

**WEST VALLEY CITY  
BOARD OF ADJUSTMENT  
MINUTES**

**June 1, 2016**

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

**WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS**

Necia Christensen, Russell Moore, Sandy Naegle, Scott Spendlove, and William Whetstone

**WEST VALLEY CITY PLANNING DIVISION STAFF**

Jody Knapp and Brenda Turnblom

**WEST VALLEY CITY LEGAL DEPARTMENT:**

Brandon Hill

**AUDIENCE**

Approximately four (4) people were in the audience.

**B-3-2016  
Collings Variance  
2991 West 3835 South  
R-1-8 Zone**

**BACKGROUND:**

**This item was continued from the May 4, 2016 Board of Adjustment meeting. The reason for the continuance was to provide the applicant the benefit of having all Board members present when deciding this case**

During the May 4<sup>th</sup> meeting, there were two items that concerned the Board relating to this request. 1. Lack of frontage along 3875 South due to a 1-foot protection strip. 2. The applicant did not adequately address the hardship question.

Staff would like to update the Board regarding both of these items. The original staff report will be included for the Boards review as well.

1. 1-foot protection strip. When the applicants purchased this property in February 2016, they purchased all of lot 5 in the Bangerter Subdivision. With this purchase, they also acquired the 1-foot protection strip along the 3875 South right-of-way. Staff has included the trust deed illustrating this acquisition.

The Board expressed concern that the applicants were not able to request the frontage variance because access to the property could not be gained with the 1-foot strip in place. The applicants have demonstrated that the 1-foot strip is no longer an issue, which should resolve the Boards concern about access.

2. The applicants did not adequately address the variance criteria, especially the hardship question. While working with various applicants, staff will try and coach them as to meeting and procedural expectations. Staff apparently did not do enough to prepare the applicant. To better address the criteria and the hardship question, the applicant has submitted a revised document answering the criteria.

**REQUEST:**

Jared Collings is requesting a variance from Section 7-6-305(1) of the West Valley City Code. This section requires that the frontage of a lot in the R-1-8 zone be 80 feet. The applicant is requesting a frontage variance of 14 feet in order to subdivide the property to create an additional building lot.

- The subject property is known as lot 5 in the Bangerter Phase 1 Subdivision. This subdivision was recorded with the Salt Lake County Recorder in 1952. When the

subdivision was approved, zoning did not yet exist in this part of Salt Lake County. When West Valley City incorporated in 1980, the property was zoned R-1-8.

- At the present time, there is a single family dwelling that fronts 3835 South and a couple of out buildings to the south. Salt lake County records indicate that the existing dwelling was constructed in 1952. The property is approximately .46 acres and is a double frontage lot having access on both 3835 South and 3875 South.
- The applicant approached staff about the possibility of subdividing the property to create a new buildable lot. Staff explained that the property was zoned R-1-8 and required an 80-foot frontage. Since the property is only 66 feet wide, a variance would be needed from the Board of Adjustment. Staff did explain that over the years similar variance requests have been submitted for virtually the same request, but that each case is based on its own merits.
- The property has a width of 66 feet and a depth of approximately 305 feet. As mentioned earlier, the property has an existing single family dwelling that fronts 3835 South with a detached garage. The property also has two existing out buildings that are located toward the middle of the lot. If the new subdivision line was established on the north side of these two out buildings, the north lot with the single family dwelling would be approximately 9,240 square feet. The new lot, if the variance is granted would be approximately 10,800 square feet.
- Should the Board of Adjustment approve the variance, the applicant will be required to submit a minor subdivision application. The new single family dwelling would be required to meet all provisions of the City's existing housing standards.

□ **ORDINANCE SUMMARY:**

Section 7-6-305(1) of the West Valley City Land Use Development and Management Act requires that the minimum frontage of a lot in the R-1-8 zone be 80 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.

According to Williams, American Land Planning Law (Volume 5, Criteria for the Validity of Variances, pages 131 and 133 et.seq.) There is a presumption against granting a variance and it can only be granted if each of the standards are met.

In Wells v. Board of Adjustment of Salt Lake City, the Utah Court of Appeals held that a Board's decision to grant a variance would be illegal if the required statutory findings were not made.

**Applicants:**

Jared Collings	Phillip Harvey
8373 Pal Avenue	9485 Pal Avenue
Magna, Utah	South Jordan, Utah

**Discussion:** Philip Harvey read his answers to the five variance criteria:

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.

Lots of this size and shape are more common in agricultural areas where animal rights exist and where there are more feasible uses forth property behind the home. Because this property ultimately developed as residential only property and because a new street was built after the subdivision of the lot, it is not possible to use the lot for agricultural purposes that would be appropriate for a lot of this size and shape. The difficulty and expense of maintaining such a large lot in accordance with City ordinances and the reasonable expectation of the neighbors makes it likely that the lot will be unattractive and difficult to sell to individuals who are willing to maintain the property as the neighbors should expect.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.

The special circumstance is that this property has double frontage along two streets – both 3835 South and 3875 South. The City's zoning ordinances (7-19-803) discourage double frontage lots. A more traditional approach is to have two tiers of lots per block. R-1-8 properties are typically no more than 120 feet in depth along 305 feet. Our existing circumstance does not generally apply to other properties in the R-1-8 zoning district.

3. The variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.

Other properties that were platted in this subdivision and even those to the west were faced with the same problem. Over time, they have divided their properties for the same purpose as what we want to do. This variance would allow us to do the same thing as many property owners in the zoning district. The property is of sufficient size and width to place a new single family dwelling thus allowing a property right that has been granted to other property owners in the same zoning district.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

Approving the request will preserve the lot size required by City ordinances which brings the configuration closer to the neighborhood standards and furthers the goal of reduced double frontage lots, where possible.

5. The spirit of the zoning ordinance is observed and substantial justice done.

The spirit of the zoning ordinance is observed because the variance is being requested to build a new single family dwelling, which will comply with all city ordinances. City ordinance discourages double frontage lots which brings our request more into compliance with the spirit of the zoning ordinance.

Dennis Anderson, 3002 West 3875 South, owns property directly west of the lot being discussed. He does not have objections to the lot being subdivided, but mentioned that the weeds are getting high and voluntary trees are coming up around the perimeter of the property. He is trying to get his home ready to sell and said it looks like there is a weed farm adjoining his property. Phillip Harvey responded that one of the benefits of getting a variance will be that another home can be built there and the property will be less difficult to maintain.

Scott Spendlove reminded the property owner that weed control is his responsibility whether the variance is granted or not. Necia Christensen recommended the property owner pay a teenager to mow the property. Seeing no one else desiring to speak, Necia Christensen closed the public portion of the discussion.

**Motion:** William Whetstone moved to approve B-3-2016.

Russell Moore seconded the motion.

Russell Moore asked that section 7-19-803 of the West Valley Municipal code be read into the record. Jody Knapp read the following:

(1) lots having double frontage shall not be approved except where necessitated by topographic or other unusual conditions. The width of each block shall be sufficient for an ultimate layout of two tiers of lots therein of a size required by the provisions of this Title, unless the general layout of the vicinity, lines of ownership, topographical conditions or locations of arterial streets or freeways justify or make necessary a variation from this requirement.

William Whetstone feels all variance criteria have been met except #1. Necia Christensen said difficulty is reasonable criteria, but expense is not something that the Board should consider.

Scott Spendlove said the applicant has done a good job of meeting the criteria. He feels the hardship is the unique size and position of the lot with the dual frontage that has evolved over time. Of the 8 platted lots, seven have already been subdivided. Russell Moore is not sure a variance is required, maybe just an adjustment in lot size is needed.

A roll call vote was taken:

Necia Christensen	Yes
Russell Moore	No
Sandy Naegle	Yes
Scott Spendlove	Yes
William Whetstone	Yes

**Motion Carries - B-3-2016 Approved – Majority Vote**

**B-4-2016**

**DMV Variance**

**2780 West 4700 South**

**A Zone**

**REQUEST:**

Rod Davis with McNeil Engineering, representing the State of Utah, has submitted a variance application to the West Valley City Board of Adjustment. Section 7-9-108(3) states that the maximum number of curb cuts along a right-of-way in excess of 80 feet shall be 1 per 350 feet of frontage. The applicant is seeking a variance to allow an additional curb cut bringing the total to 3 along the existing frontage.

**BACKGROUND:**

- The subject property is known as Parcel 21-04-329-014. The property is owned by the State of Utah which currently operates a division of motor vehicles. This site has been in existence prior to West Valley City's incorporation.

- In 2004, the State began the process of relocating the building from the east portion of the parcel to the west portion. It appears that in 2005 this transition was complete. The original parcel had one central access, but with the relocated building, a second access was installed. Staff cannot find any approvals for the second access, but it has been in existence for the last 11 years.
- In addition to the existing points of ingress/egress, the property owner has requested a third access along 4700 South. A letter detailing the request has been submitted to the Board. The letter states the primary reasoning behind the additional access is due to safety concerns near the building and at the points of access.
- Section 7-9-108(3) outlines the standards for width, radius, location and number of curb cuts along public rights-of-way. As 4700 South is a 106-foot right-of-way, the number of curb cuts is limited to 1 per 350 feet of frontage. Subsection (4) of this section allows the City Engineer or his designee to modify the standards if sufficient proof is provided through a traffic study that the modification is necessary. To staff's knowledge, a traffic study has not been completed, but in any case, the City Engineer and City Traffic Engineer are not in support of this request.
- The applicant has provided a letter detailing the reasons why the variance is needed. Supporting documents regarding the accident problems have also been provided. Maps detailing the existing location and the proposed location have been provided by the applicant as well.
- Should the Board of Adjustment approve the variance, the applicant will be required to submit an appropriate site plan and construction plans to the City for the new access.

□ **ORDINANCE SUMMARY:**

Section 7-9-108(3) of the West Valley City Land Use Development and Management Act requires that the maximum number of access points on a road greater than 80 feet is limited to 1 per 350 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.

According to Williams, American Land Planning Law (Volume 5, Criteria for the Validity of Variances, pages 131 and 133 et.seq.) There is a presumption against granting a variance and it can only be granted if each of the standards are met.

In Wells v. Board of Adjustment of Salt Lake City, the Utah Court of Appeals held that a Board's decision to grant a variance would be illegal if the required statutory findings were not made.

**Applicant:**

Rod Davis, McNeil Engineering  
8610 South Sandy Parkway

**Discussion:** Rod Davis said the State wants to add another entrance to the DMV property strictly for safety purposes. There have been a number of accidents at the DMV, not only in the parking lot, but also in the road, causing traffic jams. Visitors to the DMV increase around lunch time and toward the end of the day. Traffic gets backed up during those times

Marge Dalton, 4501 South 2700 West, works at the DMV. She said the West Valley DMV is one of the busiest locations. She said their employees don't have a reputation for getting along with the public, so employees have a separate entrance.

Marge Dalton said there is a closed course for those who need to do their driving test which is only accessible through the main entrance of the DMV and through the parking lot. Motorcycle and commercial truck testing are done there. All vehicles must funnel through the same place. People who come in to get licensed to drive a bus or a motor home or a truck and a trailer find it difficult to negotiate around to the driving course.

Marge Dalton said there is a bus stop nearby which complicates traffic problems. When a bus is at the bus stop, people try to go around the bus and their vision of traffic is blocked by the bus, which is a safety concern. Marge Dalton said to keep in mind that the DMV is a place where people come to get their driver's licenses. New drivers are not always experienced or comfortable on the roads.

Rod Davis listed the reasons for requesting a variance:



1. Due to the locations of the two existing entrances to this site, it creates a circular pattern of traffic around the front entrance where people are entering and existing. It is very congested in this area and has created a safety concern for the patrons.
2. We have had problems with traffic backing up on 4700 South due to too many cars getting in and out of the east entrance in front of the building. This has caused a few accidents.
3. The reason why we think another entrance would be very helpful is that it would force about half the people to use this new entrance and would reduce the traffic around the front entrance of the building, making it safer.
4. Rod showed data from a few accidents that have been reported. He thinks there have been a lot more minor incidents that have not been officially reported.
5. More people use this facility every year. Rod believes these issues will continue to get worse. The DMV is bringing these issues to the City's attention are requesting a variance to help eliminate safety issues to the public.

Necia Christensen feels the location of the current entrance was a poor choice. It is not conducive to truck traffic, the public safety, or the patrons of the building. She asked if it the location of the driveway is the problem, or if a second driveway is needed. Marge Dalton said if she cannot get a second entrance, she would like to double the size of the first entrance. However, doubling the size of the entrance will also remove much needed parking space.

Scott Spendlove asked if a second driveway was created where the existing bus top is, do we have authority to ask UTA to move their bus stop? Marge Dalton said they have discussed this, and UTA has agreed to locate the bus stop west to a different location. The DMV offered their shaded area for a bus stop.

Russell Moore asked where some of the accidents have taken place. Marge Dalton showed a photo of an incident that caused traffic to back up. A person was turning left out of the DMV property and their vehicle was hit by a driver going down the center lane. Russell Moore asked if most accidents occur outside of the DMV property. Marge Dalton said a few accidents have occurred on the DMV property. Many patrons exchange information and take care of accidents on their own. She has no way of knowing actual numbers of accidents. Russell Moore asked if there is an emergency lane. Marge Dalton said there is not.

Russell Moore said trying to accommodate more traffic with a bus stop in the way and no emergency lane will seriously aggravate the situation. Necia Christensen said the ideal solution would be a cut-out for the bus. Marge Dalton said that is an excellent suggestion that should be discussed with UTA.

William Whetstone suggested the existing public entrance be closed, the employee entrance remain, and another entrance be created on the far east of the site. Marge Dalton said she is concerned with only having one public access. She recommends two. Russell Moore suggested only right turns from the exit.

Sandy Naegle noted that the DMV parking lot is almost always full. It is difficult to find a parking spot at times. Russell Moore, being a former truck driver, understands how difficult it must be for trucks to maneuver through the DMV parking lot.

Scott Spendlove reasoned that because no traffic study has been done in the area, we don't know for sure if the variance being requested will help the situation. Granting the variance may create more problems. Marge Dalton asked who requests a traffic study. Brandon Hill said the applicant would be the State of Utah.

Necia Christensen said, with all the cars going in and out of the DMV property, the thought of a runaway child is terrifying. Scott Spendlove agrees that the safety concerns here are valid, a common sense approach is to do a traffic study.

Lynn Kingston represents a client that owns property just east of the DMV. His concern is that an additional entrance will increase congestion in the area. Having no further comments from the public, Necia Christensen closed the public portion of the meeting.

**Motion:** Russell Moore moved to continue this application until after a traffic study is done.

Scott Spendlove seconded the motion.

A roll call vote was taken:

Necia Christensen	Yes
Russell Moore	Yes
Sandy Naegle	Yes
Scott Spendlove	Yes
William Whetstone	Yes

**Motion Carries - B-3-2016 Continued – Unanimous**

**OTHER**

Approval of April 6, 2016 Minutes – **Approved**

Approval of May 4, 2016 Minutes - **Approved**

There being no further business, the meeting adjourned at 7:08 p.m.

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Brenda Turnblom, Administrative Assistant