

**MINUTES OF THE WEST JORDAN BOARD OF ADJUSTMENT
Electronic Meeting held Remotely**

January 12, 2021

PRESENT: Ryan Castro, Bill Heiner, George Winn. Dallen Anderson was excused

STAFF: Larry Gardner, Julie Davis, Jared Tingey, Mark Forsythe

OTHERS: Brennen Alldredge, Griggs, Lori, Chase

The pre-meeting was called to order at 5:00 p.m.

Ryan Castro read the statement regarding Utah Code 52-4-207(4). Larry Gardner reviewed with the Board general variance procedures, rules, and purposes.

The regular meeting was called to order at 5:30 p.m.

Ryan Castro read the statement regarding Utah Code 52-4-207(4).

Item #1 Election of Chair and Vice Chair for 2021

MOTION: Bill Heiner moved to nominate Ryan Castro as Chair. The motion was seconded by George Winn and passed 3-0 in favor. Dallen Anderson was absent.

MOTION: Ryan Castro moved to nominate Bill Heiner as Vice Chair. The motion was seconded by George Winn and passed 3-0 in favor. Dallen Anderson was absent.

Item #2 Approval of Minutes from December 8, 2020

MOTION: Bill Heiner moved to approve the minutes from December 8, 2020. The motion was seconded by George Winn and passed 3-0 in favor. Dallen Anderson was absent.

Item #3 Utah Fusion All-Stars Variance; 9902 South 6150 West; Variance requesting the reduction of parking from 65 stalls to 17 stalls, and related landscape requirements; M-1 Zone; Emily Morgan, Utah Fusion All-Stars (applicant) [#22662; parcel 26-11-326-008]

This item was withdrawn by the applicant.

Item #4 Brennan Alldredge Variance; 2684 West Jordan Meadows Lane; Variance to the minimum lot area for a corner lot in the R-1-10 zone; Brennan Alldredge (applicant) [#23098; parcel 21-28-401-024]

Brennan Alldredge, applicant, 7488 South 2540 West, presented his case. The property is 0.66 acres and includes a home that was constructed in 1971. The home has a large setback and is inconveniently situated in the center of the lot, which makes it difficult to subdivide the property and still meet the minimum lot size. He showed a diagram of the proposed property line that would leave approximately 10,000 square feet of property. In order to maintain a more regular shaped lot, they are asking for a variance to remove the requirement for an extra 1,000 square feet on corner lots. The variance will allow for convenient access to the existing home. To further explain the hardship, the unique exterior materials of brick and natural wood would be difficult to match should they need to relocate the garage. Leaving the garage where it is and extending the proposed property line to the east would make it difficult back out of the garage since the home is set so far back. Staff had suggested that the garage could be moved closer to the home and eliminate the breezeway, but the breezeway has a concrete wall that is the outer wall for a bunker within the home. It isn't practical to move the garage next to the home. He felt that his proposal is practical and meets the intent of the city code, which is to offer single-family housing. This would allow for another single-family home on a lot that is underutilized.

George Winn asked if the applicant is the current occupant and if the existing home was built before code restrictions.

Brennan Alldredge said he is not occupying the home. They are doing renovations with the intent to resell it, and they hope to build a new home on the other lot to sell. He understood that the home was built prior to zoning restrictions. They intend to remove the existing driveway and construct one with more direct access to the garage.

Ryan Castro referred to Criteria #2 and asked the applicant how this property is unique to others in the area.

Brennan Alldredge said the home is set back farther. The intent of the current code is to have the home closer to the road to create a smaller, more manageable front yard. When backing out of the garage or driveway it is more difficult and impractical and unsafe if the driveway is not straight. If the setback were 25-30 feet closer, then it would be easier.

Mark Forsythe gave the background of the current zoning. Section 13-5B-3A and B specifically refer to the requirement to have at least 10,000 square feet in area and corner lots must have 11,000 square feet minimum. Almost every lot in the area is square in shape and has close to 10,000 square feet. Five corner lots in the Jordan Meadows neighborhood have less than 11,000 square feet. This is probably due to different ordinance requirements when the subdivision was platted, so they are considered legal, nonconforming. For comparison, the property to the north is just over ½ acre with an existing home near 2700 West. That property would have enough area to create a flag lot without a variance. He referred to the applicable general plan policies: density of infill should be similar to the surrounding development; discourage division of lots that are detrimental to the character of the neighborhood; provide opportunities for single-family residential homes; and, to encourage a range of lot sizes within the framework of the future land use map. The minimum lot area requirement for corner lots is to provide enough room for the 20-foot corner side yard, and to allow for sufficient buildable area within the setbacks for the minimum required home size in the 'B' subzone. The applicant has shown a rambler-style home that would have a minimum 2,200 square feet of living area.

