

1 Providence City Board of Adjustment Meeting  
2 Providence City Office Building  
3 Providence City Council Chambers  
4 15 South Main, Providence, UT  
5 January 4, 2005  
6

7 Present: Chair: Clint Thompson  
8 Board: Susan Lemon, Gary Stauffer, Nelson Palmer  
9 Excused: Jane Wisner, Elden Dattage  
10 City Manager: Vern Keeslar  
11 Secretary: Rebecca Billings  
12

### 13 **STUDY MEETING**

- 15 • Vern Keeslar explained that the Board of Adjustment meets the first Tuesday of every  
16 month, Planning Commission meets the third Tuesday of the month, and City Council  
17 meets the second and fourth Tuesdays of every month.
- 18 • He explained that, in a year-and-a-half, this is only the second Board of Adjustment  
19 meeting that's been held. The Board of Adjustment will meet a minimum of once  
20 annually.
- 21 • Keeslar explained that normally the board will meet at 5:30 p.m. 5:30-6:00 p.m. will be a  
22 study session. This gives BOA members the chance to ask staff any questions. The  
23 actual meeting usually starts at 6:00 p.m. The Chair calls the meeting to order.  
24 Sometimes there's a pledge of allegiance and a prayer—depending on how the board  
25 wants to do that. Keeslar explained that the Chair reads the first item and then turns the  
26 time to staff to present the application received, then the applicant gets the chance to talk  
27 to the board. After the applicant presents to the Board, the audience gets to speak, and  
28 then the Board discusses and makes a motion.
- 29 • Clint Thompson wondered if by "staff," Vern meant himself.
- 30 • Keeslar stated that, yes, he was the staff to City Council.
- 31 • Keeslar informed the Board that they would always receive a staff report that would state  
32 the request and give information about it.
- 33 • Thompson asked if the effective land owners know when the meeting is held.
- 34 • Keeslar explained that they receive a notification, but that the City is not required to send  
35 notices to land owners.
- 36 • Thompson was concerned that the issue brought before the Board was going to affect  
37 nearby neighbors who may not be aware of the meeting.
- 38 • Keeslar said that he had talked to the property owner—the affected neighbor, and hoped  
39 she would be present at the meeting.
- 40 • Thompson said that the Board of Adjustment probably ought to discuss these issues with  
41 those who will be affected by the decisions.
- 42 • Keeslar said that a notice of this meeting was posted in Herald Journal.
- 43 • Thompson thought that maybe the Board ought to let those affected know that they are  
44 deeply involved. He wants to know what their thoughts are.
- 45 • Keeslar repeated that he had talked to the neighbor who was affected the most and hopes  
46 she comes tonight.
- 47 • Keeslar said that the current city code does not require the City to notify the adjacent  
48 property owners.

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- 1 • Thompson said that he doesn't believe that in 35 years the Board of Adjustment has done
- 2 a meeting without hearing from the adjacent property owners.
- 3 • Keeslar said that there's a personal responsibility to come to the meeting and be
- 4 informed.
- 5 • Thompson stated that he would be very angry if he didn't get to hear from the people
- 6 who were affected by the issue.
- 7 • Keeslar said that they can amend the code so there are stricter requirements.
- 8 • Thompson said that it used to be that all people within 300 feet were notified of these
- 9 meetings.
- 10 • Keeslar said that the Board can put it in the zoning ordinance where it belongs.
- 11 • Gary Stauffer said that these people should be notified personally because they may not
- 12 have a chance to read the Herald Journal. If they miss the meeting, they're had.
- 13 • Thompson feels that it needs to be noted in the minutes that the people involved declined
- 14 to come. He wants it in the minutes that the people have had a chance to express their
- 15 opinions and have chosen not to.
- 16 • Keeslar stated that this is a legal meeting and that the public has been notified.
- 17 • Stauffer wondered if notifying those involved was in the zoning ordinance.
- 18 • Keeslar said that it was not.
- 19 • Thompson said that it's essential that the Board has total communication on these issues
- 20 that affect the surrounding neighbors. He said that the Board just wants good
- 21 communication.
- 22 • Keeslar handed out a packet about what the Board of Adjustment is about and what it
- 23 does. He had a power point presentation with the same information. The packet is
- 24 attached to these minutes.
- 25 • Thompson expressed concern about the wording of the staff report for the variance
- 26 request. He felt that the information in the report was confusing—that there was
- 27 something in the wording that would tell him that he should vote for it and something that
- 28 would tell him that he should vote against it.
- 29 • Nelson Palmer suggested that maybe there was a reason for that—so that both sides were
- 30 presented.
- 31 • Thompson said that the Board needed something that would support why the Board
- 32 should deny or approve.
- 33 • Keeslar said that an applicant has to meet all five criteria in order to qualify for an
- 34 application for a variance.
- 35 • Thompson wanted to ensure that Keeslar had met with those involved often enough to
- 36 have drafted something that the Board can trust. (The information in the staff report.)
- 37 • Keeslar read and discussed the “Shalls” and “Shalt Nots” in the *Handbook for Members*
- 38 *of the Board of Adjustment*<sup>1</sup>.
- 39

