

**GRAND JUNCTION BOARD OF APPEALS  
JANUARY 8, 2003 MINUTES  
12:05 P.M. to 1:02 P.M.**

The regularly scheduled Board of Appeals meeting was called to order at 12:05 P.M. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

In attendance, representing the Board of Appeals, were Paul Dibble (Chairman), Travis Cox, John Paulson and Mark Williams. Clay Tufly was absent.

In attendance, representing the Community Development Department, were Bob Blanchard (Community Development Director), Pat Cecil (Development Services Supervisor), Scott Peterson (Associate Planner) and Ronnie Edwards (Associate Planner).

John Shaver, Asst. City Attorney, was also present.

The minutes were recorded by Bobbie Paulson and transcribed by Terri Troutner.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes of the December 11, 2002 meeting.

**MOTION: (Mr. Paulson) "Mr. Chairman, I'd like to make a motion that we accept the minutes for December 11."**

Mr. Cox seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0.

**II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS**

There were no announcements, presentations and/or visitors.

**III. FULL HEARING**

A request to hear the last agenda item first was made and accepted.

**VAR-2002-233 VARIANCE--WEST KENNEDY VARIANCE**

**A request for approval to create a parking lot in a Residential/Office (RO) zone that does not comply with the setbacks for that zone.**

**Petitioner: Steve Klene**

**Location: 109 West Kennedy Avenue**

**STAFF'S PRESENTATION**

Bob Blanchard reviewed the request. Because the property was situated within a Residential/Office (RO) zone and the petitioner wanted to utilize a portion of his residential property for office use, staff determined the use to be compatible with the zone district. Because the request met variance criteria, approval was recommended. Mr. Blanchard offered the following corrections to the staff report: 1) deletion of the first paragraph under Findings and Conclusions (applied to another request, not to this one); 2) the second paragraph should then be revised to read, "The application appears to meet criteria A through H of section 2.16.C.4 of the Zoning and Development Code."

**PETITIONER'S PRESENTATION**

Steve Klene, petitioner, said that he wanted to conduct an insurance adjusting business out of his home and needed additional employee/clientele parking. Because the use conformed to zoning, he felt the request to be reasonable and appropriate. Mr. Klene referenced plans that had been submitted to staff and circulated a photo of his property.

**QUESTIONS**

Chairman Dibble asked how many total parking spaces would be used for the business. Mr. Klene responded that three outside parking spaces would be created on the property. Staff also required that the two garage spaces also be available for the business, for a total of five spaces. He added that a handicap ramp would be constructed for access via the front of the home, and as much landscaping as possible would be preserved.

Chairman Dibble asked for clarification on where the proposed sign would be located, which was provided.

Mr. Williams asked if the variance would expire if the nature of the business should change or if the property were sold. Mr. Blanchard stated that the variance would run with the land, provided that the type of use remained consistent with what was allowed in an RO zone district.

Mr. Cox asked if the parking lot met TEDS manual requirements, to which Mr. Blanchard replied affirmatively saying that the parking itself met TEDS requirements; however, a TEDS exception had been granted to keep the driveway where it was currently located.

Brad Winters (303 North Avenue, Grand Junction), representing the petitioner, offered clarification on the property's setbacks to the west and stated that a TEDS exception had not been granted.

Mr. Cox asked if damaged vehicles would be stored on the property for any length of time. Mr. Klene replied negatively, adding that parking would be primarily for employees of the business. The nature of the business required him and others to travel offsite quite often. When asked if there were any neighbor comments, Mr. Klene did not recall any comments having been received either way from his neighbors.

**PUBLIC COMMENTS**

There were no comments received either for or against the request.

**DISCUSSION**

Mr. Cox noted that all appeared to be in order, and that the request was supported by staff.

**MOTION: (Mr. Cox) "Mr. Chairman, on Variance VAR-2002-233, I move that the findings required by section 2.16.C.4 of the Zoning and Development Code can be made for approval of the variance."**

Mr. Paulson seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0.

Due to a declared conflict of interest, Mr. Williams recused himself from consideration of the next item.

**VAR-2002-196 REQUEST FOR A REHEARING--VARIANCE--ACCESSORY DWELLING UNIT/ WAGNER RESIDENCE**

**Request for a rehearing of the denial of a request to allow an accessory dwelling unit to have separate utility meters from the main residence, which is required by Code.**

**Petitioner: William D. Wagner**

**Location: 300 Cedar Court**

**PETITIONER'S PRESENTATION**

William Wagner, petitioner, explained that after the last Board of Appeals hearing, he'd obtained a planning clearance and contacted the various metering agencies, only to be apprised of additional conditions existing on the property not known to him at the time of the first hearing. This additional information added to the difficulties and hardships, which he thought should be heard and considered by the Board. The first issue was that the water meter for the primary dwelling is on a 3/4" tap. When he called for diversion of this tap to the accessory dwelling structure, he was told that, given the amount of added line and line extension distance, there would be insufficient water pressure available for the accessory structure. The only option then available was to enlarge the water tap from 3/4" to 1". The City's Utility Department staff then checked the system in the street and determined that there was inadequate pressure available within the City's water line main in Cedar Court to accommodate a 1" water tap. Upgrading to a 1" water line would not only pose a hardship for him but for the City as well, because the City would have to tear up the street and replace the existing water main in order to provide him with enough water pressure to service a 1" water tap. The practical solution then, according to City staff feedback as reported by Mr. Wagner, was to locate a 3/4" tap on Walnut Avenue for the use by the accessory dwelling unit.

