

**DRAFT
PAPILLION BOARD OF ADJUSTMENT
JUNE 14, 2011 – 7:00 PM**

The Papillion Board of Adjustment met in open and public session at the Papillion Council Chambers on Tuesday, June 14, 2011 at 7:00 p.m. Chairman Michael Mallory called the meeting to order. Planning Assistant Michelle Wehenkel called the roll. Members present were Joe Chase, Jan Huff, Buzz Snodgrass, and Robert Tribolet. Herb Thompson was absent. Planning Director Mark Stursma, City Planner Brian Craig, City Engineer Jeff Thompson, and City Attorney Karla Rupiper were also present.

Notice of the meeting was given in advance by publication in the Papillion Times on June 1, 2011. Copies of publication are on file at the Office of the City Clerk.

Chairman Mallory led those present in the Pledge of Allegiance.

Chairman Mallory announced that a copy of the Open Meetings Act is posted in the City Council Chambers.

APPROVAL OF THE AGENDA

Motion by Mr. Tribolet, seconded by Mr. Huff, to approve the agenda. Roll call: Five yeas, no nays. Motion carried.

APPROVAL OF THE BOARD OF ADJUSTMENT MINUTES OF OCTOBER 12, 2010

Motion by Mr. Huff, seconded by Mr. Tribolet, to approve the October 12, 2010 minutes. Roll call: Five yeas, no nays. Motion carried.

PUBLIC HEARING

To consider a request for a variance from §205-218 G (Golf Course Fences) to allow a fence on a lot abutting a municipal golf course, for the property legally described as Lot 1, Eagle Hills Replat 2, generally located at 2706 Bluff Point Cir. The applicant is Matthew Koch. VAR-10-0004

Chairman Mallory opened the public hearing.

Matthew Koch, the applicant, advised that he would present his case using a power point presentation. As to the first requirement that strict application will produce a hardship, Mr. Koch explained that not being allowed to have a fence is a hardship. He displayed views of his property from the golf course. He stated that the eight to 12 foot vertical drop on his property is unique amongst the bluff lots. The vertical drop is dangerous to children. Mr. Koch explained that he has a two-year-old child and wants to mitigate the risk of his child falling over the slope. As to whether or not the variance will cause a substantial detriment to adjacent properties, from the view of his neighbor's property the fence will be under the trees and out of sight. He explained that the wrought iron fence will be on the slope. It will then come up to a wooden fence, which would be permitted without a variance. He requested that Mr. Stursma confirm that the wooden fence is permitted. Mr. Stursma confirmed.

Mr. Koch stated that his neighbors are fine with a decorative iron fence. He explained that it will be covered by foliage with only small gaps so it will be fairly unnoticeable from the golf course. The fence will be behind the trees when viewed from the cul-de-sac. Mr. Koch observed in the immediate area there are wooden fences, poly fences, and iron fences. Some of those fences

