

**Cedar City Board of Adjustments Minutes**  
**August 1, 2016**

The Cedar City Board of Adjustments held a meeting on Monday, August 1, 2016 at 5:15 p.m., in the City Council Chambers, 10 North Main Street, Cedar City, Utah.

**PRESENT:** Chair Zurl Thornock, Ann Powell, Jill Peterson, John Ashby, Building Inspector Drew Jackson, Assistant City Attorney Randall McUne, Executive Assistant Barbara Barrick.

**EXCUSED:** Steve Dodds, Janet McCrea, Joe Sanders.

**OTHERS PRESENT:** Ashley Vance, Cody Vance, Linda Williams, Brooke Tasker, Alissa Starnes, Amanda Hanson.

**CALL TO ORDER:** Zurl called the meeting to order at 5:15 p.m.

**APPROVAL OF MINUTES:** Motion to approve the minutes of the July 11th meeting by Ann. Second by Jill. Vote unanimous to approve.

**APPROVAL OF MINUTES:** Motion to approve the Findings of Fact of the July 11<sup>th</sup> meeting by Jill. Second by Ann. Vote unanimous to approve

**REQUEST FOR A HOME OCCUPATION PERMIT TO OPERATE A DAYCARE AT A RESIDENCE LOCATED AT 390 NORTH 900 WEST/ALISSA STARNES:** Alissa – I live at 390 North 900 West. I'd like to open a daycare at this residence. I have a question about the 25% square feet requirement. I think there is confusion. None of my ground floor will be used for the business, as I am using my basement. Randall read the requirement in the ordinance. Randall - We don't care where the business is conducted. The square footage requirement determines how many kids can you have. Zurl – What about the term ground floor and basement? Randall – The 25% only counts the ground floor, where you walk in. Ann – So how many kids can she have per square foot? Alissa – So I'm limited by the ground floor? Randall – It just determines the number of kids. Day care limits you in numbers, not by space. But you can have them anywhere in your house. Alissa – Even if they never enter the basement the number is limited? Randall – Yes. Alissa – Everyone that I've talked to has not had this applied to them. Not anyone I know. This ordinance doesn't make sense to me and I'm going to try to change it. Randall – Is your basement size the same as your main floor? Alissa – Yes. Randall – Then it's the same calculation. Alissa – But I can use my whole basement for my daycare? Sorry I misunderstood. Drew – We calculated about 890 square feet on the main floor, so a maximum of 25% can be used or approximately 230 square feet. The requirement is one child per 25 square feet, so that came out to 9 kids. Alissa – But I can use my whole basement. Randall – It is confusing. Alissa – So I can still only have that many kids? Randall – Yes. You can use any of the house. The calculation only matters for daycares and preschools as to how many kids they can have per square foot. You take the square footage of the main floor, divide by 4, and then for 25 square feet that's how many kids you can have. This only matters for how many children you can have, not where you have the children. Drew – In building and zoning we have parameters and you are looking at the closest best fit. It might now specifically say day care center at your home. But that is the closest that fit to a daycare. Alissa – I am trying to change the ordinance. It doesn't make sense. Drew – We'd welcome that. It is a process. Zurl – If we approved your application, you'd be limited to 9 children including any of your own children so you need to understand that. We've been applying that formula for the 5 years I've been on the Board. Drew – And there are a couple of other parameters. She has a fenced yard. She has parking with 6 spaces, so she is in compliance for parking. The business will be conducted within the dwelling. She

will have no other employees. She could have an additional employee plus herself. She won't use accessory buildings. She won't use commercial vehicles and won't have a drive through. The use will be as a residential use. She owns the home. She has turned in her notice to the neighbors, and has turned in the site plan. She doesn't intend to have the sign and will check with Drew if she decides to have one. The Fire Marshal has inspected the dwelling and she will obtain a business license upon approval of the Board.

Motion to approve by Ann. Second by John. Vote unanimous to approve.

**REQUEST FOR A HOME OCCUPATION PERMIT TO OPERATE A MONTESSORI PRESCHOOL AT A RESIDENCE LOCATED AT 372 WEST 970 NORTH/AMANDA HANSON:**

**HANSON:** Amanda – I used to practice law and now I have babies. I love the Montessori method and want to raise my children with this method. We have Gateway Academy here for a Montessori education and we tried to find a commercial space and so we are temporarily going to have it in my home. Zurl – So it will be conducted entirely in the home. Drew has measured the square footage and since 325 square feet can be used, she can have 13 kids. Amanda – I won't have more than 13, but I had asked for 16. Drew was very kind to explain. She will have 1 additional employee. Daycare licensing requires more than one employee if there are more than 8 children. Zurl – She will not use accessory buildings, no commercial vehicles, and no drive through. The daycare will be secondary to the residential use of the home. She owns the home and has turned in notice to her neighbors. Drew – She is in compliance. We have a site plan. She doesn't plan on a sign. The Fire Marshal has inspected the residence and she has enough parking. She'll obtain a business license upon approval of the Board. John – Do you have to have specialized Montessori training? Amanda – It's not required, but I am working on accreditation and need to complete the practicum. Motion to approve by Jill. Second by Ann. Vote unanimous to approve.

