

**CITY OF OKOBOJI BOARD OF ADJUSTMENT MINUTES  
FOR THE MEETING HELD ON WEDNESDAY, NOVEMBER 29<sup>th</sup>, 2017 AT 5:30 P.M.  
OKOBOJI CITY HALL**

The Board of Adjustment for the City of Okoboji met on the above date and the meeting began at 5:40 P.M. in the Okoboji City Hall. Board members present were Owen Primavera, Dennis Colton, Ann Mugge, Joyce Waddell and Daniel Sanders. Others present were: Rebecca Thoreson, Mike Thoreson and Jason Peters.

Owen Primavera chaired the meeting. Primavera called the meeting to order at 5:40 p.m. Primavera asked for a motion to accept the minutes from meeting held on 11/02/2017. Sanders/Mugge moved to approve the minutes of the previous meeting of 11/02/2017. All ayes. Motion carried.

Primavera explained the process that would be followed. Primavera explained they were meeting to discuss the variance previously request by Mr. and Mrs. Cramer. Primavera stated that the City had received several correspondence regarding the variance. Administrator Peters stated that the correspondences had been received by 4 p.m.

Primavera then completed the following; read into the record the public hearing notice; read into the record the Staff Report from Jason Peters; read into the record a letter to Robert Cramer dated August 29<sup>th</sup>, 2017; described the Application for Zoning Permit from Robert Cramer and materials attached; read into the record correspondence from Denny A. Anspach dated November 29<sup>th</sup>, 2017; read into the record correspondence from Jerry Kelley dated November 29<sup>th</sup>, 2017; read into the record correspondence from Mary Jo McNamara dated November 29<sup>th</sup>, 2017; and stated that those listed on the registered property address list had been notified by mail.

Primavera had those in attendance introduce themselves. Primavera opened the public hearing. Primavera stated that Mr. Cramer was not in attendance for the meeting. Mike Thoreson stated that he thought the plan was just for a pergola and he did not feel there was a hardship in this case. Mike Thoreson asked for the variance to be denied. Rebecca Thoreson stated that she received a call and an email from her mother Judy Thoreson. Rebecca Thoreson stated that her mother wants the construction to end. Rebecca Thoreson explained that the deck was not completed and asked why it had not been completed. Rebecca Thoreson stated that she thought that the only thing that was requested in the last variance was for a pergola and the plans show the roofline being extended. Rebecca Thoreson explained how the construction has disrupted the neighborhood. Rebecca Thoreson stated she believed the deck could have been completed as originally planned and that this project has gone on too long. Rebecca Thoreson explained how the project has affected her mother's enjoyment of her property. Administrator Peters explained that the 3-D rendering that that was submitted was based on the same plan that was discussed in the previous meeting on this matter. Administrator Peters stated that extending the existing roof ten feet over the existing deck and building a ten foot pergola over the remaining eight feet of open deck was included in the previous meeting on this matter. Administrator Peters stated that during the last meeting on this matter, it was stated that part of the reason for denial was because the plans submitted did not sufficiently indicate what the project would look like and in effort to better show the final project, Mr. Cramer submitted the 3-

