



ZONING BOARD OF ADJUSTMENT

Tuesday, June 28, 2022

1:30 p.m.

Conference Room #1

City Hall

AGENDA

1. Roll Call
2. Approval of Minutes
September 17, 2019
3. Election of Chairman and Vice-Chairman
4. Review Responsibilities/Duties of the Board of Adjustment
5. Adoption of Zoning Board of Adjustment Rules and Regulations
6. Adjournment

A handwritten signature in blue ink that reads "RaNae Edwards". The signature is written in a cursive, flowing style.

RaNae Edwards, City Clerk

A continuously current agenda is maintained in the office of the City Clerk. Inquiries and correspondence concerning the Board of Adjustment Agenda may be addressed to:

RaNae Edwards, City Clerk
P.O. Box 1968
Grand Island, Nebraska 68802-1968
(308)385-5444, Extension 111

CITY OF GRAND ISLAND
OFFICIAL PROCEEDINGS
MINUTES OF ZONING BOARD OF ADJUSTMENT
September 17, 2019

The City of Grand Island Zoning Board of Adjustments met on September 17, 2019, in Conference Room #1, City Hall, 100 East First Street. Notice of the meeting was published in the *Grand Island Daily Independent* on September 7, 2019.

Chairman Glen Murray called the meeting to order at 1:30 p.m. The following members were present: Glen Murray, Mike Nolan, Deb Trosper, Al Avery, and Robin Hendricksen. John Schultz was absent. Also present was Building Department Director Craig Lewis, City Clerk RaNae Edwards, and the applicant Todd Enck.

APPROVAL OF MINUTES:

Motion was made by Mike Nolan, second by Deb Trosper to approve the minutes of the September 11, 2018 Zoning Board of Adjustment meeting. Upon roll call vote, all voted aye. Motion carried.

Election of Chairman and Vice-Chairman: Al Avery nominated Glen Murray for Chairman. There being no further nominations, upon roll call vote all voted aye. Motion adopted.

Al Avery nominated Mike Nolan for Vice-Chairman. There being no further nominations, upon roll call vote all voted aye. Motion adopted.

PUBLIC HEARING 2019-1:

Request of Todd & Kelly Enck, for a variance from the regulations regarding setback requirements located at #29 Kuesters Lake.

Introduction of Official Documents by City Clerk:

- | | |
|------------------|--|
| Exhibit 2019-1-A | Public Hearing Notice |
| Exhibit 2019-1-B | Application from Todd & Kelly Enck |
| Exhibit 2019-1-C | Copy of Letter to Applicant |
| Exhibit 2019-1-D | Copy of Letter to Area Property Owners |
| Exhibit 2019-1-E | Copy of Map |

Presentation by Building Inspector:

Building Department Director Craig Lewis stated this property was zoned LLR Large Lot Residential and that the Grand Island City Code required a 20' setback from the private road. The setback requested was for 10' for an accessory building. The Building Department had denied the building permit application on September 4, 2019.

Presentation by Applicant: Todd Enck stated they were in the process of purchasing this property. The shed was deteriorating and needed to be replaced. He stated the neighbors and homeowners board had no objections. He submitted a copy of the email from the Homeowners board approving his request.

Submission of Objections: No objections were received.

Discussion and Decision of the Board:

Motion was made by Mike Nolan, second by Robin Hendricksen to approve the variance from the regulations regarding setback requirements located at #29 Kuesters Lake. Upon roll call vote, Mike Nolan, Glen Murray, Robin Hendricksen, and Deb Trosper voted aye. Al Avery voted no. Motion adopted.

Adjournment: The meeting was adjourned at 1:52 p.m.

RaNae Edwards
City Clerk

Article IX. Board of Adjustment

§36-134. Establishment

The mayor with the consent of the city council shall appoint a board of adjustment which shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after a public hearing.

§36-135. Membership

Any citizen within the zoning jurisdictional area of the City shall be eligible for membership. One regular member only of the board of adjustment shall be appointed from the City membership of the planning commission, and loss of membership on the planning commission by such member shall also result in immediate loss of membership on the board of adjustment and appointment of another planning commissioner to the board of adjustment.

§36-136. Rules

The board of adjustment shall adopt rules necessary for the conduct of its affairs and in keeping with the provisions of this chapter.

§36-137. Meetings

Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his or her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

§36-138. Minutes

The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

§36-139. Appeal

Appeals to the board may be taken by any person aggrieved by any officer, department, board, or bureau of the City affected by any decision of an administrative officer, provided, such appeal shall be taken within ten days after the decision of the administrative officer, by filing with the office from whom the appeal is taken, and with the clerk of the board, written notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

§36-140. Notice

The board shall fix a reasonable time for hearing of the appeal, give public notice thereof in a newspaper of general circulation in the City one time at least ten days prior to such hearing, as well as due notice to the parties in interest, and decide the same within a

reasonable time. The hearing shall be public and any party may appear in person, by agent, or by attorney.

