

**Minutes
Board of Adjustment
Council Chambers
September 16, 2008, 7 p.m.**

Members Present

Chairman David Van Nieuwenhuyzen, Mark Kummer, Tim Johnson, John Kolander, and Roger Mack

Members Absent

Scott Hjellming and Chad Kucker

Unfinished Business

- 1. Item No. 45-08.** Jeff Williams owner of Williams Automotive was present to explain his variance in the required number of parking spaces from 28 to 16 at **4200 South Louise Avenue**. He explained that besides the five service bays inside the building, he is also providing nine outside parking spaces. Mr. Van Nieuwenhuyzen was concerned about the parking spaces being signed as customer parking, and Mr. Williams assured him that they would be marked as such. Mr. Johnson was concerned about counting the service bays as required parking and the Clerk informed him that we always counted service bays when it comes to car lots toward required parking. Mr. Mack questioned about the off-site parking spaces he had talked about acquiring from a neighboring business at last month Board meeting, and Mr. Williams said he found out he would need to obtain a conditional use permit for off-site parking. Mr. Kolander questioned Mr. Williams about employees and where they park. Mr. Williams informed the Board that he has asked his employees to park further down on Arway Drive so that it did not affect the businesses on 49th Street. Kent Harmana, 4320 South Louise Avenue, expressed concern about granting the variance as Mr. Williams is parking his sales cars on the street and also is concerned about Mr. Williams' employees parking further down the street as it affects his parking for his business and employees. Mr. Harmana does not feel that Williams Automotive is providing enough parking for customers. Mr. Van Nieuwenhuyzen wanted to know how parking was figured on a car lot, and the Clerk informed him it is the same as a retail business. Mr. Tim Johnson, board member, stated he had been out to the site on a Saturday and found that the lot is congested but at the time, there were only three customers and he sympathized with the businesses along Arway Drive but said he could support the variance. Mr. Kolander questioned about how the project was laid out before it was built and that parking for customers should have been figured into the site plan. He also felt there was no hardship.

A motion was made by Mr. Johnson and a second was made by Mr. Kolander which passed with Mr. Kolander voting No.

New Business

1. **Item No. 49-08.** Mr. Barry Foster was present to explain his variance in fence height from 4' to 6' in front yard setback along West 77th Street at **713 West Shady Hill Street**. Mr. Foster indicated he had letters of support from his neighbors and that some of his neighbors had already been given variances to be allowed to put a 6' high fence along West 77th Street. He also indicated there are no driveways onto West 77th Street. The Board discussed that a precedence had been set by granting the other variances. Mr. Kolander made a motion to grant the request; Mr. Johnson seconded the motion which passed unanimously.
2. **Item No. 50-08.** Mr. Randy Helwig, 716 N. Highland Avenue, Sioux Falls, SD was present to explain his variance in the required front yard setback from 25' to 0' for a parking pad at **2109 East Tricia Lane**. Mr. Helwig indicated he was coming out 8' with concrete but a portion of that concrete he was going to put a keystone retaining wall on and there were other parking pads in the neighborhood. He also indicated he would be approximately 3' from the side property line. The topography in his back yard is such that he could not put a parking pad there. Mr. Johnson made a motion to grant the request; Mr. Mack seconded the motion which passed unanimously.
3. **Item No. 51-08.** This case was deferred to October 21 as the signs were not posted on the property. The variance was to allow a circular driveway in the intersection safety zone and variance to allow a circular driveway where one of the entrances is not utilized as a common driveway to the garage at **2200 West Cherrywood Circle**.
4. **Item No. 52-08.** Mr. Jarrod Otto, representative for Dean Foods Company, was present to explain the variance in height for milk silo from 60' to 81' 2" at **1200 West Russell Street**. Mr. Otto explained that due to increase in volume of milk, they needed to continue to upgrade the production plant to keep up with demand. They needed to increase raw milk storage capacity as they were going to seven days a week receiving the milk and to better manage the movement of raw milk into the facility. Mr. Otto also informed the Board that the FAA did not foresee a problem with the milk silo. The Clerk of the Board also informed them that the Airport Authority did not have a problem with the milk silo. Mr. Mack made a motion to grant the request; Mr. Johnson seconded the motion which passed unanimously.

