

**Cedar City Board of Adjustments Minutes  
September 14<sup>th</sup>, 2020**

The Cedar City Board of Adjustments held a meeting on Monday, September 14<sup>th</sup>, 2020 at 5:15 p.m., in the City Council Chambers, 10 North Main Street, Cedar City, Utah

**PRESENT:** Chair, Ann Powell, John Ashby, Phil Schmidt, Joe Sanders, Chad Carter, Building Inspector Drew Jackson, Assistant City Attorney Randall McUne, Executive Assistant Onjulee Pittser

**EXCUSED:** Jill Peterson, Janet McCrea

**OTHERS PRESENT:** Rachel Ciarus, Valorie Davis, Tyler Melling, John Bishop, Ret Brown, Scott Shumway, Natasha Hirschi, Tom Jett, Thayne Grover

**CALL TO ORDER:** Ann called the meeting to order. Joe led the pledge.

**APPROVAL OF MINUTES:** Phil motioned to approve the minutes from last month's meeting. Second by John; all approved for unanimous decision.

**APPROVAL OF FINDINGS OF FACT:** John motioned to approve the Findings of Fact. Second by Chad; all approved for unanimous decision.

**REQUEST FOR HOME OCCUPATION OF DAYCARE/NURSERY SCHOOL LOCATED AT 63 N.**

**BEACON DR./RACHEL CIARUS – Rachel Ciarus:** I want to open up a daycare in my house. **Ann:** There are a few questions we need to go through and depending on how they are answered will determine if we can approve this. Are there any neighbors here that have an issue with this daycare?

1. **Notice by the applicant shall be given to all property owners of record within a 300-ft. radius from the boundary of the proposed home occupation. – Randall:** That was done.
2. **Off-street parking will be provided. – Drew:** She does. 1,400 sq. ft. on the ground floor; the daycare is 360 sq. ft., so she meets the 25% max and parking is good as well.
3. **The home occupation is conducted entirely within the dwelling and is carried on by members of the family residing in the dwelling. – Ann:** Are you planning on having any employees? **Rachel:** Just the 2 of us.
4. **The home occupation does not involve the use of any accessory buildings, except for Nursery Schools, in which case it is presumed that rear yard space is utilized, and the rear yard space must be completely fenced with at least a 6' high fence. – Drew:** She's got that.
5. **No commercial vehicles are used except one delivery truck which does not exceed 1-ton capacity. – Rachel:** No.
6. **The home occupation does not include a drive through. – Rachel:** No.

7. **The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes.** – **Rachel:** Yes.
8. **Do you intend to have a sign for the business?** – **Rachel:** No.
9. **Not more than the equivalent of 25% of the ground floor area of the dwelling is devoted to the home occupation.** *Day care centers need not designate a particular 25% of the ground floor area; however, the actual 25% of the ground floor area shall be utilized to calculate the maximum number of children allowed in the dwelling.* – **Drew:** She's ok there.
10. **The home occupation shall apply for, receive, and maintain a City business license.** – **Rachel:** Yes.
11. **The activities in connection with the home occupation are not contrary to the objectives and characteristics of the zone in which the home occupation is located.** – **Rachel:** No.
12. **Home occupations for Nursery Schools may be granted by the BOA provided that the proposed Nursery School has:**
  - A. **A maximum of 16 children at any one time, including the occupant's own children;**
  - B. **That the portion of the dwelling allowed to be used for the Nursery School under paragraph 7 above contains floor space of at least 25-sq. ft. per child and alternate door exits.** – **Drew:** They're good.
13. **Building inspector and fire marshal shall inspect the premises.** – **Drew:** Got it.

**Randall:** I know it's not her intention to go to the maximum of 16. She's not quite to that on square footage. Max would be 14 for recording purposes. **Anne:** So only 14. It used to be worded differently. **Randall:** We divide it into ¼ of what it is and it's 25 sq. ft. per child. That's how it comes out. **Joe:** Are we within that? **Randall:** Yes. **Phil:** Have you applied for a state license? **Rachel:** We're in the process. We just need to put in 1 fence. **Phil:** Then you'll get your City business license? **Rachel:** Yes.

