

Minutes of a Board of Adjustment meeting and hearings for Brent Deuel and Kenneth R. Craig held Wednesday morning May 27, 1981 at 6:00 A.M. at 68 East Main Street, Santaquin, Utah.

Present were Jack Hudson, Fred Tasker, Galen Kidd and Allen Gurney with Ramona Rosenlund acting as secretary.

It was suggested that Mr. Gurney act as chairman of the meeting as he had served the longest on the board, having been on since it's creation. Mr. Gurney explained that Mr. Fred Openshaw, formerly chairman of the Board had recently requested to be released from the Board.

Copies of Proceedure for Making Appeals to the Board of Adjustment were given to each member of the board and Mr. Gurney went over each item as it pertained to the powers and authority of the Board so they would all know what they could give variances on and what they could not act on. He read the list of four items that must be shown before a variance could be granted. A copy of this Proceedure sheet is attached. Mr. Gurney said the application to appear before the Board must be completely and accurately filled out so the Board will have all the detail involved and sometimes this is not done. He pointed out that they must be guided by the Zoning Ordinance previously approved by the City Council in a public hearing and the Board has nothing with setting up the ordinance anymore than other ciizen in the town.

Mr. Gurney explained that the election of a chairman and an acting chairman is done by the board through the chairman and he made a motion to nominate Galen Kidd as the new chairman and the motion was seconded by Fred Tasker. However, Mr. Kidd declined to accept the nomination saying he would like to have more time to become familiar with the responsibilities of the Board. It was decided to leave the electing of the officers until another meeting when a full quorum could be present, as Michael Christensen is out of state for a few weeks, and this would give the two new members of the board (Galen Kidd and Jack Hudson) an opportunity to learn more about the job as it is necessary to be very familiar with the ordinance.

AT 6:30 A. M. Mr. Tom Tervort, Mrs. Beth Anderson and Mr. & Mrs. Brent Deuel and their small son entered the meeting. Mr. Gurney welcomed them and called the meeting to order. Fred Tasker asked the prayer. Mr. Gurney introduced himself and the other members of the Board to those present and then explained to them the powers of the board, why they meet, etc., explaining the Zoning Ordinance #152 was passed by the elected city council in a public hearing and that they Board is appointed, not elected, to help resolve conflicts between individuals and the building inspector who is responsible for

enforcing the ordinance. He explained the rules the Board must follow are set up by the State law and they have the right to make only minimal changes. He then read to the group the four circumstances from the law that must be shown before a variance can be granted.

Mr. Gurney read the variance requested by the Deuels stating the lot they want the variance on is 520 square feet short of the required 9,600 square feet. From checking their plot plan it was determined they had the necessary front setback, sideyard and rear yard requirements so the area is all that is short. Mr. Deuel was asked if he could not acquire enough additional footage to bring it up to the required area and he replied that would leave a non-conforming lot for his mother on the one side and the neighbor on the other side could not give up any either as it is already a nonconforming lot but has been that way for as long as five years.

Mr. Gurney said he felt all intents of the ordinance were being met as to footage, depth, etc. and no additional property can be obtained from either side so he made a motion that the request be granted as one adjacent lot is less than this one and it would not effect the intent of the ordinance. Mr. Tasker asked about the drain system of the septic tank on the Anderson property and if it went into the other lot. A small sketch of the Anderson lot and the drain field was shown and it appeared to be alright so Mr. Tasker seconded the motion. The voting was as follows:

Allen Gurney	aye
Jack Hudson	aye
Fred Tasker	aye
Galen Kidd	aye
Michael Christensen	absent

The Deuels and Mrs. Anderson left the meeting at 6:45 A.M. Mr. Tervort said he was also the builder for the Kenneth Craig/Andrews property and so would stay on to that hearing.

Kenneth Craig, Stan Craig and John Andrews, Sr. entered the meeting at 6:45 A.M. Kirk Peterson and Connie Nelson entered the meeting at 6:55.

Again Mr. Gurney welcomed the people to the hearing and introduced the members of the Board and reviewed the procedure for making appeals to the Board of Adjustment. explaining that they were sort of a half-way house between citizens and the courts. He explained also that the ordinance was passed by the elected city council with a public hearing and any major changes in it would have to come about the same way but that minor changes can be granted as outlined in the procedures and the Board tries to do the best for the public interest.

Mr. Andrews produced deeds showing separation of the two lots prior to the ordinance being passed. Mr. Tasker pointed out that the ordinance gives one year to develop the property after the passing of the ordinance and this was not done. Section 27 of the ordinance was read which states "Any lawful use of buildings or land at the time of the passage of this ordinance that does not conform to the regulations prescribed herein shall be deemed a non-conforming use and may be continued provided that if such non-conforming use is discontinued for the period of one year or more, any future use of the building or land must be in conformity with this ordinance."

