

Cedar City Board of Adjustments Minutes  
July 19, 2021

**PRESENT:** Janet McCrea, John Ashby, Phil Schmidt, Joe Sanders, Drew Jackson-Building Official, Randall McUne-Assistant City Attorney, Michal Adams-Executive Assistant

**EXCUSED:** Jill Peterson, Chad Carter

**OTHERS PRESENT:** Bob Platt,

**Phil moved to have Janet act as the Chair for this meeting seconded by John and the vote was unanimous.**

**1. CALL TO ORDER:**

The meeting was called to order at 5:20 p.m.

**2. APPROVAL OF MINUTES:**

No minutes were received, so they could not approve them. They will be approved at the next meeting.

**3. APPROVAL OF FINDING OF FACT:**

No findings were sent out so this will be deferred to the meeting next month.

**4. REQUEST FOR VAIRANCE ON FRONT AND REAR LANDSCAPE  
REQUIRMENTS AT PROPERTY LOCATED AT SR-56 & COLLEGE  
WAY/PLATT & PLATT/BOB PLATT**

Bob Platt said that he had received an e-mail from the City Planner talking about the rear of this property, so he felt that they did not need to deal with the rear, only the front for this variance.

Randall wanted to go over the dimensions to make sure that was accurate.

Bob pointed out the area, they have done excavation on this site, it is narrow and by the time they get a building on this, they are also required to landscape the front 5' strip.

Drew said that landscaping is 10' times the frontage with a minimum of 5' along that frontage.

The balance can be elsewhere on the property.

Bob said for this variance, they have the curb, gutter, and sidewalk then in back of that they have some 15' – 20' wide strip owned by UDOT they could landscape instead of their frontage. This way they could take the parking to the property line due to the tightness of this land.

It was asked if UDOT was okay with that. Bob said they never landscape these strips, and it will just be left as an area of weeds. Phil said they already have the turning lane along that side so they would never need to use that little strip for anything in the future.

Janet said so this development will be a mix of commercial with some residential.

Bob said if they take that landscape off the front, they can make it up on other spaces on the site.

Phil asked if they would need that additional landscape also?

Bob said even though UDOT has that land, it is not on this property. This would be outside of his property.

Phil said it would be like when they did Wendy's they had that right-of-way then UDOT came and took some of that to widen the road. Tyler said that Wendy's lost some of their property after that was all built. Phil asked if UDOT would sell them the 5' they need to landscape?

Bob said that his client is not motivated to landscape that UDOT strip unless they could exchange for the landscape requirement on his land. He would not do that. You would have a strip of weeds.

Janet talked more about this landscaping and the location of the fence along there.

Phil said there was another place where they have the UDOT area landscaped. He is not sure they let them do that. Randall said it was actually larger than this one. He said you are never quite sure what UDOT will allow and not allow. If UDOT needed to widen 56 along there, where does this landscape come in? They cannot say that they will never widen U-56 through there. Phil looked at the map and drawings and said there are about 7 lanes there now with the turning lane. He could not see them needing any more than that ever.

Bob said they would clean up that area between the sidewalk and fence.

Randall said to look at the furniture store on 100 West. See what happened there when UDOT widened 200 North. And this would not be a UDOT taking, as they own this strip.

Phil wanted to see what was happening further west of this corner parcel. The maps were looked over.

Joe asked Bob what restriction they were looking at by needing that 5' strip taken out. Bob said it is just being able to fit a building in there and make it all work. It is very tight. They need that width to make all the parking work. Just for the building and all the required parking, they need every inch they can get.

Randall said as they get into question #1: this deals with an unreasonable hardship, and he asked what would prevent you from putting some parking off to the west side on the portion that is not so much of a slope. How many cars can you fit over on the west? If you are varying some of the front landscaping, he pointed out other areas where parking was not. You could also be able to landscape those other areas. They talked more about parking sites, landscaping and if you could do 20 parking stalls on other places on this site. If so, they could then do the 5' landscaping along the front as required. They should look at a different layout and see just what might work. If making him remove that parking from along the front would cause an unusual hardship. How much of that parking is necessary and how much can be moved? He gave different examples. Or, they could make this building smaller. How much of a variance they would need was discussed.

John said if they do this, then they will get stung on precedence.

Randall was not saying you need to grant this, if you consider giving a variance, just shrink it.

Phil said we are asking him to do 5' of landscaping, and they are willing to do 20' and clean up all that from the curb to the property line and that is 4 times as much.

John brought up that in the past it is little things like this that they get stung over. They have rejected this same argument.

