

WEST VALLEY BOARD OF ADJUSTMENT

April 4, 2007

This meeting was called to order at 6:00 p.m. by Chairperson, Necia Christensen, at 3600 Constitution Boulevard.

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Sioeli Uluakiola, Russell Moore, Scott Spendlove, Sandy Naegle and Necia Christensen

Those Absent:

WEST VALLEY CITY PLANNING DIVISION STAFF

Steve Lehman and Carel Hicks

WEST VALLEY CITY LEGAL DEPARTMENT

Nicole Cottle

B-1-2007

James Bushnell

5300 West 3500 South

R-1-8 Zone

Mr. James Bushnell, has filed a request with the West Valley City Board of Adjustment seeking a variance from Section 7-19-805(5)(c)(iii) of the West Valley Land Use Code. This section requires that double frontage lots adjacent to an arterial street be platted with a minimum width of 85 feet and a minimum depth of 120 feet. The applicant is seeking a 35 foot variance from the depth requirement in order to subdivide this property.

WEST VALLEY CITY GENERAL PLAN recommends low density residential land uses.

- The subject property is located on the northwest corner of 3500 South and Merry Lane (5285 West). The property is zoned R-1-8 which allows single family residential on a minimum lot size of 8,000 square feet.

- ❑ The applicant approached staff about the possibility of subdividing this property into single family lots. The subdivision would include properties fronting Sunshine Drive and would be comprised of 10 lots. Staff evaluated the property and explained that the subdivision appeared to work with one exception. Staff explained that anytime a subdivision is located adjacent to a major arterial street (3500 South) the width and depth requirement of those lots would need to be increased. In this case, the minimum frontage would need to be 85 feet and the minimum depth would need to be 120 feet.
- ❑ As the applicant re-worked the site plan, it became apparent that the width of the property, in conjunction with the required right-of-way dedication along 3500 South would not allow the subdivision to work as planned. Various designs were reviewed by staff, and it was determined that the cul-de-sac would not work because insufficient width exists to achieve the 120 foot depth requirement along 3500 South. The closest point of the cul-de-sac is 85 feet from the projected right-of-way along 3500 South. Therefore, a variance of 35 feet is needed for lots 9 and 10.
- ❑ While discussing whether a variance would be a feasible option, staff informed the applicant that a flag lot subdivision could be platted with 4 lots at this location. However, staff also expressed that the cul-de-sac is a more desirable layout and would make better use of the property to create a small neighborhood. After these discussions, the applicant decided to pursue a variance from the Board.
- ❑ The property in question is approximately 358 feet in width (looking west from Merry Lane) and 240-304 feet in depth (looking north from 3500 South). The majority of lots in the subdivision are at City minimums regarding frontage and area regulations of the R-1-8 Zone.
- ❑ Although the subject property may appear to be without special circumstances, the dimensions will make for a challenging design. The subject property will also be impacted by the dedication of 20 feet for additional right-of-way along 3500 South. The Board of Adjustment could consider the property dimension and dedication as special circumstances which would affect the development potential of a reasonable subdivision design.

ORDINANCE SUMMARY:

Section 7-19-805(5)(c)(iii) of the West Valley City Land Use Development and Management Act requires that the depth of lots adjacent to a major arterial street be 120 feet.

The West Valley City Land Use Development and Management Act Section 7-18-107 outlines the standards or conditions for approving a variance. The Board of Adjustment may grant a variance only if:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed and substantial justice done.

James Bushnell
668 E. Walnutbrook Drive

(Text Body)

Discussion

(Board's discussion)

Motion

Mr. seconded the motion.

A roll call was taken.

Mr. Uluakiola
Mr. Moore
Mr. Spendlove
Ms. Naegle
Mrs. Christensen

Motion (carries or denied) – (majority vote or all in favor)

B-16-2006

Robert Fern

2720 South 6750 West

A-1 Zone

Mr. Robert Fern, has filed an appeal with the West Valley City Board of Adjustment. The request is an appeal of the West Valley City Zoning Administrator's determination that a caretaker or apartment building is not allowed as an accessory use in the agricultural zone. The applicant has requested the approval of a second residence for ranch workers on the subject property.

The West Valley City General Plan recommends agricultural land uses.

Mr. Robert Fern owns real property at 2720 South 6750 West. Current zoning for this property is A-1. The purpose for the A-1 zone is to provide areas in the City for agricultural uses, together with rural or very low density residential development.

In October 2006, Mr. Robert Fern submitted an application to the Community Development Department for an Administrative Determination. This request was made by the applicant in order for the City to determine whether a separate caretaker's residence would be allowed in conjunction with an existing single family dwelling in the agricultural zone.

Mr. Fern believes that the caretaker's residence would exist as a use customarily accessory to the list of permitted uses in the agricultural zone. The purpose for the caretaker's residence would be to take care of various animals and other responsibilities related to an agricultural lifestyle.

The Zoning Administrator replied that the A-1 Zone is essentially a single family zone which also includes the keeping of farm animals. The Zoning Administrator stated the purpose for this zone as noted above, and clarified that the rural or low density portion of this purpose indicates a density supported only by single family dwellings.

In response to the Zoning Administrator's letter, the applicant has decided to appeal this decision to the Board of Adjustment.

Staff believes the most appropriate way to address this matter is to provide the Board with the following information:

- * Copy of the A Zone.
- * Mr. Fern's Administrative Determination application and supporting documents.
- * West Valley City Zoning Administrator's response.

- * Mr. Ferns appeal application to the Board along with the suggested errors by the Zoning Administrator.

ORDINANCE SUMMARY:

An appeal may be made to the Board of Adjustment by the City, the applicant, or any other person or entity adversely affected by a zoning decision administering or interpreting a zoning ordinance.

Section 7-18-105(4)

After hearing the appeal, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer or body from which the appeal is made. The Board also has the ability to continue the application for additional information or return it to the Planning Commission with recommendations.

Section 7-18-105(6) Appeals to the Board of Adjustment

The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, planning commission or agency or to decide in favor of the appellant.

After reviewing these sections of City ordinance, the Board shall recognize that the person or persons making the application will have the burden of proving that an error was made by the Community Development Department.

ALTERNATIVES:

In regards to B-16-2006, the Board of Adjustment may find the following:

1. If the Board finds that the application does not demonstrate that an error was made, and/or that the applicant has failed to meet the burden of demonstrating such an error and that sections of the zoning ordinance were not incorrectly administered or interpreted by the Zoning Administrator, the Board of Adjustment shall deny the appeal which would affirm the staff's decision to deny a caretaker's residence in the agricultural zone.
2. Should the Board find that the Zoning Administrator erred in the administration or interpretation of the zoning ordinance, the Board should overturn the denial of a caretaker's residence in an agricultural zone.
3. Continue the application in order to allow further consideration or evaluation on any particular matter of the proposal.

Robert Fern
2720 S. 6750 W.

(Text Body)

Discussion

(the Boards discussion)

Motion

Mr. seconded the motion.

A roll call was taken.

Mr. Uluakiola

Mr. Moore

Mr. Spendlove

Ms. Naegle

Chairperson Christensen

Motion carries –

OTHER

There being no further business the meeting adjourned at (time) p.m.

Carel Hicks, Asst. City Recorder