

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Special Meeting of May 19, 1998

1. CALL TO ORDER:

The meeting was convened at 4:35 p.m. by Chair Fay Von Gemmingen in the Assembly Chambers, 3600 Denali, Anchorage, Alaska.

2. ROLL CALL:

Present: Bob Bell, Ted Carlson, George Wuerch, Melinda Taylor, Charles Wohlforth, Fay Von Gemmingen, Cheryl Clementson, Kevin Meyer, Dan Kendall, Joe Murdy.

Absent: Pat Abney (excused.)

3. BOARD OF ADJUSTMENT/ASSEMBLY APPEALS:

A. Appeal S-10180, Horizon Park Estates, Clerk's Office.

Chair Von Gemmingen noted no motions were pending.

Mr. Bell moved,  
seconded by Mr. Carlson,

to grant Appeal S-10180.

Mr. Bell moved,  
seconded by Ms. Clementson,

to divide the question into four portions:  
1) variance of 600-foot restriction for cul-de-sacs, 2) road standards and storm drains, 3) lighting and 4) traffic impact analysis.

Mr. Wohlforth moved,  
seconded by Mr. Murdy,

to postpone action on the appeal  
until June 2, 1998 to allow Ms. Abney to participate.

Mr. Wohlforth said he spoke with Ms. Abney slightly before she boarded an airplane to leave town. She was unaware of this special meeting and asked action on the appeal be postponed because she wanted to participate in this issue that is important to her constituents.

Mr. Bell said he discussed the issue with Ms. Abney and she seemed to be in agreement with this special meeting. He felt there were other alternatives to postponement. He added a postponement may adversely affect the developer in terms of ability to proceed with the project during this construction season.

Question was called on Mr. Wohlforth's motion to postpone and it failed:

AYES: Taylor, Wohlforth, Meyer, Murdy.

NAYS: Bell, Carlson, Wuerch, Von Gemmingen, Clementson, Kendall.

Question was called on Mr. Bell's motion to divide the question and it passed:

AYES: Bell, Carlson, Wuerch, Taylor, Von Gemmingen, Clementson, Abney, Kendall.

NAYS: Wohlforth, Meyer, Murdy.

Mr. Bell moved,  
seconded by Mr. Carlson,

to grant the appeal with respect to the issue of a  
variance of the 600-foot cul-de-sac length requirement.

Mr. Bell noted there is no explanation of why variances should be rejected, other than it is the Municipality's policy. However, there are other similar facilities in Anchorage. He felt residents of the neighborhood, an isolated subdivision, should be allowed to maintain the character of the neighborhood.

Ron Baird, attorney for the Board of Adjustment, pointed out the three actions available to the Assembly, acting as the Board. The Assembly may affirm or reverse the decision of the lower body, or remand the appeal to the lower body.

Mr. Bell clarified his intent was to reverse the decision of the lower body.

In response to Mr. Wohlforth, Mr. Baird confirmed the Assembly could either look for errors by the lower body or substitute its own judgment, with a two-thirds majority vote. He discussed the process for the lower body's decisions.

Mr. Wohlforth moved,  
seconded by Mr. Bell,  
and it passed without  
objection,

to divide each of the four divisions into two questions:  
1) was there substantial evidence to support the  
Platting Board's decision, and 2) was there substantial  
evidence for the appellants position that the Assembly could  
substitute its judgment?

Mr. Wohlforth moved, seconded by Mr. Meyer,	that the Assembly finds there was substantial evidence to support the Platting Board's denial of the variance.
Ms. Clementson moved, seconded by Mr. Wuerch,	to continue the meeting until after the regular meeting tonight.

AYES: Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Kendall.  
NAYS: Bell, Carlson, Murdy.

The meeting recessed at 5:20 p.m. and reconvened at 10:40 p.m.

Mr. Bell felt there was substantial evidence on the side of the appellant that was not sufficiently considered by the Platting Board: that the property has park on two sides and limited ability for additional access, and safety in Zodiac Manor would be compromised by traffic from the new subdivision. Also, he felt the Board did not give serious consideration to the character of the neighborhood. According to the record, the Board did not give a reason for denial other than it was Municipal policy.

Mr. Bell moved, seconded by Mr. Carlson,	to continue the meeting until 11:15 p.m. to complete the agenda.
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AYES: Bell, Carlson, Wuerch, Wohlforth, Von Gemmingen.  
NAYS: Taylor, Clementson, Meyer, Kendall, Murdy.

(Clerk's Note: This motion failed for lack of six affirmative votes.)

In response to Mr. Bell, Mr. Baird said the Assembly should conduct all deliberation and discussions during a public meeting. He felt it would not be legal for members to discuss the appeal among themselves outside a meeting.

Assistant Municipal Attorney Bill Greene noted he could not give an opinion, because the Municipal Attorney represents the Platting Board in this case.

Mr. Bell noted he intended to appropriate funds to hire another attorney to render another opinion on this issue.

There was discussion of when to continue the meeting. There was no resolution.

(Clerk's Note: See minutes of June 2 and 3, 1998 Regular and Special Meetings for further action on this appeal.)

4. **ADJOURNMENT:**

The meeting adjourned at 11:10 p.m.

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Chair

ATTEST:

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Municipal Clerk

Date Minutes Approved: August 25, 1998

VC/db