

BOARD OF ADJUSTMENT MEETING MINUTES
March 11, 2013

OPENING CEREMONIES AND PRESENTATIONS

I. CALL TO ORDER

Chairman Larry Bares called the meeting to order at 7:30 AM.

II. ROLL CALL

PRESENT: Larry Bares, Blaine Dukart , Scott Bullinger, and Trevor Ernst

ABSENT: Pat Bren

STAFF: Steve Josephson, Sylvia Sayler

III. MINUTES

Minutes of the December 10th, 2012 meeting submitted for approval.

MOTION BY: Blaine Dukart **SECOND:** Scott Bullinger

To approve minutes of the December 10th, 2012 meeting.

DISPOSITION: Motion carried.

REGULAR AGENDA

- 1. To consider a request to reduce the minimum size lot to 50' where 60' is required in an R1 zoned lot. The property is described as E150' N0.5 Lot 6, Block 6, Gress's 2nd Subdivision, Section 10.**

Curt Olheiser, the owner of the property, states it is his intention to build a house on this lot. He was not aware of the required 60 foot street frontage when he purchased the lot. He stated the houses on adjacent lots have 50 feet of street frontage, so his construction would fit in the neighborhood. He also says that it is a hardship as the lot he purchased being unbuildable. He says that it was "short platted" and approved by the City in the past.

Chairman Bares questions when the plat was approved by the City.

City/ County Planner Steve Josephson states that he has seen no record of any replat or lot changes. Olheiser says that he has a tax bill from the City auditor.

Olheiser also adds that there is a newly constructed residence, located one block south that has a 50 foot lot.

Mr. Dukart asks when the lot was purchased. Olheiser says 2009.

Mr. Josephson states the two houses to the west were built in 1930, and the lots were platted in 1947. A subdivision did not exist when the houses to the west were built, but there may have been a homestead. He adds that Mr. Olheiser's lot was 100 feet wide when purchased and the current zoning code was in effect at that time. He does not see a hardship in this situation. He also notes that Mr. Olheiser has not met all the criteria required for a variance.

Gary Ramsey, attorney for Mr. Olheiser states that south of this block there are six manufactured homes on 50' x 100' lots, which are the same as Mr. Olheiser's. He disagrees that Mr. Olheiser is not facing hardship, and believes all criteria has been met. He thinks that this house would conform to the rest of the neighborhood.

Mr. Olheiser adds that he has been paying taxes on lots he can't build on, and believes this is a hardship.

Mr. Josephson states that he has looked at the lots to the south, and they were not created through replatting. He is unsure as to how they were permitted for building. He adds that in the future, they will not be permitted. He also adds that the code came into effect in the 1990's.

There was discussion regarding how the permits were obtained in the past. Mr. Josephson states that he is unaware of how it happened, but he does not want to continue a process like this. The only solution for Mr. Olheiser is to acquire enough land to meet the minimum lot width.

Ed Courton, Community Development Director adds that the City needs to start enforcing the Zoning Code, and a sale of a lot does not make a subdivision. He says there are hundreds of properties in Dickinson that were created illegally, and the City now needs to draw the line in the sand so this stops happening. He thinks the BOA could approve this one last request, and deny similar requests in the future.

MOTION BY: Blain Dukart

SECOND: Scott Bullinger

Motion to approve the variance request.

DISPOSITION: Motion carried.

Mr. Ernst comments that he believes this is a unique situation and does not believe it will set precedence.

OTHER BUSINESS

1. **ADJOURNMENT**

There being no further business to discuss.

MOTION BY: Scott Bullinger

SECOND: Trevor Ernst

Motion to adjourn meeting at 8:04 am

DISPOSITION: Motion carried

PREPARED BY:

Sylvia Sayler

APPROVED BY:

Steve Josephson