

HUNTSVILLE TOWN APPEALS AUTHORITY

Huntsville Town Hall – 7309 East 200 South, Huntsville, Utah 84317

December 30, 2019

7:00 p.m.

Appeals Authority: Bruce Ahlstrom, Chairman

Artie Powell

Rod Layton

Bill White

John Bowen

Recorder: Beckki Endicott

Citizens: Rex Harris, Ron Gault, Liz Poulter, Kerry Wangsgard

Artie Powell started the meeting by stating that depending on the discussion that takes place he might have a conflict of interest. He stated his mother-in-law is in a lawsuit with Kerry Wangsgard over the use of the designation of the road that runs in front of Kerry Wangsgard's property and adjacent to the Artie's mother-in-law. Artie asked to vote last, and depending on the discussion, he with the Chairman, will decide if he needs to recuse himself. Kerry accepted that statement as fair.

Chairman Ahlstrom started the meeting by asking Kerry Wangsgard if he had any questions about the Appeals Committee. Chairman Ahlstrom explained the Appeals Committee is convened to hear the appeal of the denial of a Land Use Permit requested by Kerry Wangsgard to replace the trailer on his property. Currently trailers are not allowed per the Allowable Use Table. Kerry's trailer was on the property prior to the change in the Allowable Use Table. Kerry Wangsgard is citing grandfathered use as a reason to request the Land Use Permit for a new trailer. He states there have been a couple of different trailers on that parcel since the 1950's. Kerry started by rehearsing the history of the last few months with regards to the Town of Huntsville and request to replace the trailer.

Artie asked Kerry Wangsgard what part of the code he was appealing. Kerry stated he had been studying 15.17, all the various sections. Kerry summarized that in 15.17 it talks about the goal of bringing non-complying structures into compliance but, recognizes the right of existing land uses and structures until the time that the owners no longer wishes to use them in that way. Kerry states that the prohibition on trailers was put into the ordinance in 2006. Kerry states the use of a trailer on his parcel has been in place since 1958 or 1959.

Beckki stated that the motion of the Planning Commission denied the Land Use Permit based on 15.6.2 j & m, 15.17.8 b and 15.17.12. Artie asked Kerry Wangsgard which of those ordinances does he believe that the Planning Commission misinterpreted and misapplied. Kerry asked for those sections to be read.

He wasn't sure about the reference. He did say that the Planning Commission spoke a lot about expanding use. Kerry stated the use has not changed. It is still a residential trailer.

Rod Layton stated he agreed with Kerry. The use of the trailer has not changed. There is no talk of the structure. Rod states he looks to the lot across from Kerry Wangsgard as the example. Craig Peterson's house burned down. It is an allowable non-conforming structure with no frontage or set-backs. However, Craig's new home has the same use AND the footprint has extended out the back of the home to be bigger than it once was. Rod states the use doesn't have anything to do with the size of the structure.

Rod Layton also has issue with the difference in terms of manufactured and mobile homes. He researched the difference in terms. Rod believes that what Kerry has on the property is a manufactured home not a mobile home. Bruce states the Huntsville Code defines what a mobile home and manufactured or modular home is. Bruce read the definition of a modular home and mobile home.

Modular Home: a factory-built structure that is transportable in one or more sections, built on a permanent chassis and designed as a place for human habitation when placed upon a permanent foundation and connected to all utilities.

Mobile Home: a factory built moveable living unit which does not meet the requirements of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 which became effective June 15, 1976, transportable in one or more sections, and which is 8 ft. or more in body width and 32 ft. or more in body length, and which is built on a permanent chassis with wheels and designed as a place for human habitation of not more than one family, with or without a permanent foundation when connected to utilities.

Bruce stated there are two things to evaluate: 1) Does it have a foundation? 2) Does it meet the building codes? Artie stated that in 15.6.2.M it says you can not have a "mobile home." He read 15.6.2.M

M. No mobile homes or recreational vehicles may be placed on a lot for use as a permanent or temporary (greater than 30 days) residence, except as outlined in J. above.

