

Minutes of a Board of Adjustment meeting held at City Hall on Wednesday December 16, 1981, at 6:00 A.M.

Present were Jack Hudson, Michael Christensen, Fred Tasker, Councilman Dan Olson, Donald Kester, Everett Kester and Allen Gurney.

Mr. Gurney called the meeting to order and offered the opening prayer. He then gave a little history of the case saying that a few months ago Mr. Everett Kester sold a lot with a 60 foot frontage and an inexisting home which had been vacant for about 17 years. When he sold the lot it did not leave the lot with his home on it nonconforming. When he appeared before the Board about this he was told the Board had no right to interfere with the sale but that the buyer might not be given a building permit to enlarge or remodel the existing home.

Mr. Gurney then asked Mr. Don Kester if the floor area was being altered and Mr. Kester said "No and that he thought a variance was not necessary if he didn't change the size of the house".

Mr. Gurney read from the minutes of the hearing held for Mr. Everett Kester on July 29, 1981, and there followed a discussion regarding whether the building of the home should be classed as remodeling or rebuilding in as much as Mr. Kester had torn down the house to the foundation. Mr. Christensen said he did not feel this was the issue but the hearing today was to determine if Mr. Kester could build anything on a non-conforming lot, and that no one had been given an okay for anything at the Everett Kester hearing. Mr. Gurney then agreed that they should treat this hearing as though they did not know anything about it and go from there.

Mr. Gurney pointed out that this is a unique situation as the house was there prior to the ordinance but since it had not been used for over a year, according to the ordinance, it had to be declared non-conforming and the lot size was not in existance until just recently when it was sold to Mr. Donald Kester. Mr. Everett Kester asked what "used" meant as it has been used for storage even though it has not been lived in. Mr. Christensen said a home is for living in, not just storage and Mr. Tasker said he felt it was non-conforming.

Councilman Olson asked if he might explain the situation as he found it when he was given charge over the building permits, etc. and was told "Yes, go ahead". He said the City Council felt it was not necessary to impose an impact fee as a home already existed there. When the walls were torn down to the foundation, they felt the situation changed and it would fall under a new building classifacation.

Also, the county classifies it as a new building. Mr. Gurney said this was not in the city ordinance.

Mr. Hudson asked how far the tearing down was and Mr. Kester replied he had removed everything down to the floor and now had the new walls up and most of the roof. Mr. Olson said he believed that if supporting or structural walls are replaced it is rebuilding and not remodeling and this should be decided. Mr. Gurney said this is not in the ordinance. Mr. Olson said the City Council wants it decided if it is remodeling or rebuilding.

Mr. Christensen asked Mr. Everett Kester if he had advised the buyer of the non-conformity of the lot at the time of the sale and he replied "Yes".

There followed further discussion as to the status of the building and Mr. Hudson asked if a building permit had been granted and Mr. Olson said "Yes, a remodeling permit", and Mr. Kesters said that when the walls were pulled down, he was asked for and paid an additional fee for a new building over a remodeled one.

Mr. Christensen pointed out the request at this hearing was for a variance on the frontage of the lot and not on the building. Mr. Hudson said he felt the variance should be granted.

Mr. Gurney made a motion that although the frontage is only 60 feet, the side yards, the depth and the square footage is okay, and as the size of the building is not being altered, the variance should be granted. The home was existing and this will be upgrading and is not substantially altering the neighborhood and the building codes must be met. Also, the situation is a unique one and is not to be construed as allowing 60 foot frontages.

Mr. Christensen said the situation was created prior to the hearing and was no fault of Mr. Don Kester and he felt the building inspector should be more carefull so there would not be these problems. Also, the Board did not want to set a precedent in granting variances on 60 foot lots but this home was existing prior to the ordinance and all other conditions have to be met.

Mr. Gurney said Mr. Kester has a building permit and is already four months under construction as the building permit was given without a variance.

Mr. Tasker seconded the motion and it passed unanimously.

It was suggested by Mr. Gurney that a change be made in the Zoning Ordinance clarifying the remodeling and rebuilding of

homes. Also, he said he wanted to alert the City Council that he only had two more months to complete his term on the Board. It was mentioned that Mr. Tasker's term will also be up at that time.

Meeting adjourned at 6:55 A.M.

Ramona Rosenlund
Secretary