

**Tooele City Board of Adjustments**  
**October 18, 2004**  
**Minutes**

**Board Attendees:** James Ferguson, Roy Niskala, Jeff Shaw, Kevin Shields

**Board Members Excused:** Cheri Zander, Jerry Houghton

**Staff Attendees:** John Adams, Building Inspector  
Richard Jorgensen, Land Use Technician

Minutes prepared by Andrea Cahoon

Meeting called to order at 5:11 p.m. by Chairman Ferguson

**1. Request Variance for a 30' Drive Approach (Curb Cut) for a New Home Located at 1316 North 590 East by Pamela and Larry Prince**

Chairman Ferguson asked if all of the Board members had a chance to look at the home and its surrounding neighborhood? They stated they had. Chairman Ferguson explained that the rules that the Board of Adjustment must apply are set down by the state and there are five criteria that must be met. Each of the criteria must apply to the land itself, not to the building, or to a hardship, etc. He stated there were a lot of driveways in that area that had excessive curb cuts, but none of the driveways with the excessive curb cuts were legal. Mrs. Prince responded that the model home shown to her by the builder had an illegal curb cut and it had been passed. She even had a picture of a home with about a 40-foot curb cut and it was the home of a Tooele City police officer. Mr. Prince stated that they wanted to be legal, but they knew the City could offer exceptions and they wanted to be granted an exception. Mrs. Prince stated that she had many pictures of homes in this subdivision with these curb cuts that she presented to the City Council, and she had brought an additional 25 pictures this evening. She also showed the Board a picture of a home with a three-car garage that only had a 20-foot curb cut and stated she didn't like how it looked.

Kevin Shields arrived at 5:16 p.m.

Mrs. Prince said that she spoke to someone in the Community Development Department that stated that the curb cut code had been on the books for some time, but it hadn't been enforced until recently. Mr. Adams stated from an inspection standpoint the width of the curb cut was not looked at until earlier this summer. In the past they have only looked at the depth of the concrete and the compaction of the soil. A lot of the driveways were done without inspections at all which creates other problems. Chairman Ferguson said that a lot of these were cut and poured and they didn't come before the Board of Adjustment for a variance. The neighborhood is full of illegal curb cuts. Mrs. Prince added that the driveways in the neighborhood across 1000 North are the same. Mr. Prince said that the City is going to be handling this situation again and again because there are homes being built with three car driveways that want more than a 20-foot curb cut.

Chairman Ferguson stated that the City was looking at changing the ordinance and is proposing that the curb cut cannot exceed 1/3 of the property frontage, up to 30 feet wide. Mr. Shaw said that the site plan

shows that their frontage is 85 feet. Chairman Ferguson said the official plat says it is 90 feet. Mrs. Prince said that she double checked and 90 feet is correct, so it would give them their 30 feet. Chairman Ferguson said that it cost them \$50.00 to come before the Board of Adjustments with this issue, but the Board does not have anything that they could grant a variance on. Mrs. Prince asked why they were sent here by the Mayor and the City Council? Chairman Ferguson stated that they were misinformed. Mrs. Prince said they are locked in on an interest rate that they will lose if they have to wait for the ordinance change. They are out of time. They waited for this because this is what they were told they needed to do. They went on what the Mayor and City Council told them. Chairman Ferguson said he understood that they had, and it was too bad that they were misinformed by them. If the ordinance is changed as proposed, they wouldn't need a variance at all. Mr. Jorgensen said that the Board of Adjustment is bound by state law.

Mr. Adams suggested that they pour a 20-foot driveway at this point. Mrs. Prince said they have paid for what is laid out on the site plan. She stated that someone passed all of the other driveways and nobody stopped any of them. The whole subdivision has these. Mr. Jorgensen said if somebody speeds and got away with it, does that mean everyone can speed? Mrs. Prince said that was apples and oranges. Mr. Prince said that he spent \$160,000.00 for a home because they believed they could do this. Mr. Jorgensen said that the proposed ordinance change was going to be addressed by the Planning Commission on October 27, 2004 and by the City Council on November 3, 2004. The City Council couldn't vote on a new ordinance that night (when the applicants came before the City Council) because they had to have an ordinance and a public hearing that had been noticed. Mrs. Prince left the meeting.

Mr. Adams said if you pour a 20-foot driveway, it will get you into the house. They can get their loan closed and keep their interest rate, etc. When the ordinance is passed, if it is passed, they can make that addition. They would protect themselves. He stated he knew it was a pain, but that way they wouldn't lose their interest rate that was locked in. Mr. Prince said that it will cost them a lot more money to tear that back out, than to just do it. Mr. Adams said they won't have to tear anything back out. They can cut the 20-foot curb cut now, and then cut more later. Mr. Jorgensen said they wouldn't put that third section of concrete in at all. It could be left as gravel. Then if the ordinance is approved they could do the additional 10 feet. Mr. Prince asked when they will know if the new ordinance has been passed? Mr. Jorgensen answered November 3, 2004 at 7:00 p.m..

**Mr. Shields moved to deny the variance for a 30' drive approach.** Mr. Niskala seconded the motion. All members present voted, "Aye."

Mr. Shields wanted the record to show that the Board unanimously recommended refunding the \$50.00 variance application fee to the applicants because the applicants received incorrect direction from the Mayor and the City Council that this could be addressed with a variance by the Board of Adjustment.

## **2. Review and Approval of Minutes from the May 3, 2004 Meeting**

**Mr. Ferguson moved to approve the minutes of the May 3, 2004 meeting as published.** Mr. Niskala seconded the motion. All members present voted, "Aye."

## **3. Adjourn**

**Mr. Shields moved to adjourn the meeting.** Mr. Niskala seconded the motion. All members present voted, "Aye." The meeting adjourned at 5:25 p.m.

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Approved by Chairman Jim Ferguson

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