**REQUEST FOR A HOME OCCUPATION PERMIT TO OPERATE A DAYCARE AT A RESIDENCE LOCATED AT 237 NORTH 400 WEST/ASHLEY VANCE:**

Ashley – I'm here to open a day care. This is a re-licensing as my sister-in-law had a daycare here and my husband and I moved in. My mother-in-law owns the home and she is on a mission and we have a letter stating that we have her permission to have the business in the home. The business will be conducted within the home, with only she and her husband as employees and she understands the limits on employees. She won't use any accessory buildings, no deliveries, and no drive through. The daycare will be secondary to the residential use of the home. She has turned in the required notice to her neighbors. Drew – We're in good shape and I have the site plan. She will have a sign and she understands the requirements. She can use 639 square feet and so she can have 24 kids. But our ordinance limits the number of children to 16 maximum. She is aware of this. She is okay on parking and the Fire Marshal has inspected the residence. She will obtain a business license upon approval of the Board. The home is fenced.

Motion to approve by Ann. Second by John. Vote unanimous to approve. Randall – By granting this we've eliminated the previous home occupation, Busy Bee's academy. You can't have two at the same residence. She would have to get permission again from the Board if she wanted a home occupation permit under the previous home occupation. Just for your information.

**REQUEST FOR A HOME OCCUPATION PERMIT TO OPERATE A MASSAGE THERAPY BUSINESS AT A RESIDENCE LOCATED AT 161 NORTH 800 WEST/LINDA MASON**

**WILLIAMS:** Zurl – We apologize for the misunderstanding last month. Linda – I've been licensed for 10 years in Cedar City and have a business license. I want to move where I am currently working. The business will be held entirely within the dwelling. She will have no employees. Drew – She will use 130 square feet so the square footage is in compliance. Zurl – Could she have an employee if she

know? Randall – it doesn't specify. Not that it matters, because she doesn't intend to. If she had other employees, she might run into a parking problem. Zuri – She is okay with parking with just herself as the employee? Drew – Yes. Linda – I only book appointments one at a time. The business will be entirely within the home, there will be no delivery trucks, no drive through, and the use will be incidental to residential use of the building. She owns the home and has two adult children that live there, but she doesn't reside at the home. Zuri – Is there any issue with her not living there? Randall – Technically there is, but she could be her own employee. We run into that where people use it as a business, not their residence, and we've turned them down in the past. Zuri – But it's not a rental property, it's family. Randall – The language used to be very strict and the proponent had to reside in the home, but when the ordinance was changed it potentially broadened that. As long as it's family and you want to grant the home occupation today, make the approval contingent on obtaining a letter from the children that mom can use the home for her business. Make sure it says it is their primary residence and they consent to using the home for her business. As long as it meets the criteria that the use is incidental to the use of a home as a residence, it's okay. She has notified the neighbors and Drew has a site-plan. She intends to have a sign and can have 2 x 3-foot sign, which can't be lit or neon. Randall – work with Drew before you spend any money on a sign. She already has business license. Motion to approve by Ann with the condition of receiving a letter from her adult children (who reside in the residence) giving approval for her to run the business out of the home and stating that the home is their primary residence. Second by Jill. Vote unanimous to approve.

**REQUEST TO OPERATE AN ACCOUNTING BUSINESS AT A RESIDENCE LOCATED AT 2752 WEST 25 SOUTH/BROOKE TASKER:**

Brooke - I want to get a home occupancy permit for my accounting business. I already had a business license but I am building a new home and was told I needed to appear before the Board when I moved the business. Randall – The name was misspelled on the publication, but it is not a problem with the required notification. Zuri – The business will be entirely within the home and will be carried on by her and her family only. Drew – The main floor is 1200 square feet and the office does not exceed 250. Zuri – So she could have a couple of employees. Drew – But we'd have to look at parking there if she wanted employees. She doesn't intend to have an employee. Randall – If they are looking at adding an employee after the home occupation is granted, they need to check with the Board to see if the requirements have changed. The business will use no accessory buildings, no commercial buildings, and have no drive-through. The use will be incidental to the residential use of the home. She owns the home. She has given notice to the neighbors. Drew – She is in compliance with neighbor notification and I have the site plan. She doesn't intend to have sign. Drew – She has enough parking. She will change the business license to the new address. Motion to approve by John. Second by Ann. Vote unanimous to approve.

**ADJOURN:** The meeting adjourned at 6:03 p.m.

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Barbara Barrick  
Executive Assistant