40 The study meeting was closed.

41  
42 **AGENDA ITEMS**

43  
44 **APPROVAL OF MINUTES**

45 None.

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<sup>1</sup> Sydney Foncesbeck. *Handbook for Members of the Board of Adjustment: A resource for staying sane, legal, and fair.* (Utah League of Cities and Towns, 2003).

1  
2 **Disclosure of any conflict of interest on any of the agenda items:** None.

3  
4 **Disclosure of any ex parte communication on any of the agenda items:** None.

- 5  
6 • Thompson asked if the Board would have any objection to offering a word of prayer  
7 before the meeting started. There was no objection by the Board or the audience  
8 members. Thompson stated that the Board would from now on have an opening prayer  
9 and then say the Pledge of Allegiance.  
10 • An opening prayer was given, followed by the Pledge of Allegiance.  
11 • Thompson said that there were no minutes that needed to be approved.  
12

13 **ITEM ONE:** Aaron Wiser, agent for Roger and Wendy Richardson, is requesting a variance to  
14 property located generally at 536 South Main to allow for a rear yard setback of 13 feet instead of  
15 20 feet as required by Providence City Code 10-8-1, Area Regulations.

- 16 • The following FINDINGS OF FACT were present in the staff report:  
17 ○ Variances for Providence City are governed by Utah Code 10-9-707, Variances,  
18 which lists the requirements for variances.

19 **10-9-707, Variances.**

20 (1) Any person or entity desiring a waiver or modification of the requirements of the  
21 zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds  
22 some other beneficial interest may apply to the board of adjustment for a variance from the  
23 terms of the zoning ordinance.

24 (2) (a) The board of adjustment may grant a variance only if:

25 (i) literal enforcement of the zoning ordinance would cause an unreasonable hardship for  
26 the applicant that is not necessary to carry out the general purpose of the zoning ordinance;

27 (ii) there are special circumstances attached to the property that do not generally apply to  
28 other properties in the same district;

29 (iii) granting the variance is essential to the enjoyment of a substantial property right  
30 possessed by other property in the same district;

31 (iv) the variance will not substantially affect the general plan and will not be contrary to  
32 the public interest; and

33 (v) the spirit of the zoning ordinance is observed and substantial justice done.

34 (b) (i) In determining whether or not enforcement of the zoning ordinance would cause  
35 unreasonable hardship under Subsection (2)(a), the board of adjustment may not find an  
36 unreasonable hardship unless the alleged hardship:

37 (A) is located on or associated with the property for which the variance is sought; and

38 (B) comes from circumstances peculiar to the property, not from conditions that are  
39 general to the neighborhood.

40 (ii) In determining whether or not enforcement of the zoning ordinance would cause  
41 unreasonable hardship under Subsection (2)(a), the board of adjustment may not find an  
42 unreasonable hardship if the hardship is self-imposed or economic.

43 (c) In determining whether or not there are special circumstances attached to the property  
44 under Subsection (2)(a), the board of adjustment may find that special circumstances exist only if  
45 the special circumstances:

46 (i) relate to the hardship complained of; and

47 (ii) deprive the property of privileges granted to other properties in the same district.

