

Cedar City Board of Adjustments
Minutes
April 3rd, 2023

The Cedar City Board of Adjustments held a meeting on Monday, April 3rd, 2023, at 5:15 p.m. in the City Council Chambers, 10 North Main Street, Cedar City, Utah.

PRESENT: Chairperson Janet McCrea; John Ashby; Carter Wilkey; Mark Mumford; Chris Beamson; Asst City Attorney, Randall McUne; Chief Building Official, Drew Jackson; Executive Asst, Natasha Nava.

EXCUSED: Dorian Page; Chad Carter.

OTHERS PRESENT: Daniel Bulloch.

1. **CALL TO ORDER:** Janet: welcomed everyone. John led everyone in the Pledge of Allegiance.
2. **APPROVAL OF MINUTES:** Janet I asked Natasha to make an edit to the minutes regrading a name correction for the February minutes. John motions to approve the corrected Minutes from the February 6th and March 6th meetings; second by Carter; all in favor unanimous decision.
3. **APPROVAL OF FINDINGS OF FACT:** Mark motions to approve the Findings of Fact from the February 6th and March 6th meetings; second by Chris; all in favor unanimous decision.
4. **Request for Home Occupation/ Massage Therapy Business at property located at 541 South 300 East/ Balanced Body Zone/ Thomas Russell Bradley:** Randall the applicant did not complete the notifications by the deadline for this item to be reviewed by the board. It has been added to the May agenda.
5. **Request for Variance to install a site-obscuring fence within the 15' frontage and accept the paved entrances to the site on property located at 2476 West 1600 North/ Bulloch Outdoor Self Storage/ Daniel Bulloch:** Daniel we have this piece of property that we want to build a storage unit. We put the site obscuring fence in during construction and would like a variance to keep the fence after the completion. I don't feel that it causes any kind of danger by keeping it as is. It is straight in both directions going east and west. I have an email from Michael (exhibit 1). Carter that email sounds like permission to clear the land. Daniel our application also referenced a fence. Randall he wouldn't have to pull a building permit in this case as he is not building a building. The fence will become an issue when he applies for a business license. Carter what is he violating? Randall he is within the 15-foot setbacks. Which can be a safety issue. Carter isn't the National Guard closing that road. When we move the road to the rear of this property per the Master Plan; this road will be blocked off now. Randall do we have any idea when? Janet was there a reason why you put the fence where you did? Daniel I didn't even think about it, honestly. John if it won't even be an accessed road, where does that leave us? Randall it's currently a public road, and we require safe access on and off public roads. If it is no longer a public road in the future, we do not care. Do you think he meets the 5 questions and his situation is an unreasonable hardship. Janet where is the fence in relation to the road? Daniel about 1-foot off the property line. (Exhibit 2). Randall the entrances need to be 15-feet off the property line. How far in are your entrances? Daniel they are about 60-feet back from the property line. Randall before they enter onto the roadway is there anything obscuring visibility? Carter what does he need to do to comply? Move his fence 15-feet back? Randall or remove some of the slats so that there is visibility. Carter I thought storage places required block wall fencing? Drew not if the vehicles are in working order. Janet this email only refers to clearing your land, no mention of a fence. Daniel that is the way the email reads. I discussed it with Michael and Kit both, and referenced it on the application that was submitted. Janet this email does not give you permission to install a site obscuring fence in the 15-foot setbacks. Randall how should we approach this? Decide based on the current road, or based on the anticipated chances of the road? Randall I think you should start with the current circumstances. However, I don't think we should ignore future changes. John this is a slated chain-link fence, correct? Remove the slats. Janet I see it as a safety issue currently. However, removing the slats would elevate that. John remove the slats in the 15-foot entrances.
 1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance; Daniel I just don't want to move the fence. I don't have an unreasonable hardship. Randall can the slats be removed? Daniel I believe so. I can remove some of the slats if that's what's needed to move forward. Janet it may create a precedence for those who do not follow the code and then want a variance after the fact. John it sounds like an easy solution to remove the slats. Carter we can't seem to get past question 1. Drew if he removes the slats in the 15-foot entrance he does not need a variance. John who makes sure this happens? Drew when he pulls a business license; they would make sure he follows the current code. Randall his situation is a little different especially with not needing a building permit. He wouldn't know about the 15-foot automatically. Carter if we deny the variance. Could someone from the Building Department go out to the property and tell him how many slats he needs to remove to comply? Daniel we discussed at what percent a fence becomes site-

obscuring. **Drew** I believe 90% is considered site-obscuring. Which is what you have now. **Janet** everything in the 15-foot would need to be removed. **Randall** I think we need guidance from Don Boudreau, City Planner regarding the slats. If you decide that removing the slats is an unreasonable hardship you can move forward with the questions. **Janet** it would be a financial hardship. **Carter** agreed. Please explain what you're asking for in the 2nd part of your variance request. **Daniel** we currently have crushed rock at the entrances, and we will pave them once the weather improves to do so. **Carter** and you want to be able to conduct business in the meantime. **Daniel** yes. **Randall** that is a request that we have approved in the past. We understand that concrete is seasonal, and we do not expect someone to cease business until weather conditions improve. **Janet** we could place a contingency that it must be completed by a specific date. **Carter** that sounds like a deferral and we don't like deferrals. **Randall** it would be a variance with a specific deadline. **Janet** the hardship is the weather. Which is out of your control, it's snowing right now. **Carter** let's split them and I'll make 2 motions.

Carter motions to deny the variance for a site obscuring fence in the 15-foot frontage. Second by Chris. All in favor; unanimous decision.

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance; **Daniel** we will be putting in hard surface, we just can't until the weather allows. **Janet** could you have it done by July? **Daniel** yes, and if not, I will come and ask for more time.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district; **Daniel** the access to the road. Those are the only 2 accesses to the property until they move the road. It would not interfere with any other interchanges on that road. **John** it will be a site of its own without any developed neighbors. If we grant this variance, it will have little impact on neighboring properties precedence wise. **Carter** this road change is very specific to his property. By July 1st, this road may no longer be a public road. He could come back to the City once the new road is established. Why put in a road that is going to be torn out? His and 1 other property are the only properties this road change will impact. **John** who oversees this to ensure it is done? **Carter** the road change has been approved by the City Council. It's in the construction phase right now. The City has already approached him regarding the purchase of his property. **Mark** the changes that are coming to the road satisfies me. **Janet** so deferral makes sense until there is further clarity from the Council.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district; **Carter** it's his right to develop the property. **Mark** I agree he needs to be able to use the property in the meantime. **Chris** that's fair.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and **Randall** the general plan is what's causing this. **Carter** if this goes through, the road will be vacated. **Janet** it's not that the variance will substantially affect the general plan; the general plan is substantially affecting the property.
5. The spirit of the zoning ordinance is observed, and substantial justice is done. **Carter** yes.

Carter motions to grant the variance for the paved hard surface entrances to the sight with an expiration date of July 31st, 2023. Mark seconds. All in favor unanimous.

Randall when you are ready to pave the entrances, please speak with Staff and see where we are with the road. Let's make sure we are all on the same page. **Carter** this variance is only on the paved entrances. You will still need to do whatever you need to do regarding the fence. **Drew** section 26-I-4 Definitions "Chain-link which meets the minimum specifications as manufactured by "Privacy Link" or an approved equal with factory inserted slats that achieves a 98% privacy factor." **Randall** remove them all for the first 15-feet, and remove 1 out of every 49 for the rest of the fence.

ADJOURN: The meeting adjourned at 5:58 p.m.



Natasha Nava
Executive Assistant