about the golf course. He advised that his fence will not change the character of the district or detract from its value. As to the requirement that the variance not be for greed or convenience, the variance will mitigate the risk of his son falling over the slope. As to the condition of the property being not general or recurring and not being shared generally, Mr. Koch referred to the Kleinfelder report completed in November 2003. He advised that his lot is a replat of Lots 307 and 308, Eagle Hills. He explained that the slope of the bluff was very steep prior to development. The Kleinfelder report recommended that the slope face be bulldozed to create a 2:1 slope. He noted that a 2:1 slope is not as dangerous as his vertical drop of 8 to 12 feet. Mr. Koch advised that his lot was not bulldozed because it had mature trees that were deemed valuable. As a result, the developer decided to leave the trees and the slope but add additional requirements. Mr. Koch stated that the Kleinfelder report said that the bluff was unstable and needed to be flattened to a 2:1 slope. The vertical nature of the bluff is dangerous. He acknowledged that the request is subjective and other areas on the bluffs could want the same variance. Mr. Koch reiterated that the slope on his lot is unique, dangerous, and vertical. He displayed an image from the Kleinfelder report that showed the area that was recommended to be bulldozed. As to the requirement that the variance not be detrimental to the public good, there is a place for fence restrictions on fairways to allow golfers to retrieve mishit balls and to preserve the feel of green space. He noted that his house is far from the fairway. The fence will be hardly visible from mid-May through the summer due to the foliage, the elevation, the line of sight, and the fence being setback from the slope. Only the top of the fence may be visible as shown by the photograph of his wife where the top of her head is visible above the trees. Mr. Koch explained that it will be difficult to see from the lots on the cul-de-sac because it will be shaded. He acknowledged that he has had concerns about golfers hitting balls into his yard. He noted that it has happened. Golfers who hit a ball onto his lot, which is rare, would need to go through a 20 foot swamp and scale a 20 foot incline to get their ball, which is unlikely. Mr. Koch stated that he wanted to address the criticism that he went out and found an expert to say what he wanted. He explained that he initially waited for six months for the City to contract with an expert. He then approached Brian Havens with Kleinfelder to get his opinion but he declined. Mr. Koch stated that he then went to another expert who referred him to Dan Thiele. He noted that Mr. Thiele had previously offered his expertise to the City and had consulted on the bluff lots. He stated that he used the person who was presented to him to offer an informed decision regarding whether or not a fence would destabilize the bluffs.

Chairman Mallory asked if the members had questions for Mr. Koch.

Mr. Huff asked Mr. Koch if he had stated that his lot is not unique but is dangerous. Mr. Koch advised that Kleinfelder was hired pre-development to provide recommendations and set requirements. The report indicated that the base was so vertical that it was unstable. It recommended that the bluff be bulldozed. His lots had three mature trees that the developer did not want to destroy so they did not bulldoze the bluff and instead used other measures to ensure slope stability. Mr. Koch stated that the issue was never dealt with during development so it is unique. He indicated that it would be seen as subjective because someone with a lot with a 2:1 slope could feel that was dangerous and request a fence.

Mr. Huff requested clarification on whether Mr. Koch owns one or two lots. Mr. Koch advised that he bought two lots because it would not be possible to have a back yard due to the bluff. He replatted the lots into Lot 1, Eagle Hills Replat 2.

Chairman Mallory asked Mr. Koch to explain his understanding of the 2:1 slope. Mr. Koch advised that for every two foot run there is a one foot rise or for every two feet horizontally there is a one foot vertical rise.

Chairman Mallory asked where the fence would be located. Mr. Koch showed him the location of the fence on the site plan included in the staff report.

Chairman Mallory asked if the fence would essentially go over the top of the mound. Mr. Koch confirmed. He noted that the fence will be five to ten feet off the bluff.

Chairman Mallory requested confirmation that the fence would not be visible, given the slide that showed that Mr. Koch's wife's head was barely visible through the trees. Mr. Koch stated that the very top portion of the fence would be visible.

Mr. Tribolet asked when the lot was purchased. Mr. Koch advised that he purchased it two years ago.

Mr. Tribolet asked if the covenants were in place when the lot was purchased. Mr. Koch stated that the covenants were in place. He indicated that he understood the risks associated with requesting a fence.

Mr. Tribolet asked if Mr. Koch had other children. Mr. Koch advised that he has older children who are six and eight.

Mr. Tribolet questioned if one of Mr. Koch's children was four when the property was purchased. Mr. Koch confirmed that the child was four when the lot was purchased; however, the house was not completed until last November.

Mr. Chase requested clarification on the legal description. Mr. Koch confirmed that it is Eagle Hills Replat 2.