48 (3) The applicant shall bear the burden of proving that all of the conditions justifying a  
49 variance have been met.

50 (4) Variances run with the land.

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1 (5) The board of adjustment and any other body may not grant use variances.  
2 (6) In granting a variance, the board of adjustment may impose additional requirements  
3 on the applicant that will:

- 4 (a) mitigate any harmful affects of the variance; or
- 5 (b) serve the purpose of the standard or requirement that is waived or modified.

6 Amended by Chapter 23, 1992 General Session

7 1. Providence City Code 10-8-1, Area Regulations requires a 20 foot rear yard setback in the  
8 Single Family Traditional (SFT) zone.

9 2. The applicant is requesting a variance of seven feet or 35% of the required 20 foot rear yard,  
10 which would allow for a 13 foot rear yard setback.

11 3. The applicant has submitted information that addresses the five criteria required to be met for  
12 granting variances.

13 4. The applicant is required to meet the requirements of State Code 10-9-707, Variances.

- 14 • The following CONCLUSIONS OF LAW were present in the staff report:
  - 15 ○ The applicant meets Utah Code 10-9-707, Variances and the five criteria for a  
16 variance based upon the following language:

17 A. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for  
18 the applicant that is not necessary to carry out the general purpose of the zoning ordinance;  
19 because the house is very small and an addition to the house is necessary for the use and  
20 enjoyment of the property owner.

21 B. There are special circumstances attached to the property that do not generally apply to  
22 other properties in the same district; because the foundation was made of stone, the setback  
23 needs to be reduced to provide for safety of the original structure.

24 C. Granting the variance is essential to the enjoyment of a substantial property right  
25 possessed by other property in the same district; because many houses in the same district are  
26 much larger in size. This would allow the owners similar enjoyment with the addition to the  
27 house.

28 D. The variance will not substantially affect the general plan and will not be contrary to  
29 the public interest; because the Providence City General Plan will not be affected by a  
30 reduction of seven feet to the rear yard setback and it will not be contrary to the public  
31 interest.

32 E. The spirit of the zoning ordinance is observed and substantial justice done; because a  
33 property owner is allowed to use the house without jeopardizing safety and having the  
34 enjoyment of personal property.

35  
36 2. The applicant does not meet Utah Code 10-9-707, Variances and the five criteria for a  
37 variance based upon the following language.

38 A. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for  
39 the applicant that is not necessary to carry out the general purpose of the zoning ordinance;  
40 because the unreasonable hardship is self-imposed and economic.

41 B. There are special circumstances attached to the property that do not generally apply to  
42 other properties in the same district; because there are many older homes throughout the  
43 community that may have stone foundations.

44 C. Granting the variance is essential to the enjoyment of a substantial property right  
45 possessed by other property in the same district; because many houses are small in size  
46 throughout the district.

47 D. The variance will not substantially affect the general plan and will not be contrary to  
48 the public interest; while the Providence City General Plan will not be affected by a reduction  
49 of seven feet in the rear yard setback, it is contrary to the public interest.

50 E. The spirit of the zoning ordinance is observed and substantial justice done; because the

1 zoning ordinance requires a 20 foot rear yard setback. By following the ordinance, substantial  
2 justice is done.

