

# Tooele City Board of Adjustments

November 17, 2003

Minutes

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

**Absent:** Barry Lewis

**Staff Attendees:** Cary Campbell, Community Development Director/Building Official  
Susan Howard

Minutes prepared by Susan Howard.

Chairman Ferguson called the meeting to order at 5:02 p.m.

1. Approval of Minutes from July 14, 2003

**Mr. Houghton moved to approve the minutes from July 14, 2003 as presented.** Mr. Houghton seconded the motion. All members present voted, "Aye."

2. Jeff McNeil Requesting a Variance for Side Yard Setback Located at 1349 East Haylie Lane, Zone R1-12

Jerry Daughtry with Dimension Development, (801) 451-6314 or (801) 381-5300 cell, was present in behalf of the builder. The new owners, Sergio and Nanetta Abarca, (435) 882-2350 office, were also present.

Chairman Ferguson stated that he understood that the house was not placed according to plan. Mr. Daughtry stated that it is laid out according to the stakes found at footing stage. The landscapers found the NE corner of the house off approximately 16". Mr. Houghton understands that this has happened before, not with this builder necessarily, in general (by the Hardy's).

Mr. Ferguson has read over the appeals and the ordinance in which this board must follow and this does not meet the requirements. He does not know how this board can accommodate this. The lot is large enough for the home. Mr. Houghton stated the the Abarca's are trying to be up front in which they are the ones that brought it to our attention. The subdivision has been up there for 4-5 years and the contractors located the wrong stakes. He has seen this happen before, the older the subdivision, the harder it is to find the stakes. Mr. Campbell stated that all property pins must be disclosed for the final inspection. Mr. Campbell stated to Jeff McNeil a few weeks ago the easiest way to correct this is to purchase 2' from the adjoining properties, (lot 205 & 206 which are not developed on yet). We had the same situation last week with another builder, however he owned both lots. He resolved it legally changing the property line and getting it recorded with the County. Mr. Abarca stated that Truman & Brown owned both of the other lots.

Mr. Houghton asked who measured it? Mr. Abarca stated that he did and had a City inspector come out and look also. Mr. Shields stated that, “we as a board don’t have the right to make this adjustment. It does not meet our criteria, we can’t make a judgement call on this.” Mr. Ferguson again stated the same thing. Mr. Houghton stated that he has a problem with this in the fact that the City relies on the builder, and the builder probably didn’t stake it out right. His daughter is having a similar problem. The inspector said it was ok and the next day said the footings were 1' too close. This falls into special circumstance, what is the inspector protecting us (citizens) from? Mr. Campbell stated that the inspectors are not surveyors. When Mr. Campbell first came to work for the City he told them to hire a surveyor and get the pins right. It is pretty expensive proposition for every home to have it surveyed up front. The builder needs to expose the property pins at footing, foundation, and final. The contractor needs to provide a line for which the inspector to measure from. The inspector is not responsible for the property pins. Mr. Shields stated that we need to rely on the property owner to provide correct information. The owner can hire a surveyor and if wrong, then the surveyor is at fault.

Mr. Ferguson stated that if the board was to approve this, we could not fault anyone else for doing it. We would have to approve every lot that was not laid out correctly. It needs to meet all 5 hardships and this does not meet any of them. Is there any way this can be resolved administratively? Mr. Campbell answered that the court system would be the next step if they wanted a variance, and at that, they can only address the same issues this board can. Mr. Houghton asked what the zoning is? R1-12

**Mr. Shields made the motion to deny the variance because it does not fall under the criteria of the Board of Adjustments. Mr. Niskara seconded the motion. The voting was as follows:**

DRAFT

Cheri Zanier	Yes	Kevin Shields	Yes
Roy Niskara	Yes	James Ferguson	Yes
Jerry Houghton	No		

The motion passed 4-1. The variance was denied.

Chairman Ferguson made the suggestion to the petitioners to make sure they register and record it for the law if they purchase the portion of land needed.

3. Adjourn

The meeting adjourned at 5:25 p.m.

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

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