



AGENDA

BLUFFDALE CITY BOARD OF ADJUSTMENT

June 30, 2015

Notice is hereby given that the Bluffdale City Board of Adjustment will hold a public meeting **Tuesday, June 30, 2015**, at the **Bluffdale City Fire Station, 14350 South 2200 West**, Bluffdale, Utah. Notice is further given that access to this meeting by Board members may be by electronic means by telephonic conference call. The Agenda will be as follows. Please note that all times listed on the Agenda are provided as a courtesy and are approximate and subject to change.

BUSINESS MEETING (6:00 p.m.):

1. **PUBLIC HEARING, CONSIDERATION, AND VOTE** on a requested variance from the minimum lot area, lot frontage, lot width, side and rear setback requirements, and percentage of all structures on a lot for the R-1-43 zoning district located at 2135 West 14400 South, David and Susanne Proctor, applicants.
2. Motion to approve minutes of the June 30, 2015, meeting of the Board of Adjustment via e-mail correspondence.
3. Adjournment.

Dated: June 25, 2015

A handwritten signature in blue ink that reads "Grant Crowell".

Grant Crowell, AICP
City Planner/Economic Development Director

In compliance with the American Disabilities Act, individuals needing assistance or other services or accommodation for this meeting should contact Bluffdale City at least 24 hours in advance of this meeting at (801)254-2200. TTY 7-1-1.

**BLUFFDALE CITY BOARD OF ADJUSTMENT
MEETING MINUTES
Tuesday, June 30, 2015**

Present:

**Members: Jim Shaw, Chair
Charlotte Barlow
Van Neilson**

**Others: Derk Timothy, Mayor
Grant Crowell, City Planner/Economic Development Director
Jennifer Robison, Associate Planner
Gai Herbert, Community Development Assistant**

Chair Jim Shaw called the meeting to order at 6:00 p.m.

1. **PUBLIC HEARING/CONSIDERATION/VOTE on a Requested Variance from the Minimum Lot Area, Lot Frontage, Lot Width, Side and Rear Setback Requirements, and Percentage of all Structures on a Lot for the R-1-43 Zoning District Located at 2135 West 14400 South, David and Susanne Procter, Applicants.**

Associate Planner, Jennifer Robison, presented the staff report and showed a street view of the subject property. She next reviewed the history of the subject property and stated that the earliest map of the property was from 1980. At that time, the property consisted of 16.46 acres and was owned by Moyle and Shirley Anderson. Between 1980 and 1994, subdivisions of the property took place and plats consisting of one-acre parcels were approved by the City. One of the results was a subdivision called Lewis Estates.

Mrs. Robison next showed an aerial photo of the property as it currently exists. The parcel outlined in red was the subject of the variance request. In 2002, the Anderson Estates subdivision was created. Various surveys were taken, which ultimately created the parcel under consideration. The subject property was not part of a current subdivision and has instead become a remnant. The current property owners were identified as David and Shirley Anderson who live on Frost Court.

Mrs. Robison next discussed the following requirements from Title 11-8A of the Bluffdale City Code that need to be considered in determining whether to grant the variance:

1. The minimum lot area or size, which is one acre minimum, to the proposed 0.47 of an acre for the lot area.
2. The minimum lot frontage and width which is 125 feet for the area within the required front setback and abutting a public street to the proposed 68.4 feet of existing frontage and width.
3. The minimum side setback is 20 feet to the proposed 10-foot setback on each side for a total of 20 feet.

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4. The R-1-43 zoning district currently allows the sums of all buildings to be 20% of the total parcel. The proposed sum of all buildings on the parcel would exceed the 20% requirement. The applicant is proposing 40%, which would be consistent with the R-1-10 zoning district.
5. Other provisions for variance consideration were the 75-foot requirement to any dwelling for accessory structures that house animals as shown on the proposed site plan. This requirement should remain in effect so existing residents will not be negatively impacted.

Mrs. Robison noted that there is one other consideration. The City is in the process of reviewing a building design for a New City Hall to be located on the City Park property. In doing so, the City Engineer and staff are looking at the potential traffic impacts of moving the building to the proposed location. Consequently, the road where the subject property is located could potentially be widened, thereby having an impact on the size of the property. With that possibility in mind, Mrs. Robison asked the City Engineer to review the subject property. She identified the portion of the subject property that would be required if the road were widened. The conditions of analysis by staff included that consideration. Primarily, it may impact the front setback. The total projected impact would be 667 square feet.

