

Board of Adjustment Meeting Minutes
6/25/2019
Butler County Courthouse

Present

Board of Adjustment members:
Paul Leerhoff
Jim Siebrands
Fern Feldman (f/k/a Fern Myers)
Jeff Reints

Others:

Misty Kroeze, Zoning Administrator
LaNeysa Stirling
Karen Lawrence
Kyle Helland
Steve Koop
Jake Huff

Absent

Mark Gerdes

Paul Leerhoff called the meeting to order at 7:30 a.m.

A motion to approve the Agenda and the minutes of the previous meeting dated March 26, 2019, was made by Jim Siebrands and seconded by Fern Feldman. Motion passed.

Old Business:

None.

Public Hearing:

Vice Chair Leerhoff opened the public hearing to consider an application by Steve Koop for an interpretation and variance to the CSR requirements for a buildable lot in the NE¼ of Section 30, Township 90 North, Range 15 West of the 5th P.M. Administrator Kroeze presented her Staff Report, which included the Butler County Zoning Ordinance's buildable lot criteria for the AG district that would allow a minimum buildable lot of 1.5 acres if 75% of the lot has a CSR below 70. The proposed lot in question (Parcel I) is 5.66 acres net and she came up with approximately 55% of the lot meeting that CSR definition after removing a creek bed that could not be farmed. Jake Huff was present on behalf of the application and provided an aerial and identified that he came up with an overall CSR average of 66. He also identified that the new residence would be built on the lower CSR ground as the higher CSR ground is in the floodplain. The buyer of this proposed lot does have horses and plans to pasture the remainder of the ground. Discussion was had regarding average vs. percentage and it was determined that the Ordinance clearly states percentage. After excluding the entire forest area the percentage of CSR below 70 would be closer to 60%.

The Board did have the opportunity to drive by and took some pictures. Applicant Steve Koop added that only 1 acre of this proposed lot was highly productive ground regardless of the CSR. Surveyor Kyle Helland stated that he felt the purpose of the CSR criteria is to prevent good ground from being taken out of production and in reality the high CSR ground on this proposed lot would remain in production as pasture and alfalfa.

Board Member Reints questioned whether they would need to bring in dirt to level it off since there was quite a drop off from the road to the actual ground. It was determined that they would level the nob of the hill. Administrator Kroeze also identified in her Staff Report an "ideal" lot remaining between this proposed lot and the other lot to the East they were also splitting off and stated that if there was any intention of selling that off as a building lot it would make sense to go through the minor plat process now rather than wait down the road. Board Member Reints questioned what their intention was with this remainder and it was determined that it is approximately 10 acres of really good ground and they intend to continue farming it. Vice Chair Paul Leerhoff questioned whether the hardship was that the applicant wants to sell the lot and already has a buyer in place and it was determined that was correct.

Administrator Kroeze read a letter from Paul Considine in opposition, which is attached to the minutes, due to not getting a fair opportunity to purchase this land per an agreement with the applicant. Applicant Steve Koop identified that they did reach out to Mr. Considine's son. Administrator Kroeze relayed the County Engineer's concerns regarding the number of driveways along this stretch of road and it was determined that there is already an existing driveway and a new one would not be needed.

Public hearing was closed at 7:50 a.m.

Board Member Siebrands stated that he agrees with the CSR interpretation presented by the applicants after removing the waterway and with it being so close to 75%, he is not opposed to granting a variance. Board Member Reints stated that while it does not meet our 75% definition as clearly defined in the ordinance, he feels this is a unique situation and also is not opposed. Board Member Feldman stated that after a visual look at this property, she would not be opposed to approving the request but she is concerned with the remainder being a potential building site in the future due to the high density of residences in this area. It was determined that if for some reason a new building site was proposed, they would be required to go through the minor plat process with the Planning & Zoning Commission and more than likely be required to obtain a variance on the CSR so there would be some oversight.

Discussion was had as to whether the letter in opposition had any bearing in the Board's decision, and it was determined that it did not.