**Joe motions to approve the request for home occupation; Phil:** Can I add to that motion that she will complete her state licensing? **Second by Chad. All approved for unanimous decision.**

**REQUEST FOR SPECIAL EXCEPTION TO INSTALL A WALK-IN FREEZER CLOSER TO PROPERTY LINE FOR PROPERTY LOCATED AT 601 W. 2675 N./FIRST EMPANADA FACTORY, INC./DIEGO M. FERNANDEZ**

**Diego Fernandez:** We started to install this freezer chamber and it's 7' away from the property line. It's portable, like a big container, so it's not attached to the building or the ground. It has its own floor and that's the reason we started to build this. Drew said we had to stop until we talked to the BOA. It's connected to power. It's not a building, but we have to approve that location. The reason we put it there is because the City ordinance said we have to be 20' away from this line, and if that's the case, we have to put the compressor on the top of the freezer, which will go directly to the neighbors windows and doors. For Option #1, the compressor is going to be sitting on the front of the freezer so there's no noise going through the wall to the neighbor. It's minimal compared to the other one that sits on the top. We want to be good neighbors and not disturb other people. If we install Option #2, the trucks are closer to the neighbors instead of in between as in

Option #1. I have more space in between to park the trucks. Option #1 is what it is now and where the compressor is going to be, and Option #2 is what it's supposed to be the compressor is directly there. The fence is like stairs with different levels and the worst part is that the freezer goes 1' over the fence. We'll have the compressors on the top and it will block the view of the neighbor. The biggest problem is not the position of the freezer; it's how those things will affect the neighbors.

**Chad:** Is it just the sound of the compressors or is it a visual? **Diego:** Both. The compressors are not too loud, but it's 5'x4'x4.5' and 3 of those at 2:00 a.m. With Option #1, I guarantee we minimize the noise. **Phil:** What's the dimension of the compressor? **Diego:** 5'x4.5'x4'. **Phil:** If you moved that building out and went to 20', you put the compressor in the middle of the building. Is there 3 or just one? **Diego:** 3. **Phil:** If put your compressor on the ground, you'd still have 16' of access for truck parking. **Diego:** I won't have enough space for my stuff. The whole thing is built to put the compressor on the top. The pipe system is expensive and if I put it there it goes straight to the freezer. Option #1 would be more expensive because I'd have to pipe line in multiple locations. The whole reason of this is to avoid problems with the neighbors. **Joe:** How much room is there between the freezer and property line? **Diego:** Right now, it's 7'. **Phil:** You said there's no footings and the freezer is just sitting on the asphalt. **Diego:** Yes. There's not a foundation on it. **Phil:** If it's not a permanent structure, couldn't it act like a trailer? You can park a truck and trailer there without being out of the ordinance. **Diego:** I talked to a friend who's an engineer in Las Vegas that said you can put on wheels under the compressors and put a big plug in. It's mobile; it's portable. But it doesn't make sense. If it's on the top it will be noisy. **Drew:** If it's cord connected, that's a mobile unit. I understood that he's utilized the power, hardwired in. That makes it more like a permanent structure. **Diego:** That was the original idea. **Phil:** He could put a plug-in and the issue goes away.

**Diego:** If I put a plug-in, those cannot be attached to the ground. **Phil:** Why couldn't you put a plug-in and put the compressor on the ground? Then, if you make it a secure plug-in, then you don't need to come here. **Diego:** I thought that in the beginning. That's why we started to build it. **Phil:** Is it 7' now? **Diego:** Yes. **Phil:** You'd have room to put a pad and run a heavy cord and tie them all together with a plug. Use crusher wire. **Diego:** That's what the engineer said, but we are not on regulation. **Phil:** It's not a big deal. Wire is available. **Diego:** Just imagine the compressor on the top of here. **Phil:** You don't have to put it on the top. **Diego:** If the solution is just to put a plug, ok. **Phil:** The carwash on Hwy. 56 had the same issue. It was 20' from the wall and they're going now. I'm assuming they moved something. **Drew:** I understand it's been moved. **Ann:** Is what Phil talking about legitimate? **Drew:** If they leave the structure as-is, the Building Dept. will ask for plans to show that it's listed and labeled to do that and if it's even able to be outside. I want it to show plan-wise that it's listed for that use. We'd have to look at building code and ordinance for temporary structure to see if there's a time limitation. **Ann:** If you went that route with the plug-in. We're basically saying it's a temporary structure, which it's not for you, correct? **Diego:** Not now. **Ann:** You've still got some hurdles to go through. There's a reason why there's a 20' setback and a big part of that is fire and a big concern for us.

