

Minutes of the Board of Adjustments meeting of October 8, 2020, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1 Ogden UT at 4:30 pm & and via Zoom Video Conferencing.

Members Present: **Laura Warburton-Chair**
 Bryce Froerer-Vice Chair
 Rex Mumford
 Jannette Borklund

Staff Present: Charlie Ewert, Assistant Planning Director; Felix Lleverino, Planner II; Chris Crockett, Legal Counsel; Marta Borchert, Secretary

1. Minutes: Approval of the September 17, 2020 meeting minutes. Approved as presented.

2. BOA 2020-07: Consideration and action on a request for a 22' variance to the front yard setback, a 10' variance to the west side, a 15' variance to the east side, and a 20' variance to the rear yard setback.

Mr. Lleverino states that the applicant is requesting an 8 ft. setback and 10 ft. side yard setback, a 5 ft. setback on the east side and a temporary setback on the rear. He states that staff looked at what was requested. Looking at some of the ridge lines it puts some limitation on how high they can go with their house. He notes that one of the applicants is present. Concerning the height limitations the ridgelines measure from the finished grade around the house the maximum height is 35. He states that staff's recommendation is to allow a variances to just the side yard setbacks to decide the amount of buildable area. Staff felt that it is an appropriate size for a building pad size for the house that would compare in size the surrounding homes. Staff recommends that the applicants request be denied. Staff instead recommends a 10 ft. reduction to both minimum side yard requirements. This would give them a 10 ft. variance on each side the front and rear would remain the same. It would conform to the FV-3 zone side development standards. He add that in the Weber County code it allows for projection into minimum and front year setbacks. If there is a home and they want to build a deck the deck can encroach into the rear setback area 10 ft. If the eaves encroach in the side yard setback they can go as far as 2 ft. to the side setback areas, for the front porch another 5 feet can encroach into the front yard setback area. This would allow them some leeway when designing and orienting the home within the building area. Mr. Lleverino states that the applicant is present and there is some people from the public present. The architect is also present.

Chair Warburton asks if there are any questions for Mr. Lleverino. Jannette Borklund asks how much side yard will be left on both sides. Mr. Lleverino states that if the variance was approved it would be a 10 ft. side yard setbacks on each side.

Bryce Froerer states states that the applicant was asking for the four setbacks. The recommendation is that it be denied, is the applicant interested in the proposed modification as recommended by staff. Mr. Lleverino states that the applicant is present and they can address this.

Chair Warburton asks legal to speak to main issue of the letters about this item being noticed improperly. She asks Mr. Crockett to states the actual code and what the required time is in this circumstance for this type of meeting. Christopher Crockett, Deputy County Attorney, states that he is representing the Board of Adjustments in this meeting. He states that this is a public meeting not a hearing. Under the Utah Open and Public Meetings Act they are only required to provide 24 hours' notice. He states that this has been satisfied and the land use ordinance regarding variances the notice is a courtesy people within 500ft. for parcels that are within

500ft there is no time frame set. The actual mailing notice were sent out on October 1st. He states that all legal requirements for sending out notices to advertise for this public meeting have been satisfied. Chair Warburton thanks Mr. Crockett for clarifying this.

Chair Warburton states that she would like to hear from the applicant.

Susan Muse 5505 Old Snowbasin Road Huntsville, states that they asked for four setbacks and the County is offering two. She states that they would appreciate the two. One of the setbacks lines affects Kevin and his building lot and she is willing to forgo that. She state that her only question is if the neighborhood feel comfortable. She states that they would beautifully landscape the road to hide the home. There is already 30 ft. from the road to the beginning of their 30 ft. She asks that her neighbor remember that there is 60 ft. they have to play with and the corner that would overhang. She state that she understands if this is not okay with them, and she appreciate them being present and them wanting to preserve and protect the neighborhood and its beauty and this is what she wants to do.

Chair Warburton thanks Mrs. Muse and notes that it can be very difficult when neighbors decide they don't like what is being asked for. She asks if she would accept the 10 ft. on both sides. Mrs. Muse states that she is fine with that would appreciate it. She states that she would also like the neighbors to be okay with that. She feels that it is fair and she would accept that proposal.

Chair Warburton asks if there are any questions for Mrs. Muse.