Motion to approve the variance to the CSR requirements for a buildable lot provided the producible ground is not taken out of production was made by Jim Siebrands and seconded by Fern Feldman. Motion was unanimously approved.

Vice Chair Leerhoff opened the public hearing to consider an application by Abe & LaNeysa Stirling for a variance of a building setback requirement at 21664 – 160th St located in the NE Cor. NW¼ NE¼ Section 1, Township 92 North, Range 17 West of the 5th P.M. LaNeysa Stirling was present on behalf of the application and stated that they would like to build a new house with

a shop attached by a breezeway. Due to a better overall appearance and to utilize space better, they would like to build the shop approximately 10' from the East side yard instead of the 25' setback required in the AG District. Administrator Kroeze clarified that because the shop is actually attached to the house, the 25' setback applies but accessory structures located in the rear yard can actually be as close as 4' to the side yard property lines and she doesn't see any issues with the variance.

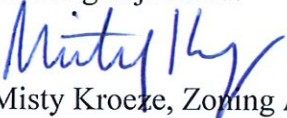
There were no oral or written comments received and the Public Hearing was closed.

A motion to approve a 10' setback variance from the East side yard for the attached shed was made by Jeff Reints and seconded by Fern Feldman. Motion was unanimously approved.

New Business:

Discussion was had regarding the Trinity rail project in the Butler Logistics Park and it was determined that they would need to apply for a special use permit, which should be taking place in the near future.

Meeting adjourned.


Misty Kroeze, Zoning Administrator

22 June, 2019

Butler County Board of Adjustment
Butler County Zoning Administrator
Box 325 Allison Ia 50602

To whom this may concern:

This Sat. PM I have by U.S. mail received notice of a meeting 3 days hence of the Butler County Board of Adjustment.

As I live 700 miles away in Western Nebraska it will be extremely difficult for me to attend on such short notice. You invite written comments, I am faxing a copy of these to you so these will be available for the meeting.

Your notice informs that Steve Koop is applying for a variance to the CSR requirements for a buildable lot in the NE 1/4 of section 30, Township 90 North, Range 5 West of the PM.

I vigorously oppose this variance and will state strong objection with reasons.

I own the 6 or so acres lot adjacent on the West. The aerial photo's included in your correspondence identifies it as property 900-045.

My objection is based on 2 factors. The first is that I simply prefer agricultural land for a neighbor and do not want the encroachment of rural residential development.

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The second reason is more involved. This lot is part of an 80 acre holding Mr Koop purchased @ auction several years ago. At that time several parties were interested including my self so I planned to attend and be a bidder.

Mr Koop @ his initiative called on the telephone and asked me to not bid against him. He was more interested in the easier to Farm Northern portion (~55 acres) and I in the less valuable small fields and creek (~25 acres) on the South adjoining my acreage on the West. He proposed that he would attend and bid for both of us, eliminating me as a potential competitive bidder. If successful, we would work out the specific details later but would basically take the form of my having the opportunity to re purchase @ a some what lower price) the portion of land that suited my needs.

He seemed like a man of integrity and I was confident I would be treated fairly. Nothing was in writing; this was only an honorable gentlemen verbal agreement. Shortly after the auction he called to tell me he was unable to honor our agreement because his financing source objected.

He expressed to me his dis-burishment and regret, but held out hope that @ some future time he would be willing and able to sell the land according to our agreement.

I am confident Mr Koop would confirm my entire narrative if asked under oath.

(3)

I therefore object to the variance because the proposed lot (if sold, and I believe this to be the plan) would reduce my portion that is included in our original agreement. It would also eliminate access to the remaining land from my existing property.

This of course factors in my belief and hope that Mr Koop will eventually be a man of his word and do the right thing, and make @ least a portion of the land remaining in our agreement available @ for my purchase @ a fair price. My plan has been to acquire adjoining land for pasture and wildlife habitat, not for production or profit,

I have no idea if any of this constitutes a valid objection to the variance according to your guidelines, but I am an interested party and my written comments were invited.

Like wise I invite your inquiry if you have any relevant questions.

Sincerely,

Paul C. Consideare

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