Mark Forsythe said a citizen phoned in with concerns that the new lot wouldn't have 10,000 square feet. Using the city's parcel map (understanding that property lines are not 100% accurate), he took measurements from the west property line to the existing home, which is 68 feet. The applicant's drawing shows 68 feet to the proposed eastern property line, which leaves a discrepancy. Mr. Forsythe put a polygon 8 feet off of the existing house and using the applicant's site plan, the area is only about 9,000 square feet. If the variance is approved and the property subdivided, the plat prepared by a licensed professional surveyor will be required and verified to make sure the property has at least 10,000 square feet.

Ryan Castro opened the public hearing.

Further public comment was closed at this point for this item.

Brennan Alldredge said he spoke to his civil engineer today and there is a discrepancy. When he first measured the property, he started at the back of sidewalk, but the property line is actually one foot inside the sidewalk, so the proposed lot is closer to 9,700 square feet but is still within the medium density residential range. The overlay of the parcel lines on the aerial image is not always accurate. He lives on this city block and drives past this home every day. The home has been vacant for three years, and he has been waiting for this opportunity. The home has a lot of deferred maintenance and they look toward fixing it up and bringing another family into the neighborhood with a new home.

Ryan Castro was concerned that if they approve a variance for 10,000 square feet, it will not meet the applicant's needs for something less than that.

Mark Forsythe said it might help to have a prepared survey to see exactly where the house is on the lot in relation to the property lines. One idea is to table the decision until they have something more official.

Ryan Castro said as a citizen and as a representative on the Board, they need to fill their obligations to the city and the law. He wouldn't want to put the applicant through this process and then not be able to proceed if they only have 9700 square feet.

Brennan Alldredge said this situation came to their attention today. He asked if they could amend the application to ask for 9800 square feet.

Larry Gardner said that would not be acceptable, because then the Board would be making a legislative decision, which is not in their purview. However, if the applicant can provide additional information that would prove the hardship then it may be appropriate to table.

George Winn referred to the density range in the general plan.

Larry Gardner said that is a range within the general plan for the purposes of planning and for the future land use map. The zoning ordinance is very rigid on the 10,000 square foot minimum, and they can't be smaller.

Ryan Castro said they aren't sure that this request will suit the applicant's needs. He asked for direction on options for proceeding to either table until next month to gather the information to see if the application is appropriate for his needs or if there are other options.

Jared Tingey said that decision is up to the Board. They can do as mentioned to table until they get more information about the situation that they were just made aware of, or approve, or deny.

Bill Heiner said he had a similar personal experience and they should give everyone an opportunity to have all of the necessary information.

Brennan Alldredge clarified that the measurements were taken from the property line and not the fence line. He asked what it means to table the issue.

Ryan Carter said it allows time to present more information and then resume the discussion. There is not an additional application fee. If he chooses to change the application, he would have to clarify that with staff.

Brennan Alldredge said the way he sees it, he can move forward with the request for a 10,000 square foot lot variance, which would require him to move the proposed property line farther to the east but would allow him to possibly be approved today. He would rather get a variance for 9500 - 9700 square feet for a less awkward project, but that is less of a sure thing and probably not as likely to be accepted.

Larry Gardner clarified that the City Council would have to approve a zone change to do anything less than 10,000 square feet. The Board of Adjustment has some variability regarding the extra 1,000 square feet for a corner lot, but it is not within their authority to approve anything less than 10,000 square feet.

Ryan Castro asked Mr. Tingey if he agreed, and it was noted that Jared Tingey nodded in agreement.

Brennan Alldredge said he wanted to go forward with the application tonight, knowing that the survey has to show 10,000 square feet, which would mean an adjustment to the proposed property line.

George Winn understood the applicant to say that he wants to move forward with the current application for 10,000 square feet contingent on an official survey that would meet that requirement.

Ryan Castro said that is also what he understood. The variance application will be either approved or denied based on the findings. If the applicant later applies for a subdivision plat with a plan that has less than 10,000 square feet, then he can't proceed with the subdivision.

The Board reviewed the findings applied to the criteria.

Criteria 1: Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title. The board of adjustment shall not find an unreasonable hardship if the hardship is self-imposed or economic. To determine whether or not enforcement of this title would cause unreasonable hardship, the board of adjustment shall not find unreasonable hardship unless the alleged hardship:

- 1. Is located on or associated with the property for which the variance is sought; and*
- 2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood;*

George Winn asked for clarification on determining a self-imposed or economic circumstance. Mr. Alldredge wants to improve the property and to do so it will take money.