D rendering included in the packet. Mike Thoreson asked who the architect was that designed the project. Administrator Peters explained that was not part of the City Code. Administrator Peters again stated that this is the same plan that was submitted for the last meeting on this matter. A discussion took place between those in attendance and the Board regarding the plans submitted. Mugge asked how this request was different from the previous request. Administrator Peters stated that the requested project is the same, but that as a part of the previous denial, the Board stated that they had a problem with the plans submitted. Mugge stated she felt they had already made a decision on this matter. A discussion took place between the Board and those in attendance regarding the process that has taken place in the matter. Administrator Peters explained that the home in question is a legal nonconforming structure due to a previous change in the zoning ordinance. Administrator Peters explained the history behind the property becoming a legal nonconforming structure. A discussion between the Board and those in attendance took place regarding past variance requests for the property. Primavera stated that the Board has allowed variances for legal nonconforming properties. Mugge stated every case is different and that the Board has to decide if the project has a hardship unique to the property, is in harmony with the intent of the city's zoning ordinance, and will not be detrimental to surrounding properties. Mugge stated they have to look to each one of these factors in each case. A discussion took place on whether if the same plan was submitted again, whether the Board would have to hear the request. A discussion took place between the Board and those in attendance regarding drainage from roof. A discussion took place between the Board and those in attendance regarding time limits on construction permits. Primavera stated the project has taken a long time and he felt that a judge may have to make this decision. Primavera stated that the project is within the front yard and rear yard setback and that the neighbors' view is a non-issue. Primavera stated that the placement of the home was done in accordance with the code. Rebecca Thoreson stated that she felt this property is starting to become a nuisance and they want the construction to end. Primavera stated that the Board could put covenants on the permit to keep the deck open. A discussion took place between the Board regarding the fact the original plan was for an open deck. Administrator Peters stated that the Board needs to decide on the plan that is before them. A discussion took place between the Board and those in attendance regarding low impact development and drainage. Rebecca Thoreson stated that she felt the construction was going out toward the lake and affecting views. Primavera stated that view cannot be a ground for a denying the variance. Administrator Peters stated that an LID would be needed if 500 square feet of impervious surface is added and that is not the case in this matter. A discussion took place between the Board regarding LID requirements. Administrator Peters explained that under the code there is no limit on the time for construction. Mike Thoreson stated that he understood that view was not an issue, but adding 10 feet of roof would affect drainage. A discussion took place between the Board and those in attendance regarding drainage from the roof. Mike Thoreson stated that the original plan approved was for an open deck. Administrator Peters stated if this plan came before him and the property was not nonconforming due to the side yard setback, he would be able to approve it without a variance. Rebecca Thoreson stated that if the Board was going to approve the plan that restrictions regarding time and drainage be added to the variance. Primavera closed the public hearing.

Primavera asked the Board for their feelings on the matter. Sanders stated that he understood why the Board had previously denied this plan, but if this was a new house that met all the setbacks, this project could be approved without a variance. Sanders expressed concerns

over the roof and over drainage. Sanders suggested that just a pergola be allowed. Administrator Peters stated the Board is within their rights to put conditions a variance. Primavera stated that drainage could be a hardship to the neighbors. Mugge stated that she felt the variance should be denied and that drainage could be detrimental to surrounding properties. Mugge asked if time limits could be added to a variance. Administrator Peters stated that the code stated that the Board can place conditions upon approval of a variance. Waddell stated past variances have not been followed. Sanders stated inquires as to whether LIDs were required when the addition was built. Primavera stated that he believed they were required. Colton expressed concerns regarding runoff and excessive building. Primavera asked if this project was a hardship on the neighbors. Sanders stated he felt that based off the letters that were received that it could be considered a hardship. Primavera stated his feeling was to approve the variance with covenants and a time limit. Mugge stated that she was concerned that if a time limit was placed as a condition that the condition would not be followed. Mugge stated that she felt the variance should be denied because there is no hardship unique to the property, the project is detrimental to the surrounding properties, and that the original project should be completed. Mugge stated that it could be detrimental due to the extension of the roofline and drainage issues associated with the new roofline. Sanders inquired whether the issue can be tabled. Primavera stated that the Board needs to make a decision. A discussion took place between Board on a motion to deny the variance as presented.

Mugge/Colton moved to deny the variance as presented because there is no hardship unique to the property and the project is detrimental to the surrounding properties due possible drainage issues from the extension of the roofline. Roll call vote. Sanders, Aye. Mugge, Aye. Waddell, Aye. Colton, Aye. Primavera, Nay. Variance denied, 4-1. Motion to deny carried.

With nothing further to discuss Mugge/Waddell moved to adjourn. All ayes. Motion carried. Meeting was adjourned at 7:05 P.M.

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Jason Peters  
City Clerk/City Administrator  
Zoning Administrator.