

July 10, 2008

Minutes of the Alpine City Board of Adjustment meeting held July 10, 2008 at Alpine City Hall. The meeting was called to order at 7:00 pm by Chairman Bill Sidwell. The following Board members were present and constituted a quorum:

Chairman Bill Sidwell

Board Members: Mike Crossley, Bill Conley, Lynn Armitstead, Dan Hauser

Staff: Charmayne Warnock, April Riley

Others: Jason Coverston, Quinn Goeckeritz

The prayer was offered Bill Conley.

Jason Coverston at 731 S. Blue Ridge Lane in Alpine, Utah requested a variance of 4 feet to the side-yard setback for his property located at 731 S. Blue Ridge Lane in the CR-20,000 zone.

April Riley said that the applicant had a building permit to finish the basement in his home at 731 S. Blue Ridge Lane. When the building inspector went to inspect the basement, he noticed that a covered walkway had been built over the sidewalk that ran along the side of the house. There were two issues: first, no building permit had been issued to construct the cover over the walkway; second, the walkway intruded into the side setback.

April Riley reviewed the following Findings of Fact and said staff recommended denial of the variance

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.

The Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought; and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

- There are no circumstances peculiar to this lot. It is a regularly shaped, 20,061 square foot lot in the CR-20,000 zone. (see attached plat map)

The Board of Adjustment also may not find an unreasonable hardship if the hardship is self-imposed or economic.

- The hardship is self-imposed because the applicant built the wall without applying for a building permit. It is during the building permit process that setbacks are checked.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.

In determining whether or not there are special circumstances attached to the property, the Board of Adjustment may find that special circumstances exist only if the special circumstances relate to the hardship complained of; and deprive the property of privileges granted to other properties granted in the same zone.

- There are no circumstances peculiar to this lot.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property owners in the same zone.

- Having a covered walkway is not considered a substantial property right.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

- A variance would affect the general plan and would be contrary to the public interest because the purpose of Alpine's setback laws is to create space between dwellings and prevent encroachment on neighbor's airspace.

5. The spirit of the zoning ordinance is observed and substantial justice is done.

- The spirit of the zoning ordinance will be observed and substantial justice done if the variance is denied.

Bill Sidwell asked Jason Coverston why the variance should be approved.

Mr. Coverston submitted photos of his property to the Board members along with the written reasons why he felt he should receive the variance. (He had not submitted his information early enough to be included in the information packets provided for the members of the Board of Adjustment.)

He apologized for not going through the building permit process for the covered walkway to begin with. He said they had submitted an application to finish the basement, but the roof over the walkway was an oversight for both him and his builder, Quinn Goeckeritz.

Mr. Coverston said it didn't appear there would be any issues with the public utility easement around the property because there weren't any utilities located in that easement that he knew of. Second, the covered walkway was a long ways from the neighboring house because the neighbor's house was set about 30 feet from the fence line.

The covered walkway was only a roof. The walls were not filled in so there was still an open feeling.

Mr. Coverston said he wanted the walkway covered for the benefit of his sister who would be staying in the basement with her two small children. In the winter the walkway got icy and it would be safer if it were covered. He said that safety was his primary concern in covering the walkway.

Bill Sidwell asked who built the house. Jason Coverston said he didn't know since he was the second owner.

Bill Sidwell asked what it would cost to bring the house into compliance with the setback requirements. Quinn Goeckeritz said they would have to tear the roof off, leaving the portion over the stairs which was outside the setback, then cantilever the roof. He expected it would be about \$30,000.

In response to a question about feedback from neighbors, Charmayne Warnock said there was an email from Scott Riley, the adjacent neighbor at 763 S. Blue Ridge Lane, who supported the variance. There was no response from any of the other neighbors.

Jason Coverston said he had talked to the other neighbors about the variance, none of whom had a problem with it. He said the walkway was four feet into the setback – about 8 feet from the side property line. Quinn Goeckeritz said that it appeared the vinyl fence was actually about a foot into Mr. Coverston's property, although they hadn't had it surveyed.

Mike Crossly said the problem was that the Board of Adjustment was bound by state law. They couldn't grant a variance unless it met the criteria established by the state law, even if the variance made sense. There was nothing unique about the lot that would make it qualify for a variance. There was room on the north end of the lot since the home was not centered.

Jason Coverston said he thought the way the house was located on the lot made it unique and created a hardship. If the home had been centered on the lot, there would be room for the overhang. The location of the house created an undue hardship and there would be excessive expense if he had to change the windows and doorways in order to put the walkway on the other side of the house.

Lynn Armitstead asked if the location of the house on the lot would qualify as a hardship since Mr. Coverston had not built the home. He was the second owner and the hardship was created by the original builder.

April Riley said the hardship had to be something on the lot that was unique to the area.

Jason Coverston said there was a slope on the north side of the lot which was probably why the original owner located the home where they did.

Bill Sidwell noted that a lot of homes were not centered on the lot and the location wouldn't necessarily constitute a hardship.

Bill Conley said he had built a carport onto a home that he owned in another state. The carport encroached on the setback by six inches and he had to tear it out.

MOTION: Bill Conley moved to deny a variance to the side-yard setback as request by Jason Coverston for the property located 731 S. Blue Ridge Lane based on the Findings of Fact. Mike Crossley seconded. Ayes: 5 Nays: 0. Motion passed unanimously.

Mr. Coverston was informed he could appeal the decision to the district court within 30 days.

Lynn Armitstead suggested Mr. Coverston approach his neighbors about buying a strip of land from them.

APPROVE THE MINUTES OF JUNE 12, 2008

MOTION: Bill Sidwell moved to approve the minutes of June 12, 2008 as written and adjourn. Mike Crossley seconded. Ayes: 5 Nays: 0. Motion passed.

The meeting was adjourned at 7:30 pm.