- 3 • The following CONDITIONS were present in the staff report:
  - 4 ○ None.
- 5 • Thompson turned the time over to Vern Keeslar to describe the particulars of the  
6 application.
- 7 • Keeslar gave the following background information from the staff report:
  - 8 ○ Aaron Wiser is the general contractor hired by Roger and Wendy Richardson to  
9 construct an addition to the rear of their house. The building permit was approved  
10 with a 20 foot rear yard setback as shown on the submitted site plan (See  
11 enclosed site plan and building permit). When the general contractor started to  
12 excavate for the footings, it was discovered that the original foundation for the  
13 house was made of stone. Concerned about complications that may result from  
14 excavating next to the original stone foundation, the owner and general  
15 contractor moved the addition approximately four feet east of the original house  
16 without submitting a new site plan and obtaining approval from the City. Further,  
17 the property corners were not marked for the general contractor resulting in about  
18 a three foot error in the site plan layout. The total seven foot encroachment  
19 violates the 20 foot rear yard setback requirement.
  - 20 ○ Usually, a building inspector is going to detect such a discrepancy. However,  
21 when inspecting the footings, the building inspector assumed that the property  
22 had plenty room in the back since the fence measured more than 80 feet away  
23 from the addition. It turned out that the fence was a neighbor's property line.  
24 Further, the soil from the excavation was placed between the addition and the  
25 fence on the neighbor's property, which was assumed the soil was being stored  
26 on the applicant's property. The enclosed photos show the situation.
- 27 • Keeslar then showed a slide of the property.
- 28 • Gary Stauffer asked if the inspector had a plat map.
- 29 • Keeslar said that a new one was not submitted.
- 30 • Thompson said that before they pour the footings, the inspector is supposed to define the  
31 boundary lines.
- 32 • Keeslar argued that the problem was not caused by the building inspector. He was in  
33 good faith.
- 34 • Thompson said that the inspector wasn't doing his homework.
- 35 • Keeslar said that the inspector made the mistake in assuming.
- 36 • Thompson wondered if the neighbor had come around—if the neighbor was notified of  
37 the discrepancy.
- 38 • Thompson asked Wendy Richardson, the home owner, if she knew that the place she was  
39 storing the dirt wasn't her property.
- 40 • Richardson said that she did know.
- 41 • Keeslar stated that the inspector made the assumption that the cedar fence was the  
42 property line.
- 43 • Gary Stauffer asked if the contractor had any additional requests to move the four feet.
- 44 • Keeslar said that a new site plan was never submitted. The neighbor came in to the City  
45 and asked what the setback was. The City found out that there was only 13 feet on the  
46 property.
- 47 • Keeslar read the two recommendations—one approving, one denying:
  - 48 ○ That the Board of Adjustment approve Aaron Wiser's request for a variance to  
49 property located generally at 536 South Main to allow for a rear yard setback of

1 13 feet instead of 20 feet with the following findings of fact, conclusions of law,  
2 and conditions as stated in the staff report.

- 3 ○ That the Board of Adjustment deny Aaron Wiser’s request for a variance to  
4 property located generally at 536 South Main to allow for a rear yard setback of  
5 13 feet instead of 20 feet with the following findings of fact, conclusions of law,  
6 and conditions as stated in the staff report.

- 7 • Nelson Palmer wondered why the recommendation was 13 instead of 16.
- 8 • Keeslar said he’d let Mr. Wiser explain this.
- 9 • Thompson wanted to know what the City had discussed with the applicants.
- 10 • Susan Lemon asked if the City was at liberty to discuss the issue with the people  
11 involved. She wondered if there had been an attempt by the land owner to buy the seven  
12 feet of property needed.
- 13 • Keeslar said he didn’t know and that the applicant could address that.
- 14 • Thompson turned the time over to the applicant, Aaron Wiser—contractor for Wendy  
15 Richardson’s home.
- 16 • Wiser explained that they submitted the plat plan according to their knowledge. They  
17 believed they had more than the minimum amount of property to meet the setback  
18 requirement. The concern was that there would be two separate buildings, not that they  
19 wouldn’t meet the setback requirement. He stated that Vern Keeslar thought that they  
20 should ask for a variance for a secondary building. He explained that there will not be a  
21 secondary building, but the old kitchen will be removed, and it will become a single  
22 family dwelling—not two separate buildings. Wiser explained that the concern the  
23 neighbor had was that there was a set of stairs that a previous owner had built  
24 underground, and the neighbor believed that those stairs were hers. The side setback was  
25 her concern. Those stairs were in fact on the Richardson’s property, but the back setback  
26 was her property.
- 27 • Lemon asked at what point the rear boundary line was determined.
- 28 • Wiser said it was when the inspector came out.
- 29 • Rogers Richardson asked who put the post in.
- 30 • Wiser said that Dave Williams, the building inspector, put it in when he came out to the  
31 site.
- 32 • Lemon asked with what information the inspector established the boundary line.
- 33 • Wiser said that he went off the fence to the east of the neighbor’s property.
- 34 • Lemon asked if the information was already established with the City prior to the post  
35 being put in place.
- 36 • Wiser said that the inspector got the dimensions off the county plat.
- 37 • Wiser stated that a professional surveyor never came out and surveyed the property
- 38 • Gary Stauffer asked Wendy Richardson if she had any idea where the property line was.
- 39 • W. Richardson said that the history of the survey was years ago when the property was  
40 originally split up; it used to be all one property. She said that when she went to  
41 refinance her home, the appraiser found that she didn’t have a legal size plot. She said  
42 that a professional survey was done at that time, but they didn’t mark the corners.  
43 However, the previous owner told her that he put a stake in the ground that is supposedly  
44 the property line. She said that it’s not right where the pole is that the inspector put in,  
45 but it’s close. She said she believes that the survey was done by Knighton and Crowe,  
46 but she doesn’t have a copy of it.
- 47 • Nelson Palmer asked if Wendy Richardson knew what had happened to the three feet.
- 48 • W. Richardson said that she hasn’t gone out there and measured. She just has a general  
49 idea of where the boundary is.

