



## **MINUTES OF A VINEYARD HEARING OFFICER PUBLIC MEETING**

Hearing Officer Vaughn Pickell opened the meeting at 5:06 PM.

Those present were:

Vaughn Pickell

Resident Clay Winder

Economic Development Director Morgan Brim

Planner II Briam Amaya Perez

Planning Technician Cache Hancey

Mr. Vaughn Pickell asked the applicant to introduce himself for the record.

Clay Winder introduced himself as a current and future resident of Vineyard.

Mr. Pickell asked if Mr. Winder was the property owner and Mr. Winder replied that he is.

Mr. Pickell gave an overview and outline of what the purpose in the hearing was for. He stated that the most important issue is that the burden is on the applicant to show that they are entitled to a variance. To do that, the applicant needs to show evidence for each of the five elements that are required. He clarified that the applicant needs to prove that they meet all five elements and not just partial.

Mr. Pickell then summarized the process in which this hearing will lead to a judgement and written decision regarding the variance application.

He continued by asking questions regarding the background of the variance request. He asked Mr. Winder what the address to the property is. Mr. Winder replied 337 N 350 W Vineyard.

Mr. Pickell then asked if this variance for one property or for the property next door.

Mr. Winder clarified that the variance is for only his property as the property next door belongs to his friend and business partner. They purchased the two lots together and had a contractor build the retaining wall along both properties, however, only his property is in violation. He then stated that his property is on lot 8 and that is what this variance hearing is regarding.

Mr. Pickell asked who was the contractor who built the wall. Mr. Winder stated that Haddy Inc.

The final background question that Mr. Pickell asked was what the zoning classification for the property was under. Community Development Director Morgan Brim stated that the property is in the Water's Edge Special Zoning District and the General Plan land use designation is low density. Planner II Briam Amaya Perez stated that the zoning subdistrict is R-20.

Mr. Pickell asked Mr. Winder to begin his presentation on explaining why his property meets the criteria given for a variance.

Mr. Winder began by explaining that the wall in question was originally built as a retaining wall and not a fence. When he purchased the property the first process they had to do before they could build was to retain the lot. The retaining wall also served as privacy from the public trail.

Mr. Pickell asked Mr. Winder to clarify the height differences between the trail and his property. Using an image of the property, Mr. Winder showed that the property sits on a steep slope and that in order to build on his property, a retaining wall was required. Originally Mr. Winder had plans to build an even taller retaining wall but was informed of the code and that he would not be able to. The current retaining wall was built according to engineering plans that showed that the retaining wall would be within the six-foot limit.

Mr. Winder continued by mentioning that they began construction on the wall before the trail was constructed. Doing so, they were not sure what the finalized height of the trail would be as they were constantly adding materials and dirt to build up the trail.

Mr. Brim asked if they excavated down when they were building the trail.

Mr. Winder answered that there was no excavation and the city brought dirt in.

Mr. Brim mentioned that the code does not specify a difference between retaining walls and fences. For this instance, the retaining wall would have to follow the restrictions under fences. The code also states that the height is measured at the base of the trail to the top of the wall.

Mr. Pickell ask how would enforcing the ordinance create unreasonable hardship on Mr. Winder.

Mr. Winder explained that the wall is finished and completely constructed and then mentioned the following points:

- There is glue and mesh holding the block in place.
- It has cost around \$120,000 to build.
- It would create a change in lot height compared to neighbor.
- The engineering was approved and inspected by the City with each row of block placed.
- It would alter the entire backyard lot.
- This current solution creates an even yard with his neighbor.

Mr. Brim followed up by stating that the building permit did show compliance. The building officials that approved of the wall do not look at zoning code and only the planning department does. The elevations shown in the building permit showed compliance and caused no need to inspect during process.

Mr. Winder clarified that the wall was built according to approved plan.

Mr. Pickell asked for clarification on the timeline of the retaining wall and trail being built.

Mr. Winder explained that he waited to start the wall until the City brought in fill dirt for the trail. The City had to bring dirt in to increase the elevation of the trail to go from the lake to the park next to his property.

Mr. Brim stated that the City brought in fill dirt as well as compact base for the trail.

Mr. Winder explained that he relied on his contractor to build the retaining wall according to code.

Mr. Pickell asked if all the fill dirt brought in before they began building the wall.

Mr. Winder stated that they were done around the same time however, asphalt was placed after the wall footings were dug. The contractor started at neighbor's property and worked his way to the wall in question.

Mr. Pickell asked if the City inspected each row of block or only finished wall.

Mr. Brim stated that the Planning Department only inspected at the end. The Building department inspected it weekly.

Mr. Winder explained that he believed that the building and planning inspections were the same.