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- 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.** – **Ann:** What's special with what you have that nobody else has to deal with? It has to be more than to upset your neighbors. **Diego:** That's really the only reason. I guarantee you will receive calls and I will have angry neighbors. If I have the compressor on the ground level and something happened, and it gets loose and makes noise, I'm not going to notice during the day. But if it's on the top of that, I won't notice until somebody notifies me. It will be noisy to a normal level, but it's noisy during the nighttime. The only reason why I installed it there is because of the neighbors. There's no other reason. When Drew sent me

an email that we cannot continue, I thought we could move it. We are going to have problems. **Joe:** A 20' setback is required and he's at 7' here. What are you asking for? **Phil:** A variance to stay at 7'. **Diego:** I can move it if you want. **Phil:** I don't know what type of roof you'll have on the top of this, but you could put a sound barrier around those just like SUU did for Shakespeare. They had the compressors by the theater and after 1 season, they built stuff all the way around it. Right now, from what I see, I don't think we have leeway to go back to 7' just because of noise. You have an option to plug-in for power. I don't see an option to allow you to go to 7', because there are other options for you. **Diego:** It won't stop the noise totally, but it's right at their doors and windows. **Phil:** But you can do 7' if you do plug power. **Diego:** If they don't have a problem with that, that's what I'll do. **Ann:** Possibly. Drew's saying there may be some hurdles to go through. **Drew:** We want to make sure the structure is designed for the intended use. **Diego:** It's a walk-in freezer. It looks big here, but if I put something like a 6'x8' nobody will say anything because it looks like a regular freezer. It has its own floor, its own roof and it's a big box like a freezer trailer. **Phil:** If you make it a plug-in power and whatever Drew wants and want a 20' down to a 7', I don't see how we can do that with the ordinance. Other people have requested similar things and we couldn't do it. Either you have a temporary set up and you're good to go with what Drew has or 20'. **Diego:** I'd rather put it there. I spent money to level the ground. **John A.:** I agree. We need to stick with the 20' and have him adjust to where he doesn't need a variance. **Phil:** If you do a temporary setup and meet Drew's requirements, leave it at 7' and do a plug. There are plugs that will work. If you want 7' because of noise, we can't do that. **Diego:** If I put in a plug and sit the compressor on top, which will be farther than 20', can we do that?

**Joe:** Does that qualify for a temporary structure? **Drew:** That's what I want to look at. I'd like to meet with the proponent and make sure we're on the same page. We'll have to look at the building code before we make the commitment for a temporary structure. He has plans for this building. I'm curious to delve into that further until that's done. **John A.:** Until that's done, it takes it out of our hands. **Phil:** We can't give you a variance for 7'. **Diego:** I thought the same thing and they stopped the construction of this. **Joe:** What triggered the stoppage? **Drew:** We had a phone call. **Diego:** I'm not mad at the neighbor who called, but it's going to be more for him. **Ann:** Unfortunately, that can't be in our ruling of how the neighbors are going to feel about it. **Randall:** You have to focus on those 5 questions. **Ann:** We can't get past the first one. As far as we're concerned, we cannot approve this special exception, but there are other options for you. We can't approve a 7' setback. A lot of it is that is fire danger. **Diego:** If it's portable, are there no fire issues? **Ann:** I don't know. That's where you'll meet with Drew. **Randall:** You can make a decision by denying it now or let him take the time to talk to Drew and see what you view as the alternative is reasonable. **Phil:** Because we don't know if he can go temporary 100%. **Randall:** That may be a reasonable alternative. **Phil:** The way I see it he has 2 things: 1) that one as a possible alternative; or 2) put it at 20', put the compressors wherever you want, and the neighbors can't complain about the noise as long as you meet the 20' setback. **Diego:** I don't think we are under the law now. I just don't want to have angry neighbors. **Ann:** People need to understand that when they build a home near commercial, they'll have that type of thing. **Phil:** You're zoned for it. **Diego:** I don't want to say oh well to the neighbors. **Ann:** They have to understand that you have to be in accordance. **Diego:** I'm not building the whole thing because of neighbors. I thought of different ways to put it other places, but I think this is the best option for everyone. I spent a lot of money leveling the ground for it to sit on. **Ann:** But it's out of compliance with the ordinance. We need to make sure we follow that as much as we can. What Randall is saying is

