

Tooele City Board of Adjustments
March 2, 2009
Minutes

Place: Tooele City Hall Small Conference Room
90 North Main Street, Tooele, Utah

Board Members Present:

Kevin Shields, Vice Chairman
Cheri Zander
Steve West
Vincent Olcott

City Employee Present:

Cary Campbell, Community Development Director

Others Present:

Jed Woodard

Minutes prepared by Elisa Jenkins

The meeting was called to order by Vice-Chairman Shields at 5:35 p.m.

1. **Requesting a set back variance of lots within his trailer park. The park was established in approximately 1971. He would like to put in larger mobile homes which do not fit into the same space with today's setback requirements. The property is located at 250 West 900 South in an R1-7 zone by Jed Woodard.**

Mr. Shields explained to Mr. Woodard that the Board of Adjustments is a board that is required by the State of Utah. He stated that there are a number of questions that they are required to meet to be able to grant a variance. He asked Mr. Woodard to explain his request for a variance.

Mr. Woodard stated that he and his father bought this trailer park together. They also own a few other trailer parks in different cities. They have modeled this trailer park after the others that they own. He understands that different cities have different rules. He indicated that they bought this park about one year ago and it was very run down and needed a lot of improvements. They bought the park and immediately they went to work cleaning it up. He said prior to buying the park he called the City and spoke with Richard Jorgensen. Mr. Woodard wanted to make sure that he could get new trailers in the park. Mr. Woodard said that Mr. Jorgensen told him that this was an older park and it should be grandfathered with respect to set back requirements. Mr. Woodard started cleaning up the trailer park and bought one trailer and Clayton Homes set up a spec home. He wanted to get more homes in the park. He said that homes in the park right now have a setback in the rear from about 3 ½ 'and up. He said that homes in the front have about a 6' – 7'

setback. He began to set up new homes and put them in with about 6' setback thinking that was acceptable because the homes that were currently in the park had about a 6' setback. He got the homes set up and came in to get the permits and get everything approved. He also stated that there is an issue with the property line on the east which he is hoping will be cleared up this month. Clayton Homes sold a double wide trailer and went to get a permit and took a second look at the property and they decided to cancel it after the concrete had been poured. Mr. Woodard was disappointed in how that went. Clayton Homes has pulled out the double wide trailer and their spec home. He had three new homes in there at one time and now only has one left. Mr. Woodard met with the City Attorney and Mr. Campbell and during the meeting Mr. Campbell expressed that his biggest concern with the setbacks is so that people have a good line of vision when backing up. The City would like to see at least a 10' setback in the back. Mr. Woodard said that he will not be able to put the size of homes he would like in this trailer park with a 10' setback but he will be able to put smaller homes in. Now he is stuck with this home that he has purchased that can not be placed on a lot with the current setback requirements. His best solution was to move the home across the street where there would not be a trailer on the other side and the line of sight would not be a problem. He is at a standstill and feels that this would be the best solution.

Mr. Shields asked Mr. Woodard to clarify what the variance is that he needs.

Mr. Woodard stated that he is only asking for a variance for this one home.

Mr. Shields stated that the City would like 10' in the rear of the lot and 15' in the front. He said that Mr. Woodard would need a variance of 7'.

Mr. Woodard said that he is looking at it as a variance of 4' from the corner that is closest to the road or 7' from the other side. He would like to move the trailer back because there is no building behind this lot.

Ms. Zander said that there might not be anything there now but there could be in the future.

Mr. Woodard said that he might have thought twice about purchasing this park if he would have known what the setback requirements were.

Mr. Campbell asked if there is a window on the back of the trailer

Mr. Woodard said there are only windows on the side of this trailer not in the back.

Mr. Shields asked if this trailer home that he is putting on this lot is larger than a standard size home.

Mr. Woodard said that it is a larger trailer it is 72' long and a 1,150 sq ft. He wanted to make this park as attractive as possible. He would like to have all new homes in here eventually. He would like them to be owner occupied so they will be better taken care of.

He could put 66' trailers on the lots, but that is why he is asking for a variance for this home because it is a little larger. He can make the other spaces work.

Mr. Shields asked if this home would fit on another lot in the park.

Mr. Woodard said no. It is set up on another lot right now. It doesn't fit there and that is why it needs to be moved. The only lot that doesn't have the line of sight issue is the lot that he would like to move it to.