Mr. Pickell asked if the lots to the south are in line and flat with the trail.

Mr. Winder answered that was correct.

Mr. Pickell then continued by asking if the construction of the wall would be impossible without the variance. He asked if it would be possible to remove the top few rows of the wall to comply with the ordinance.

Mr. Winder explained that the plan is to have a four-foot fence on the wall. The plan for his property was to combine yards with next lot over to share a backyard that would have a patio and pool. The current grading is the same as the neighborhood. If he had to remove layers of block, his lot would be lower than everyone else.

Mr. Pickell ask how steep the property was before the wall was put in place.

Mr. Winder replied that it was over 45 degrees, so very steep.

Mr. Pickell asked if there are there any legal conditions that effect the use or utility of the property.

Mr. Winder replied that privacy would affect the use because of the trail. He stated that around 100 people are walking the trail a day. The property sits next to a park and a trail and surrounded by public lands. Managing privacy would be very difficult without the retaining wall.

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

Mr. Winder stated that it would change the entire elevation of the lot. The lot would become sloped. It could cause for need of having a retaining wall between neighboring properties. He is also using this as a barrier to prevent the public from coming onto private property.

Mr. Pickell asked how the height of the wall was originally determined and where the contractor set the starting point.

Mr. Winder said that the contractor started at the lowest point of his neighbor's property and worked his way higher in elevation towards his own property. The engineering required three feet of footings.

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

Mr. Winder stated that it would be around \$10,000 and it would require a taller fence than he was planning on. He clarified that both sections of the wall were built by the same contractor.

Mr. Pickell asked how do these special circumstances deprive you of benefits that other neighboring properties enjoy.

Mr. Winder said that privacy and the need for a taller fence. His neighbors do not have to work around a steep slope as their properties meet the trail on a flat surface.

Mr. Pickell asked what progress is done on the house.

Mr. Winder replied that the foundation has been poured, half done today, half being done tomorrow. Because of this, there is currently a mountain of dirt sitting on the wall.

Mr. Pickell asked how far the mesh in the wall goes into the property.

Mr. Winder replied that it goes six-feet into the lot and that it is attached to the block.

Mr. Pickell asked if all properties to the south have the trail behind them.

Mr. Winder stated that they do but it is a flat trail.

Mr. Pickell asked if any other houses being built around Mr. Winder.

Mr. Winder replied that he was the first and only ones.

Mr. Brim included that there is a house on the far south end of the neighborhood already built.

Mr. Pickell asked what the maximum height of the wall is from the top of the trail surface.

Mr. Brim stated that he measured eight to eight and a half feet.

Mr. Winder said that he believed the wall to be closer to seven feet tall.

Mr. Pickell asked how short that wall gets.

Mr. Winder replied that it is just under five feet at the lowest point.

Mr. Pickell asked if Mr. Winder placed dirt at the base of the wall to make it appear shorter.

Mr. Winder replied that the contractor did and that if the variance is approved, he would tell the contractor to remove all of the dirt.

Mr. Brim stated that the city would prefer the dirt to be removed regardless of the variance passing.

Mr. Pickell asked if this would affect the zoning or density of the property.

Mr. Brim replied that it could affect the Lakeshore line trail which is 100 miles along the lake.

Mr. Pickell asked that if it will not affect the density of the area, how would it affect the public interest

Mr. Winder replied that the public's interest is safety. It is safer to have a taller wall so that children do not climb on it.

Mr. Pickell asked if the spirit of the ordinance is observed and justice met.

Mr. Winder replied that he believes this wall will protect the public, protect the private property, and, protect his privacy. It will also achieve the highest and best use of the lot. He mentioned that the wall

looks good as it has been professionally built and designed to not detract from the natural beauty of Utah Lake. He pointed out that he did not cut any corners, got the proper permits, and worked with engineering to ensure the wall was built properly. He has tried to do everything by the book.

Mr. Winder gave a closing statement stating that his intention is that this is his forever house. This design was part of his master's thesis. This exact lot was a junkyard and he has wanted to turn it into high end real estate. The retaining wall was intentional to help his property be equal with the neighborhood. He finished by stating that he will have stewardship of this wall because he will not be moving away.

Mr. Pickell asked if there are any water table issues with this property.

Mr. Winder stated that he did not test the backside of the lot but would imagine there would be water table issues due to its proximity to Utah Lake. He then stated that he hopes Utah lake is a Lake Tahoe for his grandkids. He has ensured that the wall is beautiful and promised that there will be no vinyl fences on the property.

Mr. Pickell adjourned the meeting at 6:08 p.m.

**CERTIFIED CORRECT BY:**

/s/ Cache J. Hancey

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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](mailto: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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