

**Cedar City Board of Adjustments Minutes**  
**May 3<sup>rd</sup>, 2021**

The Cedar City Board of Adjustments held a meeting on Monday, May 3<sup>rd</sup>, 2021 at 5:15 p.m. in the City Council Chambers, 10 North Main Street, Cedar City, Utah

**PRESENT:** Chairperson Ann Powell, Janet McCrea, John Ashby, Phil Schmidt, Chad Carter, Joe Sanders, Senior Engineer Jonathan Stathis, City Attorney Tyler Romeril, City Planner, Don Boudreaux, Executive Assistant Onjulee Pittser.

**EXCUSED:** Jill Peterson

**OTHERS PRESENT:** Jeff Rich, Kevin Morgan, Roger Gardner, Cesar Segovia (telephonically)

1. **CALL TO ORDER:** Ann welcomed everyone; the Pledge of Allegiance was led by John.
2. **APPROVAL OF MINUTES:** Joe motions to approve the minutes from the last meeting; seconded by Chad; all in favor for a unanimous decision.
3. **APPROVAL OF FINDINGS OF FACT:** Janet motions to approve the Findings of from the April meeting; seconded by Phil; all in favor for a unanimous decision.
4. **REQUEST FOR OTHER HOME OCCUPATION FOR BUSINESS LOCATED AT 140 E. 1600 N./FOXY GRANDPA ENTERTAINMENT, LLC/CHRIS KUHLEMEIER** – *Chris came in on 4/29/21 and asked to be taken off the agenda (after purchasing a business license.)*
5. **REQUEST FOR VARIANCE ON SETBACK REDUCTION ALLOWANCE TO 14-FEET FOR PROPERTY LOCATED AT 1177 BROOK STREET/JACOB ADAMS** – *Applicant did not show after confirming he was on the agenda.*
6. **REQUEST FOR VARIANCE ON CITY ORDINANCE REQUIRING A 6-FT. SITE OBSCURING MASONRY FENCE TO ALLOW CHAIN -LINK FOR PROPERTY LOCATED AT 457 N. 400 W./VICTORIA ARBORS, LLC/KRIS CASTLES (TIM WATSON, WATSON ENGINEERING)** – *Applicant did not show; will table until he contacts us.*
7. **REQUEST FOR VARIANCES ON CITY ORDINANCE REQUIRING 6-FT. SITE OBSCURING MASONRY FENCE IN REAR PRPERTY TO ALLOW COMPLETE OPEN SPACE ACCESS IN MASTER PLAN PUD FOR PROPERTY LOCATED AT 550 S. CROSS HOLLOW RD./DR HORTON/DON BEAN (TIM WATSON, WATSON ENGINEERING)** – *Applicant did not show; will table until he contacts us.*
8. **REQUEST FOR VARIANCE TO MODIFY A SINGLE-LANE DRIVE-THRU TO A Y-LANE CONFIGURATION FOR PROPERTY LOCATED AT 185 N. 1225 W./WENDY'S/CESAR SEGOVIA – (TELEPHONIC)** – Jeff Rich; **Cesar Segovia:** At the moment there's stacking issues with the drive thru spilling into the street. During covid the dine-in has gone down dramatically and parking spots are not being utilized. We thought it best to add a 2nd lane to avoid stacking. Most of the purchases have gone through drive thru. We'd like to remove

some of our parking and add Y-lane. **Ann:** How many parking spots are going to be removed? **Cesar:** There are some by dumpster in back and we're adding some in the front for parallel parking. We feel there will be enough parking. We'll be removing a total of 4 parking spaces. **Janet:** How many parking spaces are required for this location? **Don:** Parking is based on the seating area. It's 1 space for every 35 sq. ft. of non-fixed seating. **Janet:** We'd have to know exactly how much parking is required. **Ann:** 19 spaces. You'll be missing 3. **Cesar:** Yes, but only by 3 spots to make room for the Y-lane. I think a few years back, UDOT widened the street and we lost 2 parking spots. We'd be losing 1, if any. I'm really not sure. **Tyler:** I don't know when that happened. It may have been 20-30 years ago. **Phil:** We did the light and the off-ramp. It's probably been about 20 years. The bridge has been there a long time. **Tyler:** If it's consistent with the other properties, they'd have lost 5-ft. **Ann:** Outside of parking, is there a problem with doing it this way? **Tyler:** Legally, no. This is the mechanism. **Janet:** The variance is for parking, right? **Cesar:** Yes. **Phil:** Is this a structure? (referencing back portion of property on map). **Rich:** It's an apron for the dumpster corral. **Ann:** So, a dump truck can get in there. **Rich:** It was required by the health department so trucks could get in there during peak hours.

- (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.** – **Cesar:** I think for us it will help alleviate the car stacking and the congestion into the street. **Ann:** It is a safety issue for sure. **Janet:** Could the hardship be considered because of COVID and the change that's taken place for in person dining in and now it's drive thru? **Tyler:** In this situation the best argument would be that UDOT took 5-ft. and that shrunk their property. **Joe:** The 5-ft. loss; did that eliminate parking on the north end? **Ann:** Yes. It was when they widened 200 North they can't do parallel parking. **Rich:** We have to do angle parking in the front because UDOT took that 5-ft. **Chad:** how many stalls did they lose from that? **Cesar:** I'm not exactly sure. Before, there was angle parking. We don't have any parking now. We're adding 3 stalls now where there could be 5 or 6. **Janet:** Is there a legal problem with that time period in between? **Tyler:** No. **John:** It's situational. This was brought on by COVID. It is a safety issue on 200 North. That's the major issue here. It's a traffic hazard. **Chad:** It's not a good situation. **Ann:** I feel comfortable that UDOT took that 5-ft. That's a large amount. I think we're ok for #1.
- (2) There are special circumstances attached to the property that do not generally apply to other properties in the same district.** – **Cesar:** Yes.
- (3) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.** – **Chad:** Yes. **Ann:** I'd agree. He's on the corner and that makes it tough.
- (4) The variance will not substantially affect the general plan and will not be contrary to the public interest.** – No.
- (5) The spirit of the zoning ordinance is observed, and substantial justice is done.** **Janet:** The safety issue is in the spirit of the ordinance and substantial justice is done.

**John motions to GRANT the variance; Joe seconds; all in favor for unanimous decision.**

9. **REQUEST FOR ADMINISTRATIVE APPEAL/VARIANCE/ZONING MAP INTERPRETATION FOR HIGHWAY SERVICE SETBACK REQUIREMENTS FOR PROPERTIES LOCATED AT 625 W. 200 N. AND 657 W. 200 N./200 NORTH CC, LLC/SPENCER JONES** – *As per City Attorney, Tyler Romeril, applicant to be taken off agenda as issue has been resolved.*

**ADJOURN:** The meeting adjourned at 5:37 p.m.



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Onjulee Pittser  
Executive Assistant