

PLANNING COMMISSION MEETING

June 21, 1984

Minutes of the regular meeting of the Box Elder County Planning Commission held Thursday, June 21, 1984, at 7:30 p.m.

Members present were: Don Chase, DeVon Breitenbeker, Richard Kimber
Jay Macfarlane, Kent Newman, J. Glen Nelson.

Ex-officio: Denton Beecher, Jay Hirschi.

Vice-Chairman Kent Newman was conducting the meeting.

The minutes of May 17, 1984, which were previously mailed to the members of the Planning Commission, were presented for approval. Motion was made by Don Chase that the minutes as written be approved. Motion was seconded by Devon Breitenbeker with all voting in favor.

MINOR SUB-DIVISION SKETCH PLAN APPROVAL FOR KEITH CLARK

Mr. Keith Clark met with the Planning Commission for preliminary sketch plan approval for his proposed minor sub-division. The property is located North of Deweyville between the highway and the County Road. He said he has a permit for 22 units and is drilling a well to supply the water. He wants to develop 9 units at the present time. He owns approximately 120 acres which includes both sides of the highway. A storage water tank will be installed to supply water to the houses. Each of the lots will be approximately one acre, and septic tanks will be installed for each house. The Commission raised the question if the State Highway Department would approve access from the state road for the units. Mr. Clark said that 5 lots would come off the County road which are located on the South end of the property. Mr. Clark presented a letter he received from the Bear River District Health Department which stated that the development looks feasible, but approval was not stated in the letter, and suggested Mr. Clark contact the State Engineer. A motion was made by Jay Macfarlane that the preliminary sketch plan be approved subject to approval by the State Highway Department and so long as it meets all the requirements as the project progresses. Motion was seconded by Richard Kimber and approved.

TEMPORARY MOBILE HOME APPROVAL BY BLEN WILSON

Denton Beecher reported that Blen Wilson was moving in a mobile home for living quarters without first obtaining a permit, and was stopped. Beecher reported that the unit has no water or sewer service. The mobile home would be located behind an existing home located in South Willard, and is presently zoned RR-5 zone. DeVon Breitenbeker said that it appears that a residence has been established with the approval of other temporary mobile homes. Devon then made a motion that if Mr. Wilson meets all conditions as a temporary dwelling, that a permit be approved contingent upon:

1. Sewer approved by the Health Department
2. Signed certificate from the water supplier
3. The home is for a member of immediate family and is temporary.

Motion was seconded by J. Glen Nelson and approved.

BOX ELDER COUNTY ROAD AT MUNICIPAL AIRPORT

Reported by Don Chase that Brigham City will soon be making some major improvements at the Airport which would include a relocation of the County road. He said Brigham City would like to move the road more to the West which would involve the vacating of the existing county road in exchange for the newly located road, with all the work involved being done by Brigham City. Following some discussion, Richard Kimber made a motion that they approve the vacating of the existing county road in exchange for an improved county road located farther to the West, which would improve travel conditions in the area. Motion was seconded by DeVon Breitenbeker and approved.

APPOINTMENTS WITHIN THE PLANNING COMMISSION

Motion was made by J. Glen Nelson to appoint Richard Kimber as Chairman of the Planning Commission. Motion was seconded by Jay Macfarlane and approved.

Motion was made by Don Chase that Kent Newman be appointed as Vice-Chairman of the Planning Commission. Motion was seconded by Richard Kimber and approved.

Motion was made by J. Glen Nelson that Richard Kimber be appointed to serve on the Board of Adjustments. Motion was seconded by Kent Newman and approved.

APPEAL BY VON R. CURTIS TO BOARD OF ADJUSTMENTS

A letter was presented which was written to the County Commissioners by Attorney Jon Bunderson regarding his opinion pertaining to the approval of the Board of Adjustments on the Von R. Curtis property. (Copy 1). Following a discussion, DeVon Breitenbeker made a motion that the Planning Commission feels there has been an injustice made to the Zoning Plan when the Board of Adjustments approved the request by Von Curtis to subdivide his property into parcels less than what the zoning ordinance will allow. To appeal the decision made by the Board of Adjustments and to direct the County Commissioners to contact the County Attorney to pursue as necessary to uphold the decision of the Planning Commission and County Commissioners. Motion was seconded by J. Glen Nelson and approved.

