

BOARD OF ADJUSTMENT MINUTES
September 28, 1999

Present: Chairman Bud Neslen, Brent Wynn, Gordon Thomas, City Prosecutor J.C. Ynchausti, Planning Director Blaine Gehring, Recording Secretary Connie Feil.

Absent: Vice-Chairman Ron Barlow and Kevin Murray.

Approval for minutes of September 14, 1999 has been canceled for the next scheduled meeting.

1. Consider approving Findings of Fact for the denial of a side yard variance for James Ferraro at 99 E. 3300 S.

Blaine Gehring explained that Ron Barlow could not attend but he has reviewed the Findings of Fact and finds them accurate and gives his approval. Mr. Barlow will submit a signed letter for this approval to place in the file and with the minutes.

Brent Wynn had some questions and was going to recommend dropping items 16 and 18 from the document.

16. That no special circumstances attached to the Ferraro property that do not generally apply to all other properties in the same district.

Mr. Wynn feels that the situation is a little different and this item does not add any strength to it. The reason, there is a 6-foot wall between the properties and on the other side of the wall is a right-of-way and this is on a corner lot. Why wouldn't these be considered special circumstances?

Mr. Gehring explained that what it is referring to is that there are no special circumstances to warrant the approval for a variance. There may be different things associated with this property in terms of the retaining wall or an easement somewhere. Are there special circumstances that affect the variance? The answer is no. There are no special circumstances associated with this property.

Mr. Gehring explained that items #14 - #19 are written in specific language that is mentioned in the State Statue. The Board members need to find all of these things in order to grant a variance. These items are saying, based on the State Statue, that there are no special circumstances and there is not a hardship.

Mr. Wynn mentioned that circumstances affecting the requested variance he now understands. He does have a question about #18.

18. That the granting of the variance that Ferraro is requesting would be contrary to the public interest.

Mr. Wynn asked about the fact that there was not any opposition from the neighbors present? In fact they were in favor of the variance. What happens if Mr. Ferraro obtains an attorney? Is item #18 going to give strength for Mr. Ferraro?

Mr. Gehring answered no to the question and it will not help Mr. Ferraro. Mr. Ferraro will have to present facts to the court. Neighbors approvals or disapprovals do not come into play in terms of the facts that need to be found. Public opinion has no bearing on any approval.

Gordon Thomas made a motion to approve the Finding of Facts as written. Bud Neslen seconded the motion and voting was unanimous.

Meeting adjourned at 5:12 P.M.