Jannette Borklund asks if there is a drawing of how the house would sit on the property. Mrs. Muse states that the architect is present. Chair Warburton asks if these plans were presented to the Planning Department. She asks Mr. Lleverino if the plans presented are the ones he reviewed when he reached his conclusion. Mr. Lleverino states that the plans were not submitted with the application and it is not on Frontier. Mrs. Borklund states that it is helpful to be able to look at the plans to be able to make a decision. She asks if the Board has to be able to identify the five criteria to have been satisfied to be able to grant a variance. She states that there is special circumstances with the shape of the lot but she is not sure if there is a hardship or a property right that would be lost.

Chair Warburton asks Mr. Lleverino to address the questions. She asks Mr. Lleverino to explain how he reached the conclusion without looking at the plans. Mr. Lleverino states that he looked at other building footprints in the area. Mrs. Muse states that she presented the plans and reviewed them with two members of staff in the Planning Office. Mr. Lleverino states that the site plan were not submitted with the application and they are not on Frontier or in the BOA application packet.

Chair Warburton asks if there are any more questions.

Jannette Borklund states that she is not sure how they can make a recommendation without seeing the plans to see what they are asking for.

Mr. Ewert states that he has the same concerns, it might be more appropriate to table the item.

Chair Warburton states that she would like to bring it back to the Board. She will not take public comment at this time.

Rex Mumford states that there have been variance requests of this nature without them necessarily looking at the plans. It is not a matter of the home it is matter of following the guidelines to grant a variance. He states that he feels that they could still move forward without seeing the house plans if the request for the variance is meeting the five requirements.

Mr. Froerer states that he agrees with Mr. Mumford's comment they could go through with this, their duty is to apply the five criteria to the request. His concern is that the technical issues that staff has been having won't allow proper communication and deliberation. The technical issues are not allowing the Board to communicate effectively with each other and the staff. He states that he does not feel this is appropriate. Secondly he notes that he is not sure if the application as it exists if the applicant wants to request what has been recommended they should submit a request for that, and making it such that it would fit what staff wants to allow, he does not feel that this appropriate.

Rex Mumford states that he agrees with Mr. Froerer, it is difficult for the Board with regards to the technical issues. He also agrees that the applicant needs to modify their request except for perhaps what staff is saying they think would fit the guidelines.

Jannette Borklund states the staff report is a bit lax describing how it does or does not meet the five standards. It needs to be better spelled out and why its doesn't meet the standards for the front and back and it does for the sides.

Chair Warburton asks legal and staff why they couldn't just accept the recommendation. She notes that they have accepted planning recommendation in the past. Mr. Crockett states that this is different in that this is an exception to code, this is not something where someone submits a land use application. The statue is clear under 17-27A 702 (2)(a) the appeal authority may grant a variance only if the five requirement are met. He notes that even if it is staffs opinion that it meets the requirements this isn't that can be negotiated. This is something that the Board of Adjustments needs to make a finding of all five of those elements. They can examine and consider what says and if they agree they can adopt it. The Board needs to consider all of the five elements.

Chair Warburton states that she would like to apologize to the people in the audience and the applicant that they made their way down and that the Board was not able to come to a conclusion at this time.

Jannette Borklund states that they need to have a date certain for the next meeting, for the applicant and the people present, so that they know what to expect, because they won't get another notice. Mr. Ewert states that the next date for a regular meeting is October 22nd for the Board of Adjustments.

MOTION: Bryce Froerer moves to table BOA 2020-07: Consideration and action on a request for a 22' variance to the front yard setback, a 10' variance to the west side, a 15' variance to the east side, and a 20' variance to the rear yard setback, for a minimum of two weeks on October 22nd to allow the applicant enough time get their information together and to allow staff help the resolve the technology issue they are having to be able to communicate better. Rex Mumford seconds. Motion carries (3-0)

Rex Mumford asks what the possibility of meeting in the Chambers. Mr. Ewert states that they might only be able to have three members present. He states that they are limited in their ability, but this is a discussion they are having internally. He notes that the they are required to have an anchor location for meetings, and have a place where the public can meet.

MOTION: Jannette Borklund moves to adjourn.

Adjourned 5:13 PM

Respectfully submitted

Marta Borchert