

**MINUTES OF A REGULAR PLEASANT VIEW CITY
BOARD OF ADJUSTMENT MEETING HELD
August 22, 2022**

MEMBERS PRESENT:

Dave Wade
Larry Wadman
Richard Evans
Richard Rhees
Robert Knapp

STAFF:

Amy Mabey
Laurie Hellstrom
Amber Corbridge

VISITORS:

Blake Cragun	Robert Alexander
Nancy Cragun	Bart Cragun
Steven Craven	Paula Craven
Beth Maughan	

Commission Chair, Larry Wadman, called the meeting to order at 1:00 p.m.

1. Discussion/Decision - Variance request brought on behalf of Robert Alexander for parcel number 19-013-0073 at approximately 148 W Pleasant View Dr. The request is for a variance to allow the development of a single-family home on a nonconforming lot.

Larry Wadman: the applicant is here. The request is for a single-family home on a non-conforming lot. Our planner is on Zoom. Robert Alexander: it's an 89-foot frontage and the requirements for that zone is 100 foot because the property was illegally split in an unknown prior year. It had three separate boundaries in the last 10 years. The original home was built in 1912/1916 the home was actually within five feet of the western boundary. The home burned down in June 2021. That was the start of the nightmare working with my sister to try to get it rebuilt. It wasn't until November that we were able to start digging out but we couldn't because of the grandfather ordinance would not allow the building to be moved and needed to be in the same footprint. On January 10th I got a call and I found her body in her trailer. I became the executor. I had some discussions with her two heirs, her daughter and nephew. I was going to buy the property for an agreed sum and build a home for my son. About two months later one of the children decided that wasn't fair and they were going to take me to court so I immediately put the property to avoid conflict. The time frame, it takes so long to do stuff now because you have according to Utah law for a variance we have to show five things that are in favor literal enforcement of the land would cause an unreasonable hardship to the applicant. You gave two year to do this from the time of the fire and we have had Covid and now a building boom and labor shortages. Everything just prevented anything from happening. I have had people ask about the property. They didn't believe me about the ordinances and it would go back and forth and slowed things down. Then someone came into the office and they were told the time frame was over and that you can't build on the property. I don't have any problem with the 26 by 42 footprint. That can easily be met but the two things I am after is an extension on the time to build for whoever picks this up. I am still hoping that I might be able to pick it up for my kids. I did talk to the may in 2022 and he was in agreement that we could move the home subject to side setbacks which are ten foot on one side and twenty-four on the other. There is plenty of room. It is the time frame. I am asking for an extension so I can sell the property. I don't want to spot zone. This don't change the character of the area. The special circumstances tied the property or it's frontage. Basically it's frontage. It won't really affect the General Plan because we're not doing a spot zone. It's going to stay in the same zone, RE-20. The spirit of the ordinance is met because even with the best intentions on ordinances there's always something that happens. There's a wrench that gets thrown in the works and so you can't dot every eye and every cross every t. There are always

special circumstances and that's basically what I'm asking. Can I answer any questions you might have of me?

Larry Wadman: are you planning on living there or selling?

Robert Alexander: I have a realtor who's selling. If the price is right and I can afford it I will buy it otherwise I won't and somebody else will pick it up. At this point we have we had about four people very interested in the lot. The biggest problem is something that has to be clarified. If this goes through and they have the site setbacks can they come in later once the home is built to that existing grandfathered footprint and add a garage?

Robert Knapp: is there room for the garage?

Robert Alexander: yes, if you go ten foot on one side the house is 26 foot you can actually drop in a 29 foot garage and still have the set back on the other side on the east side so in effect the best reason for that is the fact that instead of driving up and around where my sister's done for years you just drive up and straight in and you're in there so that little side road wouldn't be used. According to your ordinance the way I read it if it's just a garage the side setback actually is decreased to 10 feet if it's only a garage. Whether it's attached or detached, whether you have a breezeway or separate there's plenty of room for a garage. I would like to get this nightmare over. When I signed on for this I thought it would be a simple issue but even getting people there when we started building for her to rebuild the general contractor and his workers came down with covid so it pushed it that much further. That's why they didn't even start until November. They actually started working on the footings and I guess in hindsight it's probably a blessing because after talking with the Mayor and being able to move over we wouldn't have a five-foot side yard there. The corner there with the other property which isn't fair to him. Just for your humor I always thought my sister was crazy because she always thought there was somebody walking around her property at night and you know I thought she was just because she had mental issues. These are the people I've seen walking around the property at night. I've had a camera up and there are all sorts of people stealing stuff. I guess it's very popular in the dark.

Richard Evans: I have one question, probably for staff, it sounds like what you're after today is just an extension of time to allow you to sell the property. If that time were granted is it for another two years or is it a specific time that we set at this meeting? How does that work?

Amber Corbridge: I think he's asking for a variance that can be passed on to whoever he sells it to so they can build.