- 1 • Jay Christopherson remembers when Matthews lived there. He said he was upset when
- 2 Paul Willey cut the piece off the back. He said it was ruthless to try and sell it. He said
- 3 that when Richardson tried to refinance, even that line was in question.
- 4 • Lemon asked if the parcel of land that they sold off was big enough for a home.
- 5 • Richardson said it was not.
- 6 • Christopherson said that they were trying to put a home there, but it never qualified.
- 7 • W. Richardson said that she thinks Thigpen's original intent when the land was split up
- 8 was to build a shop to store all of his stuff. The right of way in the back, on Ron Schick's
- 9 property, would allow Schick to get in there. She said that when Thigpen went to build
- 10 the shop there wasn't enough property—not enough access, so the City would not allow
- 11 him to build there. So then he offered Mr. Schick the land, and Mr. Schick purchased it.
- 12 • Gary Stauffer asked if the lady who owns the land now is willing to sell.
- 13 • W. Richardson said that the lady is not willing to sell, but she's willing to sign a paper
- 14 that she doesn't care that the setback in the Richardson's yard is less than 20 feet.
- 15 • W. Richardson said that, right now, that piece of property is storing the dirt from the
- 16 construction of the addition and also an old vehicle and a trailer. It's not landscaped land.
- 17 • Thompson wondered if it would do any good to have a good diplomat talk to her to see if
- 18 they can purchase the seven feet.
- 19 • W. Richardson said that the offer was already made, and the owner didn't want to take it.
- 20 She didn't care that there was money offered.
- 21 • Gary Stauffer commented that this lady lives in the Olsen home.
- 22 • Keeslar said that the woman has plans to place a shed or an outbuilding on that piece of
- 23 land.
- 24 • Lemon wondered if there was room to do that.
- 25 • Keeslar said that there are some zoning issues that would need to be addressed.
- 26 • Stauffer asked how big the right of way is.
- 27 • Wisner said that it seems it's between 12 and 15 feet.
- 28 • Thompson said 26 ½ feet. He said that they would make them combine that lot.
- 29 • Stauffer said that 69 feet is how deep Richardson's lot is.
- 30 • Keeslar said he thinks that's what the building inspector measured off of.
- 31 • Stauffer asked if it shows at the county that they own that much.
- 32 • W. Richardson said that it's correct off county plat.
- 33 • W. Richardson said that this woman has combined her property and has plans to build the
- 34 shed, but that's all Richardson knows.
- 35 • Wisner said that the three feet may have to measure from the fence back.
- 36 • Nelson Palmer said that it still doesn't say where the property line is. He said that these
- 37 dimensions may change.
- 38 • Wisner said that their description comes from the street back.
- 39 • Nelson Palmer said that if Richardson decides that it is only four feet, rather than the
- 40 seven that was originally mentioned, that means the plat was submitted without the right
- 41 dimension.
- 42 • Stauffer suggested that there may not be a 7-foot problem, maybe only 3- or 4-foot
- 43 problem. He said it would be interesting to see what Knighton and Crow would come up
- 44 with.
- 45 • W. Richardson said that, from her memory, they started their measurements (for the
- 46 survey) from across the street.
- 47 • Stauffer said that that doesn't necessarily mean that the survey would change the fence.
- 48 • Keeslar said that what he's hearing is that the survey wouldn't provide more information.

