BOARD OF ADJUSTMENT MINUTES
APRIL 13, 2005

PRESENT:	George Berkley	Chairperson
	Deen Coleman	Planning Commission Representative
	Jess Palmer	Board Member (Alternate)
	Jaye Poelman	Board Member (Alternate)
	Don Peart	Board Member
ALSO PRESENT:	Mark Teuscher	City Planner
	Jeff Leishman	Zoning Administrator

AGENDA:

- APPROVAL OF AGENDA
- ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON FOR 2005 CALENDAR YEAR
- APPROVAL OF MINUTES FOR THE SEPTEMBER 8, 2004 MEETING
- CASE #596 – REQUEST VARIANCE TO RECONFIGURE THREE LOTS LOCATED AT APPROXIMATELY 782 S. MAIN STREET (PARCEL'S 03-147-0016, 03-147-0018 & 03-147-0023) BRIGHAM CITY, UT – DALLAN STEPHENS

CASE #596 – REQUEST VARIANCE TO RECONFIGURE THREE LOTS LOCATED AT APPROXIMATELY 782 S. MAIN STREET (PARCEL'S 03-147-0016, 03-147-0018 & 03-147-0023) BRIGHAM CITY, UT – DALLAN STEPHENS

Meeting commenced at 5:30 P.M.

Approval of Agenda:

Motion:
Deen Coleman motioned to approve the agenda. The motion was seconded by Jess Palmer and unanimously carried.

Election of Chairperson and Vice Chairperson for 2005 Calendar year:

George Berkley was nominated as Chairperson by Deen Coleman.

Motion:
A motion to close nominations was made by Jess Palmer. The motion was seconded by Deen Coleman and the motion unanimously carried.

Mr. Berkley was unanimously voted in as Chairperson for the 2005 calendar year.

Motion:
A motion was made by Deen Coleman to defer selection of a Vice-Chairperson until the next meeting. The motion was seconded by Jaye Poelman and unanimously carried.

Approval of Minutes:

Motion:
A motion was made by Jess Palmer to accept the minutes of September 8, 2004. The motion was seconded by Jaye Poelman and unanimously carried.

Chairperson Berkley announced the agenda.

CASE #596 – REQUEST VARIANCE TO RECONFIGURE THREE LOTS LOCATED AT APPROXIMATELY 782 S. MAIN STREET (PARCEL'S 03-147-0016, 03-147-0018 & 03-147-0023) BRIGHAM CITY, UT – DALLAN STEPHENS

In this petition the Board must apply certain pre-established criteria to the problems which come before it and based upon these criteria the Board is empowered to allow special variances or technical violations of the City

zoning laws. The variances the Board is empowered to grant run with the land; land conditions which are unique to the land and not self-imposed. Regardless of whatever decision is made by this Board, either the applicant or any affected person has a right to appeal the Board's decision to the district court. The appeal period is up to 30 days after the Board's final decision. The appeal would typically be filed if the party believes the Board misinterpreted the law, the facts or used an arbitrary process in making its decision.

Mr. Dallan Stephens was invited to the table. He was advised that the Board did not have a full quorum and he was asked if he would like to proceed or wait until there was a full quorum. Mr. Stephens stated that he would like to proceed.

Mr. Berkley stated that this case has been before the Board before. There were some concerns with the ownership of Grace Street and they have received comments from the City Attorney that that issue has been resolved and it is no longer a concern in deferring or delaying this.

Mr. Stephens was asked if he would like to present to the Board the variance he is requesting. Mr. Berkley invited all those that would like to look at the plans to come up to the table. His attorney has been working with Dale Bess' attorney. Judge Hadfield has ruled in favor of dissolving Grace Street back to the individual landowners with the exception that they give Bruce Carr 15-feet into Grace Street so he can extend his lot back at lot 0022. With Dennis Gailey they had worked up some issues to where he has a right-of-way over Grace Street coming out of his driveway. He is working on making sure everyone involved has the right-of-way needed. It has been split up to where all property owners can have their parcel and dissolve Grace Street.

Mr. Stephens has worked on three different plans because he has had numerous individuals interested in certain parcels for certain reasons and he came up with the conclusion that if they come up with three plans, anyone of the people who expressed interest, one of these plans could be utilized. The purpose of this plan was to not further encumber the Board by trying to approve and re-approve different lot configurations.

He is trying to re-clarify and add to the clarification of who owns what and get everything deeded out and titled so there is no more question of who owns Grace Street and that it is no more.

Mr. Berkley explained to Mr. Stephens that the Board has to make sure the items he submitted to the Board to prove that he is complying with the five required items necessary for a variance have been adequately been met and justify the satisfaction of those needs.