Mr. Chase stated that the concerns from the study were about the stabilization of the soil. He questioned how deep the posts for the wrought iron fence would be installed, given that the report talked about the first 1.5 feet of top soil being replaced and compacted. He questioned if that standard for soil compaction, disturbing the soil, and minimizing moisture going into the bluff would be followed to ensure stabilization of the bluff. He questioned if steps will be taken to minimize water penetration during construction and seal any holes. Mr. Koch stated that he discussed the concern with City Engineer Jeff Thompson. The matter was turned over to an expert. The fence will have 15 foot run through an over-compacted soil base. He showed the area that was excavated and recompacted. The earthen mounds were left alone because there was no benefit to compacting them because they slough water away from the slope. He explained that he also spoke with Brian Havens about the stability of the slope before purchasing the lots. The area was compacted to reduce a major amount of water from going into the bluff. The compaction requirement acts as insurance against water penetration. Mr. Koch stated that Dan Thiele's letter states that putting a few holes for fence will not impact infiltration and will have no large term effect. The letter states that the fence will not destabilize the bluff. He noted that the fence will be placed toward the end of the bluffs so not much water will feed over the fence.

Mr. Snodgrass questioned if there are additional requirements for the post hole or if it can be installed with a normal standard. Mr. Koch confirmed that it is to be to a normal standard. Mr. Thompson concurred. He explained that a lengthy discussion regarding penetrations was held at the onset. A third party consulting firm was used to evaluate Mr. Thiele's recommendation and they concurred.

Mr. Huff questioned Mr. Koch if he was aware of the letters received by the Board of Adjustment. Mr. Koch confirmed that he was aware.

Mr. Huff asked Mr. Koch if he would describe the letters as positive or negative. Mr. Koch described the letters as negative.

Chairman Mallory called for proponents. Seeing none, he called for opponents.

Jayne Cromer, 103 Longwood Dr., stated that she resides in Eagle Hills and owns a golf course lot that is not on the bluff. She wrote a letter in opposition to the request. Ms. Cromer observed that children and the bluff are no unique to Mr. Koch's property. The bluff is located on the east side of Eagle Hills and has 20-26 lots. Many of those lots have residents with children or grandchildren. Ms. Cromer acknowledged that there are two fences on the bluff lots but those permits were issued in error by the City. Those fences were installed because of children. Ms. Cromer stated that lots are still for sale on the bluff and when the houses are built there will be more children. People of a variety of age live in Eagle Hills. She stated that Mr. Koch's lot is not unique. She acknowledged that the bluff is high in his area but higher on some lots. Ms. Cromer advised that 119 Oakmont Dr. has a stability issue. The covenants restrict golf course fences then the burden of enforcement will shift to the Homeowners Association if the variance is approved. Ms. Cromer advised that the better approach is for the bluff lots to discuss the fence issue. If the bluff lot owners decide there is an issue, then the bluff should be studied regarding stability. The issue should then be forwarded to the City Administration and then City Council to change the statute. Ms. Cromer stated that the Board of Adjustment is not the appropriate place for this request. She stated that she does not know if other bluff lot owners want fences; however, one other owner wanted one but his variance was denied. Many people have asked for fences but the Homeowners Association denied them. Ms. Cromer observed that the whole bluff should be considered and not just one lot to make sure that it is stable for all owners to have fences. She noted that it is unfair to give a fence to one lot. Ms. Cromer described the variance as a "band aid approach". She questioned why someone with four children would buy a bluff lot and expect the City and Homeowners Association to change the rules.

Steve Dolezal, 123 Oakmont Plaza, stated that he lives eight to nine lots north of Mr. Koch. He submitted a letter but omitted that the bluff lots have stability problems even with no holes. Mr. Dolezal stated that he consulted with Mr. Havens, an engineer, on installing a deck who came twice to visit his lots. He found holes that were possibly animal burrows that had to be filled with concrete. Mr. Dolezal noted that he filled one hole with almost 1,000 lbs of concrete and had to fill holes twice. He expressed concern about the bluff erosion and stability. He noted that there are children who already live on bluff lots including a special needs child. He noted that the area where he lives is taller than Mr. Koch. Mr. Dolezal acknowledged that his lot is a little different because it is basically flat and then the edge drops off. If someone was to step over the edge, then they would fall to the bottom. He observed that the neighbors found ways to deal without fences. Mr. Dolezal stated that he picked his property because of the neighborhood

requirements. He advised that he does not agree with allowing a fence. He explained that Mr. Koch's fence may be hard to see but a fence on his lot would be easily seen. He questioned if Mr. Koch's situation is unique.