5. **Item No. 53-08.** Mr. Darrold Dean, 4608 South Twin Ridge Road, was present to explain the variance for a waiver of hard surfacing a portion of the parking lot until October 2010 at **4915 North National Avenue**. Mr. Dean indicated that he is the owner of a trucking business and has multiple large trucks which use this entrance to pull into the gas pumps on his property and to access the rear yard. Mr. Dean indicated that his hardship is that he has many large trucks using this entrance and it would break up the concrete. The Board questioned the Clerk about granting a permanent waiver of hard surfacing and she informed the Board that it needed to be for a finite time period and may be linked to a specific event such as street improvements (paving), etc. Mr. Mack thinks it still needs to be reviewed every so often. Mr. Mack made the motion to grant the request; Mr. Kolander seconded the motion which passed unanimously.

6. **Item No. 54-08.** Mary Brewer was present to explain the variance in the front yard setback from 25' to 5' at **821 South Foster Avenue**. At this time, Mary made a correction; the variance should read from 25' to 9'. She informed the Board that she had purchased the carport from Burns Auto Sales and they had told her as long as the carport was prebuilt, it did not require a building permit. She stated that her hardship was the high retaining wall as it could be a danger to her grandchildren and other children, as they could fall and to protect her cars from the tree sap as the sap was ruining their cars and they have health issues. She gave the Board a letter with neighbors' names that support her keeping the carport. Pete Nicolai, 736 South Lowell Avenue, testified that he was against the variance and the carport did not meet wind or snow load requirements or meet engineering standards. He also mentioned that he had a petition signed by neighbors who are against granting the variance. Mike Nystrom, 804 South Foster Avenue, neighbor got up and encouraged the Board to deny the variance as it did not fit into the neighborhood. Jan Buchanan, neighbor, 800 South Foster Avenue, stated that the structure degraded the neighborhood and the neighborhood aesthetics. Randy Knudtson, neighbor at 725 South Lowell Avenue, has lived in the neighborhood for 32 years and is against allowing the carport as it does not fit into the neighborhood. Omar Nelson, 2204 East Allen Drive, stated the carport looks like a shopping cart and looks out of place in the neighborhood. Janet Nystrom, 804 South Foster Avenue, neighbor, got up and said they have had a retaining wall at their house and had children there and they have had no problems with kids falling as you advise children not to get too close to the retaining wall. Mr. Johnson made the motion to grant the amended variance in required front yard setback from 25' to 9'; Mr. Mack seconded the motion which failed unanimously.

7. **Item No. 55-08.** Gerry Renner, representative of Rustic Hills Community Church, was present to explain a waiver of two interior trees required until church project is completed at **4500 East Fernwood Drive**. Mr. Renner explained that there are four phases to this project and they are in Phase 2. They will eventually be tearing down the old building and parking lot and rebuilding it. They will need to bring in fill and build up the lot. Mr. Johnson asked about construction timeline. Mr. Van Nieuwenhuyzen suggested granting them a variance until September 2012 and if that was not enough time, they could come back to the Board, and Mr. Renner indicated that should work for them. Mr. Mack made an amended motion to read as follows: A waiver of two interior trees required until the church project is complete or until September 2012 whichever comes first. Mr. Johnson seconded the motion which passed unanimously.
8. **Item No. 56-08.** Mr. Boe Albers, 4808 South Louise Avenue, was present to explain a variance in the required front yard setback from 10' to 0' on East Tenth Street, Mable Avenue, and Blauvelt Avenue at **1600 East Tenth Street**. Mr. Albers indicated that they were going to resurface the lot. Sue, the Clerk of the Board, explained to the Board that he is removing the existing asphalt and replacing it. Mr. Albers informed the Board that if they are required to put in the required front yard setback, they would not be able to provide the necessary off-street parking for the business as they do not meet engineering standards. Mr. Kolander indicated that it would be an improvement as far as look, as well as, improve the drainage. Mr. Johnson made the motion to grant the request; Mr. Johnson seconded the motion which passed unanimously.
9. **Item No. 57-08.** Mr. Brad Hopper, owner of property, was present to explain his variance in the required front yard landscaped area from 25' to 0' at **322 South Holly Avenue**. Mr. Hopper indicated he tried to grow grass and some plants under the evergreen trees but because of the acid in the soil, they did not survive. He stated to the Board that he placed the rocks in the landscaped front yard setback three weeks ago. Mr. Hopper gave the Board a letter of support from his neighbor. Mr. Van Nieuwenhuyzen indicated that he would have a hard time granting this variance as it would set a precedence. Mr. Mack felt that there should be some type of grass and plantings that would work. Shawna Goldammer, Zoning Officer Manager, agreed with Mr. Mack. Mr. Johnson agreed with Mr. Van Nieuwenhuyzen that the Board would be setting a precedence. Mr. Hopper was asked if he had visited with a landscaper and he indicated he had not. The Board Chairman asked him if he would like to have the time to visit with a landscaper and come back to the Board in October if necessary. He indicated he would. Case deferred to October 21, 2008.