Robert Alexander: I understand that but how long is that going to be? Is that another two years? I was here in the office last and she said 18 months but it's a two-prong thing because I want to make sure that I also have that. I have the documentation that says we can move the house a little bit further over so we at least have that ten foot on that west side instead of pushing it in five foot where the original 26 by 42 footprint was so it's actually two things. It's the movement of the house a little bit over so it makes it fair to the owner to the west and then a time so if I'm able to pick it up or I can sell it.

Amy Mabey: for Richard Evans question, I got some clarification from our planner, Amber Corbridge. She indicated that in the code, so right now what's being applied for is a variance. The variance is not necessarily an extension it's just a modification. The variance if approved by you all today would be an 18-month long variant for building on the lot. So there's no extension of time and it wouldn't extend beyond that time.

Richard Rhees: I have a question about that if for some reason more time is needed than the 18 months that we're asking but they're asking us to grant them, do we find ourselves back here reviewing this again?

Amy Mabey: yes because the variance would only last for that 18- month period. They need to come back. That's the information I was given.

Robert Alexander: I actually have a person that was going to come up and fill in the west side of where we had dug out. He has an excavator and he said he would come over there and do it but to find the time for him to come up and put a little dirt over there and he hasn't it hasn't worked out for him and so I don't know if it's still part of his building boom. If worse comes to worse another 18 months extension but I really don't see that happening.

Amy Mabey: another clarification from planner, Amber Corbridge, is that the setbacks are actually a total of 24 feet. 10 feet one the side yard setbacks and 14 feet on the other side.

Robert Alexander: I think it's workable. That lot is not set up to build a large home.

Blake Cragun: I am the son of Nancy Cragun who owns the property to the east. There is a deeded right-of-way on the road he spoke of that he was using that goes back into the barn up on the right. My first question is from where the right-of-way is, is there a setback for the variant?

Amy Mabey: I'm going to see if our planner can track that down.

Blake Cragun: our right of way has been for years has been overgrown and the road has shifted to the east. I would like the road put back where it's supposed to be. I think that they own clear to the canal. I think that should be redefined before we start talking about where the setbacks are because I don't want the house to go through the right-of-way.

Larry Wadman: the right-of-way is included in part of the property and the setback would be from the property line to wherever the building is. You can't build a house right on the right-of-way so we'll have to check in to see for sure where the setback starts. Right.

Richard Rhees: on the right-of-way what are your feelings about the request for variance and how it might impact you?

Amy Mabey: I

was able to get a little bit of clarification this goes to what the chair's comments were. There cannot be building that occurs within the right-of-way. We're not granting a variance for the setbacks; the setbacks will still be enforced. It's the size of the home being adjusted. Blake Cragun: it's a 20 foot right-of-way and it goes from the road clear up to the top of the peach orchard. That's the access that we have. There are five families that own that property up there, not just us two. Richard Rhees: how do you feel about this if it doesn't affect the right of way? Blake Cragun: I do because that's stealing from Nancy Cragun. It's a land grab. It's moved well over to the end of the right-of-way where it should be. Discussed the location how it was measured and prior use of the right-of-way and brush overgrowth. Robert Alexander: I don't want to think I'm infringing on their access. I'm not. I think that's all very workable. Robert Alexander: there's more than enough room to get to everything. We're talking about a small house. If we had done a large house then we're really starting to squeeze that frontage in but the grandfather clause will not allow more than 26x42 of that original house. There's still enough room to put in a two-car garage and on the side you know it could get up there too but it won't be like in the past. You know how my sister always drove her car up there and parked. I just need to clarify that my sister was mentally ill and she was not very nice to her neighbors. There were problems coming from for access because she would get quite vindictive and mean about it. Amy Mabey: the right-of-way is listed in the property legal description so it is existing and our planner did indicate that the right-of-way is 14.75 feet. Amber could you provide some clarity? She said with the sizing that she had seen it and they would be able to build out of that right-of-way and not encroach upon. The plot plan shows the right of way being on your property not his so you have complete control of the right-of-way that is on your property. She's showing right there with the arrow the right-of-way and show the legal description. There is some indication but it shows 14.75 feet in width of ingress and egress. Larry Wadman: is there anyone else who would like to add anything to this? Richard Rhees: I want to make one more comment. I was taken back in our presentation this afternoon about the existence of the legally recorded right-of-way. I don't see a mention of that in the documents. I recommend that when we come across things like this again that the staff include that absolutely in the packet that we receive. I think that would make a big difference. I don't know how our other fellow members feel. I personally have some very strong feelings about preserving the ownership of lawfully recorded right of ways. I think it's really important that the city stands behind that. I'm asking that when all of this is written up that it is well documented in any documentation that the staff creates to make sure that you know if we have to come back in whatever time and revisit this that it's well understood and there's a right-of-way there and who the owners are and what their feelings are about preserving their access without interference. I don't think that's an unreasonable request. Dave Wade: I would concur with that. Richard Evans: I have a question. It sounds like that the ingress egress is really overgrown and that's when her sister was going around bushes. Whose responsibility is it to get that cleaned up so we know exactly where that is and where the ingress egress is? Robert Alexander: I had somebody come through a few months back and they bulldozed down all the vegetation so that's cleaned up now. The reason that it grew out so much is because my sister told me that she didn't want the people to the east of her spying on her and so she let it grow up and out. Nobody's been driving up there as far as I know. Nobody owns the property. The only people that would be the people that have that right-of-way that are able to access their land but for the rest of us nobody's there. Bart Cragun: Nancy Cragun is my mother and we would go up there and his sister would call the cops on us every time we drove up there. As far as the bushes getting trimmed back they're still just the way they were. I went up there one day and was going to cut them down and she called the cops so we just kind of decided that we'd let it go but as far as it being cleaned up it's not. Robert Alexander: I'm sorry. Maybe I misunderstood taking out that big bush and mowing. I had somebody come up there. Blake Cragun: who can draw the right-of way and stake out? Amy Maybe: that's something that you can individual property owners work on with the surveyor. The city doesn't get involved in those matters. If there are code issues we're happy to involve our code enforcement to resolve them. Richard Evans: it sounds to me like that all needs to be clarified. So that the setback from the variance can be determined once the road has been clearly identified and that I think according to staff that is your responsibility to get a surveyor and clearly have it marked so that it can be cleaned off and identified and from that point see what the setback is and then we can make some decisions. Is that fair to say? Amy Mabey: we recommend that you have maybe table and bring this back. I don't know if it's got a little bit more work to work out but the right of way can be a negotiation between the property owners. If you'd like to get a more legally established thing that's where the surveyor would be helpful to whoever wants to get that and then again if there's any code violations we're happy to help you with our code enforcement in addressing those. Dave Wade: I'd be sympathetic to you with your question. I mean

