

CITY OF OREM
BOARD OF ADJUSTMENTS MINUTES
August 29, 2018

STUDY SESSION

Place: City Council Conference Room

At 5:30 p.m. Ms. Seaver called the Study Session to order.

Those present: Mickey Cochran, Karl Gadd, Leslie Nelson and Meredith Seaver, Board of Adjustment members; Jason Bench, Planning Division Manager; Kristina Haycock, Planner; Steve Earl, Legal Counsel; Cheryl Vargas, Minutes Secretary

Those excused: Gene Robison, Board of Adjustment member

The Board members and staff reviewed the agenda items and July 25, 2018 minutes, and adjourned at 5:55 p.m. to the City Council Chambers for the regular meeting.

REGULAR MEETING

Place: City Council Chambers

At **6:00 p.m.** Ms. Seaver called the meeting to order.

Those present: Mickey Cochran, Karl Gadd, Leslie Nelson and Meredith Seaver, Board of Adjustment members; Jason Bench, Planning Division Manager; Kristina Haycock, Planner; Steve Earl, Legal Counsel; Cheryl Vargas, Minutes Secretary

Those excused: Gene Robison, Board of Adjustment member

Ms. Seaver asked Kristina Haycock to introduce **Agenda Item 3.1**.

Ms. Haycock introduced **Agenda Item 3.1** as follows:

Agenda Item 3.1 is a request by Knight West Builders for the Board of Adjustment to grant a variance from the maximum setback, landscaping and sidewalk requirements as required by Section 22-8-8(B) at 1901 North State in the C2 zone.

Staff Presentation: The item was continued at the last meeting to allow the applicant time to come up with alternative proposals that would work and still reflect the spirit of the ordinance. As of the time of publishing, no further proposals have been received.

In 2014, the Legacy House of Orem applied to build on the property at 1925 North State Street. Part of the site plan process included the determination and installation of two access points on State Street. The purpose of the access configuration was based on safety and the need to provide two points of access as required by the city engineer. The two access points line up with the access on the east side of State Street providing safer turning movements for both sides of State Street. The existing drive access on the property takes up much of the frontage on the lots located at 1943 North and 1901 North, but because the ordinance at the time did not have a maximum setback requirement, the access location did not cause any concerns. Landscaping was also put in with a ten-foot landscaping strip and an eight-foot sidewalk.

Following the approval of the Legacy House of Orem, the City Code was amended to require new development on State Street to have a maximum building setback of ten feet as well as a buffered sidewalk consisting of an eight-foot sidewalk and a 15-foot landscaped planter strip.

The applicant would like to construct a building on the property just to the east of the Legacy House. However, due to the location of the drive access installed as part of the Legacy House development, which takes up about 50% of the frontage, the applicant contends that compliance with the new State Street development standards would

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constitute an unreasonable hardship. The applicant also argues that it would be an unreasonable hardship to re-do the landscaping and sidewalk along the front of the property adjacent to State Street.

If the variance is granted, the applicant will build the new 20,000 square foot building 13 feet behind the existing drive access and 70 feet behind the back of curb. Staff does not support a variance from the maximum setback requirement to allow the applicant to build the building in the location proposed because the applicant can meet the current code requirements required for all new site plans along State Street. Staff believes the current city code requirements do not constitute an unreasonable hardship for the applicant. The applicant has submitted drawings showing they could meet required setbacks but are requesting the variance because they prefer the proposed layout.

A setback variance was granted to the property to the north because the applicant for that property had already met with staff multiple times for site plan help before the setback rules changed. Because the applicant had already spent several thousand dollars under staff guidance, staff felt it would be a hardship for the applicant to have to change their plans. The current applicant has no such circumstances and the setback rules were enacted before the applicant started planning the layout of the lot.

The property owner to the north also requested a variance from the sidewalk and planter strip requirements which the Board of Adjustment denied on November 29, 2017.

Recommendation: Staff recommends the Board of Adjustment deny the request of Knight West Builders for a variance from the maximum setback, landscaping and sidewalk requirements as required by Section 22-8-8(B) at 1901 North State Street. Staff believes that the applicant could develop the property in conformance with these requirements without incurring an unreasonable hardship.

Ms. Seaver asked if the Board had any questions for Ms. Haycock. Ms. Nelson asked why the driveway entrances needed to come together in the middle from the north and the south. Ms. Haycock said there is another property behind this project and they need access. There is also an easement there.