- 1 • Stauffer said that it would be nice to know who owns what back there.
- 2 • Keeslar said that the 7-foot request is based on a measurement from the fence line. He
- 3 said he didn't know that three feet made a huge difference.
- 4 • Stauffer suggested that maybe the lady who owns the property might be willing to sell if
- 5 it was only four feet.
- 6 • W. Richardson said that her house has a little jog-out thing on one edge of it, and the
- 7 majority of the house is in closer to her.
- 8 • Stauffer commented that the plan in front of them doesn't show the dimensions.
- 9 • Thompson said that there needs to be a measurement made that means something. He
- 10 said that they've drawn things wrong on the county plat. He stated that the bottom line
- 11 is: until Richardson knows where the property lines are, Thompson's not sure the Board
- 12 can even grant this variance. He told them to get the property line established by
- 13 Knighton and Crow so the Board knows exactly what the feet are. If they don't know the
- 14 dimensions, they will just add insult to injury. Thompson said that he holds the City
- 15 responsible for not checking into these things closer. He stated that a variance has never
- 16 been granted to a new subdivision because the property lines aren't sure. He stated that
- 17 he doesn't feel comfortable about making a decision on this without the right dimensions.
- 18 • Thompson said that the setback is not on the drawing.
- 19 • Keeslar stated that it met the setback.
- 20 • Thompson said that the Board can't tell that from the drawing.
- 21 • Keeslar said that it's measured from the shortest distance.
- 22 • Thompson said that they think it is seven feet, but they don't know.
- 23 • Keeslar stated that the Board of Adjustment could require the applicant to come back
- 24 with a survey.
- 25 • Christopherson said that he thought that the Board should grant the variance. He said that
- 26 there's a difference between the older homes in Providence and the new subdivisions. He
- 27 said that Wendy is trying to fix the place up, that it's good for the neighborhood. He
- 28 feels that the mistake was made when Thigpen and Willey tried to cut the piece of land
- 29 up.
- 30 • Thompson said he agrees, but he thinks that the City ought to have the survey; someone
- 31 has already done it, so it probably only costs a dollar to get a copy. The Board needs to
- 32 find out the dimensions so they know what they're voting on.
- 33 • Nelson Palmer said that, even if it's seven or three feet, it's just a matter of making it less
- 34 of a problem.
- 35 • Thompson said that he hated to set a precedent that the City gets into a problem because
- 36 of lack of detail. He said that he wants to set a precedent that the Board will want to
- 37 know what the problem is.
- 38 • Christopherson said that the Board of Adjustment exists to take care of awkward
- 39 situations. He didn't think that a survey would solve the issue.
- 40 • Thompson said that it may not solve the issue, but it is important if someone comes back
- 41 in the future and repeats this.
- 42 • Wisner said that he thinks that what the building inspector would like to require is a survey
- 43 in all old neighborhoods before a building permit is issued.
- 44 • Keeslar said that the City will not require surveys—they'll just require that the property
- 45 line be marked.
- 46 • Wisner said that the history is one problem, compounded by other problems. He asked the
- 47 Board if they could approve the variance with a condition that those property corners be
- 48 marked and filed with the county so there are no future problems. He stated that the