Mrs. Robison next referred the Board Members to the staff report that contained the analysis of review which must be considered when granting a variance, as specified in Utah Code Ann. § 10-9a-702:

- (2) (a) The Board may grant a variance only if:
 - (i) Literal enforcement of the ordinance would cause an ***unreasonable hardship*** for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (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 land use ordinance is observed and substantial justice done.

After reviewing the criteria, Mrs. Robison stated that the staff analysis of the variance request addresses all of the required criteria. She noted that the City recognized the creation of the various subdivisions and lot lines, which ultimately allowed the subject parcel to be created.

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There is no ability to expand the parcel because it is surrounded by other privately owned property and the canal. The applicants would like to build a home to increase the value of the property rather than have it remain vacant. The General Plan was not adversely affected because the addition of a home on this parcel would not effectively change the area density.

Mrs. Robison noted that the staff report includes statements from the applicant addressing the variance criteria previously enumerated.

In response to Charlotte Barlow's question regarding a small piece of property located near the southeast corner of the subject property, Mrs. Robison stated that it is owned by the neighbor.

Chair Shaw invited the applicant to address the Board.

David Procter gave his address as 5929 Country Hills Drive, in Taylorsville and complimented Mrs. Robison on her presentation of the application. Mr. Procter stated that he and his wife are seeking a variance in order to build a single-level home for themselves. The barn in back will be used for storage and will not house animals. Mr. Procter stated that building a home on the subject property would put it to better use than it is now as a vacant lot. Having a home there would benefit the City, both aesthetically and financially, as it would increase the tax base. With regard to the hardship denying the variance would pose, Mr. Procter stated that over time, this left-over lot has remained vacant and they would like to improve the use by putting a nice home on it.

Chair Shaw opened the public hearing.

Mrs. Robison read a letter from Beverly Stauffer, who resides at 2138 West 14270 South. Ms. Stauffer did not support any zoning changes.

Jack Asay gave his address as 2039 West 14400 South, and identified himself as a long-time Bluffdale resident. He asked about the property owners' water rights and noted that the current owner, David Anderson, assured him that everything is fine in that regard. Mr. Asay then stated that he believes a home on the subject property would enhance the community. The neighbors have tried to keep the property looking nice, but converting it to a residential property would be an improvement. He expressed his support for the proposed variance request.

Frank Naylor gave his address as 2135 West 14400 South and stated that he owns property west of the subject property. He commented that it is a nice lot and noted that his only concern was having a home only 10 feet from the property line. He hoped the home would be situated so that it is not too close to his property. Mr. Naylor was concerned that a precedent might be set to create other lots along the south side 14400 South that are less than one acre in size. Other than those concerns, Mr. Naylor considered it a nice lot to build a home on and expressed his support for the proposal. At the request of Chair Shaw, Mr. Naylor identified the location of his property on the aerial photo, which is just west of the subject property. He stated that it is one acre in size; however, the canal consumes a large portion of it.

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Chair Shaw clarified that the matter under consideration is a variance request and not a zone change. The variance was to determine whether to make allowances within an existing zone.

Robert Hansen gave his address as 2053 West 14400 South and noted that his home is located to the east of the subject property. He stated that he and his wife have the best neighbors and live in the very best community in Utah. Mr. Hansen stated that he would support anything Dave Anderson wants to do with his property. His only concern was that his home is very close to the edge of the property. Also, there is a low spot on the property and if it accumulates too much water, it has flooded in the past and gone into the Hansen's basement. Mr. Hansen noted that he has dogs and a horse on his property, which might create some noise and smells. He added that he used to be a realtor and long narrow lots require a careful configuration in terms of the placement of home on the lot. Mr. Procter noted that he has been a licensed architect since 1982 and understands well the issues associated with a long narrow lot.

In response to Van Neilson's question regarding the cause of the flooding to the basement, Mr. Hansen stated that it was from irrigation. At the time the flooding occurred about seven or eight years ago, the property was flood irrigated. There is now pressurized irrigation in the area. In response to Van Neilson's question regarding the direction of the slope, Mr. Hansen stated that the property slopes to the east. Mr. Asay interjected that when he first moved to his current location, his property was at a high level and dropped down. It took 160 loads of dirt to remedy the neighbor's flooding problem.

