

**Cedar City Board of Adjustments Minutes
May 2, 2016**

The Cedar City Board of Adjustments held a meeting on Monday May 2nd, 2016 at 5:15 p.m., in the City Council Chambers, 10 North Main Street, Cedar City, Utah.

PRESENT: Chair Zurl Thornock, Janet McCrea, Jill Peterson, Steve Dodds, Joe Sanders, Building Inspector Drew Jackson, Assistant City Attorney Randall McUne, Executive Secretary Barbara Barrick.

EXCUSED: Ann Powell, John Ashby.

OTHERS PRESENT: Kile Larson, Joanna Price, Darryl Brown, Rhett Bonzer, Mark Webster.

CALL TO ORDER: Zurl called the meeting to order at 5:17 p.m.

APPROVAL OF MINUTES: Motion to approve the minutes of the March 7th, 2016 meeting by Jill. Second by Steve. Vote unanimous to approve.

APPROVAL OF FINDINGS OF FACT:

Motion to approve the Findings of Fact of March 7th, 2016 by Joe. Second by Janet. Vote unanimous to approve.

REQUEST FOR A HOME OCCUPATION PERMIT TO OPERATE A REIKI, REFLEXOLOGY AND HERBAL CONSULTATION BUSINESS OUT OF A RESIDENCE LOCATED AT 347 SOUTH, 700 WEST/JOANNA PRICE:

Joanna – I want to have a reiki energy healing business in Cedar City. The reflexology portion uses the Chinese meridians in the feet and is a type of massage. I am finishing my degree in herbal consultation as well. I will only have one client at a time. The business will be conducted within the dwelling and she will be the only employee and doesn't plan on ever having another employee. Drew has inspected the residence and the square footage meets the requirement. Drew – The parking is a problem. Joanna – Our renters in the basement will be moving out, so it won't be a problem. Drew – There were two separate units when I was there so with the ordinance and having it be a multiple dwelling, the requirement would be 7.8 parking spaces. Joanna – We have terminated our contracts with our tenants, so there will be enough parking. Drew – Then she would be in compliance, as it would be one unit then. She won't use any other buildings, and she won't have any delivery vehicles. There will not be a drive through. She owns the home. She has turned in her notice to the neighboring properties. Drew has a site plan. She will have a sign but it will be the size required by the ordinance. She will obtain a business license upon approval of the Board. Randall – The sign must be 10 feet behind the sidewalk and not be more than 4 feet from ground level.

Motion to approve by Janet. Second by Joe. Vote unanimous to approve.

REQUEST FOR A HOME OCCUPATION PERMIT TO OPERATE A DAYCARE OUT OF A RESIDENCE LOCATED AT 985 SOUTH 1850 WEST/BRIGHID PORTER:

The applicant is not here, so this will be tabled for now. Randall – There was an issue with notice to property owners, and we reached out to her to inform her of this, and we haven't heard back. Zurl – We will table this then until we receive the required notice. Motion to table by Steve. Second by Jill. Vote unanimous to table this application until the required notice is received.

**REQUEST FOR A VARIANCE ON THE SETBACK ON A PROPERTY LOCATED AT 190 NORTH
HIGHLAND DRIVE/KILE LARSON/WATSON ENGINEERING:**