Karla Privateer, 127 Longwood Dr., stated that she opposes a fence because of the stability of the bluff. She stated that she is on the SID 184 Board so she knows that there are ongoing evaluations of the bluff. Ms. Privateer noted that she is not familiar with the geotechnical engineer that Mr. Koch hired. She identified Lamp Rynearson Associates as the engineer that the SID uses. She questioned if they were consulted about the fence. Ms. Privateer questioned the validity of the Kleinfelder report because it was done in 2003. She stated that she is aware of another bluff lot with stability issues caused by trees. She questioned how one area can be compacted and filled without impacting or damaging other areas. Ms. Privateer expressed concern about flattening the bluff. She stated that there are other solutions such as planting a line of shrubs. She noted that the plantings could cause an issue because of the watering. Ms. Privateer indicated that the covenants were in place when the lot was purchased so the applicant knew about the fence and bluff issue. She stated that the request raises more questions than answers. Ms. Privateer stated that there is federal land below the bluffs. She expressed hope that the engineer understands that if the land falls it will be falling on federal land.

Chairman Mallory asked where Longwood Dr. is in relation to the applicant. Ms. Privateer explained that it is on the golf course. Chairman Mallory questioned if it runs parallel to Bluff Pointe Cir. Ms. Privateer confirmed.

Tom Mumgaard, 1216 Cork Dr., stated that he resides in Tara Hills and is the City Councilmember who represents the Tara Hills area. He advised that he is the author of the original no fence ordinance. He wrote and amended the ordinance. Mr. Mumgaard noted that he was at the Board of Adjustment meeting when they voted against a similar request. He observed that he wrote the ordinance due to problems with enforcing the Tara Hill covenants before Eagle Hills was even platted. The ordinance was extended to include Eagle Hills. The covenant against fences was also extended. Mr. Mumgaard stated that he is possessive of the no fence rule because it is important to him that his neighbor not put up a fence. He observed that the desire to keep privacy fences off the golf course is a common view that is ingrained in Papillion. Golf course lots are different than other lots because fences are not allowed. He explained that he defends the rule and opposes the request for the some of same reasons as the neighbors. Mr. Mumgaard advised that Mr. Koch does not have a hardship. Variance should be granted sparingly and should be unique in circumstance. Mr. Mumgaard acknowledged that Mr. Koch and his family have a difficult situation but it is encountered by many people around the city. He stated that he looks to the two elements about the purpose of the ordinance and if a general regulation is more appropriate. He expressed admiration for Mr. Koch's presentation and noted that he has some valid points of view. Mr. Mumgaard acknowledged that the bluff lots are not a situation that he envisions that needs to be protected from fences. He was aware of that a fence is located on the bluff. Mr. Mumgaard noted that he has discussed the situation regarding fences and the bluff lots over many years. He stated that he is not sure that the fence rule plays a role when applied to the bluff lots. He acknowledged that the bluff lots may be overregulated. A general regulation is more practical given the number of lots and that others are interested in having a fence. He noted that he is hesitant to amend the regulation because the prohibition on fences could be lost. Mr. Mumgaard observed that Mr. Koch has a point that needs to be addressed, especially since this is the second

variance request. He indicated that he is not sure if the amendment will pass but he told Mr. Koch that he is willing to offer an amendment to start the discussion. The bluff lot owners should decide and deal with the covenant. Mr. Mumgaard stated that this is an example of a when a general regulation is more practical.

Chairman Mallory acknowledged that he has discussed the fence rule with Mr. Mumgaard on previous occasions. He noted that he was not aware of the bluff lots until he received the staff report and visited the lots. He stated that he was appalled by the drop off. He observed that he is not sure if it is water hazard or drainage way but it is detrimental to a two-year-old. Mr. Snodgrass indicated that it is part of the creek.