Dennis Gailey the owner of lot 0017 voiced his concern about his access to Main Street. From Grace Street back is his driveway. He has been maintaining that and has resurfaced it no less than three times over fifteen years. One of his concerns is that the mail will cease to be delivered to his area. He is confused as to why he did not get 15-feet of Grace Street deeded to him. His number one concern is that if it is turned into a commercial lot, he feels that if the property is ever owned by a commercial development he will not have any control over keeping vehicles out of his driveway. He is comfortable that Mr. Stephens stated for the record that he was going to deed that over him so he will own that and deed the right-of-way over to his properties or whatever he needs.

Blyss Law wanted to know where the access to the lot through Dallan Stephens's portion was. All lots are to have access in and out of Main Street or another city street.

There was discussion on the size of the lots. The lots are technically non-conforming. They do not meet the current code, today, either for use or for access.

Mr. Berkley asked Mr. Stephens if he would like to go over his justification as to why he thinks he has met the five requirements for the board to grant a variance.

1. Enforcement of the zoning ordinance would cause unreasonable hardship for some of the reasons listed:
    a. As is parcel #03-147-0016 is a dead landlocked lot that will remain a fire hazard for years to come.
    b. Parcel #03-147-0018 cannot be added onto "as is" and needs to be.

c. Decreased property values will remain for all neighbors that surround both dead landlocked lots parcel #03-147-0016 and the lot to the north that belongs to Bess Realty.

2. There are special circumstances attached to all three parcels.
   a. 782 S Main parcel #03-147-0018 is a non-conforming lot with no frontage to any city street.
   b. Parcel #03-147-0016 is ¾ of an acre yet cannot be built upon. By granting this variance, it would help three situations for me and Bess Realty and Dennis Gailey (with right-of-way issues).
   c. 774 S Main is built too close to Main Street and needs to be demolished to create a commercial lot large enough to sell.

3. Granting this variance is essential to the enjoyment of neighboring property owners for the following reasons:
   a. Both property owners to the west have complained to the city about the fire hazards that will always be there with the vacant lots. This would allow development of vacant lots thus decreasing the potential for fire hazards.
   b. Property values in the neighborhood would increase with the development of potential and cleaner lots.

4. By granting this variance, there will be no affect to the General Plan and would only allow a better situation for the neighborhood.

5. I believe that this variance would show that justice has been done to the zoning ordinance by improving these non-conforming lots to become more beautiful and allow for future development where there would have been no chance for change. Also, to get rid of Grace Street would help a lot of people sleep at night, which own parcels through there.

Motion:
Deen Coleman motioned to approve Case #596 – Request Variance to Reconfigure the three lots located at approximately 782 S. Main Street based on findings of fact that item #1 of the variance zoning ordinance that he has stated that it would be a hardship for the following reasons that we reference his items for reason of hardship he has labeled as a, b & c, basically being a fire hazard and that he cannot add on to parcel 0018 and that it decreases his property value because of deadlock. Item #2 for justification there are special circumstances 782 S Main parcel #03-147-0018 is a non-conforming lot with no frontage to any city street. Parcel #03-147-0016 is ¾ of an acre yet cannot be built upon. By granting this variance, it would help three situations. 774 S Main is built too close to Main Street and needs to be demolished to make it more viable for a commercial lot. Item #3 granting the variance is essential to the enjoyment of substantial property right as possessed by other property in the same district. He has made it know that granting this variance is essential for the property owners around him because there is interest in possibly dividing the lot and selling it to adjacent property owners. The property values of neighbors would be increased because of the ability to control the land and protect it from fire hazards, damage to fences and so forth. Item #4 the variance will not substantially affect the General Plan and will not be contrary to the public interest. Mr. Stephens has shown a good faith effort to work with all property owners in trying to make access ways to all property owners. Item #5 the spirit of the zoning ordinance is observed and substantial justice done by improving non-conforming lots. We have strived not to make a worse non-conforming lot and tried to minimize the non-conformance that has taken place. The motion was seconded by Don Peart.

Motion:
Mr. Peart made a suggestion to amend the motion. Plan A, where lot 0016 is kept the same and they have right-of-way access to that and basically the amount of land in lot one is 31,824 square feet and lot 2 is 8,600 square feet and lot 3 is 17,856 square feet and they do have right-of-way access to 0016, also, the access for lot 2. Mr. Coleman concurred with the

suggested amendment. The amended motion was seconded by Don Peart. The motion carried unanimously.

Motion:
Deen Coleman made a motion to adjourn. The motion was seconded by Jess Palmer and unanimously carried. The meeting adjourned at 6:45 PM.

This certifies that the minutes of April 13, 2005 are a true, full and correct copy as approved by the Board of Adjustment on _____.

Signed: _____
Jeffery R Leishman - Secretary