§36-141. Fees

Prior to the filing of the appeal with the clerk of the board and the administrative officer from whose decision the appeal is requested, the appellant shall pay to the city treasurer a processing fee, as provided by a fee schedule approved by the city council, which shall not be refundable.

§36-142. Powers and Limitations

The board of adjustment shall, subject to appropriate conditions and safeguards as may be established by the city council, have the following powers:

(A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.

(B) To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by any such regulation to pass.

(C) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this code or any ordinance or resolution. No such variance shall be authorized by the board unless it finds that:

(1) The strict application of the zoning regulations 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 variance; and

(4) 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.

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 the zoning regulations.

§36-143. Action and Vote Required

In exercising the above-mentioned powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

§36-144. Appeals to District Court

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Section 19-912, Reissue Revised Statutes of 1943 (in full).

ZONING BOARD OF AJUSTMENT
RULES AND REGULATIONS

1. **PURPOSE.** To establish rules and regulations for the conduct of business of the City of Grand Island Zoning Board of Adjustment as directed in Chapter 36 of the Grand Island City Code, Sections 36-134 through 36-144.
2. **APPOINTMENT AND MEMBERSHIP.** The City Council appoints the Zoning Board of Adjustment within the following framework:
 - a. Four members are appointed from residents within the zoning jurisdiction of the city of Grand Island, one must reside within the extraterritorial jurisdiction.
 - b. One member is appointed from the Planning Commission serving the City of Grand. Loss of membership on the Regional Planning Commission shall be cause for appointment of replacement from that body.
 - c. One alternate member shall be appointed to serve in the absence of any regular member and will be appointed at each meeting.
 - d. Members may be removed by Council for cause upon written charges and public hearing.
3. **OFFICERS OF THE BOARD.** The Board shall have the following officials:
 - a. A Chairperson and Vice Chairperson will be elected by the membership of the Board annually.
 - b. The City Clerk will provide all necessary clerical assistance to the Board.
 - c. The Chief Building Inspector, Planning Director, or other city staff will provide technical information as necessary to the Board.
 - d. The City Attorney will provide legal counsel.
4. **POWERS AND LIMITATIONS.** The Board shall be empowered as authorized in Section 36-142 of the Grand Island City Code. The Board shall not grant variance unless the following conditions are found to exist.
 - a. The strict application of the zoning regulations would produce undue hardship.
 - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - c. 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 variance.
 - d. 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.

- e. 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 the zoning regulation.
5. FILLING APPLICATION. Any person affected by a decision which falls within the power of the Board to consider may file an appeal with the City Clerk, upon which the following actions will be taken:
- a. Application will be in standard format with supporting documentation.
 - b. The City Clerk will review and prepare files, collect fees, arrange notice of publication, and coordinate the meeting date with the Chairperson.
 - c. The City Clerk will provide membership and interested persons with related documents and notifications.
 - d. The applicant will be provided with a copy of applicable rules and regulations.
 - e. In order to advise the public that may be affected by action of the Board, it is the policy of the Board to inform adjacent property owners of pending variance hearings. The City Clerk shall advise property owners within a 200-ft. radius from the center of the property being considered for variance of the date, time, and place of public hearing on such variance. Normal first-class postal service shall be used to advise such owners of record.
 - f. Applications must be received 14 days in advance of the scheduled meeting.
6. MEETINGS. Meetings of the Board will be conducted within the following guidelines:
- a. The Board will meet on the second Tuesday of each month when applications are pending action before the Board.
 - b. Roberts Rules of Order will be used.
 - c. Four members shall constitute a quorum.
 - d. Meetings will be open to the public.
 - e. The Order of Business for each case to be heard will be as follows:
 - (1) Introduction of official exhibits by City Clerk;
 - (2) Presentation by officer denying original request;
 - (3) Presentation by applicant for variance;
 - (4) Presentation by other interested persons;
 - (5) Discussion;
 - (6) Decision of the Board (affirmative vote of four members required to approve appeal or variance).
 - f. The City Clerk shall keep minutes of the proceedings which shall be on file for public inspection.

7. CONTINUATION OF HEARINGS.

- a. The Board may grant a continuance of any public hearing on a variance at the request of the applicant or by direction of the Board.
- b. It shall be the responsibility of the applicant to request that the Board reopen the hearing within 120 days of the date continuance was granted.
- c. If no action is taken to reopen the hearing within the stated period, the public hearing shall be considered terminated and variance denied.

8. DECISIONS OF THE BOARD. In exercising its powers, the Board may affirm, reverse, or modify the decision on which the appeal was based. The Board shall issue a written decision and order on each requested variance. Such order is to be signed by the City Clerk on behalf of the Board. Decisions of the Board are final.

For purposes of appeal the office of the City Clerk shall be considered the Office of the Board of Adjustment. Decisions of the Board are considered filed in the Office of the Board of Adjustment at 8:00 a.m. on the first business day following the meeting of the Board of Adjustment where the decision was made.

Approved _____, 2022

Chairperson

RaNae Edwards, City Clerk