Bill White said the first question they need to answer is whether the current structure on the property is a mobile home? Does it meet the Safety Standards adopted in 1976? Kerry stated he didn't know. Rex Harris, Town Engineer stated it is his opinion that it doesn't meet the building standards, although he has not inspected it.

Bill White stated he believes from the minutes provided that the Planning Commission started with 15.6.2 J & M and recognized that this use would not be allowed currently. He stated the question is whether the code would allow the replacement of the mobile home once it has been removed.

Kerry pointed to other section of 15.17 which states he is allowed to repair or maintain his use. In this case, he is improving his structure. He believes the current mobile home is not repairable and is unsafe. He pointed again to Craig Peterson's whose home burned down. Craig was allowed to replace his non-conforming use. Kerry stated the Huntsville ordinances support his use of the structure the same that it has for almost 60 years. Artie asked if there was evidence about the Peterson home not meeting the ordinances or set-backs. Rod stated the home doesn't meet the set-back. Kerry stated he knew where the property line was because he has had it surveyed and that it doesn't meet the set-back. However, there was no evidence in front of the committee at this time that determined whether or not it was a road or even if it met the set-back.

Bruce wanted to talk about 15.17.8.

Continuation of Use Nonconforming uses and noncomplying structures, existing at the time this Ordinance became effective, may be continued.

- A. Except as provided in this Chapter, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.*
- B. A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.*

Bruce also cited 15.17.3.

15.17.3 Additions and Enlargements

- A. A building or structure nonconforming as to use shall not be added to or enlarged in any manner, unless the building or structure is brought into conformance with the use regulations of the zone in which it is located.*
- B. A non-complying building or structure shall not be added to or enlarged in any manner, unless such additions or enlargements comply with all of the regulations of the zone in which the non-complying building or structure is located.*
- C. A non-complying dwelling unit located in a residential zone shall not be added to or enlarged if the addition or enlargement is a separate dwelling attached with a breezeway or extension of the roof. Such additions or enlargements shall be considered to be separate dwellings and are prohibited if the elimination of the breezeway or roof extension would not destroy the functionality of the addition as a separate dwelling unit. Nothing in this ordinance shall be construed to allow two dwelling units to be built on a single residential lot regardless of whether the structures are attached by a breezeway, roof extension or other attachment.*

Kerry stated that in the same code that a property owner does have the right to maintain and improve the property so that it doesn't become blighted.

Bill White wanted to review 15.17.12 as well:

15.17.12 Nonconforming Use of Land

The nonconforming use of land, or a portion thereof, existing at the time this Title became effective, may be continued. No such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof is abandoned or changed, any future use of such land shall be in conformity with the provisions of this Title.

Kerry believes that the word use in these ordinances refers to how the land is used. If this is the case, then the use is for the entire lot. The use can only be expanded when it grows over the lot lines or into another lot. He repeated that he is not expanding the use. He stated to the committee that this all comes down to the reasonableness and fairness of the issue. If you have a site that has grandfathered use as a mobile home site, is it fair when the mobile home comes off the site, to deny the use as a mobile home site.

Bill stated 15.17 addresses non-complying uses and non-complying structures as well as non-conforming uses and non-conforming structures. The discussion has been about 15.17.12 which talks about use, but he recommended looking at 15.17.3. Bill stated that it is clear Kerry Wangsgard can't enlarge the structure beyond the 58 feet, but he could improve it if it was the exact same size. Bill stated he thinks this could be done by replacing one piece at a time or by pulling off the entire structure and putting another mobile home on the site that was the same size. The purpose of the 15.17 statute is to bring structures and uses into conformance. The question in Bill White's mind is bringing a new mobile home onto the lot with the exact same dimensions the same as replacing a mobile home one piece at a time.

