

Cedar City Board of Adjustments Minutes
March 4, 2019

The Cedar City Board of Adjustments held a meeting on Monday, March 4, 2019 at 5:15 p.m. in the City Council Chambers, 10 North Main Street, Cedar City, Utah

PRESENT: Chairperson Ann Powell, Janet McCrea, Roger Thomas, John Ashby, Phil Schmidt, Jill Peterson, Joe Sanders, Building Inspector Drew Jackson, Assistant City Attorney Randall McUne, Executive Assistant Barbara Barrick, City Engineer Kit Wareham.

OTHERS PRESENT: Lynn Elliott, Lorraine Rollins Holyoak, Kent Holyoak, Harley Rollins.

CALL TO ORDER: Ann called the meeting to order at 5:15 p.m. The Pledge of Allegiance was led by Joe.

APPROVAL OF MINUTES: Motion to approve the minutes from the January 7, 2019 meeting by Janet. Second by Phil. Vote unanimous to approve.

APPROVAL OF FINDINGS OF FACT: Motion to approve the Findings of Fact from January 7, 2019 by Joe. Second by John. Vote unanimous to approve.

REQUEST FOR VARIANCE ON THE NUMBER OF LOTS SERVED BY ONE ENTRANCE TO A SUBDIVISION ON A PROPERTY LOCATED AT 3366 HIDDEN HILL S/LYNN ELLIOTT:

Lynn - Does everyone know where Hidden Hills is? It is right before the College Farm on the left side. We bought the property 30 years ago and we were the only ones there then. We have 12 acres and always prized it as an estate lot, and we enjoy the privacy. We discovered a few years ago that we didn't have the value of the estate lot as everything that is building up around us is 1/3 or 1/4 acre lots, so we decided to subdivide our property, so our children won't have to worry about what to do with it. We initially divided it into 16 lots. We got part way through that and discovered that there needs to be more than one entrance to a subdivision if it has 80 lots. The immediate neighbors have 74 lots, leaving us 6 lots. We reduced our planned subdivision to 9 lots of one acre each. That's still over 80 lots. Our request is to be able to subdivide the 9 lots, which puts the number of lots up there at a little over the 80. If we were 15 or 20 lots over the requirement, I wouldn't be here. I feel there are extenuating circumstances here. The 80-lot requirement is obviously a firefighting issue, but the street is a collector street. There are only a few homes that front on that road. There are three lots that are unbuildable due to the lots being extremely steep, as well. We're over the requirement by 3 lots and there are 3 that won't be built on, for what it's worth. We tried to make the 16 lots sized similar to those that are near us. Joe - Are there plans for a road on the north side? Lynn - The Master Plan shows it's a collector road going to Cross Hollows, but with the Old Sorrell subdivision going in, it hasn't been designed that way for some reason. They have the subdivision on the top of the hill and have a road coming out of the subdivision. The subdivision has been approved. If it's either a collector or a City street, it doesn't matter. There's no more land to be developed up there. Whichever kind of road it is solves the 80-lot issue. Jill - And that road ties in somewhere else, so there are two? Lynn - If it would tie in tomorrow there would be no issue, but when it does tie in it doesn't really change anything since there's no more property to develop. We'd love to build the 16 lots. We can't build a 6-lot subdivision due to economics. Even 9 lots are a stretch. Joe - How many over would you be with the 9 lots? Lynn - We would

be 3 over, but then there are the three lots that unbuildable. They are all owned by Son Builders. Janet - In that map of Western Slopes subdivision it shows one road leading out and they have more than 80 lots. So how did that happen? Phil - The road off Westview isn't a main road. Kit - There is a main collector road master-planned from Westview to Cross Hollows. There will be some discussion on that. Phil - So this road is wide enough, but there's only one entrance. So, whenever it goes over to Cross Hollow Road there would be more entrances, but it may take a while to get there. Does that count? Kit - Once you get to the 80 lots, you need 2 entrances. Phil - Would a minor road work for the second entrance? Kit - There needs to be a major road for access. Roger - How are we defining a subdivision? Kit - This rule is not necessarily for a subdivision, but for an area. If there are over 80 lots in an area, we want 2 entrances for the traffic. This is calculated by a formula that each house provides 10 trips per day. The smallest local road in the Engineering Standards has a capacity of 800 trips per day. We take the 80 lots x 10 trips and that's where we get the 80 lots. Randall - In the Engineering Standards it is required to have 2 improved accesses if the area exceeds 50 lots. Roger - So what defines development? Randall - I asked Kit if I could have a giant subdivision and lego-chain the whole thing. Whether it's one subdivision or multiple phases, it is the idea of safety that is the reason for the rule. Phil - So you have no access to Westview Drive? Lynn - No. But what he just read said subdivision twice. There are 2 separate subdivisions there. The only lots fronting on the road are 5 lots. Kit - We don't count by subdivisions, we count by lots. Phil - It looks like you won't get a second road for a long, long time. Lynn - I assume that the reason the road comes from here in accordance with the Master Plan is that Old Sorrel will do that, but maybe not till phase 6. Phil - It won't be for a long time. Lynn - We would wait if we knew when it was coming in. Randall - The rule is based on when the design is happening. Ann - What about the lots that can never be used? So, if it says there's a lot there, it's counted as a lot even if it's steep? Phil - They theoretically could build on those steep lots. I've seen lots that I didn't think they could build on, but they did. Kit - It boils down to the safety issue. How many lots do you want isolated in an area if there's a fire? If you go up there where Lynn is thinking of building, it's a mass of juniper trees You can't even see the ground. If there's a fire and the fire crews can't get up there, and we have this ordinance in place... Roger - The ordinance doesn't allow for the width of the road to increase or decrease? Kit - It's based on the 800 trips. Phil - So according to the ordinance he can only legally add 6 more lots? Randall - Technically it's 5, counting his own lot. Phil - We can't go against the ordinance. Randall - That's why he's seeking the variance.