Meeting adjourned at 9:30 p.m.



CIRCA 1890'S

Box Elder County,

STATE OF UTAH

BRIGHAM CITY, UTAH 84302
OFFICERS

- GLEN S. FIFE, COUNTY TREASURER
- JAY R. HIRSGHI, COUNTY CLERK
- ROBERT E. LIMB, COUNTY SHERIFF
- MARIE G. KORTH, COUNTY RECORDER
- JON J. BUNDERSON, COUNTY ATTORNEY
- VON R. CURTIS, COUNTY ASSESSOR
- DENTON BEECHER, COUNTY SURVEYOR
- DORIS L. OLSEN, COUNTY AUDITOR

COUNTY COMMISSIONERS
DON E. CHASE
GLEN R. CURTIS
JAMES J. WHITE



CIRCA 1980'S

May 24, 1984

Box Elder County Commission
County Court House
Brigham City, Utah 84302

Re: County Misc. 1984

Dear Sirs:

I have been requested to give an opinion concerning the Powers and the Duties of the Board of Adjustment in Box Elder County specifically in regard to a certain appeal decided by the Board of Adjustments dealing with property owned by Von R. Curtis.

Box Elder County's Zoning ordinance provides for a Board of Adjustment in chapter 2 thereof. State law also provides for a Board of Adjustment to be established and the Box Elder County ordinance is basically in conformity with the State statute.

The Section of the Zoning Ordinance dealing with the Board of Adjustment does authorize that Board, upon appeal, to grant variances from the terms of the Zoning Ordinance as will not be contrary to the public interest. It further specifies that before any variance may be authorized, it shall be shown that:

- a. The variance will not substantially adversely affect the comprehensive plan of zoning and that adherence to the strict letter of this ordinance will cause difficulties and hardships the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the zoning plan.
- b. Special circumstances are attached to the property covered by the application which do not generally apply to other property in the same district.
- c. That because of said special circumstances, property covered by the application is deprived of privileges possessed by other properties in the same district; and that the granting of the variance is essential to the enjoyment of a substantial property right that is possessed by other property in the same district.

The ordinance also specifies that the actions of the Board of Adjustment shall be based upon findings that shall be made a part of the official record.

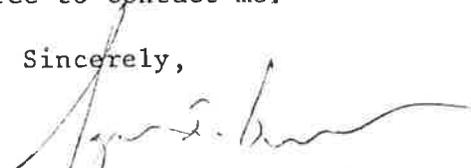
In examining the documents supplied to me, I do not find appropriate findings by the Board of Adjustment supporting their decision as per the requirements set out above.

The Box Elder County Zoning ordinance also provides for a review of the Board of Adjustment's decision. This specifies that Box Elder County may bring a suit in District Court to overturn the decision of the Board of Adjustment should the county disagree with such decision. This action must be brought within Thirty (30) days after the filing of the decision of the Board of Adjustment.

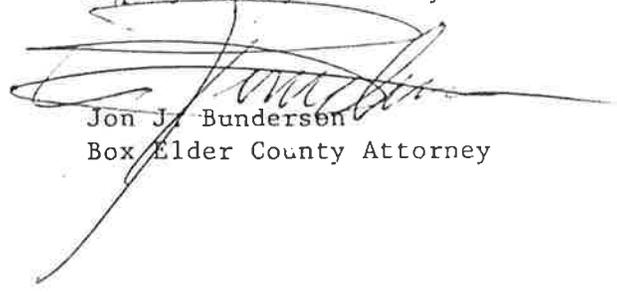
In the present case, while the County may appeal the decision of the Board, it is my opinion that the District Court would likely refer the matter back to the Board of Adjustment so that they can make the proper findings required. It is always possible that the District Court would decide that the Board of Adjustment was wrong and not refer it back to them for appropriate findings, but I think this would be unlikely.

I hope this answers your questions concerning this matter. If you have any further questions, please feel free to contact me.

Sincerely,



Roger F. Baron
Deputy County Attorney



Jon J. Bunderson
Box Elder County Attorney

RFB:ebf