Mr. Campbell said most homes have a 6' or 7' side yard setback and usually there are no windows on the side. If there is no window in the back of this trailer home and there is a fire it is not as likely to spread out the back. The reason most homes are 20' in the rear is so there is a back yard. In mobile home parks usually the yard is on the side instead of the back. He stated that this home could slide back a little bit, and the conditions would be the same as a normal home.

Mr. West asked if he could have a 6' setback.

Mr. Campbell said that the board would have to make that decision. He said that 6' would be no worse of a condition than a normal home in an R1-7 or R1-8 zone. If it could slide back a little bit it would make this less of an issue.

Mr. West asked where the home was sitting at this time.

Mr. Woodard said that it is on lot 13. He drew a rough drawing on the board of what the mobile home park looks like. There is a park at the end with sod and a sprinkling system and across from the park there is a storage yard. He would like to put this home on the lot next to the storage yard. That would take care of the line of sight issue.

Mr. Shields said there could still be a safety issue especially if there is a park across from this home.

Mr. Woodard said that there shouldn't be too much traffic because it is at the end of the road.

Mr. Shield asked if this home only fits on the lot it is on and the lot that Mr. Woodard wants to move it to.

Mr. Woodard said that the home fits but does not meet the variance requirements. There is a dispute with the property line. He said that whenever something new meets something this old there is a property line dispute. The trailer is on the side at this time where the property line dispute is, which is one of the reasons he wants to move it to the other side. There is a trailer park to the north of this lot and the homes on that lot do not meet the setback requirements. Mr. Woodard would like to make this a nice looking trailer park. Low income housing is something that is needed for a young family starting

out. When he limits himself to the smaller homes it limits what he can do. If an old trailer is pulled out and he can not put a new home in he is at a loss of what to do.

Mr. Shields asked if Mr. Woodard was asking for a variance for one trailer home or the whole park.

Mr. Woodard said if he could get a variance on the whole park that would be great, but right now he is only asking for a variance for this one home. He is trying to conform and make everyone happy. If these homes have to be smaller homes than that is how it has to be. He said at the top of his park there is a fence that jogs in and he might be back asking for a variance for those lots in that area because they do not make trailers that small anymore. He does own a Fleetwood dealers license because they have bought so many homes from them. He can get these homes at a reduced cost and make this beneficial for the people that buy them which in turn is beneficial for the City.

Ms. Zander said that she understands Mr. Woodard's situation. She explained to the applicant that as the Board of Adjustment, they have to be able to answer five questions in order to grant a variance, per State law. She told him if they could do that, the Board could grant a variance.

Mr. Woodard asked Ms. Zander to read the questions.

Ms. Zander read the following questions.

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.*
2. *There are special circumstances attached to the property that do not generally apply to other properties in the same district.*
3. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;*
4. *The variance will not substantially affect the general plan and will not be contrary to the public interest; and*
5. *The spirit of the zoning ordinance is observed and substantial justice done.*

Mr. Woodard said that the age of this mobile home park makes it a hardship because the setbacks were different in the beginning.

Ms. Zander stated that the hardship has to be associated with the property not with the people that live on the property or the structure to be built on the property. It has to be peculiar to that piece or property and not general to the neighborhood it can not be economic nor can it be self-imposed. She said that the part she is having a hard time with is she feels that this is self-imposed because Mr. Woodard did not research what the setbacks were before he bought the home.

Mr. Woodard did not feel he needed to get this in writing because he called and talked to Mr. Jorgenson before he bought the trailer park.

Mr. Campbell said it is hard to ask questions over the phone because it is hard to get all the facts.

Ms. Zander said it is better to get something in writing and research it out a little better.

Mr. Woodard said that he thought he was doing the right thing by calling first and asking questions and then buying the home.

Ms. Zander said that she knows from personal experience that things should be researched out first before buying any property. She understands what Mr. Woodard is going through. She does not feel that she can grant a variance in this case because she feels that the hardship is self-imposed.

Mr. Shields noted that Mr. Woodard mentioned that he might come back in the future and ask for a variance where the fence jogs in on his property. Mr. Shields does not want to say what will be granted in the future, but he might not be able to find a trailer to fit because of the setbacks, that would be something that is imposed on the applicant. He may have a better chance in getting variance in that case. In this case a smaller trailer would fit on this lot.

Mr. Woodard said that is why he is asking for a variance only on this lot. He will make the other lots work. This has been a learning experience for him. He is trying to do the right thing and he has gone off of past experience as to what he has done in other trailer home parks.

