



CRETE BOARD OF ADJUSTMENT

February 12th, 2025 at 4:15 PM
Crete City Hall, 243 East 13th Street

MINUTES

Notice of the meeting was given by posting, the appointed method for giving notice as shown by the attached notice, at the following locations:

City Hall, 243 East 13th Street
Post Office, 1242 Linden Avenue
City Bank and Trust, 1135 Main Avenue

Advance notice of the meeting was also given to committee members. Pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act, the City has posted a current copy of the Open meetings Act, Laws of the State of Nebraska, in the back of the council chambers. All proceedings shown were taken while the meeting was open to the attendance of the public.

Open Meeting:

Roll Call:

Blaine Spanjer:	Present
Colten Mach:	Present
Chris Kirkpatrick:	Present
Jay Quinn:	Present
Randall Shelton:	Present

Alternate: Jeff Wenz also present but did not vote

Others Present: City Administrator Tom Ourada, City Attorney Anna Burge, City Inspector Trent Griffin, City Clerk Nancy Tellez, Katie & Rick Bevins, Justin Kozisek, Josh Popp, Tony Fitzgerald

1. Discussion with City Administrator regarding variance and the board of adjustment process.

City Administrator Tom Ourada explained that this involves the City in some ways and it doesn't involve the City in other ways. The City has rules and regulations that people are required to follow, by law. On occasion there are situations where people cannot follow ordinances and times that they just do not want to follow the ordinance. If people do not want to follow an ordinance, zoning, building code, or whatever it may be, that doesn't qualify for a variance. But, if they can't follow for a qualifying, specific reason, or reasons, that may qualify for a variance request. The reasons are outlined in city ordinance and state statute. The City of

Crete usually doesn't take a position unless they feel a certain law or ordinance could be adjusted. Upon a determination one way or another, there is an appeal procedure that the requestor, or anybody else can follow and go to district court for a final resolution. City Attorney Anna Burge will talk about the hardships and when the Board of Adjustment can rule on that. The City Council cannot overturn a decision. Again, it goes to the appeal procedure in district court.

Ourada explained that with this variance request in particular, there is an easement involved. Easements cannot be altered. An Easement is a conveyance of property rights and it is a legal document that is filed with the county. You do not have any authority to undo a contract. For that reason, the request was altered to not include the easement.

Ourada stated that the City of Crete is not going to take a position on this.

2. Variance request for 1240 Lakeshore Drive.

Justin Kozisek addressed the Board of Adjustment and stated that he lives across the street from where the request is being made and he is in favor of the variance request being approved. Kozisek stated that having the home built on that lot would be a positive impact for the neighborhood. Kozisek thanked the Board for their time and for allowing him to voice his support of this variance request.

Property owner and Katie Bevins addressed the Board of Adjustment and stated that they purchased the lot in March 2024. They would like to build a home, but with the constraints of the easement, she is not sure how a home could be built on that lot without standing out.

Josh Popp with Provision Realty Group RE/MAX Concepts stated that they started with a title search and were able to find the easements on the property with the help of Water Superintendent Jesse Yager and Building Inspector Trent Griffin. Popp stated that they drafted the measurements of the layout and by making it more linear, it makes the front of the house completely flat. This would take away from the ability to set a front entrance and there would be no front landing. Popp added that they changed the garage to fit the easement, not the lot. The front bedroom is what is encroaching on the setback.

City Administrator Tom Ourada and Board of Adjustment Chair Blaine Spanjer stated that on the plans part of the house is on the easement and will have to be moved. Popp stated that they can work with the 3ft that they need to manipulate to get out of the easement. However, to do 8ft with that and the front setback that would change the layout of the house. Spanjer added that a porch that is not covered can be on the setback. Ourada stated that it can if it is not covered and also on an easement, but you have to be careful with that since they wouldn't have any property rights to it.

Spanjer added that he asked that stakes be put in to mark the corners of where the house would be to see how that would look. Spanjer stated that none of the houses in the neighborhood sit square to the road on that side.

City Attorney Anna Burge clarified what an undo hardship is;

- They have to consider if there have been alternate considerations made whether there are other options available and they are choosing not to take. That becomes a choice of if they what to do this or not, not an undue hardship.
- If something costs more than another project, this is not an undue hardship
- The inability to find any options to develop the property would be an undue hardship

1.) The strict application of the Zoning Regulations would produce hardship; in that: Spanjer stated that the property owner's argument is because of the easement requires the house to be built into the easement. Spanjer restated to the property owners that the three feet that are on the easement have to be cut off. Popp stated that they will go through the proper building channels.

2.) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; in that: No other properties have the limited building envelope.

3.) The authorization of such variance will not be of substantial detriment to the adjacent property and the character of the district will not be changed by the granting of the variance; in that: No specific findings made.

4.) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit or caprice; in that: No specific findings made.

Jay Quinn moved to motion to approve the variance request for 1240 Lakeshore Drive allowing 5 ft int the front yard set back and Randall Shelton seconded the motion.

Colten Mach: Aye, Chris Kirkpatrick: Aye, Jay Quinn: Aye, Randall Shelton: Aye, Blaine Spanjer: Aye

Aye:5

No: 0

The meeting adjourned at 5:06 p.m.