David Anderson, the current owner of the property, stated that he previously irrigated his property from a ditch. He then had to switch to pressurized irrigation. He reported that there is a lot of clay in the area that creates water run-off rather than it being absorbed into the ground. Van Neilson stated that a minimum 2% grade is required away from a home, so he was perplexed as to why that did not occur with the Hansen's home when it was built. Mr. Hansen noted that there was a gopher problem, which exacerbated the flooding problem.

It was also noted that there is a steep hill from 2200 West to where Mr. Asay's home is located. Additionally, there are no retaining walls between the properties where the elevations are different. Mr. Hansen summarized that he was in favor of granting the variance. Most importantly, he wants his neighbors to be happy as they work within the constraints of building on the property.

Steven Sonntag gave his address as 14473 Frost Court in the Anderson subdivision. He remarked that he has helped David Anderson on the property several times to deal with water issues resulting from pressurized irrigation. Mr. Sonntag supported the construction of a home on the property. He was pleased to hear that the home will be just one story because it will be much less intrusive to the neighbors. He inquired about the size of the property if 14400 South is widened. Mrs. Robison stated that the about 600 square feet would be taken from the frontage, which would reduce the parcel to about .42 acre.

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In response to a question raised, Mr. Hansen indicated that his home is 20 feet from the property line. Mr. Asay added that the City took 15 feet of his property. Mrs. Naylor stated that her property is odd-shaped because of the canal that runs to the west. Mr. Sonntag stated that his property has 23 feet of frontage because of the circle where his home is located.

David Anderson gave his address as 14465 Frost Court and identified himself as the current owner of the property. He stated that it has been a struggle for him to keep up with the land he has and the subject property has been neglected for a long time. The taxes for the parcel are \$500 per year. He was ready not to be responsible for the property any longer and wanted to see someone else own it, maintain it, and pay the property taxes. Chair Shaw asked Mr. Anderson to review the history of the property that his father originally owned. He reported that the property was divided into one-acre parcels and developed as subdivisions. The original zoning required one-acre lots. The subject property was a remnant from those subdivisions.

There were no further public comments. Chair Shaw closed the public hearing.

Discussion ensued on the history of the Anderson property and how the lone one-half-acre lot came to be. Chair Shaw noted that today a parcel of land would be platted as a major subdivision to ensure that this type of situation does not occur. It was clarified that the subject property is not a lot and is instead referred to as a parcel. It was always a remnant parcel.

Chair Shaw struggled with the issue because the parcel is a one-half acre, which is double the size of many lots in the valley. Chair Shaw acknowledged Mr. Anderson's challenge to care for his 1.5 acres, along with this .5-acre parcel. The responsibility of the Board of Adjustment is to decide if a variance should be granted for this parcel in an R-1-43 Zone.

Charlotte Barlow noted that the property owner to the west would like to purchase the property and inquired as to why the property wasn't sold. Mr. Anderson indicated that there were concerns with other neighbors. He chose not to elaborate.

In response to Mr. Naylor's question on how the size of the lot compares to the lots in Spring View Farms, City Planner/Economic Development Director, Grant Crowell, stated that those lots are around 10,000 square feet. Van Neilson had no problem with smaller lots, including the subject property. In fact, he was a proponent and believes that smaller lots are needed in some areas. He added that he has purchased lots with 70 feet of frontage, compared to the 68 feet of frontage on the subject property. It is very feasible to build a home on that size of lot. On R-1-10 property, the side setback requirement is 10' and 10'. With that type of side setback, the property owner would have 48 feet available for a home. On one-acre lots the setback requirement is 20 feet, so the distance between the new home and the neighboring home would be 30 feet.

Van Neilson also observed that the subject property is higher than the Hansen's property, so the land around the new home would slope down to the Hansen's property. Therefore, some cooperation would be needed to ensure that the water does not flood the Hansen's basement.

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Chair Shaw stated that that concern would be addressed by the City Engineer. The City Code states that run-off water has to be contained on the homeowner's property and not impact the neighbors.