Ann read the 5 questions

1. Unreasonable hardship: Ann - We need to come up with a hardship that is not financial. We always struggle with this one. Roger - You could meet with Son Builders and have them take the 3 steep lots off. Lynn - That won't happen. Roger - There would be liability for the City on this. Joe - Have there been past experiences on the Board where we've fudged a couple of lots for different reasons or have, we held to the 80? Kit and Randall - No, it's a safety issue. Randall - Not that we haven't varied somewhat related things. There was one application where the road had initially been designed for them to connect at the top and we varied the road. There was an issue on the distance of a road, and we varied that. Ann - I remember. They had bought all the lots in the cul-de-sac and the City had planned on a road that would have connected, but it would have gone through one of their lots. Randall - That's the closest that I can think of. There's not been anything this specific. The International Fire Code says it depends on what you are building. Now this code limits the number of single family lots with one entrance to 30. Other codes list it at 100, so our standard is about half way between. According

to the International Fire Code requirement, we are already way over their number. We are willing to take that risk up to a certain point, but not further. The Engineering Standards are based on the number of cars going through. The Fire Code is due to the safety issue. We are trying to be as prepared for fire as we can. Ann - Three lots may not seem like a lot, but another 30 trips in and out per day is a lot. Lynn - I have no idea the number of trips came from. It's ridiculous. Not one of them takes 10 trips a day in that area. Most are retired. Ann - And that could change at any time. People come and go. Jill - The width of the road doesn't make it easier to fudge. Roger - If there was a fire at any of the 3 houses in the front, the entire road would be blocked. Drew - Once they establish the number of exits, the width won't change it. Roger - The City has thought this out and I don't feel comfortable overriding that process. I would advise you to talk to the developers on the Old Sorrell project and see when they plan on building that road. If a final plat were approved would it allow him to apply? Randall - Before getting the occupancy permit, it would have to be built. If the paper process was done, he could start his paper process too, but he couldn't do anything until it was built. Roger - So he could proceed but couldn't build. Phil - But he could then do the 16 lots. Roger - Kit has said to try working with the developer of Old Sorrell and try to influence him, and when the development has the final plat you can work with City on yours. Lynn - It won't happen in my lifetime. How about if we do our subdivision and only sell 5 lots until the road goes through? Roger - The ordinance is based on designated lots at the time of design, so you couldn't get final plat approval. Lynn - But that land locks a lot of land. Randall - We need to make sure the design is okay, and it could work. Lynn - Why can't I do my subdivision? Old Sorrell has gotten approval. Kit - They have 2 accesses. Lynn - This entire area has been developed and yet we can't develop our property. Roger made a motion to deny the application based on Engineering Standards, City Ordinance, and risk assessment. Second by Phil. Vote unanimous to deny.

Lynn - There's a junk yard right near my property in a residential zone, and the City allows that and yet the City treats me the way they do. How can that happen? For 10 years nothing been done about this junkyard. Then I have a reasonable request that is turned down. How is that fair? I don't expect an answer. Thanks for your time.

REQUEST FOR A VARIANCE/SPECIAL EXCEPTION ON THE SETBACK FOR A PROPOSED DETACHED GARAGE ON A PROPERTY LOCATED AT 2244 N. WEDGEWOOD CIRCLE/LORRAINE ROLLINS HOLYOAK :

Kent - My wife owns this house on Wedgewood Lane and has for 21-plus years. It's set up with a 2-car garage on the ground level and we want a detached garage. It's a pie-shaped lot. We talked to the Building Department and they told us there was a problem with the set back and a 10 x 15 garage would be all I can build. On the north side of the property it goes back 42 feet. We are trying to build a 25 x 30 steel building with cement to the side and have drainage. Lorraine has 2 vehicles for Harley, and it's set up for a van that the nurses use to take him to therapy. We want to be able to get the van off the cul-de-sac. When the snow plow comes in, we have to dig it out. We want an enclosed building, so we won't have to worry about snow removal. We want to cement everything, as well, for wheelchair access. Randall - You should each have received the exhibit. Drew - The building setback is a minimum of 8 feet to the side; except if it's located at least 6 feet in the rear of the building. That's for the main house. It must be 6 feet behind that and then you could go closer to the side. Phil - If they go back 6 feet, they could put it one foot away from the side property line. Kent - We talked about it and it would take away the parking in front of the detached garage.