10. **Item No. 58-08.** Tomas Heltberg owner of the property was present to explain his variance in fence height from 4' to 6' in required front yard setback at **5604 West Pineridge Drive**. Mr. Heltberg explained that only a portion of his lot has street frontage on Pineridge Circle and he would like to put a 6' fence along the property line. He gave the Board letters of support from his neighbors. Mr. Van Nieuwenhuyzen felt that the Board would be setting a precedence if they granted the variance on that portion of the lot along Pineridge Circle to allow a 6' high fence on a local (residential) street. Mr. Johnson agreed. Mr. Kummer stated there was no hardship. Mr. Van Nieuwenhuyzen also indicated the Board has never granted a 6' high fence on a cul-de-sac. Mr. Johnson made the motion to grant the variance; Mr. Kummer seconded the motion which failed with Mr. Mack voting yes.
11. **Item No. 59-08.** Marsha and John Arndt owners of the property were present to explain variance in the required front yard setback from 25' to 0' for a parking pad at **6419 West 55th Street**. Marsha stated that the hardship is the mailboxes located in the street and the Post Office will not move them and they need somewhere to park another car. They stated they are able to park a small vehicle in the street in front of their house. Matt Dohn, 6415 West 55th Street, neighbor to the east is against granting the variance. It would be an eye sore for them when they look out their picture window and there are no other parking pads in the neighborhood. Mr. Kolander indicated that he can understand their problem as their lot frontage is very small but he also did not like setting a precedence. Mr. Kummer, Mr. Johnson, and Mr. Mack felt there was no hardship and it would be setting a precedence. Mr. Van Nieuwenhuyzen sympathized with the applicant but felt the pad would not be wide enough for a car. The applicants were asked if they could park four cars, two in the driveway and two in the garage and they indicated they could. Mr. Johnson made the motion to grant the request; Mr. Kummer seconded the motion which failed unanimously.
12. **Item No. 60-08.** Jeanne Carter owner of the property was present to explain variance in required rear yard setback from 30' to 10' at **1700 East 54th Street**. Ms. Carter gave the Board letters of support from the neighbors. Mr. Van Nieuwenhuyzen wanted to know if there were other neighbors who had additions that close to the lot line, and Ms. Carter indicated no. The Board questioned whether this was a screened in porch or addition. Based on the plan submitted to them, it appeared to be an addition. Mr. Allen Burch, contractor, 6700 West Sixth Street, said it would be a screened in porch and these plans were not correct. The Board felt uncomfortable making any decision tonight and suggested to the homeowner to postpone this case until October 21 and have the corrected building plans in the packet and the homeowner agreed. This case is deferred to October 21, 2008.

13. **Item No. 61-08.** Regina White, owner of the property, was present to explain variance in the required front yard setback from 25' to 15' at **3308 South Stephan Circle**. She stated they had placed the shed there because of gas line, phone lines, and drainage issues and also it was behind a 6' high fence. She also indicated she had an irregular shaped lot and her neighbors have sheds closer than 15' to the property line on West 41st Street and there is a precedence set. Mr. Kolander indicated there was no adverse affects on the neighbors. Mr. Kolander made a motion to grant the request; Mr. Mack seconded the motion which passed unanimously.

14. **Item No. 62-08:** This case was withdrawn. It was a variance in the front yard side yard from 20' to 19' and a variance in the side yard setback form 15' to 5'. The location of this was 7700 West Raegan Street.

Adjournment

A motion was made by Mr. Johnson and a second was made by Mr. Kolander to adjourn the meeting at 8:55 p.m. Yeses, 5. Noes, 0.

Clerk of the Board