

Minutes of a Board of Adjustment hearing held at City Hall on April 23, 1986, at 7:30 P. M.

Present were Board Chairman Howard Fuller and Board members Ed Westover, Lynnette Neff and Charles Coleman. Also present were Susan and Terry Hallett, Melva Hansen, Shirley Stromness, Harriett Hallett, Clara Goudy, Bonnie Rees, Gary Rich, Mr. & Mrs. Kenneth Hansen, Jr., James Bott, Donna Bott and Maude Kay with minutes recorded by Ramona Rosenlund.

Mr. Fuller called the meeting to order at 7:30 P. M. and James Bott offered the prayer.

Mr. Fuller explained that the Board donates their time as a public service and each member serves for a number of years. He said there are two types of variances they are allowed to grant which are hardship variances and minor departures from the ordinance. They cannot grant use variances. He explained that hardship variances are something that results from the application of the zoning ordinance and is not self-created. He enumerated the following things that have to be looked at in considering a request for a variance:

1. Does the zoning ordinance lead to practical difficulties or undue hardships on the part of the property owner in the use of this property?
2. Is the hardship unique to this property?
3. Is the hardship caused by actions on the part of the land owner. (Self-created hardship).
4. Is the landowner unable, at a reasonable cost, to acquire adjacent land so as to meet the dimensional standards of the ordinance?
5. Will the proposal alter the essential character of the area?
6. Is the proposal in conformance with the spirit and intent of the zoning ordinance.

Mr. Fuller said try to keep in mind that the Board has the function of a public advocate and so they need to make sure what they grant is for the public good and that they can not grant large variances, only minor ones.

Mr. Hallett was asked to explain what he wants to do. He had a large drawing of the property and said he could revise the 13 foot setback in the front and the 20 foot setback in the rear by cutting down the size of the building. However, he wants to divide the property in such a way that there will be no sideyard on the north side of the existing home. Mrs. Neff said there had to be an 8 foot sideyard in order to meet the zoning requirements. Mr. Hallett said he would like to get a variance on the existing building so as to not need this 8 foot side yard. Mr. Fuller pointed out that the ordinance also requires a 30 foot rear yard.

It was pointed out that there is an existing shed in the southeast corner of the property that was built prior to the existing ordinance and that this would be torn down in order to build the new building if the variances asked for are granted.

Mr. Fuller asked how many square feet would be in the proposed new building and

Mr. Hallett replied it would contain 3,000 square feet. Mrs. Neff asked what the depth of the lot was and Mr. Hallett said it is 133 feet deep. Mr. Fuller pointed out that the ordinance allows accessory buildings to be no larger than 10% of the gross area of the lot. Susan Hallett said they are going to divide the lot into two lots and so this would not apply.

Mr. Bott asked if they would have to have a roadway between Mrs. Hansen's fence and the proposed building. Mr. Hallett said there would be 47 feet of space and it will have a road. Mrs. Neff asked if it would be garage-type storage sheds and Mr. Hallett said yes it would and that the area would be graveled for driving in and out and for unloading.

Mrs. Neff said she felt an 8 foot variance was a large one and Mr. Hallett said if they moved the division line of the property over to allow the 8 feet on the existing home it would cut the front of the second lot to 77 feet. Mrs. Bott asked how it would effect the existing house when it was put up for sale if there was no side yard. Mr. Hallett said the buyer would know about it and his wife said they would know about it and did not have to sell it.

Mrs. Hansen said that Mr. Hallett has told them the building will be 12 feet high. Their property as well as that in question is on a slope which will make the building look even higher in the air when looking at it from their place. Mr. Hallett replied it will not be higher than a house or the end of the existing carport.

Mrs. Stromness said she hoped the Board would look at the situation for her mother. Her home has a picture window which looks on that lot. Even though the building were only 12 feet high, she would be looking at a wall. She explained that her mother was just recently widowed and is recuperating from major surgery and finds this very depressing. She said her father who just recently died from cancer enjoyed looking at the mountains. Mr. Hallett said they had done this planning with Melva's best interests in mind and as to the height of the building, any house would be taller. Mr. Rich commented that they would need a variance before a house could be built.