Rod asked about a non-conforming lot. He stated he did not see any options provided by the Planning Commission to ever be able to come into conformance. Rod stated that because the access to the property is being considered in a lawsuit, there is no way to determine if Kerry has frontage or not. Because of the question of access, it puts Kerry in a situation where he doesn't have any options for bringing the property into conformity. The mobile home is deteriorated and needs to be replaced. He can not build a home with a foundation until they can determine whether access is a road. Rod believes this is a hardship for the property owner. Rod would like to find a way for him to come into compliance.

Bill White stated that even the appeals board must abide by the ordinances. He stated if there was ambiguity in the ordinance then they could provide an interpretation. This may give the committee a

way to help the property owner come into compliance. Bill doesn't believe that the appeals board can just go against the ordinances and give him permission to expand the structure. What the Appeals Committee could do is maintain that the property owner has a right to maintain the structure within the ordinances and find a way for him to do that.

Artie made the point that the law states that a variance can't be granted when the hardship is financial. Kerry stated that essentially not allowing him to restore his structure is akin to a government taking his land and he should be compensated by that government. Artie made it clear the Appeals Board is not here to discuss any compensation. This is between the property owner and the Town Council.

John Bowen stated that it was very clear that he can't add to the structure. Whether Kerry could replace his trailer piece by piece or whether he can just roll a new one in, that is really the question.

Ron Gault wanted to provide a little history, because he was the Planning Commission Chairman at the time that this ordinance was written. Ron stated that the intent was not to kick anyone out of their noncomplying home. If they wanted to tear it down and rebuild it, they would have to bring that into compliance.

The Appeals Committee reviewed the definitions of mobile home, manufactured home and modular homes. The Appeals Committee discussed whether Kerry Wangsgard could build a manufactured home or a modular home on the property in place of his mobile home. Bill White stated the use was for a mobile home and that is what the committee is here to decide, whether Kerry can continue that use with a mobile home the exact size and dimensions. Bill stated the use as a mobile home and structure as a mobile home the same size, must remain the same.

Artie restated the purpose of the Appeals Committee tonight. Artie stated that they are here to ask if the Town Council interpret the statute correctly. Artie stated Kerry Wangsgard has asked to put a larger mobile home on that lot. John Bowen stated there is no way to get around the ordinance. The only lifeline for the property owner is to be able to replace the mobile home with the same size of mobile home.

Liz Poulter stated she believed the Planning Commission voted against recommending the mobile home and not necessarily the size of the mobile home. The Planning Commission meeting minutes sites Sandy Hunter talking about the expanded use or size of the mobile home.

Bruce Ahlstrom made a motion that the Town Council was correct in its denial of the Land Use Permit for a 70-foot trailer. Bill White seconded the motion. Roll Call votes. Rod- nay, Bill – aye, John – aye, Bruce – aye, Artie – recused

Bill White motioned that the appeals authority's interpretation of 15.17.1 "Maintenance Permitted" allows Kerry Wangsgard to maintain his existing mobile home or replace the mobile home on his property with a mobile/manufactured home with identical dimensions or less, not on a permanent foundation, so long as he does not go beyond the abandonment period of 1 year. John Bowen seconded the motion. Roll Call vote. Rod – aye, Bill – aye, John – aye, Bruce – aye, Artie – recused.

Beckki reminded the Appeals Committee that they made a change to the Appeals ordinances so that a letter would be authored citing the decision and the reasons for the decision. Bruce Ahlstrom asked Bill White to write the decision letter. John Bowen would like to see fairness as one of the reasons for the decision reflected in the letter. Bill White will draft the letter and send it to the Appeals Board Members for approval. (See Attached)

Bruce made the motion to adjourn. Bill seconded the motion. All votes aye.
Meeting was adjourned at 8:58 p.m.

Minutes Approved:

Member: <u>Bill White</u>	Date: <u>10-14-20</u>
Member: <u>Bruce Ahlstrom</u>	Date: <u>10-14-20</u>
Member: <u>John Bowen</u>	Date: <u>10-14-20</u>
Member: <u>Artie Foran</u>	Date: <u>10-14-20</u>
Recorder: _____	Date: _____