that we could table this and not make a decision tonight. **Randall:** You may want to look at the portable option first. Even if you don't have the portable one and the 20' is a reasonable option, then make a decision tonight. **Chad:** I think we need to have him do some homework with Drew and see if they can make it work. Make it portable. **John A.:** I appreciate the fact that you don't want to annoy the neighbors, but that does not become our problem. **Phil:** Get with Drew and see if you can do a temporary setup if it will pass through him. If it does you don't need to come back here. If it doesn't, you'll be stuck at the 20', because there's not enough things contrary for us to allow you to move it closer. **Diego:** If I install a 6'x4' walk-in freezer will I have any problems with that? If I install it closer and plug in with the floor? **Drew:** We should meet, because that 7' is not going to work. Let's set up a time to talk about it. **Diego:** Ok. I've had to stop this for more than a month. Can we do it sooner? **Randall:** Our next meeting is in 2 weeks. **Ann:** Are we tabling or denying? **Phil:** I don't know why we would table it. **John A.:** If his application is based on the distance of the boundary, there's no reason to table it. That's irrevocable.

**John motions to deny the special exception. Joe seconds. All in favor for unanimous decision.**

**REQUEST FOR HOME OCCUPATION FOR DAYCARE/NURSERY SCHOOL LOCATED AT 1084**

**BULLOCH CIRCLE/SILVA SCHOOLHOUSE/EVA SILVA** – Applicant called 9/14/20 and requested to be on October's agenda.

**REQUEST FOR ADMINISTRATIVE APPEAL/VARIANCE TO BUILD A CANOPY CLOSER TO REAR SETBACK FOR PROPERTY LOCATED AT 250 S. MAIN STREET/ON BEHALF OF JAMES JENSEN/JOHN BISHOP CONSTRUCTION** – **John Bishop:** It's a car canopy that looks like a "T". One post sticking up with a roof on top. At first the way I was reading code is every building that's built, either residential or commercial, is always by foundation. The first inspection anyone does is from foundation to property line. **Phil:** Is that the 5' from the rear property? **John B.:** Yes. **Phil:** So, what's the problem with this? Why do we have a problem here? **Drew:** Central Commercial zone is the same 20' from a residential zone. Behind him is. **Randall:** It's not a carport like what you may think. This is commercial and the carport by definition is residential. **John B.:** This is Jim Jensen's office. **Phil:** So, you're trying to get a carport in the back. **John B.:** It's a canopy. A carport would be easier. But it's a canopy, and there's not a word in the code that says canopy. If you want 20' setback we go by foundation. This 20' when I was reading the code, it says 20' back is where you have to be for building. Everything I was reading the first inspection is to inspect that. No one worries about overhang. You can't have an overhang and go onto the neighbor's. That's what I drew up and I thought that I need to meet with Drew. When we put this out to bid, I put it out to the power company. There's a power pole when the canopy goes over, we're too close. We don't make the 4'. The power's going to be running underground. We got that cleared up with the power company and gas line. Drew said they don't worry about a 1' or 2' overhang, but the code says this 20' has to be open to air. It's a structural building, and if you look at the way the code's written it was meant for a structure like an adjoining building or power pole. We're still at 20' and I have a 15' overhang. **Phil:** Are the poles at the edge of your overhang? You don't have a 15' free overhang do you? **John B.:** No. 15' free. There'll be 4 poles. We have 20' of overhang that will be 86' long. **Phil:** And nothing on the outside edge. **John B.:** That's correct. People come in and they turn around or park in the back. He would like to build the canopy, like what's behind Depot Plaza and State Bank. Cedar City Housing Authority is the opposite of what we are. Jim Jensen's office is in a CC (common commercial) butted up to a multi-dwelling. **Phil:** That's what's driving the 20'. If there was