We want it to be 30 feet wide and 25 feet deep. Lorraine - We are trying to stay as far away from the house as we can. Randall - So 6 feet behind the house and with simple math if it's 6 feet behind the house they could have 1-foot set back which gives them 17 buildable feet behind the house. Then the setback from both property lines would be one foot. Kent - So you can't put a car in it. Roger - Is the line parallel to the house? Drew - It's at the back of the house. Kent - The northeast corner is next to the wall. Roger - Could we give a variance that shifted the parallel of the line so it's parallel to the house? Phil - So the front has to be at least 6 feet back? Drew - If we get to within one foot, we'll have to look at the fire rating provision and we might be able to work through that. You couldn't have an all wood structure up against that property line. Kent - It would be a metal building, anyway, bolted to the cement. Randall - If you need a handicapped access, how much width do you need to have it accessible? If we pull out the 25 x 30-foot number, how much would you need? Roger - I think I have a solution that doesn't involve the Board of Adjustments. In the "Reasonable Accommodation" laws, a handicapped person can't be denied the same rights as other people. Could that standard be applied and maybe have the variance waived so they can build their garage?

Jill - Could we vary this if they are in the home? Randall - Variances run with the land. We have to ask what is necessary and that becomes the question. Do they need the full 25 feet? In the past if the applicant asks for a lot, they have to prove a lot and if they ask for a little, they have to prove less of a need. Kent - We want to have at least 6 feet from the back gate to the cement pad to be able to get into the main garage. We sized it down already, as we wanted a 30 x 30 initially. We've tried to do everything we can to get it to work. Drew - A typical parking lot stall, even if it's handicapped accessible, is 9 x 18 with a 5-foot strip for the lift. So that would be 14 feet, plus the width of the walls. Phil - You would want to allow another 4 feet to turn the chair. Drew - We'd have to allow 5 feet for turning. Phil - So it could be 20 feet instead of 25. Kent - I talked to the company and turned the garage sideways, so the 14-foot door is on the side. Roger - Why don't we table this item and let Randall study the legal foundation for reasonable accommodation. Randall - A quick search is not bringing that up. Usually that criterion is used for employment.

Roger - It's in Title 62, chapter 2. I worked on this for one of my projects. The reasonable accommodation that I did was in a different area. Randall - What were you building? Roger - It was a group home that was required to follow ADA, so the single-family requirement was not necessary. It's worth looking into.

Roger suggested that this item be tabled for a month so Randall can research this. Kent - We would like to get the cement poured by the end of this month. That's why we were going to pour footings, as the price will go up. Joe - We need to find an argument that might get us past question #1. Ann read the requirements for granting a variance:

1. Unreasonable hardship: Phil - In this case they need the handicapped vehicles. Randall - My question is how many are necessary? Ann - What's in the garage now? Lorraine - A Suburban with a lift, and my vehicle. We also have a van that is parked on the street. Ann - I don't know that this is necessarily a hardship because they have an extra vehicle. Kent - The Suburban is brand new and we had to have the lift installed. The nurses come and take him 2 or 3 times a week and we let them use the van. Lorraine - We've lived there 22 years in April. Ann - So could you go smaller and make it just big enough for the van? Kent - We made it bigger for storage. Janet - That wouldn't apply to the hardship if you're using it for storage. Ann - So that's my concern. It's possible to go smaller. Does anyone have any thoughts? Phil - Does the smaller garage work? It would get the van off the street. John - So it's a matter of personal choice as far as you're concerned. The third vehicle is your choice, and I understand, but you would have to have other extenuating circumstances for you to have 3 vehicles

to accommodate one disabled person. Joe - We can't get past question number one. I'm back to what Roger mentioned. Tabling it would increase your cost on cement, but we can't be concerned with that. I'm wondering if Roger's suggestion is your best option at this point. Maybe you should explore that avenue and see if it will work for you. Roger - It would be in the Utah Fair Housing Act. It may allow you to do exactly what you want to do. As far as the Board granting a variance with the parking and the storage, it's beyond what the Board can do.

Randall will research this in the Fair Housing Act.

Ann - Do we want to table this, then? Lorraine - Yes, for now. Ann - Let Barbara know when you want to be on the agenda, and we hope we can get this done. This item is tabled.

ADJOURN: The meeting adjourned at 6:22 p.m.

Barbara Barrick
Executive Assistant