Excel Energy also determined that the existing electrical panel was insufficient for the accessory dwelling unit. The existing 125-amp service would need to be increased to a 200-amp service. To accommodate the meter and electrical panel, an entire side of an existing brick wall of his home would have to be torn out. The practical solution would be to allow provision of electrical service to the accessory dwelling unit from electrical lines located only 10 feet from the proposed accessory structure.

Finally, Mr. Wagner said that he investigated his neighbor, Mr. Harris's, suggestion to extend utilities through his crawlspace. The problem with that is that any utilities extension conflicted with the foundation's slab. Implementation would require extensive tunneling.

Mr. Wagner said that while most homeowners would hesitate to willingly restrict the use(s) of their property for future occupants, he would be amenable to adding a deed restriction which would require any future property owner to actually occupy one of the two units. He would also be agreeable to include a restriction preventing any further subdivision of the Lot for a specified period of time. Mr. Wagner reiterated that of the 18 requirements, he met 17 of them; the only criterion at issue was the sharing of utility meters. He felt that his variance request was reasonable, was supported by Code section 2.16.A and should be granted.

**STAFF'S PRESENTATION**

Bob Blanchard read into the record the criteria for consideration of a rehearing. Of the three criteria outlined, the first two had been met. The third, having to do with missing or misunderstood data presented or absent from the first hearing, was up to Board members to determine.

**QUESTIONS**

Chairman Dibble asked Mr. Blanchard if he had been able to verify the information presented by Mr. Wagner. Mr. Blanchard said that while he hadn't verified the petitioner's data, he had no reason to suspect any misrepresentation.

**MOTION: (Mr. Cox) "Mr. Chairman, I move that we, the Board of Appeals, rehear the variance request VAR-2002-196."**

Mr. Paulson seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-0.

**VAR-2002-196 VARIANCE--ACCESSORY DWELLING UNIT/WAGNER RESIDENCE**  
**A request for approval to allow an accessory dwelling unit to have separate utility meters from the main residence, which is required by Code.**  
**Petitioner: William D. Wagner**  
**Location: 300 Cedar Court**

No additional petitioner or staff testimony was presented prior to the public testimony portion of the meeting.

**PUBLIC COMMENTS**

**FOR:**

There were no comments in favor of the request.

**AGAINST:**

Bill Harris (400 Cedar Avenue, Grand Junction) said that his backyard bordered Mr. Wagner's backyard. He didn't feel that the situation had changed since the initial hearing. He said that the petitioner could still bring a single water tap off Walnut Avenue and attach both the primary and accessory structures from that location. He noted the existence of some dead or dying trees on the petitioner's property that he felt weren't worth saving as Mr. Wagner had suggested in his initial hearing testimony.

Elizabeth Atkinson (336 Walnut Avenue, Grand Junction) asked if the accessory unit's address would be off Walnut Avenue because that's where access to utilities would originate. Mr. Blanchard said that because the lot was not being subdivided, then regardless of where the utilities originated, the primary structure's Cedar Court address would still apply.

Mr. Shaver said that addressing was not an issue before the Board. Only if the lot were subdivided, resulting in the creation of a separate lot, would a separate address be required for the accessory dwelling unit.

**DISCUSSION**

Mr. Cox felt that the new information brought before the Board was substantial and shed new light on the request. Given the scope of the new testimony, he determined that all variance criteria had been met. He didn't feel that a deed restriction prohibiting future rental of the accessory dwelling unit was necessary; however, he wanted to ensure that at least one of the units was owner-occupied at all times. Mr. Shaver clarified this point from a Code perspective. He also pointed out that there could be subdivision covenants in place supporting owner occupation of one of the units.

Chairman Dibble concurred, adding that retrofitting water lines represented a significant City expense. A brief discussion ensued over the ramifications of Mr. Wagner's enlarging his water tap and connecting to the Cedar Court main.

When asked by Chairman Dibble if the Walnut Avenue main could accommodate a 1" water tap, Mr. Wagner responded that all the necessary utilities were available in Walnut Avenue.

**MOTION: (Mr. Cox) "Mr. Chairman, on variance VAR-2002-196, I move that the findings required by section 2.16.C.4 of the Zoning and Development Code have been made for approval of the variance, and I would also add a condition that the staff prepare language that one of the dwelling units is to be owner-occupied at all times."**

Mr. Paulson seconded the motion.

Mr. Shaver clarified that the motion required that a covenant be drafted and recorded in the chain of title for Mr. Wagner's property, providing that one of the units be owner occupied at all times. If the motion was approved as proposed, then the covenant would be required as a condition of approval.

A vote was called and the motion passed by a vote of 2-1, with Mr. Paulson opposing.

With no further business to discuss, the meeting was adjourned at 1:02 P.M.