

Minutes of the Daggett County Board of Adjustments Meeting
Tuesday, November 7, 2017
Daggett County Courthouse
1:00 PM

Minutes of the regular meeting of the Board of Adjustments held on **Tuesday, November 7, 2017** in the Commissioner Chambers at the Daggett County Courthouse. Members Jack Lytle, Clyde Slauch and Randy Asay were present. Attorney Neil Lund and Clerk/Treasurer Brian Raymond were also present. The meeting was called to order at 1:12 p.m. by Mr. Lytle.

Also present: Carrie Poulsen, Planning and Zoning Secretary and Sue Morgan

Consideration of an application requesting a variance from Glenn and Sue Morgan regarding property located at 1510 E. Arrowhead Lane, Manila, Utah 84046. The purpose is to review a request for a variance for a 5 foot setback instead of a 10 foot setback as required by code: Mr. Lytle asked Planning and Zoning Secretary Carrie Poulsen to give a review of what has occurred. Mrs. Poulsen addressed the members and stated that Planning and Zoning is aware of this meeting. Mrs. Poulsen then stated that the required setback for accessory buildings in their subdivision is 10 feet. According to Mrs. Poulsen, Mrs. Morgan is requesting a variance and would like to have a five foot setback. She asked the members if they are aware of everything that has to be met in able to grant the variance. Mr. Lytle asked her to review that information and Mrs. Poulsen read from the state code. Mr. Asay asked Mrs. Morgan what material her building was going to be made of. Mrs. Morgan answered that the building is going to be metal in line with their current garage. There is no door on front, as it is more like a lean-to. Mrs. Morgan stated, in regards to the state code that was read, that her husband has Alzheimer's and cannot back up the trailer like he used to. Mrs. Poulsen addressed the members and stated that Mrs. Morgan has signed statements from adjoining neighbors. She distributed the statements and plans for the building to the members. There was some discussion regarding her adjoining neighbors. Mrs. Poulsen stated that she did speak with Matt Tate the Building Inspector about this and he said as long as there is at least three feet along each property line, its okay for fire code. Attorney Niel Lund asked Mrs. Poulsen if she read the part of the code that addresses what the county has to do to go forward. It was asked if the county codes and the state codes matched. Mr. Lund read from the state code in regards to determining the unreasonable hardship. Mr. Lytle asked for a review of the elements the board is coming up against. Mr. Lund stated that it is up to the board whether or not they feel justified, and if they feel that there is an unreasonable hardship that's not necessary to carry out the general purposes of the land use (setback) ordinance, or if there are special circumstances that don't generally apply to other properties. Mr. Asay asked if the variance can be approved without the special circumstances. It was answered that they have to meet all five or the variance cannot be approved. Mr. Lund explained further and stated that the board can say that there's an unreasonable hardship that isn't necessary for the purposes of the setback ordinance. He stated that the board can say that they think there are special circumstances that don't attach to this property. "Special circumstances" is a pretty broad term, according to Mr. Lund. He also stated that the board can grant a variance that is essential to the enjoyment of the substantial property. Mr. Lund stated that the board can say that they feel they can meet the five elements, but they have to come to that conclusion in order to grant the variance. While looking at the maps, Mr. Lytle stated that he notices a few issues with a lack of setback in a few places. Mr. Lytle asked for a review of the elements. The first element is unreasonable hardship and Mr. Lund explained that the board has to decide if there's a hardship. The second element is special circumstances attached to the property that do not generally apply to other

properties in the same zone. Mr. Lund again stated that the term “special circumstances” is pretty broad, and it could be Mr. Morgan’s health issues. The third element is granting the variance is essential to the enjoyment of their property right. The fourth element is granting a variance wouldn’t substantially (negatively) affect the general plan of the whole county or public welfare. The fifth element is the spirit of the land use ordinance is observed and substantial of justice is done. Mr. Lund stated that the last two elements are really broad and are more of a judgment call. Mr. Slauch stated that he feels like all of the elements have been met. Mr. Asay motioned to approve the variance to allow the lean-to to be put on the property like the plans the board has been given. Mr. Slauch seconded the motion. Mr. Lytle wanted to have a little bit of discussion. He inquired about utilities. According to Mrs. Morgan, there are no power lines, only propane. The propane tank will be moved. There are no easements and Mrs. Morgan stated that there is only one power pole on the property and it’s in the very back corner. She pointed out where the power pole is on the map. All were in favor and the motion carried.

Mr. Asay motioned to adjourn BOA at 1:29 p.m.