



MINUTES OF A VINEYARD HEARING OFFICER PUBLIC MEETING

Those present were:

Vaughn Pickell

Community Development Director Morgan Brim

Building Official George Reid

Planner II Briam Amaya Perez

Planning Technician Cache Hancey

Attorney Chris Dexter

Resident Amataga Tiafala

Judi Pickell with APA Utah



Hearing Officer Vaughn Pickell opened the meeting at 5:00 PM.

Mr. Pickell offered an introduction and then explained to the resident, Amataga Tiafala, the process for the hearing. He reviewed that it is the burden of the applicant to prove his case in meeting the criteria established in the State Code for a variance as well as in the City Code. A decision will be given in writing in 7-10 days.

Mr. Pickell verified the address, property ownership, subdivision, lot number, and zoning district. He then asked where the setbacks were listed, Brim clarified that they are listed in the subdivision code. Planner II, Briam Amaya Perez displayed the plat and setbacks for the applicant. He then described the setbacks as a ten (10) foot rear setback, five (5) foot side setback, and 15-foot setback in the front.

Mr. Pickell asked where else the setbacks are published. Mr. Amaya replied that he would search for it and to come back to him soon.

Mr. Pickell turned the time to Attorney Chris Dexter to represent Mr. Tiafala



Mr. Dexter began his presentation with giving a story of local stores Macys and Low Book Sales installing too tall of flag poles and getting variances after the fact. He continued by explaining that Mr. Tiafala and his wife came to the mainland (the United States) in 2013 to live the American dream. He purchased this home in February of 2019 with the idea of having a covered porch in the backyard for his grandchildren and family. They saved money for many years and began construction shortly after. After building the porch, it then came to Mr. Tiafala's attention that it may not have been the proper way to build it.

Mr. Dexter continued by stating that it is important to address the reasons for setbacks. The setbacks were given for aesthetic purposes only. He described the structure as only minimally

encroaching the setback by 2-3 feet and that it does not harm the value of neighboring properties. He believed that there were other setback violations in the neighborhood that are worse than this.

He asked for public comment in favor of demolishing the covered patio. No comments were made.

Mr. Dexter continued that there were no issues with utility encroachments and that the patio does not encroach on the side setbacks at all. It has a sloping roof so that it does not impact others.

Mr. Dexter stated that Mr. Tiafala would be well served to work with the city to keep the covered porch and finish it in a way to mitigate some of the city's concerns without having to completely remove it. So far \$20,000 has been spent.

Mr. Amaya produced the code that listed the setbacks given for the 5.08.010 Building Standards. The code does allow for a five (5) foot setback if it is against an ally loaded street.

Mr. Tiafala asked to keep his porch without any destruction or movement as he has spent a lot of time and money building it. He asked Mr. Pickell to consider his plea and that he would be very grateful.

Mr. Pickell asked for clarification in the written submission by the applicant about Lehi City helping with the code enforcement. Mr. Dexter claimed it was a typo.

Mr. Pickell asked how the patio is enclosed, if it is an integral part of the house, and if it has heating or cooling.

Mr. Tiafala stated that it is an addition or extension of the house.

Dexter stated that it is more of an enclosed patio than an additional room. There are plans to include heating and cooling in the future but for now, there are none. This structure was built within a budget but has been built professionally.

Mr. Pickell asked who constructed the building.

Mr. Tiafala stated that his friend who is a licensed contractor built the structure.

Mr. Pickell asked if the builder obtained a building permit.

Vineyard City Building Official George Reid stated that no building permit had been issued and the building department did not become aware of the building until the structure was near completed. No inspections have been completed for the structure.

Mr. Pickell asked if the structure encroached on the side setbacks.

Community Development Director Morgan Brim stated that it does not and only encroached on the rear setbacks with a railroad being in the rear. There is approximately 2-3 feet between the building and the fence line in the rear.

Mr. Reid clarified that this would be assuming that the fence is placed on the property line.

Mr. Brim stated that the fence is pretty close to the property line.

Mr. Dexter claimed that the resident built the structure in good faith and being from Samoa, he was unaware of building standards.

Mr. Pickell proceeded to open the meeting to the qualifying questions.

Mr. Pickell asked what the unreasonable hardship that the ordinance is causing.

Mr. Dexter replied that at this point, enforcement of the code would lose the value spent on the structure as well as the costs to demolish the structures.

 Mr. Pickell asked how enforcement of the code as written is unnecessary to carrying out the purpose of the ordinance.

Mr. Dexter replied that aesthetics and utility access are not harmed by the structure.

 Mr. Pickell asked if there are any public utilities in the rear. Mr. Brim stated that the utilities are only listed in the front.

 Mr. Pickell asked if construction of this structure would be possible without the variance. Mr. Dexter stated that it is what it is. The building would not be possible without the variance.

 Mr. Pickell asked for the dimensions of the structure. Mr. Perez displayed a picture of the structure. Mr. Pickell then asked how much of the structure would be lost if they followed the setbacks. Due to the expense and the size, Mr. Tiafala would not condense the size of the structure.