Chairman Mallory expressed empathy for the request. He stated that is aware of the regulations in the covenants and ordinance. He questioned if Mr. Mumgaard, as an attorney, would give a legal explanation regarding the Board of Adjustment and the covenants. He indicated that his understanding is that the Board cannot grant a variance to the covenants. Mr. Mumgaard explained that the situation has multiple layers. The City's Zoning Regulations are the first level and are enforced by the City. The covenants are a private agreement between the homeowners and can only be enforced by the parties to the agreement. He advised that the City is a party to the stability requirements. Mr. Mumgaard explained that the Board cannot override the covenants. It has to be worked out by the homeowners. He noted that the homeowners will be able to work it out if the City removes the ordinance. Mr. Mumgaard stated that if the homeowners agree to allow fences then so be it. He drafted the ordinance because Tara Hills had covenants but they had holes. He further noted that enforcement of covenants can be spotty. Mr. Mumgaard advised that the City made the fence regulation important and enforces it.

Chairman Mallory requested confirmation from Mr. Mumgaard that any variance granted would not be a variance to the covenants. Mr. Mumgaard confirmed. He expressed appreciation for the Board's service.

Glenn Brudny, 125 Longwood Dr., stated that he resides on the west side of the golf course and owns a golf course lot. He indicated that he understands Mr. Koch's concern because he has two children. He stated that it is the same as keeping children from running into the street. Mr. Brudny advised that he was on the first Homeowners Association Board. He noted that the association ran into difficulties with the covenants and fences. Problems will be caused if the variance is passed or an amendment is passed because some people on golf course lots would love to have fences. Mr. Budny stated that neither the city nor the association will want to deal with those requests. He indicated that some people do not care about the golf course or its integrity. He noted that Mr. Mumgaard lives in Tara Hills not Eagle Hills. Mr. Brudny stated that he built his lots based on concerns about the flooding and similar consideration should be given when deciding to build on the bluffs. He questioned why a fence should be put up if the lot was purchased for the view and privacy.

Jennifer Lee, 2514 Pinehurst Plaza, stated that she owns a golf course lot that is not located on the bluff. She advised that she is against fences. She acknowledged Mr. Koch's presentation. Ms. Lee expressed concern about the stability of the bluff if it is disturbed by a fence. She noted that Mr. Koch only has four to five years to worry before his children will know better so it is only a temporary problem. A study may be needed if there many fences will be installed even though she hates studies. Ms. Lee stated that she is all about children's safety. Her house in

Washington DC was on a busy street and she thought her children would die. She then purchased a cul-de-sac lot with a large lot, which required an additional \$25,000. Ms. Lee reiterated that the problem is temporary.

Mr. Koch requested to speak. He advised that he attended the Homeowners Association meeting that was held a week ago and there was going to be a vote to support the fence request before Ms. Cramer spoke. He asked Ms. Cramer if she agreed that the Association was going to support the request. Ms. Cramer disagreed. Mr. Koch asked Ms. Cramer if she agreed that the Association tabled the vote and took a neutral position. Ms. Cramer agreed. Mr. Koch stated that the Association is waiting for direction from the Board of Adjustment before deciding on the fence.

Chairman Mallory indicated that he did not understand the connection because issuing the variance is more severe remedy than getting approval of the Homeowners Association. Mr. Koch explained that he was told that it is a two set process. The first step is to get a variance and then get approval of the Homeowners Association. He advised that the Homeowners Association had a vote on the table to support the variance request until Ms. Cramer came forward and the Association took a neutral position.

Jennifer Lee, 2514 Pinehurst Plaza, questioned if the variance would only apply to Mr. Koch's lot. Chairman Mallory explained that it would apply only to Mr. Koch's lot. He noted that a variance is not precedent setting. A public hearing would be held for each variance request.

Seeing or hearing no further public comment, Chairman Mallory closed the public hearing and asked for discussion amongst the Board.

Mr. Snodgrass asked Mr. Mumgaard if he was willing to bring a motion to relieve the golf course fence restrictions for the bluff lots. Mr. Mumgaard stated that he would introduce an amendment but he was not sure if he would support it.

