

# Tooele City Board of Adjustments

February 3, 2003  
Minutes

**Board Attendees:** James Ferguson, Jerry Houghton, Kevin Shields, Cheri Zander

**Absent:** Roy Niskala, Barry Lewis

**Staff Attendees:** Cary Campbell, Community Development Director/Building Official  
Andrea Cahoon, Contract Secretary

Minutes prepared by Andrea Cahoon.

Jim Ferguson called the meeting to order at 5:00 P.M.

1. Approval of Minutes from March 18, 2002, and November 4, 2002

**Mr. Houghton moved to approve the minutes for March 18, 2002 as presented.** Mr. Ferguson seconded the motion. All members present voted, "Aye."

There was not a quorum present from the November 4, 2002 meeting to approve the minutes.

2. Variance Request for Set Backs Due to a Sewer Line in Rear Yard by Marc Mchaws.

Mr. Houghton stated he had a conflict of interest and excused himself from this item.

Mr. Ferguson explained that the lot is in an odd area, with numerous easements. The applicant, Marc Mchaws, stated that there is a 30 foot required front yard set-back in this zone. He felt that a hardship existed due to all of the easements that run through the property. The as-built sewer is different from what was planned for the lot, and he must stay 10 feet away from that line. The sewer, culinary water, and irrigation water easements make it hard to place a house on the property. The area that can be built on is 37 feet by 52 feet. He has been looking for house plans that will fit, but has found several that won't fit. He asked that the Board grant a 10 foot variance so that the house he has chosen can fit on the property.

Mr. Shields asked if the applicant could have a custom plan drawn up to fit the lot? Mr. Mchaws stated that he had considered that, but he spent hours trying to find an existing plan that will fit on the property. Mr. Mchaws wondered why Overlake is all 20 foot set backs, and he has to have 30 feet? Mr. Campbell explained that Overlake is a "P" District and as such there are much different requirements for that development.

Ms. Zander thought that if they moved the house back, and flipped the plans, it wouldn't encroach as much on the front of the property. Mr. Mchaws stated that they tried that, and it still would require a variance. With all three utilities running through the property, a hardship is created. He further explained that the ditch on the property is also unique to the property and creates a hardship.

Mr. Shields asked what the zoning was? Mr. Campbell answered that it was R1-12, and requires 1,685 square feet for a 2-story home or 1,350 square feet for a rambler. Mr. Campbell also explained that the Board of Adjustments can't grant a variance based on the covenants, but can only address a problem that is unique to that piece of ground.

Mr. Shields felt that there is 2,200 square feet to work with on the property, and 37 feet would be ample for a house. Mr. Mchaws answered that he couldn't find a house plan that would allow him to build in that space that would fit the covenants of the development.

Mr. Ferguson asked the Board to consider if there were enough hardships on the land to grant a variance so that the applicant can put the house on that he wants to build.

**Mr. Shields moved to approve a 5-foot variance for a 25 foot set back, based on the location of the as-built sewer easement on two sides of the property, the irrigation right of way, and the ditch.** Ms. Zander seconded the motion. All members present voted, "Aye."

3. Variance Request for Construction of an Agricultural Building 12' From the Existing Property Line Instead of the Present 30' Requirement by David and Valerie Lee.

Mr. Ferguson asked the applicant if they were going to stable horses in the building? The applicant answered no, he will just ride them in the building.

Mr. Lee stated that he has a big field, and he doesn't want to put the arena in the middle of the field. He needs the room to pull his truck and trailer in to load the horses. If he moved the building 30 feet from the property line, he would end up with a lot of wasted space.

Mr. Houghton stated that everything in this area is zoned RR-1, and was designed as horse property. There are all kinds of sheds, barns and buildings all over the place. Mr. Houghton felt that if this was denied, they would be denying the applicant the same property right enjoyed by others in the area. Mr. Ferguson noticed the same thing.

Mr. Campbell stated that one of the issues that the 30 foot requirement addresses is if the RR-1 property is next to a residential area that normally doesn't have horses. If there isn't enough space between the building and the property line, there is too much manure, water run-off, etc. In this case the surrounding properties are like uses and it is not quite the same thing. Mr. Ferguson also noted that there is no housing close by either. Mr. Lee stated that the building will be about 16 feet from the property line, and he thought that the buildings would look better if they were lined up.

**Mr. Houghton moved to approve a 14-foot variance (the building may be 16 feet from the property line) for David and Valerie Lee for their riding arena, based on the fact that they should be able to enjoy the same rights that surrounding property owners enjoy, it won't adversely affect the master plan, and the granting of the variance stays within the spirit of the ordinance.** Mr. Shields seconded the motion. All members present voted, "Aye."

4. Variance Request for the Placement of a Modular Home at 78 West 100 South by Thomas Allabaugh.

Mr. Ferguson stated that the applicant wants to put a trailer on this property on a permanent foundation. Mr. Houghton explained that this property had a small home on it previously that was condemned and torn down. Arlan Rhodes purchased the property at a tax sale and is trying to help

Tom Allabaugh place a home on the property.

Mr. Ferguson looked at the property, and felt that if something wasn't done with it, it would become a junk lot. It is very narrow and at one time was considered an existing non-conforming use. Putting anything on the property at all won't meet the current set back requirements.

Mr. Houghton stated that the area where this property is was just rezoned Mixed Use by the Planning Commission. However, in the Mixed Use zone, if a home is put in, they must adhere to the requirements for the R1-7 zone. He felt this was a hardship to the owners because it was rezoned after the fact. Mr. Campbell stated that the owner was still entitled to put something reasonable on the property. If they put in a home, they will need a car port or garage to meet code.

Mr. Houghton liked where the car port was placed on the proposal because it created distance from the property on the east side that is a residence. The property on the west side of this parcel is a business, and there is some separation due to the business's parking lot.

Mr. Shields noticed that the front door is on the other side of the carport, only two feet from the fence. Mr. Campbell stated the City doesn't encourage doors into a carport (from a home) due to fire code issues.

Mr. Shields asked if the applicant installed a handicap ramp at some time in the future, if it would have to come back before the Board of Adjustments? Mr. Campbell answered that it would not have to come back because this is a single family residence.

Mr. Houghton felt it was easy to show that the hardship was placed on the owner due to the rezones that this property has been through. The property does not conform with the zoning and will have to be a non-conforming use. Mr. Houghton stated the owners only other option is to put a business on the property so that it would be considered under commercial zoning, and he could put a building almost to the property lines.

Mr. Campbell stated this was an odd situation because the lots are so small, being narrow and short.

Mr. Houghton stated nothing was self-imposed. The zoning was changed, and a hardship was created because it is limiting what can be done with the property.

**Mr. Shields moved to allow a variance of 20 feet from the sidewalk to the front wall of the mobile home and 14 feet to the columns of the carport from the sidewalk. A 3-foot variance on the east and west sides to the columns of the porch and the awning, and the back setback does not need a variance in the Mixed Use zone. The lot size is non-conforming to the zone because the City has changed the zoning twice and each of those zone changes made it non-conforming.** Ms. Zander seconded the motion. All members present voted, "Aye."

5. Adjournment

**Mr. Houghton moved to adjourn the meeting.** Ms. Zander seconded the motion. All members present voted, "Aye." The meeting adjourned at 6:25 P.M.

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_