Kile – I am the owner of the property and would like to build a garage. To have the size that I want, I need more than the 8 foot setback. Darryl – I’m a designer with Watson Engineering. The basis of our request is that there is historical evidence showing that the detached garages have been built closer than the 8 feet setback. In the photos, there are some showing that they don’t sit behind the structure as required by the ordinance. We don’t know when these structures were constructed. Jill – So you have the 8 feet but not the 6 feet behind the home? Kile – I want the garage even with the house. I need to build closer to the property line. Steve – Why do you need that size of garage? Kile – I want to have a two-car garage. Steve – What’s on the other side? Kile – A brick wall and another home. Steve – So you want to take the car port off and put up a garage? Kile – Yes. Drew – This is an R-1 zone. The side setbacks are supposed to be 8 feet except for private garages can be 6 feet from the rear of the building and can be as close as one foot to the property line. He wants the garage at the front of the house so he would need 6 feet from the home and 8 feet from the property line. They’ve brought some history to the table and in the past we’ve seen some within the 8 feet. Joe – Why would this spacing be in the ordinance? Steve – For fire safety, I would guess. Drew – There is a fire separation for the 6 feet. Not sure about the 8 feet. In my mind it is just to create space between neighbors. Steve – Ensuring that a fire would not spread to neighbor’s house would be my take. Kile – There is a 6 foot wall between the properties. Zurl – How far from your house to the brick wall? Kile – 31 feet. Zurl – How close would you build the building. Kile – I would like to go within one foot. Randall – Why do you prefer a detached garage? Kile – My wife wants it. Randall – Obviously, the Board will be looking at the hardship. Is it possible to build a 2-car garage that is attached to the house? Kile – We haven’t designed any plans yet. Janet – The request is for the variance for the six feet too? Kile – I’m okay with that, just the 8 feet. Randall – If you can build something, but you prefer something else, it is not a hardship. That’s why I’m curious. Janet – We just had a case for a couple that had a carport and wanted a two car garage and the issue was safety. We denied that request. Randall – Their neighborhood is very similar to this one where they have added or converted car ports, and we don’t have a record of official approval and most likely they violated the ordinance. Joe – We have property owners who have just gone ahead and built without a permit, and we appreciate your coming in. Zurl began to read the five requirements for granting a variance:

1. Literal enforcement would cause an unreasonable hardship: Zurl – What do you think the hardship is? Darryl – In order to get the two car garage that my client would like we will have to build within the 8 feet required by the ordinance. Zurl – Most people build 2-car garages now. Steve – That is not truly a hardship, and you could use an attached garage. I’m not seeing that as a hardship, but as a preference. Janet – I agree with Steve. Jill – In light of the application we denied in January, if you did the attached garage it could be a roughly a 23 foot garage. Joe – And it would be in compliance. Kile – It is a possibility. Janet – In January the issue was that a two car garage wouldn’t fit. Zurl – Is there room for a building in the back? Kile – We have room but it is landscaped. Zurl – But there is room, you would just have to give up something. Zurl – We don’t see an unreasonable hardship so I don’t think we can proceed.

Motion to deny by Steve because the application doesn’t meet requirement number 1. Second by Janet. Vote unanimous to deny.

REQUEST FOR A VARIANCE ON THE SETBACK ON A PROPERTY LOCATED AT 2273 WEST 460 SOUTH/MARK WEBSTER/WATSON ENGINEERING:

Darryl – This is the same request. The client wants to build within 6 feet of the main structure. Drew – Is your hope to encroach within the 8 foot side setback and have a one foot side setback? Darryl – Our hope is for the rights of the property owners to use their property. Steve – Unfortunately all of these ordinances encroach on owners’ rights, but it benefits it all. If something was quite different about this request we could look at it, but if it is similar, it will be the same as the last one. Darryl – We are asking for 6 feet from the main structure and one foot from the property line. Steve – Without any more information it wouldn’t change my mind from the decision we just made. You can’t pick and choose which ones you want. It would take something abnormal to compel us to change our minds on this. I think safety is a big one on this with fire concerns or wind concerns. Ordinances do cut into the property rights of all of us. Darryl – You can have the garage within one foot of the property line if it’s in the back. Steve – Look at the access to the property then you’re talking about a whole different scenario. Jill – You have to look at what is on the adjacent lots as well. Zurl – I looked at this and there is already a three car garage. I would like to know how big the structure is, etc. Just based on the numbers we would deny this. We need to understand the hardship. It can’t be a preference. Darryl – What are the five requirements for future reference? Zurl read the requirements. Zurl - They are somewhat broad but we must all agree that those tests are met. Is there something about this second property that is different? We won’t approve just because there are other properties in the area that have done this. Randall – I emphasize that the other information is not relevant. That information would fit in with question number three. Maybe you can see if you can meet the other four. Janet – If the others were not approved, it doesn’t meet the requirements. Randall – I don’t have proof that they didn’t apply for a variance. We are just now organizing the building permits. We’ll get there but not there yet. Zurl – You could withdraw your application since we denied the first one. You could come back and be prepared to discuss the five requirements. Darryl – We will withdraw and revisit the requirements.

The meeting adjourned at 6:02 p.m.

Barbara Barrick
Executive Secretary