Mr. West noted that if Mr. Woodard would have got a building permit first they would have helped him out to know what the set backs are.

Mr. Campbell said that if they would have had a permit and a site plan they could have helped him out before he purchased the home.

Mr. Woodard thought he was doing the right thing because it has not been an issue for him before in other cities. He bought the home and then came in to get a permit. He also noted that from now on he will let a contractor set up the homes.

Mr. Campbell noted that he has had his differences with Mr. Woodard but he has been very good to work with.

Mr. Woodard said that he does not want this issue to be a fight. He feels that he needs to get along with the building department. He said that if he could get a 3' variance he would be happy.

Mr. Campbell said typically with mobile homes there are windows in the back and if there was a fire it could encroach on the home next door. Mobile homes are built differently now than they used to be. They used to be fire traps and that is not the case any more. He does not have an objection if they want to view this as the same situation that they would view a normal home.

Mr. West asked how many entrances there were into this home.

Mr. Woodard said there are two entrances one on each side of the home. He drew a picture of the layout of the home on the board.

Ms. Zander asked Mr. Campbell if the zoning ordinances on mobile home parks changed recently.

Mr. Campbell said probably about 8-9 years ago. He said that they might not even have this discussion if they knew where the property line was on the east side of the property. He said that the ordinance has changed since he has been with the City. He doesn't know if the setbacks changed with the ordinance change or not. He said in the trailer park to the west of Mr. Woodard the homes are dangerously close together.

Mr. West said that the current homes that are already there are quite close to the property line.

Mr. Campbell said that if the home is already there they do not make them move the home. When homes are moved that is when it becomes a problem.

Mr. Olcott asked if there is more room on the east side of the property.

Mr. Campbell said they do not know right now because of the problems with the property line.

Mr. Woodard said that right now he believes that it is 6'6" in the rear and 5'6" in the front. This lot is smaller than the one that he wants to move it to.

Mr. Campbell said if they knew where the property line is they could make better decisions. Because the property line is in limbo right now, the City does not want to give someone permission to bring a home in. If someone brings a home in and they get a survey done after the fact and find out that they are encroaching (on other people's property) the City does not want to be involved in that.

Mr. West asked if the disputed property line becomes the hardship.

Mr. Shields said no because Mr. Woodard is asking for a variance on the other side of the trailer park.

Mr. West was trying to find a way that this is a hardship.

Ms. Zander said she feels that this is a hardship but she feels that it is self imposed and the board can not grant a variance if the hardship is self imposed. She appreciates Mr. Woodard fixing up this park and making it look better.

Mr. Woodard asked if the board could clarify how the Vorwaller mobile home park could move homes within their park. You are not supposed to move homes that are older than 1976 and they were able to move there homes.

Ms. Zander said that situation did not come before the Board of Adjustments.

Mr. Campbell stated in regards to the Vorwaller mobile home Park according to the City Attorney when they changed the ordinance for the Johnson Park to move out they could move the mobile homes. If part of the park is being vacated by the owner that part of the park may move those trailers. He used for an example if Mr. Woodard vacated part of land to turn it into a park, he may move those trailers but he could not move any more trailers back in. The City changed the ordinance so they did not come before the Board of Adjustments.

Mr. Shields said that the work that Mr. Woodard has done is appreciated. He called for a motion.

Ms. Zander moved to deny the variance request for the trailer park because the hardship is self-imposed. Mr. Olcott seconded the motion. All members present voted “Aye”.

Mr. Shields explained that Mr. Woodard could go to the City Council and ask for a zoning change. He stated that because of the style of home a 10’ setback in the rear is not very reasonable because most of their property is on the side yard. If it was changed to 6’ setback it would be no different than a side yard for a regular home.

Mr. Campbell said that he would bring this up to the staff and see if there is support for this issue before it is presented to the Council. He said that the ordinance will have to be changed.

Mr. Shields said that the best support Mr. Woodard can receive is from the staff. This is the state law they are following. They have to be able to meet all five criteria to grant a variance. He thanked Mr. Woodard for coming and being good to communicate with.

2. **Review and approval of minutes from February 9, 2009.**

Ms. Zander moved to approve the minutes from February 9, 2009 as presented. Mr. West seconded the motion. All members present voted “Aye”.

Ms. Zander moved to adjourn the meeting. Mr. Olcott seconded the motion. All members present voted “Aye”. The meeting adjourned at 6:35 p.m.

Approved this 28th day of February 2011

Vice-Chairman Shields