Mr. Snodgrass asked how long the process would take if there were major objections. Mr. Mumgaard deferred to staff but noted that it would take three readings at City Council and possibly require a Planning Commission recommendation. Mr. Stursma advised that it would take Planning Commission action. The deadline for the July meeting just passed so it will likely be on the August agenda. He indicated that the third reading at City Council would probably occur in October.

Chairman Mallory questioned if an ordinance amendment could be made ready by August. Mr. Stursma confirmed that it could be prepared in time. Mr. Mumgaard noted that one reading of the ordinance could be done before the Planning Commission meets. He acknowledged that it will not be a fast process.

Mr. Snodgrass questioned if the process would take six months. Mr. Mumgaard advised that it should not take that long.

Mr. Snodgrass asked if the process would take longer if there are objections. Mr. Mumgaard indicated that it would depend on the situation. The amendment could be sent to committee for review. The process will be slowed because the Planning Commission only meets once a

month. He advised that the City Council will take action whether or not the request is controversial.

Mr. Huff noted that five members are present. He asked for clarification on the number of votes needed to take action. Chairman Mallory confirmed that four votes are needed.

Mr. Tribolet stated that he visited the property. His impression was that there are several properties in the same condition. He indicated that the request does not meet requirement #5 because it is more practical to change the regulation than approve a variance.

Chairman Mallory agreed with Mr. Tribolet. He stated that it is better to handle the issue through an amendment but the Board has to deal with the request being made. The options are to vote yes so fence can be built now or vote no and it will take six months to amend the ordinance so the fence can be built. He indicated that the issue is best handled legislatively.

Mr. Snodgrass stated that he visited the property with the expectation of seeing a steep slope but instead he found a 20' drop. The drop is a couple of degrees from being a vertical drop and then it slopes to the river. He questioned how the lots were designated golf course lots. Mr. Snodgrass expressed surprise that fences are prohibited on the bluff. He noted that fences should be required to provide for public safety. He requested that the record show that an amendment to the golf course fence regulation is recommended so that the 20 lots can be relieved. Mr. Snodgrass observed that the lots look like they adjoin the golf course due to the lot line but looking across the creek it cannot be said that they adjoin the golf course. He stated that the lots should not be designated golf course lots. Mr. Snodgrass acknowledged that recommending that the Mayor and City Council rewrite the ordinance will not immediately help Mr. Koch. He expressed appreciation for the hoops that Mr. Koch had to jump through. Mr. Snodgrass noted that granting a variance to Mr. Koch would not negate what they are asking for the other lots. He advised that a stabilization study should only be conducted if the City Engineer determines that it is needed. Studies tend to take time and money but are often no good. If there is no concern or danger to the bluffs, then allowing fences is not an issue. He stated that he would like to hear if there has been any sloughing due to building activity or watering. Sloughing would be a moot point if it is not occurring. Mr. Snodgrass indicated that a slippery slope would not be an issue because anyone can see that relieving those lots from the fence restriction is not the same as a lot that is level or near level. He stated that Mr. Koch's request should be approved and then the Board should ask the City to proceed. He noted that it could be a long battle because there are people who hate fences.

Mr. Thompson acknowledged that there is the potential for litigation against a property owner due to activities on the lot. He declined to further discuss the matter due to the potential for litigation.

Mr. Chase concurred with concerns about a fall from the slope. He noted that a four foot man made drop would require a handrail. He observed that Councilmember Mumgaard has the opportunity to create consistency. He recommended that homeowners be given a solution such as a setback, which will allow children on golf course lots to be safe. Mr. Chase indicated that he has children at home and sometimes the situation changes when a new child is born. He encouraged the City Council to work with the Homeowners Association. Mr. Chase stated that he advocated for homeowners associations. He noted that the city needs to work with them when they annex subdivisions. City regulations and homeowners association covenants can

clash when subdivisions move from the county's jurisdiction to the city's jurisdiction. Mr. Chase advised that homeowners associations are the feet on the ground so it is important for the city to listen to them.