- 1           Richardsons' neighbor has already expressed her interest in applying for a building  
2           permit for her shed.
- 3           • Stauffer said that then she'd need to know where the property line is too.
  - 4           • Wisner asked if it was possible to approve the variance with the condition that the corners  
5           are marked by a professional surveyor.
  - 6           • Adams said that he's concerned about what the city is doing with the new planning and  
7           zoning. He said that the new subdivision next door to him didn't meet this survey  
8           requirement. He said that the City is setting precedence. He lives in an older part of  
9           town with a big size of land. If the Board decides to approve this variance, and he  
10          decides to build on his land, he wants to know if he'll get the same treatment.
  - 11          • Thompson said he agreed with him.
  - 12          • Stauffer said that he disagreed. He said that if a person applies to build another home on  
13          a piece of land, it's a subdivision, and there has to be sufficient ground to do that. He  
14          said if the lot isn't big enough, a person can then apply for a variance. However, if there  
15          are going to be two or three houses, the person won't get the okay without sufficient  
16          setbacks.
  - 17          • Adams said that the City just let a subdivision do it. He said that in the last planning and  
18          zoning meeting, an amendment was passed that a person may have a 50-foot combination  
19          now—not the 30 feet that it used to be.
  - 20          • Keeslar said that the development that Adams is talking about is Pineridge. He said that  
21          he's still researching it, but that it doesn't relate. He told the Board of Adjustment that  
22          they set the law for the one lot in question. He said that they are a quasi-judicial body,  
23          and they're not setting precedence with one lot.
  - 24          • Stauffer said that's the way he was looking at it.
  - 25          • Keeslar said that variances run with the land. He said again that the Board is not setting  
26          precedent, they're setting law for that one lot.
  - 27          • Thompson said that the precedent he doesn't want to set is that the Board allows these  
28          types of things to take place or get started. He doesn't want them progressed to the point  
29          where they have to approve them.
  - 30          • Ron Leichy said that he has a concern with the comment that this problem is partly the  
31          City's fault. He said that the plat the City obtained met the required setback, but then the  
32          building was moved four feet. The City would have noticed that there was a problem if a  
33          new plat was submitted. He said that a new plat should have been done when that four  
34          feet was moved. He said that they chose to move it; they built it, and therein lies the  
35          problem.
  - 36          • Thompson said that's the precedent he doesn't want to start.
  - 37          • Keeslar said that rarely does it occur that the inspector doesn't notice this sort of thing  
38          beforehand.
  - 39          • Thompson said that the inspector should know if someone doesn't meet the distances.  
40          The contractor got the dimensions from the inspector.
  - 41          • Wisner said that they knew that it was going to be a problem before they started. The  
42          stone foundation is so short and if there's digging done next to it, there's the risk of the  
43          whole structure collapsing. Wisner said he had discussed this with Keeslar. He said that  
44          they weren't concerned about the setbacks because they thought they had plenty of room.
  - 45          • Keeslar said that if the building was going to be detached, he and Wisner were concerned  
46          it would be a secondary residential structure, so the City made them remove the kitchen.  
47          He said that a re-submittal of the site plan would have been best. Property corner  
48          markers would have been great.