commercial on the other side there wouldn't be a problem. **John B.:** The housing authority on the other side of the street is in a multi dwelling, an R-3-M. It backs up to Cedar Title and their overhang is 18'. They can do it, but we can't even though it's the same thing, just flipped. From the edge to the block is 3' 10". The overhang is 1'. This wall is 6" thick. **Phil:** What's on other side of the wall? **John B.:** Cedar Title. Commercial. **Randall:** It may be allowed anyway, because this can meet the definition of carport and it's residential. **Phil:** Jim's problem is that he's commercial backed up to residential. **Ann:** So, it's not considered a carport. **John B.:** This is considered a canopy. **Ann:** Why the difference? **John B.:** Carports are attached to the main structure. Family Dentistry is 4 lots up from Jim Jenson's place and has one. A building permit was pulled for this building in 1994 and it says on the permit, "interior remodel". When I talked to the owner, Warren Woolsey, he said they want to do a carport remodel. When it was inspected, they said they want it connected. They put this roof on to connect the carport. From the edge to property line is 7' 2" away. Mountain Lighting's building is built right on property line. I think when they changed the code to 20' it was probably for a building. Code was amended for the 20' in Feb. 1994. Imperial did a storage unit. The building in between is Mountain Lighting and it's built on property line. Mountain Lighting had a service panel built right on property line. When Imperial added on their storage building in Oct. 1990, it was built on property line 7 months after the amendment was made. I was under the impression that footing to property line is what you measured from.

**Phil:** That's not necessarily true. **John B.:** In some areas. Budget Inn was built on property line. We want to build in the back of Jim Jensen's property. There'll be 4 posts that will be 20' away from property line. The vinyl fence is roughly about 5' onto the other property. That's not the property line. We think that 6" past the block wall is actually 2" off property line, according to Watson Engineering's rough estimate. We'll have it surveyed. About 16" past the wall is where property line is. We will have the overhang 5' away from property line. **Phil:** Your post is 15' further. **John:** Yes. **Phil:** If you're worried about parking, you can take the tree out or move the canopy 50' between the building and proposed canopy edge. **John B.:** That's correct. **Phil:** He's probably using the middle for cars to come in and out. If you leave the outside edge, you could use one side to come in and one side to go out. When it's paved, you could move your canopy closer to the building without any problem. **John B.:** There are options there. Most people pull in the north end and come out the south end. **Phil:** Don't you have a canopy right there? **John:** Yes. It's on property line. The offices built above there are on property line. **Phil:** That's commercial on each side. **Ann:** And it's a carport. **John B.:** It's a carport vs. a canopy. There's one post in the back from the power company. If we attach to canopy coming out from the back of the building you still need posts. You have a big parking lot and one post. Sometime in your lifetime you'll hit it. **Phil:** You could put posts on property line or 1' in. You have a 20' span and a post in the back, so you'll have no post in the driveway. You don't have to have a post in the middle of the drive out. You just change the structure a bit, then you can span 26' no problem. **John B.:** I agree. According to Watson Engineering, if we go against the building, the cost is not effective to hook to that building. **Phil:** You wouldn't have to connect would you? **John B.:** No. We could gap 2". **Phil:** The only thing you're doing is moving the canopy. Is the 15' of the canopy a problem for the 20' variance? Does the canopy count? **Randall:** Yes, it does. We're dealing with the same section of the code as we did last month regarding the stairs. *SECTION 26-IV-1. General Regulations: "Every part of a required yard shall be open to the sky and unobstructed except for permitted accessory buildings and for projection of sills, eaves, belt courses, cornices, and other ornamental features...."*. When you see a normal house where the eave hangs over a foot or 2, you don't count it. It's not an eave; it's not decorative. It's mostly for drainage off the house. Anything that isn't a structural element. The whole purpose is to be a roof. **Phil:** The eave is not going to be allowed in the 20'. Either you have to move the canopy