Chairman Mallory agreed with Mr. Snodgrass. He stated that he respects the opposition. He indicated support for allowing golf course lots to have fences that do not obstruct the course. He stated that he was appalled by the drop of the bluff. He was an Army paratrooper and the sight of the drop still almost took his breath away. Chairman Mallory advised that the drop and the slope of the bluff are significant and it presents a safety hazard to children and adults. He stated that he will vote for the variance. He recommended that City Council and the Mayor be made aware of the concern and uniqueness of the lots. He noted that the lot is unique in terms of the danger presented by the bluff. Chairman Mallory stated that it is not a hardship that is shared generally in the community. He observed that the fence will not change the character of the area.

Mr. Huff questioned how the hardship is not shared by the other lots. Chairman Mallory stated that if one only considers the house next door then both are dangerous. If all the lots in Eagle Hills are considered, then the issue is unique to the bluffs. He invited other bluff lot owners to request a variance for fence. He noted that Mr. Mumgaard agreed to take action. Chairman Mallory reiterated that the bluff lots are unique.

Mr. Snodgrass stated that he believes that no fences should be allowed on the golf course. He explained that he lives on a golf course lot in Eagle Hills and he does not want fences. The bluff lots are not typical golf course lots so an exception should be made. Mr. Snodgrass observed that Mr. Koch's lot is a 20' vertical drop and then 10' away from the creek bed.

Mr. Huff requested confirmation that Mr. Snodgrass said that he lives in Eagle Hills. Mr. Snodgrass confirmed.

Mr. Huff questioned if Mr. Snodgrass is covered by the covenants. Mr. Snodgrass confirmed that he is subject to the covenants.

Mr. Huff questioned if Mr. Snodgrass has a conflict of interest. Ms. Rupiper stated that it occurred to her that there could be a conflict of interest but more information was needed about Mr. Snodgrass's involvement with the Homeowners Association and his knowledge of the situation. She noted that there is potentially a conflict of interest. Mr. Huff repeated that there is the potential for a conflict of interest.

Mr. Snodgrass advised that all residents of Eagle Hills are members of the Homeowners Association. He stated that he has never met Mr. Koch and has only met some of the members who hold positions in the association. He indicated that he is against fences on golf course lots but Mr. Koch's lots are not golf course lots.

Chairman Mallory stated that he does not see a conflict of interest.

Mr. Huff stated that the City Attorney said there was potentially a conflict of interest.

Chairman Mallory stated that Mr. Snodgrass has no financial interest in the Homeowners Association. He noted that all the Board members live in Papillion and want what is best for the city. He questioned if that would be considered a conflict of interest.

Ms. Rupiper explained that she said that there was potentially a conflict of interest because more information was needed. She stated that she has no concern about a conflict of interest based on the portrayal provided by Mr. Snodgrass.

Chairman Mallory asked Mr. Huff if his concerns were satisfied. Mr. Huff confirmed that his concerns were satisfied.

With no further discussion, a **motion** was made by Mr. Tribolet, seconded by Mr. Snodgrass, to approve the variance from §205-218 G (Golf Course Fences) to allow a fence on a lot abutting a municipal golf course, for the property legally described as Lot 1, Eagle Hills Replat 2, generally located at 2706 Bluff Point Cir. as requested. Roll call: Two yeas, three nays by Mr. Chase, Mr. Huff, and Mr. Tribolet. Variance denied.

Chairman Mallory stated that work would be done to amend the rules regarding fences on bluff lots. He advised that the applicant that he would receive notice of the denial of the variance. Ms. Wehenkel confirmed that the notice would be provided via mail in approximately two weeks.

OTHER BUSINESS

Chairman Mallory welcomed Mr. Chase to the Board of Adjustment. Mr. Chase introduced himself to the Board members.

Mr. Tribolet made a **motion**, seconded by Mr. Snodgrass to adjourn the meeting. Roll Call: five yeas, no nays. The meeting adjourned at 8:39 PM.

Chairman Michael Mallory