Mrs. Stromness said she had spoken with a real estate agent and was told this type of business would degrade the the area and that no bank would likely make a loan on a home in that neighborhood. She said they appreciate Terry's feelings but don't think this should be allowed to go in. She said her mother has a lot but she can't sell it as it is not deep enough to meet the ordinance and they don't think one person should be helped at the expense of others.

Mr. Hallett said he would like to invite everyone up to look at the situation. He said it did go down on a grade to the north but he intended to level it off by taking dirt from the high side.

Mrs. Stromness said the view was not the only argument against the storage units but she felt it would open up the area for burglary and so would require security with lights, dogs, etc. Mr. Hallett said he intended to put in a brick fence in the future and he was hesitant to put in lights as he thought it might disturb the neighbors. He said the building would have no water, no lights or anything of that nature. Mrs. Rees asked if the brick fence would be near Mrs. Hansen's and Mr. Hallett replied it would be on the fence line.

Mrs. Stromness said she thought the reason for zoning was to prevent things like this in a residential area. Her mother was denied a permit to build a

garage closer because of zoning and wondered if this thing for Mr. Hallett would set a pattern for things to come. Mrs. Hansen said when the town was first wanting to zone she didn't want it as she thought it would take away peoples right to use their property as they wanted but now she can see that it can prevent these kinds of things. Mrs. Bott said she was afraid that if we bend in one case how is she to know that a drive-in or something can be on the vacant lot next to her home and who is to stop it. She feels zoning is valuable for this reason and she is against the variances being granted to Mr. Hallett.

Mrs. Stromness suggested the second lot could be sold as a building lot for a home.

Mrs. Neff said the Board was not here to pass judgement, but to make sure the ordinance is upheld. They will listen to all input but need to consider the facts and if they fit the zoning ordinance. It appears there are about five variances that have to be decided on, one of which is if a commercial or home industry business should be allowed in a residential zone. Mr. Rich said he understood that a home industry required that the owner live on the same premises and Mr. Hallett would not be living there. Mrs. Neff said yes, that was so and was one of the variances being requested.

Mr. Fuller read from the Zoning Ordinance Section 17:29 and Section 26:2 which gives the requirements for a home industry and he said these are the things that have to be followed. Mrs. Stromness said she thought this was a morale issue. Mrs. Rees said they lived here even though her husband worked in Salt Lake as they liked the rural type area and her children would be playing around this area and it may not be safe because it may invite criminal type activities. She went on to say they have been told it would devalue their property if a storage unit were built here and it would increase their property taxes. She said she did not want personal feelings but this is the way she feels.

Mrs. Melva Hansen she has lived on this corner for 52 years and they have tried to keep it looking nice and she feels it won't be right to put in storage units and most of the neighbors agree with this. Mrs. Susan Hallett asked how this was going to detract and Mrs. Hansen replied it would be putting a business instead of a home. Mrs. Bott said there would be people coming and going at all times of the day and night and different clientele and we don't know who or what might be stored.

Mr. Fuller said he had received two letters concerning the question of a variance and asked Mr. Coleman to read them for the record. The first letter signed by Vernon and Rosely Prince read: "To Whom it May Concern, we would rather not have any business houses or buildings on our block--we don't have much going for us up in this area anyway, so we would like to keep that kind of thing in business areas. Nothing personal to the Hallett family. Thanks." The second letter signed by Mrs. Margaret Carter read: "Lets keep this neighborhood like it was zoned to be residential. Lets keep it that way. I don't want to look up at them brick wall the rest of my life. We don't need any business up here. I own my property here. Let's keep thing the way they are zoned to be."

Mr. Rich said he feels hesitant to allow commercial buildings in this area as we have a business district for businesses and the surrounding property owners don't feel it would be good. Maybe it would be a benefit to the community but

not to the benefit of the surrounding property owners.

Mrs. Neff said a Home Industry has to have a home with it and as there is not one planned, the lot would have to be zoned commercial. This would be spot zoning which is a problem. If they keep the home and live there and then have the storage building it could be a home industry. Mr. Fuller pointed out that they would have to live there, not rent the house and would be required to have a business license. Mrs. Neff went on to explain that all requests for home industries have to come before the Board of Adjustment so the surrounding neighbors can have input.

Mrs. Susan Hallett asked what if they built a big garage? and Mrs. Neff asked what they would use it for. Mr. Fuller said if the property was left in one piece they could build it as large as 10% of the gross area of the lot. If the property is divided, it is a different situation. Mr. Hallett said he can make the building to the size required.