- 1 • Keeslar said that even if there were no errors, they still have a stone foundation. He
- 2 wondered if that was enough justification according to the conclusions of law to justify
- 3 encroaching into the setback. He argued that the Richardsons are a family trying to
- 4 improve their neighborhood.
- 5 • W. Richardson said that they had tried to sell their house twice and were not able to
- 6 because too many people come by a new house in the same price range. She said there
- 7 are seven people living in their tiny house. She said they knew they needed more space
- 8 but couldn't get it. If they can't sell, they need more room.
- 9 • Thompson said that he sympathized with them, but that he's blaming the situation that
- 10 was followed and the concern with the dimensions. He said that these problems have
- 11 taken away the chance for the Board to make a decision up front that wouldn't have been
- 12 as costly.
- 13 • W. Richardson said that she thinks that a lot of the problem came when Thigpen and
- 14 Willy tried to split the property. She said that she had to try and buy property. She said
- 15 that the mayor wouldn't even let her talk to the Board of Adjustment back then.
- 16 • Thompson said that she has a legal lot.
- 17 • W. Richardson said that she does now, but years ago she had to buy 6 feet to have a legal
- 18 lot.
- 19 • Stauffer wondered how Thigpen could sell property that he didn't own.
- 20 • Keeslar said that people divide property without jurisdiction all the time.
- 21 • Wisner said that the house was designed to fit the property, and that's why they didn't
- 22 come in before—because they didn't know that the property wasn't there until way too
- 23 late.
- 24 • The plats were established long before the Richardsons were there.
- 25 • Wisner said that he and the owner believed that they had the right boundaries, and that
- 26 they had enough space to build the addition. He said that the addition was built
- 27 according to what they thought the property line was. He said that the inspector may
- 28 have thought they were conforming.
- 29 • W. Richardson said that, on top of all of that, the neighbor is saying it's okay to have the
- 30 13-foot setback.
- 31 • Nelson Palmer wondered if the lot could be divided up. He wondered if you could ever
- 32 get a lot out of the other one.
- 33 • Keeslar said that a person may be able to get an 80-foot frontage, but that there could
- 34 never be a land area of 10,000 square feet.
- 35 • Stauffer said that frontage wouldn't be for the whole lot.
- 36 • Keeslar said there's no way they'd have enough acreage for another home.
- 37 • Stauffer said that it's interesting that the Richardson's neighbor is willing to sign a paper
- 38 that she doesn't care, but that she won't sell the land.
- 39 • Wisner said that maybe that has to do with her desire to build a shed.
- 40 • W. Richardson said that the neighbor wants to build a lot of little sheds.
- 41 • Lemon said that she feels that this particular lot and situation fits one major criteria to
- 42 grant a variance, and that these are very special circumstances. She said she doesn't
- 43 think that the siding should be a concern in issuing or not issuing the variance. She stated
- 44 that this is very old property and there are very different circumstances. She felt that the
- 45 Board needed to show sensitivity towards those who are willing to improve the older
- 46 areas.
- 47 • Nelson Palmer said that the property won't be able to be used for anything else, and if
- 48 neighbor isn't opposed to the variance herself, then it's probably okay. Palmer thought it

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would be nice to have documentation that the neighbor is okay with it because it may affect what she puts on the land later.

- Lemon said that the fact that the neighbor didn't come to this meeting shows her that the neighbor didn't have a strong adverse opinion.
- Wisner said that the City put a stop work order on the building, but when they submitted an application for the variance that they could continue, it was at their own risk. If it's not approved tonight, then they have to wait another month, which is hard on the family. He feels that they could accomplish all the things they need tonight, with the conditions that the property corners are marked, and that a written or verbal agreement from the neighbor is submitted. He asked the Board if they could approve the variance tonight with these certain conditions.
- Thompson asked Keeslar if he could have a letter written up.
- Keeslar said that he thinks that the Board of Adjustment is right in requiring the marking of the property corners. He said he thinks that the Board should grant the variance up to seven feet, but no more.
- Christopherson wondered if they could just put an easement of 20 feet. With easements, a person doesn't have to own the property.
- Keeslar said that an easement wouldn't be necessary because it doesn't affect the neighbor.
- Leichty said that the lines need to be marked somehow if it's not approved.
- Thompson opened up time for a motion.

**MOTION** by Nelson Palmer that the Board of Adjustment approve Aaron Wisner's request for a variance to property located generally at 536 South Main to allow for a rear yard setback of 13 feet instead of 20 feet with the following findings of fact and conclusions of law as stated in the staff report, and that the following conditions are met: that a letter of no objection is submitted to the City by the neighbor of the adjacent property, that a new site plan is submitted with the correct setbacks, and that the property lines are clearly marked on the property (staked). Once boundary lines are determined, specific footage will be granted.  
**SECOND** by Susan Lemon. All in favor.

- Thompson said that the survey will begin at the benchmark in town. He said that Providence has four benchmarks that should be used.
- Thompson suggested that Keeslar needs a clean plat.
- All in favor: All.
- Opposed: None.
- Excused: Jane Wisner, Elden Dattage

The meeting was adjourned at 8:25.

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Meeting Minutes Approved

Clint Thompson \_\_\_\_\_ Date \_\_\_\_\_  
*Acting Chairman*

Rebecca Billings \_\_\_\_\_ Date \_\_\_\_\_  
*Secretary*