there's things that would happen that weren't beyond your control like a fire and cold wood and all those kind of things but I think that a surveyor needs to clean up right-of-way. It'll just make it cleaner for us once that's completed and we can take action on the variance that you're asking for. Richard Rhees: ultimately that will make it much easier for you down the road to make sure that the right-of-way is clearly delineated so that there are no issues with neighbors. Amy Mabey: and also it clearly defines the setbacks. Dave Wade: as far as I'm concerned if all that is taken care of and as far as the variance is concerned its on its own merit and I wouldn't have any problem after that's taken care of. Robert Alexander: when I just came in to ask for the house to be moved and an extension of time these are separate issues from the property description and so you can't act on those. We have to now throw in something else that I didn't know about. I was to the point where I was going to contact Great Basin for a survey. I would feel it's in our best interest. We'd pay 50/50 to get this taken care of. For example, on the northwest corner that survey marker was taken out. We have had some concrete poured over a marker down in the southwest corner. There's another survey marker there and my sister snapped a picture showing both survey markers before the concrete was poured over them. So I do think that we have to have another survey done. I don't want you to feel that I'm trying to do a land grab. Discussion on where to put a fence with a right-of-way. Robert Alexander: a survey would absolutely do that to clearly delineate where the problem is. Amy Mabey: to clarify by corresponding with our planner on this, the setbacks and right-of-way will both need to be met if a variance is granted and so ultimately even if you're all determined to grant variance today the setbacks would still need to be met and so the right-of-way cannot be imprinted upon. That will have to be met regardless and they'll have to work with the city in order to do that. Amy Mabey: the main question before the board today is to look at whether or not a variance is appropriate based on the five criteria included in the report. Which are: the variance will not substantially affect the General Plan, the property will meet the ordinance as much as physically possible, literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of these ordinances there are special circumstances attached to the property that do not generally apply to other properties in the same zone granting the variance what is essential to the employment of substantial property rights possessed by other properties in the same zone. With that if there is interest in moving forward with something with this today I think the motion language could include a desire to ensure that no one breaks then occurs on the right-of-way even though the ordinance doesn't already dictate that that be required. We're basically back to where we started with the exception making sure that we put in that we have make sure that their rights are met. Robert Alexander: we need to have a survey. Larry Wadman: the issue right now aside from the right-of-way is who's going to pay for the survey now. Robert Alexander: I'll pay for it. Larry Wadman: okay. Who's going to pay to bulldoze the bushes or whatever needs to come out of there to put it back where it was? That's something you'd have to work out between you as to who's going to take care of that. If you're all in agreement with that then if you're going to pay for the survey which we would really need for that legal document. We have to have that then that way the city will know where the setbacks are. The only problem I see with this is the garage could be affected by the setbacks. Robert Alexander: there is still plenty of flexibility there. We don't have a huge house and there'll never be a huge house on that place. I want to let you know I want it done right. The only thing is I hope this doesn't cause any problems with the guy on the west once we get all this settled in. I'm fine with it. I want to make everybody happy and you have to realize that I'm the heir. I'm not getting paid for this. I'm pulling it out of their inheritance so they're going to pay for it one way or the other. It's not coming out of my pocket.

Motion was made by Richard Evans to approve the variance subject to the survey being done and the right of way clearly being identified and that that the variance would be subject to that and everything would be in compliance. 2nd by Dave Wade. Voting aye: Dave Wade, Larry Wadman, Richard Evans, Richard Rhees. (4-0)

Richard Knapp was in support but had to leave.

Adjournment: 1:45 p.m.