

CITY OF DELTA, UTAH
BOARD OF ADJUSTMENT MEETING
OCTOBER 15, 2009

PRESENT

Gayle Bunker	Mayor
Robert Banks	Council Member
Kiley Chase	Council Member
Bruce Curtis	Council Member
John Niles	Council Member
Betty Jo Western	Council Member

ABSENT

Gregory Jay Schafer	City Recorder
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ALSO PRESENT

Alan Riding	Public Works Director
Kaela Jackson	City Attorney
Karen Johnson	Assistant City Recorder
Robert & Lynn Jeffery	City Residents
Reid Ludwig	Area Resident
Rosemary Bishop	Area Resident
Howard Western	City Resident
Mitchell Myers	City Resident

Mayor Bunker called the Board of Adjustment meeting to order at 6:30 p.m. He stated that notice of the meeting time, place and agenda had been posted at the City Building, on the Utah Public Notice web site and had been provided to the Millard County Chronicle/Progress and to each member of the City Council at least two days prior to the meeting.

BUSINESS

ROBERT L. JEFFERY, HERITAGE CABINETS AND CUSTOM FURNITURE, LLC: REQUEST FOR VARIANCE TO CONSTRUCT AN ADDITION TO THE EXISTING STRUCTURE ON PROPERTY LOCATED AT APPROXIMATELY 65 WEST 200 NORTH

Mr. Jeffery advised Council Members that his cabinet shop business has outgrown the current facility. He has looked at several options, including construction of a second building, constructing an addition to the current building, and moving the business. Construction of a second building would be much more costly and construction of an addition to the current building will provide the

space needed to continue operation in the current location. Mr. Jeffery also indicated that a second building on the property is planned to be upgraded and utilized as the office for the business. Utilizing the second building as the office and principal structure on the property would create a situation in which the building where the cabinet and furniture construction is done would become the secondary structure on the property. Completion of the two buildings would involve an exterior stucco finish.

Mr. Jeffery stated that moving the business would cost \$200,000 to \$300,000 and the business is not large enough to expend that amount of money for expansion. The company currently has three full time employees and one part time employee.

Mayor Bunker advised Council Members that they were provided with a copy of the state statute regarding granting of variances and asked if there were any questions for Mr. Jeffery. Council Member Betty Jo Western outlined the requirements for granting a variance for Mr. Jeffery and asked whether he felt his request meets those requirements. Mr. Jeffery felt that his request meets the criteria for granting a variance.

Mayor Bunker felt that the request for variance met the requirements of state code also but stated that Mr. Jeffery must make certain that any runoff water did not run onto neighboring property.

Council Member Kiley Chase stated he had visited the property yesterday and talked with Mr. Jeffery, as well as the Ludwigs and Stylers, owners of adjacent property who would be affected by allowing the variance. Council Member Chase indicated that both neighbors would much rather have the addition on the existing building than construction of an additional building. Council Member Chase also felt that this request meets the criteria set out in the state statute for issuance of a variance.

City Attorney Kaela Jackson advised Council Members that courts are saying that unreasonable hardship cannot be economic, nor can it be created by the owner dividing the property. Mr. Jeffery stated that the property he owns was divided prior to his purchase of the property. City Attorney Jackson advised Council Members that courts are saying that property that has been divided into two lots cannot be considered a hardship because the property owner should have known what the zoning laws are. In addition, City Attorney Jackson stated that special circumstances attached to property is something like a topographical circumstance such as a steep hill or utility pipe which would require locating a structure on a specific portion of the property. Also, in reference to the "spirit of the land use ordinance", what the courts are looking at is the reason a zone is created, which is so that lots in the same area have the same use. Therefore, if the use is not in compliance with the zone, it does not observe the spirit of the land use ordinance. City Attorney Jackson told Council Members to take her comments in whatever way they desired; she just wanted to provide the information for them.

Council Member Western asked whether the building in question is the principal structure on the property or is it an accessory structure. Mr. Jeffery stated that his intent is to make the other

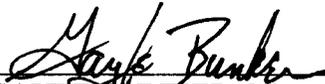
building, where the office is to be located, the primary structure and making the shop the accessory structure.

Reid Ludwig, son of Martin Ludwig, requested permission to read remarks provided by his father, owner of the property adjacent on the south of Mr. Jeffery's property. Mr. Ludwig provided comments regarding actions which had been taken by both Mr. Jeffery and Mr. Ludwig's father with regard to the proposed addition to the existing building. In the end, Mr. Ludwig's father had no objection to the proposed addition to the building. Mr. Ludwig's father then made some recommendations to the City Council regarding the requested variance. One of the suggestions was that the notice of the request for variance be republished with the correct information. The initial published notice contained information regarding construction of a new building rather than an addition to the current building.

Mayor Bunker asked City Attorney Jackson about republishing the notice of request for variance. City Attorney Jackson suggested that the notice be republished to indicate the correct action to take place on the property.

Council Member Robert Banks MOVED to republish the notice of request for variance to show the proposed addition to an existing building located on property located at approximately 65 West 200 North and to meet as the Board of Adjustment to consider the request for variance on Thursday, November 5, 2009 at 6:30 p.m. The motion was SECONDED by Council Member John Niles. Mayor Bunker asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

Mayor Bunker declared the meeting adjourned at 7:15 p.m.



GAYLE BUNKER, Mayor



GREGORY J. SCHAFER, MMC, City Recorder

MINUTES APPROVED: RCCM 11-05-09

CITY OF DELTA, UTAH
REGULAR CITY COUNCIL MEETING
OCTOBER 15, 2009

PRESENT

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Robert Banks	Council Member
Kiley Chase	Council Member
Bruce Curtis	Council Member
John Niles	Council Member
Betty Jo Western	Council Member

ABSENT

Gregory Jay Schafer	City Recorder
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ALSO PRESENT

Alan Riding	Public Works Director
Kaela Jackson	City Attorney
Karen Johnson	Assistant City Recorder
Howard Western	City Resident
Mitchell Myers	City Resident
Dillon & Brittney Pace	City Residents

Mayor Bunker called the meeting to order at 7:15 p.m. He stated that notice of the meeting time, place and agenda had been posted at the City Building, on the Utah Public Notice web site and had been provided to the Millard County Chronicle/Progress and to each member of the City Council at least two days prior to the meeting.

Council Member John Niles provided opening remarks following which Mayor Bunker led those in attendance in the Pledge of Allegiance.

MINUTES

The proposed minutes of a Regular City Council Meeting held October 1, 2009 were provided for consideration and approval. Following review, Council Member Kiley Chase MOVED to approve the minutes of the Regular City Council Meeting held October 1, 2009, as presented. The motion was SECONDED by Council Member Bruce Curtis. Mayor Bunker asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.