

CLINTON CITY BOARD OF ZONING ADJUSTMENT MINUTES

**Jim Cox, Chair
Dennis Henry, Vice Chair
Colin Winchester
Nathan Schow
Ronnie Duncan
PC Representative Bob Buckles
Blair Bateman, Alternate**

BZA Meeting	September 6, 2016	Call to Order: 6:03 P.M.	2267 N 1500 W Clinton UT 84015
Staff Present	Community Development Director Will Wright and Lisa Titensor recorded the minutes.		
Citizens Present	Kathy Zaring, Kaye Jenson		
Pledge	Colin Winchester		
Prayer or Thought	Nathan Schow		
Roll Call and Attendance	Board Members' Schow, Winchester, and Cox were present. Excused were: Board Member Henry, Board Member Duncan		
Approval of Minutes	The Board of Zoning Adjustment has reviewed the minutes of the last BZA meeting and responded to the Secretary by e-mail for approval.		
6:00 P.M. – REQUEST FOR A VARIANCE: REVIEW OF AND ACTION UPON A PETITION FROM KATHY ZARING, 2324 NORTH 690 WEST, TO CONSIDER GRANTING A VARIANCE TO THE CONSTRUCTION REQUIREMENTS OF A 150 SQ. FT. ENCLOSED STORAGE AREA THAT IS REQUIRED TO BE BUILT WITHIN THE ATTACHED CARPORT AREA; REQUIRED BY 28-3-25(5)(E)(I) OF THE CLINTON CITY ZONING ORDINANCE.			
Petitioner:	Kathy Zaring		
Public Hearing and Discussion	<p>Mr. Wright reviewed the following information with the Board:</p> <p>Zoning Ordinance References –</p> <ol style="list-style-type: none"> 1. Section 28-3-25(5)(e)(i) states a 150 square foot enclosure is required when adding an attached carport. 2. Section 28-10-8 Variances states, “Any person or entity desiring a waiver or modification of the requirements of the Zoning Ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Zoning Adjustments for a variance from the terms of the Zoning Ordinance. <p>(2)</p> <p>(a) The Board of Zoning Adjustments may grant a variance only if:</p> <ol style="list-style-type: none"> (i) Literal enforcement of the Zoning Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance; (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district; (iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district; (iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and (v) The spirit of the Zoning Ordinance is observed and substantial justice done. <p>(b)</p> <ol style="list-style-type: none"> (i) In determining whether or not enforcement of the Zoning Ordinance would cause unreasonable hardship under 28-10-8 (2)(a), the Board of Zoning Adjustments may not find an unreasonable hardship unless the alleged hardship: <ol style="list-style-type: none"> (A) is located on or associated with the property for which the variance is sought; and (B) Comes from circumstances peculiar to the property, not from conditions that 		

are general to the neighborhood.

(ii) In determining whether or not enforcement of the Zoning Ordinance would cause unreasonable hardship under 28-10-8 (2)(a), the Board of Zoning Adjustments may not find an unreasonable hardship if the hardship is self-imposed or economic.

(iii) In determining whether or not there are special circumstances attached to the property under 28-10-8 (2)(a), the Board of Zoning Adjustments may find that special circumstances exist only if the special circumstances:

(A) relate to the hardship complained of; and

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

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

(4) Variances run with the land.

Kathy Zaring indicated her property won't permit the required 150 square foot enclosure in the carport due to the area on the driveway side of the property and the size of the single car carport she wants to place adjacent to her house. Further, she explained that her raised patio steps at the rear of her home (see sketch of steps) would be obstructed by attempting to put in a 150 square foot enclosure in the carport. A 150 square foot enclosure added to a 21' x 11' carport would require significant changes to the steps serving the raised patio, adding substantial costs to this project that she simply isn't wanting to spend for an improvement which she doesn't need given her other storage sheds on the property.

A review of the criteria for considering a variance request found the following results for the Zaring request, namely:

- 1) The lack of sufficient space on the side yard would prevent Ms. Zaring from installing a carport with the 150 square foot enclosure, thereby creating a hardship by preventing her to have a carport similar to other properties;
- 2) The only special circumstances peculiar to this lot and structure are the lack of sufficient side yard area in which to put in a carport with the required 150 square foot enclosure without creating a financial hardship;
- 3) The enjoyment of a substantial property right would be deprived this owner without a variance that would allow a carport;
- 4) This variance would not affect the general plan; and
- 5) The spirit of the Zoning Ordinance would still be observed with substantial justice done with this request.

Ms. Zaring believes not having a carport as many of the neighboring houses have would be a hardship that is created by the requirement to have a 150 square foot enclosure. This situation was somewhat caused by the house proximity to the property line on the driveway side, thereby making the placement of a carport with the required 150 square feet enclosure difficult if not virtually impossible without a variance on the driveway side of the house. This is in part caused by the steps from a raised patio on the driveway side being accessed from the driveway side, which an enclosure would obstruct. It is also important to note, staff observed that many of the houses in this neighborhood do have carports some without enclosures and some with smaller enclosures, which were probably constructed that way at the time the house was constructed. It would seem, therefore, that substantial justice could be done by granting Ms. Zaring a similar enjoyment in the use of her property by allowing this carport without the 150 square foot enclosure.

Board Member Cox opened the public hearing at 6:06 p.m.

The Board asked if there were any negative comments from the neighbors.

Ms. Zaring said all but one of the neighbors had been contacted and they all signed a petition in favor of allowing the car port.

	<p>The Board asked Ms. Zaring to confirm that the existing sheds will stay on the property.</p> <p>Ms. Zaring confirmed the existing sheds will stay in place.</p> <p>Mr. Wright clarified the set back requirements are not an issue from the side yard. The existing shed could be considered to meet the intent of the ordinance.</p> <p>Board Member Cox closed the public hearing at 6:18 p.m.</p> <p>Board Member Schow stated his concern is to make sure the variance requirements are met. He feels this request to build a car port will add value to the home. The existing sheds will alleviate clutter concerns. An existing raised patio in place when the applicant purchased the home creates a hardship because it prevents them from building a second enclosed carport that fits within the guidelines of the ordinance.</p> <p>Board Member Winchester and Cox agreed.</p>
<p>CONCLUSION</p>	<p>Board Member Schow moved to grant a variance for Kathy Zaring, 2324 North 690 West, for the construction requirements of a 150 sq. ft. enclosed storage area that is required to be built within the attached carport area; required by 28-3-25(5)(e)(i) of the Clinton City Zoning Ordinance. Board Member Winchester seconded the motion. Voting by roll call is as follows: Board Member Schow, aye; Board Member Winchester, aye; and Board Member Cox, aye.</p>
<p>ADJOURNMENT</p>	<p>Board Member Winchester moved to adjourn. Board Member Schow seconded the motion. Board Members' Schow, Winchester & Cox all voted in favor. The BZA adjourned at 6:22 p.m.</p>
<p>Approval of Minutes</p>	<p>DRAFT minutes sent by e-mail to BZA for approval on September 15, 2016 Notice of approval received by:</p> <ul style="list-style-type: none"> • Nathan Schow; • Colin Winchester • Jim Cox