

CITY OF OKOBOJI BOARD OF ADJUSTMENT MEETING MINUTES FOR THE  
MEETING HELD ON TUESDAY, JUNE 25, 2019 AT 6:00 PM  
OKOBOJI CITY HALL

The Board of Adjustment for the City of Okoboji met on the above date at 6:00pm in the Okoboji City Hall. Board Members present were Joyce Wadell, Ann Mugge, Steve Dulin, Dan Sanders, and Owen Primavera. Others present were City Administrator Michael Meyers, Larry Remmers, Sam O'Brien, Sarah O'Brien, Jared Alger, Perry Cranston, and Carol Cranston.

Board Member Primavera chaired the meeting and called the meeting to order at 6:00 PM.

Motion made by Board Member Dulin and a second by Board Member Sanders to approve the minutes of the previous Board of Adjustment meeting for May 28, 2019. The following Board Members voted YEA: Wadell, Mugge, Dulin, Sanders, and Primavera. Motion passed 5-0.

Chairperson Primavera opened a public hearing to consider a variance request submitted by Mr. Samuel O'Brien of 2101 Lakeshore Drive to allow for the construction of a fence with an unapproved fence material. Primavera explained that the fence material was stainless steel posts with cable wiring. Primavera explained that the zoning ordinance does not explicitly allow for that.

Chairperson Primavera read aloud the documentation presented to the Board by the City Administrator outlining the project including reading aloud Section 17.5A-D of the City of Okoboji Zoning Regulations. There were no formal letters received in favor or against the project. Jared Alger explained in detail and displayed an example of the proposed fence material. Alger commented that it was not a danger to animals, easily removable, and essentially transparent. Alger explained that there is some safety fencing along the lakeshore that is presently in disrepair and desired to replace with this fencing.

Administrator Meyers commented that the fencing along the lakeshore is not technically allowable on the lakeshore. Meyers explained that this is a pre-existing nonconformity. Meyers advised that he felt this was a safety feature. Board Member Sanders added that he knew of someone else considering a similar fence and wondered if the Planning and Zoning Commission should reconsider this. Chairperson Primavera added that if this fence material is approved if the language relating to the necessity to include the Board of Adjustment should be amended to allow for City Staff to make the determination. Primavera commented that the drop off on the lakeshore is definitely dangerous in his opinion especially considering how near it is to the walkway.

Chairperson Primavera closed the public hearing. Primavera asked individual board members for further comments. Board Member Waddell commented that she liked the look of the fence. Board Member Mugge commented that it was an improvement and more transparent than what is currently existing on the top of the lakeshore. Primavera commented that he felt this type of fence material should be allowed without Board of Adjustment approval.

A motion was made by Board Member Waddell and a second by Board Member Sanders to approve the fence material being utilized and recommend to the Planning and Zoning Commission that this type of fence be added to the list of approved fencing material in the City of Okoboji. The

following Board Members voted YEA: Wadell, Mugge, Dulin, Sanders, and Primavera. Motion passed 5-0.

Chairperson Primavera opened a public hearing to consider a variance request submitted by Mr. Perry and Carol Cranston of 1121 Eloise Street to allow for the construction of a 6'x20' addition to their deck that would encroach upon the rear yard setback.

Chairperson Primavera read aloud the documentation presented to the Board by the City Administrator outlining the project including reading aloud Section 17.5A-D of the City of Okoboji Zoning Regulations. There were no formal letters received in favor or against the project. Chairperson Primavera commented that back in 1997 the Board of Adjustment considered a very similar request from the property owner at that time over the course of two separate meetings. At this time, the builder built an 11' deck without approval. After the two meetings, the Board of Adjustment at that time allowed for a 4' deck on a 3-2 vote. Primavera read aloud the minutes of these two meetings from 1997.

Chairperson Primavera commented that the Board at that time made a compromise to allow for the 4' that presently exists. Primavera commented that at the meeting in 1997 he said that he, a member of the Board of Adjustment at that time, would not be in favor of future requests.

Perry Cranston spoke on behalf of his application and commented that his property is screened by trees. Cranston commented that his 4' deck presently is not usable and that they want to be able to enjoy their beautiful backyard. Cranston explained his situation is unique due to the fact that they have no neighbors and abut Speier Park.

Board Member Waddell recalled the controversy surrounding this property as well as the subdivision. Carol Cranston commented that they only want a small bump out, not the entire length of the deck. Board Member Sanders commented that the deck is already non-conforming and that was the compromise made in 1997. Sanders was disappointed that the Cranston's were unaware of the pre-existing variance during their purchase of the home.