 Mr. Pickell asked how is the unreasonable hardship located on or associated with the property. Mr. Dexter replied that the unreasonable hardship would be the razing of the structure.

Mr. Pickell then asked if there circumstances peculiar to the property.

Mr. Dexter replied that the property is similar to every property in the neighborhood. Mr. Brim displayed the plat showing the property size and neighboring properties. Mr. Dexter stated that there were no unique land conditions besides the railroad track.

Mr. Pickell asked if there are any unreasonable easements in the backyard? Mr. Dexter was unsure.

Mr. Pickell asked how the hardship was not self-imposed or economic in nature.

Mr. Dexter replied that to be self-imposed, it is to be aware in general that you are creating a condition that is problematic to the city. That is where some of the cultural dynamics come into play. In Samoa, this is a foreign language. He was not trying to cause an issue for the city or himself.

Mr. Pickell asked how the size was determined. Mr. Dexter replied that he just looked at his property and thought of what could be done. Mr. Tiafala was hoping to cover the entire lot that he purchased as he wanted to use his lot to the fullest.

 Mr. Pickell asked what would be the additional cost to remove.

Mr. Dexter stated that he took the case somewhat pro bono because Mr. Tiafala spent all of his savings to build this structure. Mr. Tiafala is hopeful that his dream can remain. He has not spent any money to obtain bids to remove the structure.

 Mr. Pickell asked how this may deprive Mr. Tiafala from enjoying the same privileges as other neighboring properties.

Mr. Dexter stated that it is not typical to have 5-foot setbacks.

Mr. Dexter asked Mr. Tiafala why he enclosed the property for his grandchildren. Mr. Tiafala stated that he wanted this structure because of strong frequent winds, snow, dust, and debris constantly landing in his backyard. He wanted this porch to protect his grandchildren and keep them safe. Mr. Dexter claimed that something unique to that lot is the fence along the rear yard. He stated that with a railroad being in the back yard, it could cause a danger to Mr. Tiafala's grandchildren. A discussion ensued about the material of the fence. It was determined that the fence was concrete. Mr. Tiafala stated that the fence could easily be knocked down.

Mr. Pickell asked what privileges do other properties in the same area enjoy that Mr. Tiafala does not.

Mr. Dexter stated that Mr. Tiafala's house is located further back in the property than all others.

Mr. Dexter stated that the neighbor to the north would be able to build the same structure in the back and still maintain the setbacks.

Mr. Reid stated that the development requires a 2-foot offset from neighboring properties.

 Mr. Pickell asked if the resident purchased an existing house. Mr. Dexter stated that it was an existing home.

Mr. Pickell asked how granting the variance is essential to the enjoyment of Mr. Tiafala's substantial property right that others process.

 Mr. Dexter stated other neighbors would enjoy the ability to do what he has done. He has the right to build on his property. It was not the desire of Mr. Tiafala to flip the city off.

Mr. Pickell asked if other properties have any enclosed porches or patios. Mr. Dexter mentioned that some pergolas have been built but they are not enclosed. Mr. Brim stated that since this is a newer neighborhood, there will not be too many additions already built. Mr. Perez displayed an aerial image of the neighborhood to find any neighboring properties with accessory structures.

Mr. Dexter mentioned that Mr. Tiafala has the right to quietly enjoy his property and the railroad in the rear prevents that without an enclosed patio.

Mr. Pickell asked if Mr. Tiafala could have any type of patio if the structure was not enclosed.

Mr. Brim stated that he could if it was just a cement pad. Once it is enclosed, the setbacks kick in.

Mr. Pickell asked what the general plan designation is. Mr. Brim replied that it is Low/Medium density

 Lastly, Mr. Pickell asked how would granting the variance uphold the spirit of the ordinance and uphold justice. Mr. Dexter replied that Mr. Tiafala wants to be respectful to the City of Vineyard and Vineyard should be respectful of homeowners to build what they want within reason on their property as this structure does not encroach on the side setbacks.

Mr. Pickell adjourned the meeting at 5:54 p.m.

CERTIFIED CORRECT BY: /s/ Cache J. Hancey

Cache J. Hancey, Planning Technician

From: Vaughn Pickell <vrpickell@gmail.com>
Sent: Tuesday, March 9, 2021 11:26 AM
To: Cache Hancey
Subject: Re: Administrative Law Judge Hearing Minutes Review

Cache:

The minutes look good. I just have a few typos on the Tiafala variance case from 1/12/21. The first is that Mrs. Pickell's first name is spelled "Judi."

Second, on page 3, paragraph 12, the word should be "razing" rather than "raising."

Finally, on the last page, line 4, the word should be spelled "aerial."

Otherwise, I approve the minutes of both meetings.

Thanks,
Vaughn Pickell
Mobile: 801-870-1706

On Mon, Mar 8, 2021 at 1:03 PM Cache Hancey <cacheh@vineyardutah.org> wrote:

Vaughn,

Thanks for your help with our variance hearings these past few months. I have attached the draft minutes for each meeting. If you could review them and ensure their accuracy, then let me know if you approve of them via email, that would be great. Let me know if you have any questions.



Cache Hancey

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