

Minutes of a Board of Adjustment hearing held on March 28, 1984, at City hall at 7:00 P. M.

Present were Board members Jack Hudson, Kay Higginson, Galen Kidd, Howard Fuller and Kim Barlow. Also Verl Wall, Ned Rushton and Councilman Dan Olson.

Mr. Hudson called the meeting to order and offered the prayer. He then explained that by law the Board of Adjustment is only allowed to grant minor changes in the Zoning Ordinance and the objective is to work with the person requesting the variance so there will be no hard feelings and so they can have give that person what he wants and still go by the Ordinance as nearly as possible.

Mr. Wall explained he wants to build a building and place it 28 feet west of his existing home and in line with the front of his home which is set back 20 feet from the property line. This building is for a garage and for the storage and selling of apples and by placing it this way it will be more convenient for him to go out the front of the home and on the front sidewalk to the building to sell apples in the winter time when there is likely to be snow.

Mr. Kidd asked if the only reason for placing the building 20 feet back was so it would be in line with the house and Mr. Wall said if he had to place it back 10 more feet, it would be where the ground is sloping. Mr. Olson said this would require fill and packing as well as an 8 feet concrete wall. Also, it is further away and would be harder for Mr. Wall to hear what is going on, should someone be out there. Mr. Hudson said he thought the ground did not slope until further back than that. Mr. Olson drew on the blackboard showing the placement of the home and the proposed building and where the slope of the land is. It is low where the home sits and raises up considerably higher about 25 feet west of the home and near the front of the property. It then slopes off before reaching the west property line.

Mr. Barlow suggested they split the difference and set it back 25 feet from the front line. It would still be on the hump of land and the variance would not be so much. Mr. Olson said it could be placed 35 to 40 feet to the west and then not need a wall but Mr. Wall wants it as close to his home as possible for the easiest access and so he can hear from his house if there are customers, etc. Mr. Wall said if he set the building back 30 feet it would also need to go further west because of the slope of the property.

Mr. Wall said it had been suggested that he separate his property with a deed and build the new building on the west half which would then be commercial and he would not need a variance. However, he did not want to do this as it would raise the property taxes on the commercial half and he thought it would require a separate power hookup as well as a separate water hookup and a business license which he felt would be too expensive. He said most towns do not require a business license in a residential zone. Mr. Barlow said that most cities did require a business license as this had recently been checked by the Planning

Commission.

Mr. Olson said he felt the zoning requirement was making some hardship on Mr. Wall since there would be added cost for construction materials for the retaining wall and fill, etc. and he would not be able to hear as well should someone be at the building. Mr. Barlow asked if the main reason for wanting the building where he is requesting it is so he can better hear if he has a customer and Mr. Wall replied that it would just be much more convenient for him, especially in the winter time and if he only went back 20 feet he would not have to have the additional foundation and Mr. Olson said he would have to go back 40 feet in order to build with just footings.

Mr. Olson said if the property were zoned commercial the taxes on the building and the land would be higher and with separate hookups, he could sell the land and put the money in the bank and make as much as selling apples but any job is better than no job. Mr. Wall said he wants to have the job. He said also, that if the building is behind the house the public can't see it as well.

Mr. Fuller said he could see it would definitely be an advantage for Mr. Wall to get from his house to the storage building. Mr. Wall said he did not want the variance because of his disability (Mr. Wall is blind) and it would be more advantageous closer to the house but would cost too much because of the retaining wall which would be necessary. Mr. Kidd suggested it be built according to the ordinance and he use a small intercom and Mr. Barlow said that 10 feet would not make any appreciable difference in the sound coming to the house from the new building.

Mr. Hudson asked if the building was a prefab one and Mr. Wall replied it was to be put on a foundation and built of cinder block.

Mr. Hudson explained to Mr. Wall that if the Board turns down his request for the variance he has the option of appealing to District Court or of asking the City Council to change the ordinance. He then excused everyone, telling Mr. Wall he would be notified of the decision of the Board. Mr. Wall asked if he could be called in the morning with the decision and was told that he would be called. Mr. Wall, Mr. Olson and Mr. Rushton left at 7:25 P. M.

The Board discussed the various problems that had been brought up regarding Mr. Wall's property and his desire for a variance of 10 feet in the setback from the front property line. There was a discussion of just what hardship is as defined by the courts. Mr. Kidd read from the guidelines for the Board that "the public safety and welfare must be served and justice is to be done". Mr. Fuller read where it says the plight of the owner must be unique and the hardship must be from zoning. Mr. Hudson said he had felt that dividing the property and building on the commercial part was the answer but he did not think of the additional expense such as taxes, etc. Mr. Fuller said he had plenty of room to put the building where the zoning requires but would need fill so as not to require a retaining wall. Mr. Kidd suggested they grant him a variance for 5 feet which would not be so great a

change from the ordinance. Mr. Barlow said he did not feel that 10 feet would make any difference in the sound carrying from the building to the house.

After some further discussion, Mr. Hudson called for a vote and made a motion that they grant the variance. Miss Higginson seconded the motion. There were three votes to grant the variance and two to deny the variance. The motion carried.

There was a short discussion as to whether a new chairman should be chosen since Mr. Hudson had been chairman for over a year and he thought the ordinance called for a new chairman after each year. It was found that this was not so and they felt Mr. Hudson should continue as chairman.

Meeting adjourned at 8 P.M.

Ramona Rosenhead
Secretary