In response to Chair Shaw's question regarding the roof elevation planned for the new home, Mr. Procter stated that he had not yet made that determination. He stated that it would probably be a 6:12 pitch. The overall height of the home would be about 18 feet.

In response to Chair Shaw's question about whether it would fall within the purview of the Board of Adjustment to specify a height limitation for the home, Mr. Crowell stated that the Board of Adjustment has to consider the reasonable enjoyment of the owner's property rights and the general characteristics of the neighborhood. Those considerations would then be tied to the Board's logic. The key was for the Board of Adjustment to determine how to mitigate the impact of a variance that is granted. Van Neilson did not see a problem because as small as the home will have to be to fit on the property, the roof isn't going to be an issue. Chair Shaw noted that he would like to see the variance stipulate that the home could be only a one-story structure. Chair Shaw and Van Nielson further discussed the idea of stipulating a single-story structure with a maximum 7:12 pitch for the roof and 10-foot walls. Van Neilson noted that the requirements need to be flexible enough to allow an aesthetically pleasing structure.

Chair Shaw next indicated that if the Board of Adjustment decides to approve the variance, the Board needs to determine the conditions that will be attached to the approval. Mrs. Robison stated that staff used R-1-10 provisions as a frame of reference because Bluffdale City has no zones that require one-half acre minimum lot sizes. In response to Van Neilson question regarding the anticipated building materials used for the home, Mr. Procter anticipated using cement board and masonry. He noted that it will be typical of the current trend and will not be 100 % brick.

Van Neilson moved to approve the variance, as stated, subject to the following:

Conditions:

- 1. The parcel is approved for a single-family home.**
- 2. The home shall be one story only.**
- 3. The walls on the main level shall have a maximum height of 9 feet.**
- 4. The maximum roof pitch shall be 7:12.**
- 5. The side yards shall have 10-foot setbacks on both sides of the structure, for a total of 20 feet.**
- 6. The proposed buildings shall not take up more than 40% of the property.**

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7. **There shall be no large animals, such as a horse or beef cow, as are allowed on one-acre lots in the City.**
8. **The property that is proposed is .47-acre.**
9. **The minimum front setback shall be 45 feet.**
10. **The property owners shall be willing to work with City officials and dedicate by deed the necessary right-of-way for the widening of 14400 South upon request from the City.**

Findings:

1. **Unreasonable Hardship: The configuration and current lot area of the parcel was created as a remnant from other parcels the City approved through a subdivision process. The history of the parcel exists to show that the City recognized the parcel being created, but did not require the parcel to be created by a formal approval process.**
2. **Special Circumstances: The property has residents living immediately adjacent on both sides and the rear of the parcel borders the Utah and Salt Lake Canal which does not allow the lot area to be increased to meet the minimum standard. The potential widening of 14400 South could impact the parcel for future development.**
3. **Substantial Property Right: The applicants would be allowed to build a home to increase the land value to a higher and better use.**
4. **General Plan and Public Interest: The General Plan and the public interest likely will not be adversely affected because there will be no effective change to the land use or density of the area. The applicant believes building a home would be more esthetically pleasing for the neighborhood and would not negatively affect the adjacent property or other properties in the area.**
5. **Spirit of the Land Use Ordinance: The purpose or spirit of the land use ordinance is to ensure adequate spacing between buildings and neighboring properties.**

Charlotte Barlow seconded the motion. Vote on the motion: Van Neilson-Aye; Charlotte Barlow-Aye; Jim Shaw-Aye. The motion passed unanimously.

2. **Motion to Approve Minutes of the June 30, 2015, Meeting of the Board of Adjustment via Email Correspondence.**

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Van Neilson moved to approve the minutes of the June 30, 2015, meeting of the Board of Adjustment via email correspondence. Once the minutes are prepared, they shall be emailed to the Members of the Board of Adjustment. The Members of the Board of Adjustment shall then have ten (10) days to review the minutes and submit any changes to the Secretary. If after ten (10) days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until all changes are made and the Board is in agreement. Charlotte Barlow seconded the motion. Vote on the motion: Van Neilson-Aye; Charlotte Barlow-Aye; Jim Shaw-Aye. The motion passed unanimously.

3. Adjournment.

The meeting adjourned at 7:13 p.m.



Gai Herbert,
Community Development Assistant

Approved: July 16, 2015