

MEETING RECORD

NAME OF GROUP: COUNTY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, October 12, 2007, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Tom Thurber, Lynette Nelson, Matthew Warner and Ed Woepfel; (Steve Hollman absent). Terry Kathe of Building and Safety; Mike DeKalb and Teresa McKinstry of the Planning Dept. and other interested citizens.

STATED PURPOSE OF MEETING: Regular County Board of Zoning Appeals Meeting

Chair Ed Woepfel called the meeting to order and requested a motion approving the minutes for the regular meeting held April 14, 2006. Motion for approval made by Thurber, seconded by Nelson. Motion for approval carried 4-0: Thurber, Nelson, Warner and Woepfel voting 'yes'; Hollman absent.

COUNTY BOARD OF ZONING APPEALS NO. 07001
REQUESTED BY THE VILLAGE OF DAVEY ON BEHALF OF KEVIN STOKES, FOR A VARIANCE TO THE LOT SIZE, SETBACKS, AND REAR YARD COVERAGE ON PROPERTY GENERALLY LOCATED AT 3520 MAPLE STREET, DAVEY, NEBRASKA
PUBLIC HEARING: April 14, 2006

Members present: Thurber, Nelson, Warner and Woepfel; Hollman absent.

Mike DeKalb of Planning staff stated that State law provides for towns within a county with a city of metropolitan class to have that county act as their Board of Adjustment. Davey's zoning code was adopted around 1976. Mike DeKalb helped write it. At that time, most of the towns put in a provision for the Lancaster County Board of Zoning Appeals to act as their adjustment board. It was designated as a third party neutral board. Normally when this board acts on an item, it goes onto the Lancaster County Board. This time will be the final decision. Staff looked at Davey's code. Two provisions are being requested to be waived; a variance of coverage on the rear yard from 25% to 48% and variance of coverage of the entire lot. This is two lots, 50 foot wide and one premise. The code requirement is 30% coverage of the lot. The proposed garage and house would be 36.3% lot coverage.

Kevin Stokes appeared. He wants to put up a garage. He can do a smaller version of the garage he wants within the current codes. The current code would allow a 900 square foot garage. He would like to build a 1,200 square foot garage. His yard is pretty small. All the neighbors around him have larger garages that go over the lot lines.

Woepfel questioned how long Stokes has owned the property. Stokes has lived there since September or October of 2000.

Woepfel wondered if access or streets have changed since. Stokes replied that nothing has taken away any of his property. His lot was originally zoned for commercial, but was subsequently zoned residential. He believes the setbacks would be met with the proposed garage.

Nelson pointed out that the proposed garage would be within five feet of the lot line and the requirement seems to be ten feet. Stokes replied that she was correct. The building next to him is set off just a few feet and the lot on the other side is vacant. The existing garage is grandfathered in, it is his neighbor's garage.

Nelson wondered how close the neighbor's garage is to Stoke's lot line. DeKalb replied that the lot to the west has a garage that is sitting in the alley. The lot to the east appears to have a garage extending into the alley as well.

Warner questioned how tall the garage could be. Stokes replied that his garage is proposed to be ten feet tall.

Thurber inquired if the applicant can build a small garage within the current codes. Stokes replied that he could build within current code, just not as large of garage as he would like.

Woepfel noted that the footings seem to already be set. Stokes replied that his contractor has a conflict of interest with the Davey Board. He is a Davey Board member. He seemed to rush things a little. The pad is poured. Warner does not believe you need a permit for excavation or pouring concrete.

DeKalb stated that Stokes is asking for a variance. The Davey zoning code says relevant to variances, a variance should not be granted unless the Board finds:

- 1). that there is an undue hardship
- 2). this is a hardship not shared by other properties
- 3). the variance is not a substantial detriment to adjacent properties
- 4). the character of the district is not changed
- 5). the variance is based upon exceptional hardship

The Board may impose conditions as it deems necessary in the public interest.

John Bethshider, 3510 Maple, Davey Nebraska. He stated that there is one resident that sent an email that stated the neighbors would not care for the larger garage. He is a

neighbor and it would not bother him at all. He does not believe the other neighbors would care either.

Nelson inquired if his garage was grandfathered in. Bethsider replied that appears to have been the case.

Warner wondered about the email appearing to be in opposition. DeKalb replied the email was addressed to him but he did not speak to the person on the phone. He had a few other calls inquiring what was going on, but no one appeared to be in either support or opposition.

Thurber stated that Davey has these codes for a reason. He would think you have to comply with Village codes. Just because you want a bigger garage does not mean you have a hardship. The applicant can build a garage of the appropriate size.

Woeppel is concerned that this decision will overturn Davey's zoning policy. He is not sure that there is a hardship. He is concerned.

Stokes stated that the Davey rules and codes were set up in 1976 and nowadays people have more than 1.3 cars and want a larger garage. There is a need for more storage. He understands the codes and respects Davey, he is just looking for a 400 square foot garage.

Warner understands that the Davey Board has met on this and turned it down. Stokes replied he was correct.

Warner understands that times have changed since 1976, but he feels that the Village of Davey should be the one to change what they have set for their laws. He feels that overriding it is not justified.

Nelson agreed. She does not feel that just because someone wants a larger garage does not justify a hardship.

ACTION:

October 12, 2007

Nelson moved denial of the variance, seconded by Thurber. Motion for denial carried 4-0: Nelson, Thurber, Warner and Woeppel voting 'yes'; Hollman absent.

There being no further business, the meeting was adjourned at 2:55 p.m.