Mark Forsythe referred to the general discussion in the pre-meeting, such as a lot on a hillside that needs a setback variance. The property owner didn't put the hillside there. As a contrast, a self-imposed situation could be if someone built a structure within a required setback line and after being discovered they apply for a hardship exception. An economic example could be if someone wanted to subdivide with no clear physical hardship.

Larry Gardner gave an example of developing a subdivision in a 10,000 square foot zoning and asking for a 9,000 square foot lots for the sole purpose of getting more lots. This property is an infill development and the correct amount of property is there, but the house placement doesn't allow for dividing in rectangular lots. The applicant didn't create this situation of where the house was placed.

Ryan Castro said the financial burden isn't something they are supposed to take into consideration. However, even if we require that the garage be removed there will still be inconsistencies with the neighborhood, so the city doesn't gain anything in that situation. If the variance is granted, and the only way the applicant can meet the square footage is to demolish a portion of the structure, then that will be up to the applicant on how they go forward.

Ryan Castro said the lot is just enough to be subdivided if the home weren't placed like that, so the placement is unique to the surrounding homes, especially for a corner lot.

George Winn said the placement of the home was before the current zoning ordinances and before the neighborhood was built. That is peculiar to the property.

The Board Members agreed that this criterion had been met.

Criteria 2: There are special circumstances attached to the property that do not generally apply to other properties in the same district and relate directly to the hardship complained of:

Ryan Castro agreed with staff's observations that in order to meet the lot size requirement the proposed corner lot would likely have an angled front yard that is wider than the width of the northern half of the lot, which is an abnormal lot configuration in comparison to the other square-shaped lots in the Jordan Meadows subdivision. The other square lots have smaller front yards and maintenance is more manageable.

The Board Members agreed that this criterion had been met.

Criteria 3: Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district:

Bill Heiner said there are other corner lots in the subdivision that don't have 11,000 square feet, and they are able to enjoy the benefits that this applicant is asking for.

Ryan Castro said staff had remarked that the only other lot with a similar size/shape (to the north) would most likely be able to subdivide without needing a variance. It speaks directly to the criteria that granting the variance is essential to enjoying a substantial property right. The subject property is the only one that is limited by the circumstances, even the only other large and oddly shaped lot in comparison to other properties.

The Board Members agreed that this criterion had been met.

Criteria 4: The variance will not substantially affect the general plan and will not be contrary to the public interest:

Ryan Castro said he interprets this to ask if we are doing the public or the intention of the city a disservice by approving the variance.

George Winn thought they would be doing the public a favor by improving it. The variance does not substantially affect the general plan.

Bill Heiner agreed and said that the city also needs more housing inventory.

The Board Members agreed that this criterion had been met.

Criteria 5: The spirit of this title is observed and substantial justice done:

George Winn said his answer to that statement is yes.

Ryan Castro liked the remarks in the staff report that says the purpose of the minimum lot requirement is to assure that a home of sufficient size to meet the code can be built. The proposed home will have more than 3,000 square feet of living space, which exceeds the minimum required. So, if the purpose of that specific ordinance is to provide a certain amount of living space, then substantial justice is done.

The Board Members agreed that this criterion had been met.

MOTION: George Winn moved, based on the Board of Adjustment findings that the applicant has met all variance criteria required by the State and City Codes, to approve the variance for the property at 2684 West Jordan Meadows Lane reducing the minimum corner lot size requirement from 11,000 square feet to 10,000 square feet. The motion was seconded by Bill Heiner.

Ryan Castro asked if the motion is contingent upon the site plan that was submitted with the application.

George Winn said the motion isn't concerned with the site plan, but it only concerns minimum lot size. If the variance is approved, the developer can do what they want as long as the newly created lot is at least 10,000 square feet and meets required setbacks.

Larry Gardner said that is correct. The variance is for removing the extra 1,000 square feet for a corner lot, it is not altering the square footage of the zone he is in. The variance can be approved, but if a request to split the property doesn't meet the provisions of the subdivision ordinance then a subdivision can't be approved.

VOTE: The motion passed 3-0 in favor. Dallen Anderson was absent.

MOTION: Bill Heiner moved to adjourn. The motion was seconded by Ryan Castro and passed 3-0 in favor. Dallen Anderson was absent.

The meeting adjourned at 6:50 p.m.

Ryan Castro
CHAIR

ATTEST:

Secretary

Date approved