

1 BOARD OF ADJUSTMENT  
2 American Fork City  
3 September 11, 2024 ○ 6:00 PM  
4 American Fork Public Works ○ 275 East 200 North ○ American Fork UT 84003  
5

6 Board Members Present: Mary Street, Scott Williamson, Mike Privett  
7

8 City Staff Present: Dan Loveland, Chief Building Official  
9 Melissa White, Development Project Coordinator  
10

11 Others present: Danny Houston, Ben Ritchie  
12

13 **BOARD OF ADJUSTMENT MEETING**  
14

15 1. **Call to Order**  
16

17 This meeting of the Board of Adjustment of American Fork City, having been properly noticed,  
18 was called to order at 6:00 p.m.  
19

20 Introductions were made by the Board and the meeting began.  
21

22 2. **Approve Minutes from 06.12.2024.**  
23  
24

25 **MOTION:**  
26

27 **Scott Williamson motioned to approve the 06.12.2024 minutes. Mike Privett seconded the motion.**  
28

29 Aye -  
30 Mary Street  
31 Mike Privett  
32 Scott Williamson  
33

34 The motion passed.  
35

36 3. **Scheduled Items**  
37

38 Danny Houston has submitted an application for a review and action on a request for a variance for a  
39 property located at 106 South 1100 East, American Fork, Utah 84003.  
40

41 **Board Discussion:**  
42

43 Mr. Ritchie explained to the Board that Mr. Dan Houston first purchased the property in 1995 - 1996 with  
44 the intent of ultimately building a home back on the back piece of the property. At the time, the property  
45 was in the county, and the agreement was to annex into American Fork. There were public meetings held  
46 at that time that discussed this project. At the time Mr. Houston made the purchase of an additional five  
47 feet from the Adams property to make sure that he had the right of way to access the property.  
48

49 Mr. Houston and Mr. Ritchie asked for clarity on what will need to happen in order to receive a building  
50 permit on the property. It was discussed that the property to the south had developed, and the road became  
51 a private road owned by an HOA.

52  
53 The Board reviewed the packet material that includes the staff report and minutes from an April 1995  
54 Planning Commission meeting when the agreements were made for the property that was being annexed  
55 in and the additional property purchase, a deed showing the right-of-way, and a map showing that the  
56 sewer and water are stubbed in at the entrance of the property.

57  
58 Mr. Loveland notes he was unable to find an indication of a formal agreement in the documents provided  
59 in the packet. Mr. Ritchie reiterated the hope to find the original intention of the agreement when the  
60 property was annexed into the city, and what they would need to do in order to build a one-story single-  
61 family home on the property.

62 Chairwoman Street summarized the 1995 Planning Commission meeting minutes by noting that the  
63 annexation request was reviewed by the Planning Commission at the time, which recommended approval  
64 to the city council. The annexation involved zoning the property as RA-1 to be similar to the adjacent  
65 properties, with a condition that Mr. Houston purchase a 25-foot parcel from JR Adams and deed  
66 additional property to the city. The matter was then brought to the city council, where they voted to  
67 approve an ordinance (95-05-21) for the Houston annexation at 80 South, 1100 East, and placed the  
68 property in the RA-1 zone. The motion passed, but no further action was taken.

69 Mr. Loveland explained that the property was brought in as RA-1 at the time of the annexation and the  
70 property was now zoned as R1-9000, although he is unsure what year the zoning was changed. He noted  
71 that despite any differences that may exist between the two zones, flag lots are not allowed in American  
72 Fork City. As Mr. Houston's property sits currently, the property is considered a flag lot.

73  
74 **Board member Reid Shelley's comments were read to the Board – See Attachment #1**

75  
76 Mr. Williamson asked the applicant if he had approached the HOA to discuss the options with the road to  
77 which Mr. Houston replied that he had not, and his wish to remain outside of an HOA.

78  
79 The applicant and Board discussed the expectation that the developer to the south would have built the road  
80 so Mr. Houston's property would be accessible and that the development has been there less than a year.

81  
82 Mr. Houston noted he and his son had signed property line agreements with the HOA to align the west and  
83 south sides of the property. Mr. Williamson noted that this may be a good discussion point with the HOA  
84 if needed. Mr. Houston reiterated his confusion as to why the development to the south did not consider the  
85 approach to his property when the property was designed. Mr. Loveland stated that the city Planning and  
86 Engineering departments may be able to lend more information to the discussion from when the  
87 development came before the city for review.

88  
89 Mr. Houston questioned if it would be possible to use the right-of-way from his property line. Mr.  
90 Williamson noted that his understanding of the code is that it has to be on the road itself.

91  
92 Chairwoman Street determined the next steps for the Board to consider would be to go through the staff  
93 report and discuss each whether this project does or does not meet the conditions of approval. She reminded  
94 the applicant that each condition must be met in order for the Board to be able to approve the variance, and  
95 that the Board is held to the city's municipal code; to deny a variance, the applicant would only need to be  
96 lacking on one condition, and it would result in a denial.

97  
98 The Board discussed question number one, "Would granting the variance change the intended use of the

99 property? The answer must be no.” She stated the staff report noted that the answer was, “Yes, it would  
100 become a flag lot which is not allowed in American Fork City.”  
101

102 Chairwoman Street clarified that a flag lot is defined as a parcel that lacks direct frontage on a public street  
103 and is accessed by traversing other properties. Mr. Loveland noted that while the applicant's property does  
104 have an access agreement, the access requires crossing two separate parcels to reach the lot. Chairwoman  
105 Street noted the only viable solution would be to arrange for access via a public street or an existing  
106 dedicated street.

107 Mr. Houston questioned why his 30 feet of land wouldn't be considered sufficient, especially since it had  
108 been in place for 50 years, whereas a new section was added the previous year. He explained that his  
109 property was intended to be deeded to the city once a road was built, but no road had been constructed.  
110 Instead, houses were built in front of it, with the city's approval. He believed the issue was resolved because  
111 the plan stated that the land would be deeded when the road was constructed, which he assumed referred to  
112 an existing half-road. He wondered why the recent addition of an HOA road was now being accepted  
113 instead.

114 Chairwoman Street clarified that while she wasn't sure how things were done in 1995, the typical practice  
115 for developments today is that developers are required to construct the road and then transfer ownership to  
116 the city. Once the road is built, it is handed over to the city for maintenance, provided it isn't a private road.  
117 It was determined that the road was a private road owned by the HOA.

118 Chairwoman Street explained that, as the situation stands, the property would be considered a flag lot since  
119 access would be through a drive crossing other property. If all three parcels were combined into a single  
120 lot, it wouldn't be a flag lot, but this would also prevent the addition of a second home. She noted that this  
121 issue alone could be enough to deny the application, but she wanted to explore other possibilities. She  
122 suggested that the applicant might be able to resolve this by working with the HOA to combine their land  
123 and agree to widen the road, making it an HOA road that both parties could share. If this could be arranged,  
124 it might be an acceptable solution. Mr. Loveland agreed, and noted the city's Planning and Zoning and  
125 Engineering departments held the same opinion when this project was discussed with their departments.

126 Mr. Houston noted the HOA has a parking lot that cannot be accessed from his property, but it looks as  
127 though it would be possible to connect the property.

128 Chairwoman Street mentioned that the HOA may need to modify their plat to straighten the road to make  
129 that work but noted that plats can be amended.

130 Chairwoman Street explained that for the second condition to be met, which asks if there are special  
131 circumstances unique to the property compared to others in the same zone, the answer must be yes in order  
132 to proceed with the process. In this case, the special circumstance is that the lot is landlocked. Regarding  
133 the next question—whether these circumstances cause an unreasonable hardship by denying the applicant  
134 the same use of the property as others in the zone—the answer must also be yes. The staff's recommendation  
135 is no, that the property does not have legal access. Mr. Loveland clarified that while the applicant does have  
136 the legal right-of-way to get to the lot, the lot does not meet the requirements to build a home.

137 Mr. Williamson asked how wide the road would need to be if the applicant decided to disregard the cost,  
138 install curb and gutter on both sides of the street, extend the road to the back of the property from 1100  
139 South, and then deed it to the city. Mr. Loveland stated he was unsure of the exact width required, and that  
140 the city engineering team would be able to lend better direction on that question. The Board discussed the  
141 city requirement of needing curb and gutter and either a cul-de-sac or a hammerhead to ensure there was  
142 Fire Department access. The Board discussed the requirements and procedures the development to the south

143 would need to go through should they decide to amend the plat to allow for one of the previously mentioned  
144 options.

145 Chairwoman Street summarized that the board was exploring options to assist Mr. Houston. One option is  
146 to determine if installing a half-road and dedicating it to the city would meet the requirements, although  
147 those requirements are still unclear. She also suggested that if the HOA is open to working with him to  
148 widen the road and connect it to their existing road, Mr. Houston could access his lot through that road. Mr.  
149 Loveland noted his thoughts that this would be something worth pursuing with the HOA. He reiterated  
150 following up with the city's engineering department to pursue the different options the Board had discussed.

151 Chairwoman Street explained that granting a variance would violate several sections of the municipal code,  
152 which would be illegal, and the board is not permitted to do that. However, the Board wants to offer  
153 suggestions that could be helpful. She emphasized that the zoning ordinance has changed since 1995, with  
154 more developments now in place, and that Mr. Houston must follow the current laws to obtain a building  
155 permit. Under these laws, the permit cannot be granted. She suggested that instead of denying the variance  
156 and halting the process, they could table the meeting, allowing Mr. Houston to continue working on some  
157 of the Board's previously discussed recommendations.

158 Mr. Williamson asked Mr. Houston whether he would prefer the board to table the application rather than  
159 deny it. He explained that if the board tables the variance, it will allow Mr. Houston to explore other options,  
160 and the application could be revisited later. If Mr. Houston finds a solution, he might not need a variance,  
161 which would eliminate the need to return to the Board of Adjustments. However, if the board denies the  
162 variance, Mr. Houston's options would be to completely start over with a new application and start the  
163 Board of Adjustment process over from the beginning.

164 Mr. Ritchie reiterated the options the Board had established earlier in the discussion to which the Board  
165 agreed. Mr. Ritchie asked about the possibility of changing the zoning, and Mr. Williamson noted that that  
166 may be a difficult process and not eliminate the issue with the flag lot.

167 Chairwoman Street stated her support of tabling the variance to give the applicant time to discuss other  
168 options with the city's engineering department and a professional engineer to find a path forward.

169  
170 Mr. Houston discussed the option of purchasing some land from the HOA and potentially trading land to  
171 work towards an agreement that would work for both parties.

172 Chairwoman Street suggested that Mr. Houston could petition the city and submit an application to change  
173 the law, potentially asking the city to allow flag lots. She noted that this would be a possible option if all  
174 other avenues were exhausted, but it would likely be a more difficult and lengthy process.

175 Mr. Houston and Mr. Ritchie agreed that a decision to table the variance to approach options discussed in  
176 the meeting was the best course forward at this time.

177 MOTION:

178  
179 **Mary Street moved to table a variance for a property located at 106 South 1100 East, American Fork,**  
180 **Utah 84003. Scott Williamson seconded the motion.**

181  
182 Aye -  
183 Mary Street  
184 Scott Williamson  
185 Mike Privett  
186

187 The motion passed.

188

189

190 4. Other Business

191

192 None

193

194

195 5. Adjourn.

196

197 **A motion was made to adjourn by Scott Williamson. It was unanimously approved. The meeting**  
198 **was adjourned at 7:05 p.m.**

199

200 Melissa White

201 Development Project Coordinator

Approved