

BOARD OF ADJUSTMENT MINUTES
June 13, 1995

Present: Chairman K. D. Simpson, Vice Chairman Paul Summers, Verlon Duncan, Dean Thurgood, Sydnie Shurtliff; Elaine McKay, Planning Commission Representative; Matt Barneck, Asst. City Attorney; Connie Feil, Recording Secretary.

Absent: Blaine Gehring; Planning and Redevelopment Director.

The minutes of December 13, 1994 were approved as written by majority vote.

The meeting was opened for election of new Chairman and Vice-Chairman for 1995. Paul Summers was elected Chairman and Sydnie Shurtliff was elected Vice-Chairman.

In the current Memorandum to the Board Members Blaine Gehring expressed his feelings of thanks to K. D. Simpson for faithfully serving on the Board of Adjustment for almost ten years. Mr. Simpson's term of office is complete as of June 30th and will be replaced by Sydnie Shurtliff. Mr. Gehring has also expressed his thanks for Mr. Simpson's excellent service on the Board to the City Mayor and City Council. Thanks K. D. for all you've done.

K. D. Simpson expressed his appreciation to serve on the Bountiful City Board of Adjustment during the past 10 years. Mr. Simpson said that it has been an enlightening experience to sit on the Board of Adjustment. Making some of the decisions and how difficult it is to implement some policies developed by the Planning Commission and City Council. Mr. Simpson would like to extend his appreciation to everyone for their confidence while he was appointed to the Board.

Paul Summers conducted the meeting and expressed his appreciation to Mr. Simpson for the great example he has been. Mr. Simpson has been vary fair in his decisions and a good example to all those who work with him. Hope we (Board Members) can follow his lead and a vote of thanks from all those on the Board.

1. Criteria for Administrative Hearing Officer to Grant Variances.

State law allows for an Administrative Hearing Officer to hear and grant minor variances to the Zoning Ordinance (Section 10-9-705, Utah Code Annotated, 1953, as amended). That law requires that the Board of Adjustment set the criteria for such variances. The chapter establishing the Administrative Hearing Officer position was adopted as part of the Zoning Ordinance in August (Chapter 2, Part 7). In the second section it states: "The Board of Adjustment shall make sure review and authorization at the first meeting in January of each year." Therefore, Mr. Gehring has resubmitted the following for the approval of the Board as criteria for variances to be heard and granted by the Administrative Hearing Officer which by ordinance will be Blaine Gehring.

1. No greater than one (1) foot for any and all required front, rear and side yard requirements.

2. No greater than fifty (50) square feet for all lot or parcel area requirements.
3. No greater than five (5) feet for any lot or parcel width requirements.

Verlon Duncan made a motion for approval of Criteria for Administrative Hearing Officer to Grant Variances. Motion was seconded by Elaine Mckay and unanimously approved.

2. Public hearing to consider a variance to the area and width requirements of a proposed lot at 780 N. Main Street, Terry Toone, applicant.

In May of 1994 Jill and Terry Toone were granted approval to divide an existing lot at 750 N. and Main Street into a two lot subdivision. The Toone's would like to divide the remaining property into two lots to build another home on the corner. The minimum lot area of 6,500 square feet and a lot width of 70 feet at the building setback line for a single family residence is required. The proposed lot for the existing house would only have 5,811.75 square feet and a lot width at the building setback line of 55.35 feet. The Toone's are requesting a variance of 688.25 square feet of lot area and 14.65 feet in lot width.

Paul Summers invited Jill and Terry Toone to introduce themselves and explain to the Board their request for this variance. Mr. Terry Toone explained that he is the owner of the property but his father is representing him and his wife. Mr. Toone, is father, said in order to divide this property the lot with the existing home and property will be smaller than the required size and setbacks. The second lot will meet all of the codes and requirements. The existing home is small but has been upgraded and would make a good starter home or a home for a small family. A home could be build on the property in its existing state. To build without dividing this property into two separate lots would mean common ownership between two owners. It is preferred to have two separate lots for two separate single family homes.

The time was turned over to the Board Members for any questions that they might have. Mr. Simpson asked Mr. Toone "What makes this request unique?" When the property was bought there was not anything unique about it. Mr. Simpson mentioned that the point he was trying to make is that the circumstances for this variance have been created by themselves (The Toone's). The Toone's are asking the Board to grant a variance for something that is not unique or special circumstances.

Mr. Summers explained to the Toone's that before the Board can grant a variance to anything they have to, in their own minds, find an affirmative for each one of the questions. The Toone's have answered "no" to question #2. The property is unique if you have a dog leg and you need a variance to build a home that maybe doesn't fit the type of property. This situation makes it different or unique and is not the owner's fault. The request that is being made now is the owner's fault.

Syd Shurtliff feels that if the Toone's build without a variance it is not going to change the neighborhood. There will be two houses regardless of who owns them. Regardless of the decision from the Board the neighborhood will look the same. Granting this variance will make it easier for the Toone's. Mrs. Shurtliff asked to hear what Mr. Gehring's opinion is on the variance.

Mr. Gehring was ill and not present so Matt Barneck, Asst. City Attorney, presented Mr. Gehring's opinion on this variance. Mr. Barneck said Mr. Gehring's feelings are similar to what Mr. Simpson was driving at with his questions. The memo from Mr. Gehring explains some of the background. In May of 1994 the property was divided into two lots. The Toone's were granted approval of a two lot subdivision at that time. Mr. Gehring spoke to the prior owner of the property and to Mr. Toone saying that there is no way to make this property into three lots. Mr. Gehring spoke to Mr. Toone before the property was divided saying that it could be made into two lots but not three. The hardship that is being claimed is because of the two lot subdivision and the way it was divided.

Brent and Nancy Slater living at 91 E. 750 N. and Robin Blaze of 268 E. 650 N. were present and in favor of the variance. Mr. Blaze presented a letter from his wife also in favor of the variance. There has not been any response in opposition for this proposal.

Mr. Summers asked if there were any more questions and asked that a motion be made. Syd Shurtliff made a motion for the approval of the variance and seconded by Elaine McKay. The motion was approved with the majority vote yes and Mr. Simpson's vote no.

One reason for the approval of this variance is that the side yards, rear yards and frontage are within the ordinance. Where the set backs meet the ordinance the property will look the same and maintain the neighborhood feeling.

Meeting adjourned at 7:30 PM