elkhorn Valley Grain & Processing.

Greg Kavan spoke on behalf of Elkhorn Valley Grain & Processing. Kavan stated that the strict application of the Zoning Regulations would produce undue hardship in that due to the narrowness of the lot, the strict application of the setback would not allow them to build the grain

bin that is needed to keep up with the demand for grain storage. Such hardship is not shared generally by other properties in the same Zoning District and the same vicinity in that the land surrounding the elevator is farm ground and not used for grain storage. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance in that the adjacent property is farm ground and will not be affected. The new bin is being built right next to an existing grain bin of the exact same size replacing 4 smaller bins. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purpose of convenience, profit or caprice in that due to the lot size and traffic flow, the size and location of the bin are very limited. Kavan stated that they want to purchase 200 feet of the adjoining property but have not been able to come to an agreement at this time. Kavan also stated that the Federal Aviation Administration has already conducted an aeronautical study and revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation. A motion was made by Thomalla, seconded by Sutton, to close public hearing at 7:56 p.m. Roll call vote: Thomalla, yes; Sutton, yes; Aldrich, yes; Wilcox, yes; and Eddie, yes. Motion carried.

Discussion was held on the variance request. Beavers explained the setback requirements. I-2 zoning regulations require a side yard setback of 10 feet with an increased setback requirement for the height exceeding 45 feet, which is the max allowed height for I-2. Silos are a permitted modification of height regulations if setbacks are increased one foot for every two feet above the maximum height requirement per zoning district. Members reviewed the I-2 zoning regulations and site plan showing existing and proposed structures that was provided. A motion was made by Sutton, seconded by Eddie, to grant the variance request by allowing for the construction of a grain bin with a 16.3 feet setback from the South property line, as presented within the proposed site plan, in an I-2 zoning district on property described above based on Section 7, SPECIFIC REQUIREMENTS IN APPROVAL OF A VARIANCE, A1-The strict application of any applicable provision of the City Zoning Regulations would, in each specific variance petition, result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exceptional narrowness, shallowness or shape of the piece of property in question with each of the requirements B1-6 of Section 7 being met. Roll call vote: Sutton, yes; Eddie, yes; Thomalla, yes; Aldrich, yes; and Wilcox, yes. Motion carried.

A motion was made by Aldrich, seconded by Sutton, to adjourn the meeting at 8:10 p.m. Roll call vote: Aldrich, yes; Sutton, yes; Eddie, yes; Wilcox, yes; and Thomalla, yes. Motion carried.

Travis Beavers, Zoning Administrator

Approved: