

**WEST VALLEY CITY
BOARD OF ADJUSTMENT
MINUTES**

April 6, 2016

The meeting was called to order at 6:00 p.m. by Russell Moore at 3600 Constitution Boulevard, West Valley City, Utah.

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Russell Moore, Scott Spendlove, and William Whetstone

Those Absent:

Sandy Naegle and Necia Christensen

WEST VALLEY CITY PLANNING DIVISION STAFF

Jody Knapp and Brenda Turnblom

WEST VALLEY CITY LEGAL DEPARTMENT

Brandon Hill, City Attorney

AUDIENCE:

Approximately four (4) people were in the audience.

NON CONFORMING USES

B-1-2016

Leroy Valdez - Non Conforming Use Determination

1576 W. Southgate Ave.

R-1-6 Zone (.25 Acres)

REQUEST:

Leroy Valdez has submitted an application with the West Valley City Board of Adjustment requesting a non-conforming use determination for two existing dwellings on the same parcel located at 1576 W Southgate Ave in the R-1-6 zone. The West Valley City General Plan recommends small lot residential land uses.

BACKGROUND:

The subject property is known as Block 13 lots 13, 14 and 15 of the Chesterfield Plat A subdivision, parcel number 15-22-456-003. The property is zoned R-1-6 and is approximately .25 acres in size. The property currently has an existing dwelling with additional living space above the detached garage. The two units are connected by a breezeway.

The applicant purchased this property in October of 2015. When recently applying for a business license for rental units, the property was flagged as having multiple dwellings. In order to resolve this issue, the applicant is requesting that the Board determine the properties non-conforming status as having multiple dwellings on one parcel in an R-1-6 zone.

According to Salt Lake County records, the primary dwelling was constructed in 1949 and the second unit was constructed in 1969. At the time the original home was constructed, zoning did not exist in this part of the County. Zoning first appeared in 1953 and the area was zoned R-3A and when the City incorporated in 1980 the zoning was R-2-10H, which both permitted two-family dwellings. The property was rezoned by West Valley City in 1995 to its present zoning of R-1-6 (Z-18-95).

To help the Board in its determination of this case the applicant has provided photographs of the garage unit and seven written affidavits from nearby residents citing their recollection of the continuous use of this property and the two dwelling units. The applicant has also submitted information from the Salt Lake County Assessor's Office. The appraisal cards are dated 1969 and indicate that there were two dwelling units and include drawings outlining the footprint of both structures.

To conclude, the applicant has submitted a request for the Board to determine whether the existing dwelling with additional living space above the garage located at 1576 W Southgate Ave is legal, has been continuously used as living space and can remain as constructed.

ORDINANCE SUMMARY:

Section 7-18-106(1) of the West Valley City code reads:

All matters regarding the non-conforming use of building and land shall be determined by the Board. Upon application, after public hearing on the matter, the Board shall determine if the use or building is non-conforming with respect to current provisions of this Chapter.

Section 7-18-106(3) of the West Valley City code reads:

A nonconforming use of land lawfully existing on the effective date of this Chapter may be continued provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in this Chapter. If the nonconforming use is discontinued for a continuous period of more than one year it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the zone in which it is located.

Jody Knapp presented the application.

Applicant:

Leroy Valdez
1576 West Southgate Ave.

Discussion: Leroy Valdez said he purchased this property for rental income. When he purchased the property in 1963, it was presented to him as a duplex. One of the tenants was the owner of the property. Leroy Valdez acknowledged he currently does have renters in both units, both family and non-family. Leroy Valdez does not reside on the property. Leroy Valdez indicated that he was made aware of the nonconforming use when he applied for a business license.

Russell Moore asked if the units have separate utility meters. Leroy Valdez confirmed that they do have separate gas, water, and electrical meters. Janet Valdez reported that the duplexes have been inspected by the City and they are in compliance. William Whetstone said that the evidence that has been submitted through affidavits from neighbors shows a pattern of continuous usage as a multi-unit site. Russell Moore agrees that the units were in place before the City was created, and believes the nonconforming use should be approved. William Whetstone mentioned that there is no evidence to show there hasn't been continuous use.

Motion:

Scott Spendlove moved to grant the nonconforming use.

William Whetstone seconded the motion.

A roll call vote was taken.

Russell Moore	Yes
Scott Spendlove	Yes
William Whetstone	Yes

Motion Carries - B-1-2016– Unanimous Vote

B-2-2016

Reynaga Non-Conforming Use Determination

3328 S. 3600 W.

R-1-8 Zone (.5 Acres)

REQUEST:

Mr. Luis Reynaga has submitted an application to the West Valley City Board of Adjustment requesting a non-conforming use determination in order to continue keeping livestock on property located at 3328 South 3600 West in the R-1-8 zone. The West Valley City General Plan recommends low density residential land uses.

BACKGROUND:

The subject property is located at 3328 South 3600 West. It is also known as Parcel Number 15-29-377-018. The property is approximately .5 acres in size and is not part of any formal subdivision. This application is being presented to the Board of Adjustment at the request of the property owner. Mr. Reynaga was notified by the City's Community Preservation Department that a question came up regarding the keeping of farm animals on this property. As a result of this pending case, the property owner is petitioning the Board to review the property and determine the non-conforming status of the existing and future right to house animals. Prior to this application, staff was not aware of any neighbor concerns regarding the keeping of animals.

The subject property was zoned R3 in 1965 and was R-1-8 at the time of the City's incorporation in 1980. The home on the property was built in 1988. According to various affidavits submitted by the applicant, animals have been kept on this property since as early as 1941. The applicant himself has kept animals on the property since it was purchased in November of 2014.

To help verify the existence of farm animals, the applicant has submitted aerial photographs from 1972, 1979, 2006 and 2010.

There is a large outbuilding on the property, and properties to the north and south are large and deep, which is typical of an old farming community. The Board must look at each case individually, but to demonstrate that historically animals have been kept in this area, the properties located at 3284 S. 3600 W. (B-4-92) and 3392 S. 3600 W. (B-15-2005) went to the Board for similar determinations and were approved.

The applicant must also verify the numbers or the intensity of animals that has historically been on the property. Typically the animal points permitted in the Agricultural zone are used to determine the intensity for these determinations. With a .5 acre parcel, 100 animal points would be permitted. At this time there are 7 goats, 1 calf/cow, 1 pony and 1 pig for a total of 240 animal points. The applicant has been notified that they must provide sufficient proof of the intensity of animals for the Board to evaluate while making a determination. That information is not available at this time but may be provided by the applicant at the public hearing. If sufficient evidence is not provided, the City will require that the property comply with the animal points, which is 100 points for this .5 acre parcel.

ORDINANCE SUMMARY:

Section 7-18-106(3) of the West Valley City Land Use Development and Management Act reads: (3) Non-conforming Use of Land. A non-conforming use of land lawfully existing on the effective date of this Chapter may be continued provided such non-conforming use shall not be expanded or extended into any other open land, except as otherwise provided in this Chapter. If the non-conforming use is discontinued for a continuous period of more than one year it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the zone in which it is located.

The applicant is not requesting an expansion of a non-conforming use. They are requesting a determination that the existing use, i.e., the keeping of animals be allowed to continue on this property.

The Board must also determine the intensity of animals allowed on the property.

Jody Knapp presented the application.

Applicants:

Louis and Maria Renaga
3328 South 3600 West

Discussion: The Renagas and their animals have lived at this residence for seven years. They originally contracted to rent to own the home. Maria Renaga said this is their dream home, as her kids love animals and they have always wanted to have animals on their property. The Renagas were able to purchase the home last year. Maria Renaga said she has two ponies, goats, and some chickens. They have a calf until September of this year. They no longer own a pig. Russell Moore noted that several of the Renaga's neighbors sent letters in support of the Renagas. Maria Renaga said she gets along well with her neighbors and her neighbors also have animals on their properties.

Richard Williams, 3284 South 3600 West, was present in support of the Renagas. He said the entire side of the street was once part of the Warr farm. He said there have always been horses and animals on the property. Richard Williams said his biggest concern about animals is whether the owners keep the property clean, with no manure piles. He said the Renagas do keep their property clean and they take good care of their

animals. Russell Moore thanked Richard Williams for taking the time to speak in favor of this application.

Maria Renaga said the home was sold to her as .75 acres, not ½ acre. Scott Spendlove asked where the .25 acres disappeared. Brandon Hill said the legal description of the property is definitely ½ acre. His best guess is that the additional .25 acres was probably a lease of the pasture.

Scott Spendlove asked how many animal points a pony is. Jody Knapp said that ponies are measured from shoulder height. Because they are miniature horses, they would be 20 points each. Russell Moore asked if the Board has authority to recommend that the animal points be capped at 200. Brandon Hill answered yes.

Motion:

There being no further discussion regarding this application, Scott Spendlove motioned to grant the nonconforming use based on the continuous occupation of the Renaga family on the land. Animal points will be capped at 200.

William Whetstone seconded the motion.

A roll call vote was taken.

Russell Moore	Yes
Scott Spendlove	Yes
William Whetstone	Yes

Motion Carries - B-1-2016– Unanimous Vote

OTHER

The minutes from **September 2, 2015** were **approved**.

There being no further business the meeting adjourned at 6:40 p.m.

Brenda Turnblom, Administrative Assistant