Mr. Andrews said his son looked into this before purchasing the lot and had checked since with the building inspector and was told there was no problem as it was bought as a building lot prior to the ordinance. Mr. Tervort said he thought that in Payson, if it was a lot of record prior to the ordinance, it could be built on even if it did not conform. Mr. Tasker said the first lot with the existing house is okay as the house was there prior to the ordinance. Mr. Gurney pointed out that the deeds seemed to be for a piece of "property" and not "building lots". It was pointed out by Mr. Andrews that the lot measures 97.5 feet depth, not 97 as was shown on the request for a hearing, which is 8043.75 square feet or 1556.25 square feet short of the required area.

Mr. Gurney asked about the field drains for the septic system of the existing house. Mr. Andrews replied the septic tank is to the south side of the house but the placement of the field drains was unknown. Mr. Gurney stated that the front setback, side and rear yards were adequate as well as the frontage, just the depth and the area were short and wondered if approval of the variance would effect the plan of zoning or would cause hardship even though they might be separated lots.

Mr. Tasker pointed out the requirements of the county/state board of health, that lots have to be large enough to have sufficient field drain. Mr. Tervort said he felt the lot was plenty large enough for this as he understands the absorption is good in that area and Mr. Tasker replied the density of the whole community had to be considered. Mr. Tasker asked if any additional property could be purchased from any adjacent neighbor in order to get the required footage. Mr. Kenneth Craig replied no as the Deverl Craig lot to the east of him is large but is tied up in real estate and they are trying to sell.

It was brought out that there are a number of small lots in the neighborhood but Mr. Gurney pointed out they were in existence prior to any ordinance and the ^{lot} in question was

what needed to be discussed. Mr. Andrews said he felt Mr. Bradley was sympathetic to his cause and also he had spoken with Mr. Openshaw, former chairman of the Board, who told him he felt they need not have a hearing even.

Mr. Gurney said he did not know the ramifications of the warrenty deed and feels it would be a vast change of the intent of the ordinance, even though there are some small lots in the area, this one is smaller.

Mr. Kidd asked to be excused from the remainder of the meeting as he had to be to work. He left the meeting at 7:20 A.M.

Mr. Gurney suggested that they have the city check on the status of the warrenty deeds seperating the two lots and meet later to make a decision. Mr. Andrews said it would create financial hardship on his son and make an island of land not of value if the variance is not granted. He feels all four of the conditions have been shown to exist which will allow the Board to grant it. Mr. Craig stated he is unable to take care of a bigger lot as he is confined to a wheelchair.

Mr. Hudson stated he felt they could not vote ^{pd} large a change in the ordinance and Mr. Tasker said he felt they needed clarifaction of Section 27 Non-Conforming Uses before a decision could be made. Mr. Gurney said as both deeds are in the same name he thought it did not make any difference and it would be difficult to determine if it meant anything without clarifaction whether a "lot" or "piece of property" were the same thing. Mr. Andrews said he did not think it made any difference, saying what if the two pieces where in different parts of town rather than together and he wondered if it really applied as the deeds were made prior to the ordinance.

It was decided Mr. Gurney should call the city attorney today and the board would meet at 7:00 A.M. tomorrow (Thursday May 28, 1981) for a decision.

Mr. Peterson asked to make a statement and said he had come representing Mrs. Ruth Peterson, an adjoining neighbor of the Deuels. He said they were willing to go along with the majority vote of the board in a decision but felt they were looking at the technical rather than the spirit of the law, as there ^{was} a number of small lots in the neighborhood. Mr. Gurney replied that was part of the reason for the ordinance as Mr. Jack Butler sold the small lots knowing the ordinance was in the mill and that the lots were too small to qualify. Mr. Peterson felt if it were left as it is now it would just be a vacant lot and a home on it would improve the area.

Mr. Hudson said he feels they need a legal opinion as the

lot is very small, the health department says too small, and if they grant this variance now they may be setting a precedent which will create other problems. Mr. Peterson spoke of future changes in the ordinance as they may want to sell lots later on and it was pointed out that only the city council with a public hearing can change the ordinance.

Mr. Andrews asked that they please consider the two deeds and that his son is in financial trouble if the variance does not go and he doesn't feel the year having passed makes the deeds not qualify.

Meeting adjourned at 7:40 A. M. until 7:00 A.M. tomorrow morning.

Ramona Roslund
Secretary