or change the eave. **John B.:** I know what the owner tells me. I have met with City staff a few times. I have been told to go to see what other counties have done. **Phil:** We won't talk about that. This board tries hard not to get into this predicament of doing something when we allow one and not another. **John B.:** I met with another county and they go 10' because they realize there's so much waste in that 20'. **Phil:** I don't disagree with that at all. If you want to change that, go to City Council and they can change the ordinance. That would be the best thing. **John B.:** Right behind Depot Plaza and State Bank, that's what it will look like. Doing it this way, where it's spanning that far, is \$9,000 cheaper because of the grade of metal. According to the people that owned this, Cedar City Housing Authority, more people hit the pillars more than the other ones. The reason ours is 15' is when you open the door you'll smack the post. Most cars go from 12'- 15'. Nobody knows what to do with the 20'. The CCPD bust 1-3 people a month in there on drugs, alcohol, theft. **Phil:** I don't disagree with you. You need to go to City Council and request an ordinance change from 20' to 10'. **John B.:** This goes all the way through. Cedar Title, Imperial across the street and the other building are in same zone. They're in commercial & multi-dwelling. If they wanted to do a canopy they could, but Jim can't. It's not the same zoning. **Phil:** What if they were to put a block wall right down property line? There's nothing here noise wise; just car parking. **Drew:** How the ordinance reads is it depends on the zone. When we look at the minimum rear yard setback, in this case a common commercial zone, it'll say 20' adjacent to a residential. I don't see where the block fence would negate that requirement. **Phil:** City Council. **John B.:** We will put a footing below frost and 4' stem wall and block above it. It's about \$23,000, but he's willing to do that to do the canopy. **Ann:** It still doesn't help us with the 20' setback in the ordinance. **John B.:** That's hurting me everywhere. The owner wants it in the back because it's better for the flow of traffic.

- 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. – Ann:** You do have other options to move it closer. **Phil:** Couldn't he pave right to his property line? **Drew:** I don't know why he couldn't. **John B.:** We will put a wall like the other business. His parking lot looks really bad. He's going to spend the money to repave this. You can see powerlines overhead. Everything will be put underground. We won't do the plans and spend \$12,000 if I can't get an approval. I could put it in this area in the back and hanging over. But flow of traffic will be affected. They'll hit a car. **Phil:** If you have 50', you'll have plenty of room to back them up. If you moved the canopy up and if it's 15' overhang both sides, it's more than what you need for a stall. **John B.:** The roof structure of our canopy will be a total of 20', not 30'. **Phil:** If they swing out the back, come down, pull in, back straight up, he could do arrows for in one, out the other. You'd still have plenty of room to do that. **John B.:** We can only get 5 car spaces undercover vs. 9. Most people just park wherever. **Phil:** So, you're losing 3 stalls. If you put it at one end, you can count that as stalls. If you leave it at the other end, you have to leave it as driveway. **John B.:** If we have it on the south side, people still have to get in. People will leave through the south end. Eventually, they may put a wall between Tri-State. We'll have to have everything on his property anyway. The most logical place is in the far west of the property. It can be done, but he won't spend the \$63,000 for 5 parking spaces. **Ann:** I'm having a hard time getting past #1. **John B.:** The hardship is the owner. **Phil:** If we let this go, what happens down the road? **John A.:** We make an exception and we're stuck with that. I know what you're saying, but we're stuck with what we know we have to do and until the City changes the ordinance, that's what we have to do. **John B.:** I thought about putting in an exception to the code. **Ann:** We need to have a special circumstance for the exception. **John A.:** And money can't be one. **Ann:** We have to look at other

