

**Tooele City Board of Adjustments
May 3, 2004
Minutes**

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

Board Members Absent: Barry Lewis, Jerry Houghton

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

Minutes prepared by Andrea Cahoon

Meeting called to order at 5:00 p.m. by Chairman Ferguson

1. Review and Approval of Minutes from the November 17, 2003

Mr. Shields moved to approve the minutes from November 17, 2003 as presented. Ms. Zander seconded the motion. All members present voted, "Aye."

2. Request Variance for Side Yard Setback from 6 Feet to 3 Feet in an Older Area of Town that Has Smaller Lots Located at 150 East Glenwood, Zoned R1-7 by Don Pedersen

Chairman Ferguson said that he drove all around the neighborhood where this lot is located and there are several homes that have exactly what Mr. Pedersen is requesting. Some of them have even been closed in.

Mr. Campbell asked what the distance was from the property line to the neighbor's home? Mr. Pedersen said about three feet. Mr. Campbell felt it was farther than that, and Mr. Pedersen agreed. They estimated that it was about 6 feet from the property line to the neighboring home. Chairman Ferguson stated it wasn't as close as some of the homes in the area are to the property lines. Mr. Pedersen's proposal would put the carport three feet from his property line, which would allow runoff water to remain on his property.

Chairman Ferguson stated that the Board of Adjustments may grant a variance only if the following five criteria are met.

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. Mr. Shields asked to verify that the zoning ordinance requires six feet from the property line? He was told yes. Mr. Campbell said that one of the issues that applies to this area is that buildings were allowed to be closer when the homes were built. The current building code will allow him to go to three feet, and that is to the supports. The overhang can go to within two feet of the property line. Mr. Shields asked if the actual roof of the proposed structure (as shown) will only go three feet from the property line? Mr. Pedersen answered yes, that is the case.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same District. Mr. Campbell explained that the zoning District is considered to be the entire City, and this is an older part of town. Chairman Ferguson felt that the applicant met this requirement as well.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district. Chairman Ferguson said all of the lots are small in this area, and many of them have this type of carport attached to them.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed and substantial justice done.

Chairman Ferguson felt that this request met all five requirements.

Mr. Shields asked about the three feet that Mr. Campbell spoke of earlier. Mr. Campbell explained that the building code doesn't require anything special until it is within three feet of the property line. He asked that they require that this carport be open on three sides. There is a window on the home wall, and a fire would go through the glass. For safety purposes it would have to be open on the north and south sides. Mr. Shields asked the applicant if that was his intent? Mr. Pedersen responded yes, it will be an open carport.

Chairman Ferguson moved to approve a variance for the side yard setback to be reduced from 6' to 3' for Don Pedersen to construct a carport at 150 East Glenwood with the conditions that the drainage must be on his property, and the carport must not be enclosed at any time, but remain open on three sides. Mr. Niskala seconded the motion. All members present voted, "Aye."

3. Adjourn

Ms. Zander moved to adjourn the meeting. Mr. Shields seconded the motion. All members present voted, "Aye." The meeting adjourned at 5:07 p.m.

Approved by Chairman Jim Ferguson

This 18th day of October 2004