Mr. Fuller said that to have the necessary sideyard clearance on the existing home, it would cut down on the frontage of the second lot and as they were not asking for a variance on the frontage of the second lot, the Board could not rule on this as they can only rule on what is asked for at any one given hearing. There is nothing the Board can do where an ordinance has been passed prohibiting something. As the ordinance now reads they would not conform to all the stipulations. He explained that if the Halletts feel the ordinance needs to be changed, they need to go through the City Council and the Planning Commission. He said that should the Board rule against granting the variances they are requesting, they have 30 days to appeal that decision to the District Court.

Mr. Bott asked if commercial business has any area and Mrs. Neff told him it was half a block on each side of Main Street and along the frontage road for a depth of 275 feet.

Mr. Hallett said the lot in question is now a fire hazard as it is covered with weeds and that if there was a building of metal and brick and a gravel yard there would be no fire hazard and this should have some influence on allowing him to build it. Mrs. Bott said it is our civic duty to clean our own yards of fire hazards and this was not even an argument.

Mr. Westover said the Board does not have the authority to grant what they are asking anyway because the state law does not allow them to change a zone. Planning Commission has to do that. Mrs. Susan Hallett asked if they can make a variance on the property line as they need to divide the property.

Mrs. Stromness said she did not know the members of the Board and so Mr. Fuller introduced them.

Mr. Hallett said they are going for the changes requested in the letter. He asked if they would have to reapply if the setback was changed and they moved the property line or can they go for the variances on the setback now. Mr. Fuller said they have to act on what is asked for in the request. Mr. Westover said they could consider a change of a few feet for the frontage but not 10 or so feet which is not minor, unless the land can't be used for anything else. If the shape of the land was such that there was enough area but short on frontage, such as a triangular shaped lot, they could consider the request but totally eliminating a sideyard is something they cannot do. Mrs. Neff said the

setback and sideyard requirements are for fire protection as well as aesthetic and property value. If they had a 78 foot frontage, it could be considered as they have the required area.

Mr. Fuller asked if there were any more questions or comments and as there appeared to be none, he said they would excuse everyone now and then make the decision on the request and the Halletts would be notified by mail. Everyone except the Halletts left at 8:35 P. M.

Mrs Susan Hallett asked if they could make a decision on allowing the 8 foot sideyard for the existing house and making the second lot 78 foot frontage. Mrs. Neff said no, this would be a seperate variance. Mr. Fuller said they are asking that the sideyard be eliminated, a home industry be allowed with alterations and also a front and rear yard setback change, according to the request. Mr. Hallett said he could cut down the size of the building but need a determination on the property line so they can make the deeds for two lots.

The Halletts left the meeting at 8:40 P. M.

There was a discussion of the request of the Halletts with Mr. Fuller saying he did not feel they could grant the elimination of the 8 foot sideyard for the existing house nor the front setback of 13 feet. The rear yard is closer to the ordinance but he felt they could not grant a variance of 10 feet, when the size of the building could be changed to allow more. Also the majority of the neighbors are apposed to a storage unit business being allowed. The Board acts as an advocate for the public interest. They have granted some home industrys before but this one does not qualify.

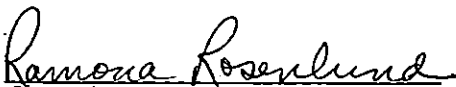
There was a short discussion of the granting of a license for a home industry and what should happen if the people granted it don't follow the ordinance. It was decided the Zoning Administrator was the one to investigate any complaints on this.

Mrs. Neff said they can't consider this on the morale value of the arguments and Mr. Westover said they would have to reapply for a new variance for allowing the division of the lot making one too short on frontage.

Mr. Fuller called for a vote and Mrs. Neff made a motion that the request for a variance to eliminate the sideyard for the existing home be denied and this would cancell the other variances being requested as none of them comply with the ordinance. Mr. Coleman seconded the motion which passed unanimously.

Mr. Fuller said he had received a number of phone calls prior to this hearing and that of course he could not say what would happen as they are not allowed to make a decision prior to all evidence being presented at a public hearing and they must make sure the ordinance is being followed.

Meeting adjourned at 8:53 P. M.

  
Secretary