options, which may include taking down the tree. That's where our hands are tied. What's so special about this property that no other properties have to deal with? And how the other things got built in 1994 was another board. **Phil:** You'd be doing a great service if you could get rid of the 20' and approve requirements for noise and stuff. I agree that 20' is about the size of a parking lot. You can't do much with it. You can't build on it. It's a protection from the commercial to residential. Maybe you could get it changed to put up a block wall, but that's City Council. As it stands for us the eaves fall in that 20' and we don't have room to take that up. **Drew:** That's how it reads and how City legal has interpreted it. **Joe:** Has the 20' been challenged between commercial and residential? **Randall:** I have not seen any attempts on that. When we did the research, 1986 was the earliest date we saw it was added in and it expanded to other zones. I have not seen it go back to City Council. The first zone was the highway services zone. As commercial encroaches into residential, you may get more of these conflicts, but I haven't seen anybody go through the process of an ordinance change, or even going to Planning Commission then City Council. **Phil:** If you put up a wall there's no noise there, but if you have something like the carwash, they had to redo their whole plan because of the 20'. It's no different than your situation. If we allow yours, they'll come back to us with complaints. **John B.:** I'll get with Drew this week to see what the next step is. The tree can come out. He doesn't care. **Phil:** I'd get it paved no matter what, but make sure you have drainage. **John:** Everything drains on the west side in the ditch. We won't spend all that money putting utilities underground if we can't do the canopy. In a highway service zone, which was amended Feb. 1990, Imperial pulled the permit 10/29/1990. How can they pull this permit and get it passed? **John A.:** We can't go back. **Randall:** Staff may have interpreted it differently in the past. **Phil:** You two will have to make the decision and say what's ok. **Randall:** Potentially. He did mark "appeal from staff decision" too. If Larry Palmer or Bob Behuinin had been interpreting this section differently than what we interpret it, he can make that argument. The struggle is none of the buildings has to deal with this interpretation. I don't know why they granted it, but it wasn't because we're interpreting it to be an eave or cornice. It doesn't fit with that. The wannabe carport at the dentist office was the closest we could find, but it doesn't meet the definition in that it's not a dwelling and it's got one wall on the side. We couldn't find anything that was exactly the same that could tell us how it was interpreted in the past to allow us to have a 12' eave. **Phil:** We can't use anything. You would have to say that you'd not have a problem with this, but you're not willing to do that. **John B.:** I called Larry and he came in and spent time with me and he remembers Family Dentistry doing the carport and he said go ahead. It can be torn down. If it's good for one it should be good for the other. We're 7 months difference. **Phil:** We're almost 30 years. **John B.:** Yes, but nothing has happened since then. **Randall:** If it had been similar to this, something done immediately after a law is passed is very helpful to interpret the law. **Phil:** It can't be temporary because you're going to be anchored to the ground. **John B.:** What's anchored to the ground is 20' back. **Phil:** The overhang is in the 20' space and Drew won't let us get past that. **Drew:** That's the way I interpret the ordinance. **John B.:** Carina and I spent 2 1/2 hours looking on something for the Mountain Lighting building and couldn't find anything that was permitted. **Phil:** I'll make the motion that based on the eaves of the proposed canopy being 15' inside the 20' ordinance requirement that this be denied. **Randall:** Can I add something to your motion? Our definition of eaves is not going to match with your usage. You'd want to call it the roof structure or overhang. **Drew:** And setback instead of easement.



**Phil motions that based on the eaves of the proposed canopy would be 15' inside the 20' roof structure, we will deny this application at this time. Joe seconds. All in favor for unanimous decision.**

**Ann:** Try City Council. **John B.:** Is it possible to get this changed by the next meeting? **Ann:** Probably not. **Randall:** The ordinance change for Chapter 26 takes longer than that. Talk to Tyler (Romeril) since he's your starting point for the ordinance change. He can tell you the fastest possible way. **Phil:** Then you don't have to come back here. **Phil:** Be prepared to state what would be allowed in that 15' easement. **John B.:** Drew had said that we could possibly add an exception. **Phil:** We have a lot of trouble with that 20'. **Drew:** You may want to talk to our City planner, Don Boudreau, because I've heard the term projection. Does it fall into that definition? He's looked at some ordinance changes there. **John A.:** You'd be helping a lot of people on that 20'. It's like a dead zone. It doesn't make sense. **Phil:** Basically, all you can do is park there.

**REQUEST FOR OTHER HOME OCCUPATION FOR UPHOLSTERY BUSINESS LOCATED AT 569 S. 640 W./BEESLEY'S UPHOLSTERY OF SOUTHERN UTAH/BRANDON BEESLEY** – Applicant called 9/14/20 and requested to be on October's agenda.

**ADJOURN:** The meeting adjourned at 6:50 p.m.

  
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Onjulee Pittser  
Executive Assistant

