

MAPLETON CITY
BOARD OF ADJUSTMENT MINUTES
September 29, 2011

PRESIDING AND CONDUCTING: Chairwoman Joyce Clifton

Members of the Board in Attendance: Ted LeBeau
Boyd Adams
Kent Taylor (Alternate)

Staff in Attendance: Matthew Brady, Planner I

Minutes Recorded by: April Houser, Executive Secretary

Call to order

Chairwoman Clifton called the meeting to order at 6:30p.m. Kent Taylor led the Pledge of Allegiance and Boyd Adams offered the invocation.

Alternate Member Kent Taylor was seated as a voting member this evening.

Item 1. Lynn Bateman requests a variance from Mapleton City Code 18.28.050: LOTS, YARDS, AND OPEN SPACES on parcel #27:034:0053 in order to have a frontage width of less than 200 feet in the A-2 (Agricultural-Residential) Zone. The subject parcel is located east of 866 East 1600 South.

Matthew (Matt) Brady, Planner I, went over the Staff Report for those in attendance. In May of 2011 the applicant applied for a Zone Verification on his property to find out if it was legal. The research done on the property in preparation for the Staff Report for this evening found that a Boundary Line Adjustment had been done on the property since the Variance application was submitted. The State Code requires that there be an unreasonable hardship in order for a variance to be approved, and cannot be considered an economic hardship. Staff believes there are other ways to rectify this situation. If this variance is approved the applicant would still have to go through the subdivision process, which requires Planning Commission and City Council approval. Staff is recommending denial of this request. **Member LeBeau** asked if the county, when recording this subdivision of land, made it legal. Matt explained that State Code requires individuals to be able to record any and all documents, whether they are legal or not, therefore it did not legalize the subdivision. **Member Adams** asked if property lines could be adjusted without going through the subdivision process if the property was not going to be developed. Matt stated that the City Code would require any subdividing of land to go through the approval process. In 2003 when this property was subdivided the frontage requirement at the time was 250', where now there is only a 200' frontage requirement. **Member Taylor** stated that there was a process to go through, which the applicant did not follow, and does not feel this is a method that should be used for fixing the frontage problem with Lynn Bateman. Member Taylor

feels approving this would set precedence for other property owners that may be in the same situation, and did not feel that was a spot the City should be put in.

Lynn Bateman, applicant, stated that he moved to Mapleton about 39 years ago. He appreciates the Board allowing him to come tonight. He purchased the property from his neighbor in 2003 and was not a very astute real estate wise. Clyde Willard came to Mr. Bateman and told him he was going to sell his property, which was to the east side of Lynn's home. When he bought it he admits it was his ignorance in not going through the proper approvals at the time. He knew he had a lot that would need an additional 15' of frontage in order to be legalized, and hoped he could get a variance so that potentially one day one of his children could build on this piece of property. He is not trying to detract from the General Plan, and he feels the neighbors would be in favor of a home being built on this property, and that it would improve the city in this area. Mr. Bateman would be happy to apply another 15' to his property but he can not do that, so these are some of the circumstances he is working with. Mr. Bateman handed a copy of the county plat map to each of the Board Members. He reiterated how he feels this just fits in this area. If a variance is not granted he would ask the city what exactly he can do with this piece of property. Member Taylor said he drove to the property on Wednesday morning and spent some time in the area. He does not disagree that a home would improve the neighborhood, but feels granting a variance here would set precedence. Member Taylor stated that there is a resolution that Mr. Bateman could rezone his property and utilize a Transferable Development Right (TDR) in order to build on the property. He spoke with Cory Branch, Planning Director, and was told the property could have a home built on it if the property were rezoned to an A2 (TDR-R) Zone and have a lot with 125' of frontage on a 1-acre parcel of land. Matt gave an explanation of how the rezone would work in order to use a TDR on the property. He stated that when the current boundary line was adjusted the Fontaine's gained some property from the east side of their property along where the canal is located which could potentially have discrepancies since this adjustment did not include any signatures from the owners of the property along where the canal is located. Member Adams asked if the city files some type of document on parcels where they have been illegally split so that future buyers are aware of the issues with the land. He also inquired as to if Mr. Bateman could be allowed to go through the subdivision process and not be required to install curb, gutter and sidewalk since there is not any currently located in this area. Matt stated that current request is regarding the lot frontage requirement, not the developing or infrastructure of the property. Member Adams feels this variance, if approved, would violate the State Code.

Chairman Clifton opened the Public Hearing. **Dave Elkington**, the applicant's son-in-law, asked if there was a way for this to be approved since he believes that Clyde sold this property to Lynn Bateman with the feeling that it was a legal lot. Matt stated this would be a civil issue between Clyde and Lynn. No additional comments were given and the Public Hearing was closed.

Motion: Member Taylor moved to deny Lynn Bateman's variance request to Mapleton City Code 18.28.050: LOTS, YARDS, AND OPEN SPACES on parcel #27:034:0053 in order to have a frontage width of less than 200 feet in the A-2 for the reasons listed below:

1. Not meeting what the Board felt the State Code requires in order for variances to be approved.
2. Due to the history on the property and the information provided in the Staff Report.

Second: Member Adams

Vote: Unanimous

Chairman Clifton moved to adjourn the Meeting at 7:35p.m.

April Houser, Executive Secretary

Dated:

Joyce Clifton, Board Chairwoman

Dated:

Matthew Brady, Planner I

Dated: