

APPROVED

BRIGHAM CITY APPEAL AUTHORITY
Brigham City Council Chambers
December 11, 2013 – MEETING MINUTES

PRESENT: Barbara Stokes Chair
Jay Naumann Member
Richard Kimber Member
Fred Randall Member
Leisa Bertine Alternate

ALSO PRESENT: Mark Bradley City Planner
Julie Jeppsen Administrative Assistant

EXCUSED: Barbara Poelman Member

AGENDA:

1. WELCOME
2. PLEDGE OF ALLEGIANCE
3. ELECTION OF VICE CHAIR – removed and deferred.
4. APPROVAL OF THE JANUARY 9, 2013 MEETING MINUTES
5. APPLICATION #626 / ALTERATION OF NON-CONFORMING LOT / 238 NORTH 300 WEST / SHERONNE CHAMBERLAIN
6. DISCUSSION

REGULAR MEETING:

Barbara Stokes opened the Appeal Authority Meeting at 5:31 PM and the Pledge of Allegiance was led by Richard Kimber.

The agenda was approved with removal of item 3, which was deferred until the next meeting.

APPROVAL OF MINUTES

The item was deferred to the next meeting.

APPLICATION #626 / ALTERATION OF NON-CONFORMING LOT / 238 NORTH 300 WEST / SHERONNE CHAMBERLAIN

Mr. Bradley presented the application including a site plan and explanation of the application and history of uses. He explained that notices were mailed to the neighbors. He also explained that a letter from a neighbor had

been received which expressed some concern over a rear fence.

The applicant Sheronne Chamberlain and her son David Marble came forward. Sheronne Chamberlain explained that she is requesting a boundary line change of 7 feet to enable her to construct a fence between the two lots. She stated that there is plenty of room on the adjoining lot, which she owns, to allow for the change (there is a huge garden.) Mr. Marble reiterated her request. A site plan and photographs were displayed and discussed.

Barbara Stokes asked Mark Bradley for specifics regarding the fence ordinance. Mr. Bradley explained the setbacks etc. for compliance with the fence ordinance.

Barbara Stokes asked for clarification of the applicant intent as it relates to future sale of the property and how the surrounding properties might potentially be impacted.

Richard Kimber stated that it appears that there were 3 lots at one time. He asked for the history of these lots. Mrs. Chamberlain explained that the apartments have been there for 50 or 60 years. Her parents lived in the building on the lot to the north and she bought the ground that the house is on and built the home so that she could take care of her elderly parents. To her knowledge there were never 3 lots, it has always been 2. The lot line was established the way it currently is to enable her father to keep his large garden area. What she wants is 7 feet from the north lot to give her more clearance on the north side of her house for a fence.

Richard Kimber and Fred Randall both discussed that no matter what the owners were to do, the north lot would never be conforming with its current use.

Mr. Bradley explained that compliance and non-compliance of the south lot is determined by the distance between the side lot line and the side of the building. Square footage is also a determining factor. The chimney and air conditioner in this case are not included for purposes of calculation.

There was clarification that the north lot is in non-compliance based on its use as a 4 unit building. In the case of loss due to fire or other natural disaster, the building could be replaced with a like footprint.

The staff comment by the police department was of concern to Richard Kimber. Mr. Marble explained that there is plenty of room for additional parking on the north lot if required in the future.

Mr. Bradley stated that he received two comments from the neighbors.

Their comments and concerns were noted and addressed.

Kimberly Ford came forward and explained that she had originally been concerned that a rear fence might have an impact on her property. After listening to the discussion, she feels that there will not be a significant impact. She continues to have a little concern if they were to put a parking lot next to her fence, but, overall her issues have been addressed.

Richard Kimber asked for clarification of the regulations regarding parking for this type of occupancy. Mr. Bradley stated that the current ordinance has a requirement for two stalls per unit. This is an older, non-conforming building and the requirement because of its status does not apply unless the use was being expanded. The side yard would most likely be utilized to provide additional parking if an application was made to alter the building in the future.

Barbara Stokes stated that it is important that the Appeal Authority carefully consider all of the factors and consequences of these requests.

Fred Randall asked if there were 5 conditions that needed to be met before the Appeal Authority could approve the request. Mr. Bradley stated that this is not a variance request and the stipulation of meeting the 5 conditions referred to does not apply. He reviewed the responsibilities of the Appeal Authority for an alteration of a non-conforming lot.

29.06.140 Standards and Criteria for Nonconforming Use, Lot or Structure

A. Alteration of a Nonconforming Use, Lot, or Structure

1. A nonconforming use, lot, or structure shall not be enlarged upon, expanded, or intensified. A nonconforming use, lot, or structure may apply to the Appeal Authority to be enlarged or modified by meeting the following criteria:

- a. The change is in harmony with the surrounding neighborhood and in keeping with the intent of the Comprehensive Plan and this ordinance.*
- b. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity.*
- c. Reasonable conditions may be attached to the approval in order to assure compatibility with the surrounding properties.*

Mr. Bradley was asked by Richard Kimber what the ultimate square footage would be if they were to give the 6 feet recommended by staff. Mr. Bradley stated that 120 square feet would be lost. Mr. Kimber mentioned the parcel would be just over the 14,000 square feet, a minimum amount that could accommodate two single family lots in the future, each being the minimum 7,000 square feet.

Richard Kimber asked the applicant to confirm her intention with regard to

construction of a fence in the future. The applicant stated that she intends on building a fence if she sells the property. He also asked her what the intended use of the north property is. The applicant stated that she does not intend to change the use to something other than what it currently is.

The staff recommendations were reviewed including suggested requirements for parking alterations.

Requirements for Emergency Services access were discussed.

MOTION: Fred Randall made a motion to deny the application because it is not in harmony with the intent of the Comprehensive Plan and the Ordinance. Based on the finding of fact that it would reduce the north lot square foot area even further than it currently is and that the north lot is non-conforming and the south lot is technically in conformance.

The Motion was seconded by Jay Nauman.

Leisa Bertine stated that she had weighed the situation back and forth throughout the discussion. She asked the applicant if it would be enough if the Appeal Authority were to allow the 6 feet based on one of the recommendations in the Staff Review. She stated that in her opinion, the Appeal Authority should protect the ordinance and interests of future owners.

The applicant expressed frustration with the City processes. She stated that there are many other properties within city limits that do not comply with ordinances. She stated that she would be satisfied with the 6 foot compromise.

There was discussion regarding proper procedure.

MOTION: There was a motion by Fred Randall to withdraw the original motion.

The motion to withdraw was seconded by Jay Nauman.

The motion was withdrawn.

The members discussed and clarified the square footage - based on the numbers and according to County records, the square footage of the north lot would be 14,040 with the proposed change to the boundary line giving 6 feet to the southerly lot. It was suggested that any motion should be made contingent on a survey of the property to verify that the square footage remains over 14,000 square feet.

MOTION: A Motion was made by Leisa Bertine to approve the application with the change of 6 feet as suggested in staff comments. Approval is contingent upon the north lot square footage not dropping below 14,000 square feet based on a survey to be provided by the applicant. With the findings of fact that with the above change, the conditions discussed earlier in the meeting are met and the application is in harmony with the intent of the Comprehensive Plan and Ordinance for maintaining a minimum lot size on the north lot for potential subdivision of land.

The motion was seconded by Jay Nauman.

There was discussion regarding the north lot not being in conformance with the ordinance. The Appeal Authority is protecting the integrity and ability for future subdivision. The Appeal Authority discussed parking issues and parking requirements for this continued use are not an issue for discussion at this time.

The motion was voted on and the members were polled.

Jay Naumann	Aye
Richard Kimber	Aye
Fred Randall	Nay
Leisa Bertine	Aye

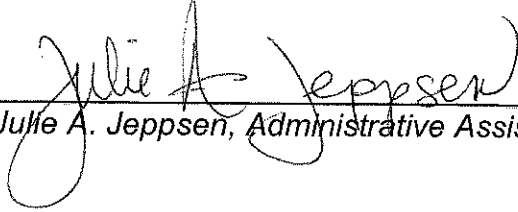
Barbara Stokes stated that she appreciates the input of the applicant and staff. She stated that these decisions are weighed heavily by the members before they are voted on.

MOTION: A Motion to adjourn was made by Jay Nauman. The Motion was seconded by Richard Kimber and passed unanimously.

The meeting was adjourned by Barbara Stokes at 6:55 PM.

This certifies that the minutes of December 11, 2013 are a true and correct copy as approved by the Appeal Authority on February 12, 2014.

Signed: _____


Julie A. Jeppsen, Administrative Assistant