Board Member Mugge asked for clarification on how large the proposed construction would be. Cranston advised it would be an additional 6'x20' in an effort to cover the concrete patio below.

Dan Sanders commented that he was disappointed in the developer's decision to plat the lots in such a manner that homes and decks could not be built to conform to zoning standards. Sanders expressed disappointment that the current property owners had no idea of the history with the property. Sanders commented that he felt a variance should not be granted at this time due to the history and precedent. Sanders believed the Board was generous in 1997 to grant the 4' non-conforming extension.

Board Member Dulin expressed that he felt the Developer did a very poor job on this development in both the platting and the restrictive covenants put in place. Dulin commented that each home had to abide by minimum square footages are required in the covenants. Dulin felt because of this requirement and the small lots it has put property owners in tough spots to fully enjoy their property. Dulin cited other examples of how difficult this neighborhood can be for structures.

Dulin said that the City cannot keep punishing people for the actions of others that home owners could not control.

Board Member Mugge commented that the Board looks at each situation as a standalone request and she felt this was a unique situation.

Dulin continued by discussing how many property owners in this neighborhood own two lots in an effort to make their lots usable. Dulin commented this is the only way around the poor planning of this development.

Chairperson Primavera again commented that he felt locked in by his own words that he would not vote for any future variances on this property.

Chairperson Primavera invited Larry Remmers to speak. Remmers spoke in opposition of the variance. Remmers commented that he was associated with the HOA at West Okoboji Meadows. Remmers felt that the Board was opening a can of worms if they approve this variance. Board Member Mugge commented that this is why the Board needs to look at each variance and application separately.

Board Member Wadell felt as though the applicant was a victim of circumstance and felt as though the situation was out of their control. Perry Cranston commented that he was unsure he should spend the money to have a hearing but again commented he felt this was a unique situation that would not set precedent or hurt anything.

Chairperson Primavera closed the public hearing. Primavera asked individual board members for further comments. Primavera commented that he had to follow his comments from 1997. Board Member Mugge commented that she felt this is a unique situation and that they have no neighbors to the rear or either direction. Mugge said if this was new construction that she would feel differently. Board Member Wadell commented that they were a victim of circumstance. Board Member Sanders expressed concern that the deck is already non-conforming and he did not feel like allowing for further expansion is something the Board of Adjustment should do or encourage. Board Member Dulin commented on the minimal of the expansion and the difficulty to build in this subdivision and the fact that the property abuts property that will never be developed. Dulin commented that the property owner is being punished for something that is no fault of their own.

A motion was made by Board Member Dulin and a second by Board Member Wadell to approve the 6' x 20' addition to the existing deck and encroach within the rear yard. The following Board Member voted YEA: Dulin, Mugge, Wadell. The following Board Members voted NAY: Sanders, Primavera. Motion passed 3-2.

Chairperson Primavera discussed with the Board the variance granted to Mr. Alan Smith for his detached accessory building. City Administrator Meyers reminded the Board that the variance was granted to allow for a taller building that was allowable in the R-1 zoning district. At the time of the last meeting, Smith represented that the building would be 8' off the property line, however, Smith later submitted a site plan that represented the building was 6' off the property line. Meyers commented that the accessory structure legally can be as close to 3' off the property line but that

he cannot change the site plan once it was voted on by the Board of Adjustment and Meyers was requesting that the Board consider and motion to allow or disallow the change of plan.

Board Member Sanders was not in favor of the change as he was not in favor of the original variance request. Chairperson Primavera commented that 3' was legal and that there should not be an issue with 6'. Primavera said that if they want to change it again then the whole application should be resubmitted. Meyers reminded the Board that the variance was on height not location of the building and that the distance off the lot line was not discussed in the previous meeting. Primavera discussed that the 8' was brought into play because Smith wanted to be able to get vehicles down that side of the property if necessary. Board Member Waddell agreed that 3' is the legal setback and that this exceeded that.

A motion was made by Board Member Dulin and a second by Board Member Mugge to amend the motion made on May 28, 2019 to have the structure be at least 6' off the north property line and to accept the low impact development plan as presented. The following Board Member voted YEA: Dulin, Mugge, Wadell, Primavera. The following Board Members voted NAY: Sanders. Motion passed 4-1.

A motion was made by Board Member Dulin and a second by Board Member Sanders to adjourn the meeting. The following Board Member voted YEA: Dulin, Mugge, Wadell, Primavera, Sanders. Motion passed 5-0.

The meeting was adjourned at 7:59 PM.

ADJOURNMENT

Michael Meyers

City Administrator