Joe said so the way this is planned, they need all the parking. Yes. Bob said this is Mixed Use with retail on the bottom and then residential on top.

Phil wondered if there were room on the end and on the back side of the building for parking and driveways. Bob said that drive up and around the back in only a 1-way. The back of this building does not go clear to the property line.

Where the building sits was discussed. They will need a retaining wall. Phil talked about using the back of the building as some of that retaining wall. Then they move the building back and have the foundation and the retaining wall all the same wall. There would then be enough room to have parking in this rear area. if they did this, they would then have more room up front.

Bob said so they would want the parking moved over on that west side- around where they drive up and around to that level on top? He pointed out where there was a drive around there at one time. It has not been functional for over 20 years.

Janet said true, as a drive was up there before, that land was usable up there.

Joe said basically what they told others was to re-configure their layout.

Janet went through the 5 items.

#1 it needs to cause unreasonable hardship to the applicant; and cannot be financial.

Bob said he sees that they do not meet that one. This is just the idea to use the UDOT strip and to make that area look better and if that is not good enough, then he is done and will just leave.

Phil said it is too bad, as you would then have someone take care of that 20' strip. As it is, it is an eyesore.

Bob said they can't get around that. Phil said they have to create the rule for all. He felt bad that they cannot use the UDOT strip for that landscape requirement. That is not a bad idea to give a tradeoff and you get a benefit then we give you something in return. The question then is how many properties are along this UDOT road that could have this same scenario. They could all make that strip look better.

Randall said it is a common problem; they have a good solution, but it is just not the procedure.

Phil said to look at all along that fence. How much better it would all look if they went straight along there. What they are offering is better and they should not pass on it. This is the same. If they do something like this, they are then landscaping 4 times the original amount. That is not a bad deal. It cleans up the whole thing and looks better.

John wondered if they could add a caveat; on this particular requirement, that this is not within the rules we follow, that there are extenuating circumstances and that is reasonable.

Janet said that is the ordinance that Council passes and at times does not make sense. It really has to come from Council to change that rule.

Randall said the rule is created; Planning Commission and Council can address this, but there is no way to say we think this is a fair trade or not. They could be given that now, and then it could be lost later depending on what UDOT would do in the future.

Janet asked if they have the authority to horse trade? If they get through the 5 items, then you can add additions that lessen the harm of granting a variance.

Randall said this is specific to the parcel itself; they are asking just for this parcel if it is an unreasonable hardship to require him to build according to the requirements. If you can get through that, then you can put conditions in there.

Janet could not see how this one is unique of any others along U-56. They would be creating a new rule.

Phil said when evaluating just this 1 site, it is hard to say they will all have the same situation. Also, any future plans that UDOT may have; you cannot say it may or may not change but at this intersection with it all built up, and you have things on most of the corners, there is a chance that UDOT would never ever widen this area. It is safe to say this intersection will never change. They are willing to do 4 times the amount of landscaping and the ordinance says 5' on this side. If along a City street if you don't have the right-of-way, that can be a hardship. As this UDOT right-of-way is so wide, not sure it is a hardship.

Janet said for an alternative, they can change the building and design it to fit the land. That was similar to the recommendation of the citizens from Las Vegas on the house that was too large for the property. Just make it fit. Phil said there was no space on his land between the curb and the land.

Randall said if you are looking all along SR-56 and others turn out with the same argument, you allow similar things to happen all along 56 then you have set a precedence. He gave an example of one apartment complex they allows less parking for, then just a little while later, had another come in and wanted the same parking because they had given that to another. You need to draw the line; it is clear cut. This is more of a Council question.

Joe is having a hard time with this one; he can't get past #1. Bob said it was worth asking. It was asked how hard it might be to take this back and change the footprint a little to make it work. Bob said it would cause them heartburn but that is life.

Janet said they can't get past #1.

Joe said they just can't set a precedence.

Phil said so nothing will happen with the UDOT area.

Who knows what circumstances might be on other properties?

Joe said what is being discussed makes sense, they just can't get around it. It is frustrating on the part of this board. Janet said they are limited by the ordinances.

Bob said he will investigate what Donald put in his e-mail that they don't need to deal with the rear. If they are okay there, they can see about the 5' in the front.

Janet said they could table that rear part of this if that is okay, that way they would not have to pay again to appear, just come back.

**Joe made a motion to deny this variance request on the front portion of this property located on the corner of U-56 and College Way. Seconded by John and the vote was unanimous.**

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July 19, 2021

pg. 5

**5. ADJOURN:**

The meeting adjourned at 6:00 p.m.



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Michal Adams, Executive Assistant