Ms. Seaver invited the applicant to come forward. Paul Washburn introduced himself. He said at the end of the discussion last time, they were asked to explore abandoning a section of the driveway. He met with Horrocks Engineering and UDOT, and they believe the southern driveway could be abandoned without hardship. The other two property owners using the driveway are resistant to giving it up, as they went to a lot of expense to put it in. Ms. Haycock spoke earlier about Barry Dental to the north. The City decided not to enforce the new rules for them because it was already in the process when the new ordinance went into effect. He would argue that they have the same hardship, with the driveway in the same configuration. It has the same effect on their ability to develop the property as the other tenants did before. A City ordinance, since mid-1970's expected setbacks to be as far back as possible. Now they are held to a new and different standard. Looking at the requirements of the variance, they have to show their project will not impact the purpose of the zone. The purpose of the zone is in Section 22-8-6. They are not doing anything that impacts the purpose of this zoning ordinance. This property is unique in that north of 1600 North, the angle of State Street deepens. They will have to build a trapezoid building which is difficult to build and utilize the space. It is frustrating to see how they can move forward where this property is not seriously impacted. Between 2000 North and 1600 North, this is basically the last piece of property to be developed. All others in that area have the 20-foot setback. He feels this project meets all the qualifications of the variance. Trapezoidal, triangular buildings are hard to market, more expensive to build and interior space is not usable.

Mr. Washburn said the buildable area is limited and they are being forced close to State Street and to build a building that is not functional. Ms. Seaver asked why they were not willing to move that building back into some of the extra parking spaces. If they eliminated some of the parking spaces at the back of the building, the building could be extended back, picking up more square footage and remove the triangular shape of the building. Mr. Cochran said they were told last time that they could open the southern space to green space for the public, could get a greater square footage and even larger building. Right now, this ordinance was in place before these plans were submitted, so it should have been known to you. The engineer could have brought this into compliance. According to the ordinance, he does not see a hardship.

Mr. Washburn said he is representing Knight West Builders, LLC and Dan Jones, the owner of the property. He owns a piece of property that is difficult to market. They will still have a triangular building.

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There was then discussion about last month's proposals. Ms. Seaver said you were to consider those changes and bring something new to this meeting. You could propose something that is more in harmony with the plan for that part of State Street. Mr. Gadd said they could build it with a split face, bringing more of the building to State Street. Ms. Seaver said there are ways to build this, get what you want and be compatible with the goals of this part of State Street.

Mr. Earl said there are elements of the variance in meeting the spirit and intent of the ordinance. You are dealing with two elements of the variance. One is the buffered sidewalk, and the other is maximum setback of ten feet. You have to look at the specific requirements. The intent of the ten-foot maximum setback is to make the State Street corridor more walkable, more visual interest and better aesthetic appeal. That is what the City has determined is desirable in terms of aesthetics. The split front would still need a variance, but not as much as this present proposal and the spirit and intent of bringing that building up to the sidewalk is still largely preserved. Mr. Cochran said the jog out would allow increased square footage. Ms. Seaver said they expected to see something new tonight.

Ms. Seaver said she would not vote to give a variance on landscaping or the sidewalk buffer zone. She would want to preserve the landscaping requirements in the buffer zone. Barry Dental to the north requested a landscaping variance and it was denied. You will need to work with Staff, so you know that everything is as close as possible to meeting the ordinance before requesting a variance. She said she thought some part of the building needs to be within 10 feet of State Street. Mr. Bench said the entire building must be within 10 feet according to the ordinance.

Mr. Washburn said the frustration with this property is it was developed with the intense scrutiny of Staff over five or six years. Now the ordinance has changed, and this will be the only building on top of the sidewalk. Between 800 North and 1200 South that makes sense. He wishes there would have been more thought as to what the impact of changing this ordinance would be. Mr. Cochran said they had been talking about who would be the first to build in the core. If you are the first, you will be the example of what can be done.

Mr. Jones said he has lost a lot of money in this process. They built Covington Senior Living and developed these lots and had the plats approved. In the process of trying to sell these lots, developers wanted to put used car lots and a quickie bar. They said no. They put the pergola up front and landscaped it nicely. They spent time and money and jumped through every hoop the City asked of them. They expected when this was platted, they would be able to sell this and it would work out. This is now being delayed more and more and costing a lot of money.

Ms. Seaver asked if the Board had any more questions for the applicant or staff. When no one did, she called for a motion.

Board of Adjustment Action: Ms. Seaver moved to continue the request of Knight West Builders for a variance from the maximum setback, landscaping and sidewalk requirements as required by Section 22-8-8(B) at 1901 North State Street; based on the applicants request for a continuance so that he can work with staff and come back with a plan that is more compatible with the vision for this section and the ordinance for this part of State Street, and also more closely meets the owner's needs. Mr. Cochran seconded the motion. Those voting aye: Mickey Cochran, Karl Gadd, Leslie Nelson and Meredith Seaver. The motion passed unanimously.

Minutes: Ms. Seaver called for a motion to approve the draft minutes of the July 25, 2018 meeting. Ms. Nelson moved to approve the meeting minutes for July 25, 2018. Mr. Gadd seconded the motion. Those voting aye: Mickey Cochran, Karl Gadd, Leslie Nelson and Meredith Seaver. The motion passed unanimously.

Adjourn: Ms. Seaver called for a motion and moved to adjourn. Ms. Nelson seconded the motion. Those voting aye: Mickey Cochran, Karl Gadd, Leslie Nelson and Meredith Seaver. The motion passed unanimously.

Adjourn: 6:33 p.m.

Jason Bench

Approved: July 17, 2019