

May 8, 2008

Minutes of the Alpine City Board of Adjustment meeting held May 8, 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: Lynn Armitstead, Bill Conley, Dan Hauser, Mike Crossley.

Staff: Charmayne Warnock, April Riley

Others: Fred Keetch

Fred and Renee Keetch at 893 S. Alpine Highway in Alpine, Utah requested a variance to the fence ordinance as set forth in the Alpine City Development Code, Section 3.21.6 for their property at 893 S. Alpine Highway.

Fred Keetch explained that he was requesting a variance to allow a 5 or 6 foot fence along the front property line of his home along Alpine Highway. He currently had a three-foot fence along the front of his property, but the highway had been improved a number of times since the home was built in 1975 and the road was now almost even with the top of the existing fence. He wanted to replace the old wood fence with a taller vinyl fence to provide some privacy from the traffic along the highway.

Bill Sidwell asked if there would be safety issues with the driveway if a higher fence were allowed. Fred Keetch said the fence would end 33 feet before the driveway and there was also a distance of 12 feet between the fence and the edge of the highway. He shared the driveway with the property owner to the north. Since the highway was higher than their lots, they had to gain altitude and the driveway came up and out onto the highway. There would be no sight obstruction.

April Riley said she thought the variance could go either way because she felt there was some ambiguity in the definitions. She had emailed the City Attorney, David Church, but hadn't heard back on the issue. She questioned if there was a situation peculiar to the Keetch's lot that warranted a variance since other lots along Alpine Highway were also lower than the highway. If the lot were compared to those lots, there were no unusual circumstances. If the lot were compared to other lots in the zoning district, it would be unusual in that it was lower than street in front of it.

It was pointed out that the property on the other side of the highway belonging to Boulter, had received a variance for fence height and their property had been made lower than the highway as a result of highway improvements.

Bill Sidwell asked why the Board of Adjustment should approve the variance.

Fred Keetch said they would like some privacy between them and the very busy road. It was much different than it was in 1975 when they built their house.

Bill Conley said there were a lot of trees in the Keetch's front yard which should provide some privacy.

Fred Keetch said that was one of their concerns. The trees may not be there much longer. They were concerned that they would blow over and cause some damage because they were right next to the house.

Bill Sidwell asked if the state planned to put in a sidewalk along there.

Fred Keetch said that Mel Clement, a councilman when they built their home, said it was unlikely that there would be a sidewalk along there and had suggested that the two property share a common access onto the highway with a circular driveway for each home. Mr. Keetch said he had

resisted the idea at the time but was now very grateful for that circular driveway. He would hate to have to back out onto the highway.

Lynn Armitstead said there were two things that impacted the lot. First, the road had been raised so much that a 6-foot fence was more like a 3-foot fence. Second, the traffic along that road had increased. He said he could see the value of a barrier, and the hardship was not self-imposed.

MOTION: Lynn Armistead moved to approve the variance to approve a variance resulting in a fence of no more than 6 feet based on the following findings of fact:

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.**

Literal enforcement of the zoning ordinance would cause a hardship for the applicant. The home and lot have been in existence since 1975. Since that time UDOT has improved and widened Alpine Highway several times, each time raising the level of the road. Because the property is lower than the road, putting up a three-foot fence would essentially provide little or no barrier between the home and Alpine Highway.

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

There are special circumstances attached to the property because it is lower than the Alpine Highway. The majority of properties in Alpine are on roughly the same level as the street.

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

Granting the variance would provide the property owners with a right shared by other property owners in that it would give them an effective fence height of three feet between them and the highway.

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

If a variance for a 6-foot fence is granted, it will not affect the general plan and will not be contrary to the public interest. A motorist on Alpine Highway would see what appears to be a 3-foot fence since the bottom of the fence is lower than the road. In regard to sight distance issues, the property line on which the fence would be placed is 12 feet away from the curb, and the proposed fence would stop 33 feet away from the shared driveway. There would be no sight distance issues for motorists pulling out onto Alpine Highway.

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 will be done if the variance is granted.

Seconded by Dan Hauser. Ayes: 5 Nays: 0. Motion passed.

MOTION: Mike Crossly moved to approve the minutes of August 30, 2007 and adjourn. Bill Sidwell seconded. Ayes: 5 Nays: 0. Motion passed.

The meeting was adjourned at 7:25 pm.