

WEST VALLEY BOARD OF ADJUSTMENT

November 5, 2008

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

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

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

WEST VALLEY CITY PLANNING DIVISION STAFF

Steve Lehman, Jody Knapp and Karon Jensen

WEST VALLEY CITY LEGAL DEPARTMENT

Nicole Cottle

AUDIENCE:

Approximately 3 (three) people were in the audience.

B-17-2008
Joe and Freda Ramos
4171 South 2735 West

REQUEST:

Mr. Joe Ramos, is requesting a variance from Section 7-6-305(6) of the West Valley City Code. This section requires that an accessory building on a double fronting lot be set back a minimum distance of 20 feet from any dedicated right-of-way. The applicant is requesting a variance of 19 feet in order to allow for a previously constructed detached garage, measuring 28'5" x 27'8", to remain on the property.

BACKGROUND:

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

- The subject property is known as lot 104 of the Shorland Subdivision Plat #6. This subdivision was recorded with the Salt Lake County Recorder's Office in September 1970 and is currently zoned R-1-8.
- The applicant was recently notified that the location of the garage is in violation of City setback standards. Staff informed the applicant that the location of the garage not only presented zoning concerns but building code concerns as well. The applicant expressed concerns that the original dwelling was constructed without a garage or carport and his desire to construct a garage in the south east corner of the lot to house vehicles and other yard equipment. After discussing these concerns and outlining the variance procedure, the applicant determined that he would request a variance.
- The subject property is a double frontage lot because of its location between 2700 West and 2735 West. City ordinance requires that any accessory building be set back from the adjacent right-of-way a distance of 20 feet. Although it is unclear why this requirement exists, staff assumes that the 20-foot distance is intended to help with the aesthetics of the right-of-way.
- A recent site inspection revealed that a number of property owners have constructed accessory garages near the 2700 West right-of-way. Building permits for a number of these structures were issued and variances for others have been granted. That said, each case brought to the Board of Adjustment should be evaluated on its own merits.
- The applicant believes that he is being denied a property right because he is unable to have an enclosed garage as do other residents in the subdivision. Mr. Ramos believes that the addition of a garage will improve his property and will not be detrimental to the

neighborhood. He has also stated that he will not access the new garage from 2700 West but from 2735 West.

- ❑ The subject property is located in an R-1-8 zone which requires an 80' frontage. The lots in the Shorland subdivision were approved with a frontage of 75'. This does not leave adequate room for the applicant to construct an attached or detached garage on his property at the required setbacks.
- ❑ Should the Board of Adjustment approve the variance, the applicant will be required to obtain the necessary building permits from the Building Division. It should be noted that there is a 5-foot utility easement along the rear property line. The applicant will need to get easement encroachments requests from the utility companies for the garage location.

❑ **ORDINANCE SUMMARY:**

Section 7-6-305(6) of the West Valley City Land Use Development and Management Act requires that on double frontage lots or corner lots, accessory buildings shall not be allowed within 20 feet of any dedicated street.

Jody Knapp presented the application. She explained that this is a double frontage lot which is located between 2700 West and 2735 West. The ordinance requires a 20 foot setback from the right-of-way. Although, it is unclear why this requirement exists, we assume it was for aesthetic reasons so they would have some type of setback from the right-of-way. A recent site inspection revealed that there are a number of property owners that have constructed garages along 2700 West and there are building permits and other variance applications that are similar to this case that have been granted on this same street.

The applicant believes he is being denied a property right due to the fact that he is unable to have an enclosed garage as other residents have in his subdivision. He believes that the garage addition will improve his property and will not be detrimental in any way to the neighborhood. Mr. Ramos will not have access to the garage from 2700 West and access would be along the front of his property on 2735 West. It should be noted that there is a 5-foot utility easement along the rear property line. The applicant will be required to obtain easement encroachment requests from the utility companies for the garage location.

Mr. Uluakiola noted that the applicant has already started construction on the garage and asked staff if Mr. Ramos had obtained a building permit.

Mrs. Knapp responded that Mr. Ramos started construction of the garage without a building permit and was issued a citation and then stopped construction of the garage. So the garage has not been fully constructed.

Mr. Farnsworth indicated that the fact that the applicant did or did not obtain a building permit before he began construction is not germane to the Board. The issue is whether the Board elects to grant him a variance to continue the construction under the guidelines of West Valley City codes.

Applicant:

Joe Ramos

4171 South 2735 West

Mr. Ramos stated that when construction began on the garage, he didn't realize a permit was needed because the garage was located at the rear of his property. When I approached the City to apply for a building permit, I found out that the ordinance requires me to place the garage 20 feet away from the fence.

Mr. Ramos explained that when he began construction of the garage, he looked at all of the other garages and how far away they were away from the property line. There are other people in my neighborhood who have built garages and I assumed I could do the same.

Mrs. Christensen asked the applicant if he had brought any documentation addressing the five variance criteria. She explained that the Board will discuss the criteria with you and make sure that you understand what you say in relationship to the five criteria that are required to be met in order for the Board to render a decision in your favor. The Board of Adjustment reviewed the five criteria that the applicant submitted.

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.
The unreasonable hardship is associated with the land we own, which also has peculiar circumstances. The home was constructed without a garage or carport and the home is positioned in such a way that a 2-car garage cannot be built on the site at the required setbacks.
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 regarding our lot that I would like the Board to consider is my lot is a double frontage lot which requires a greater setback in my rear yard.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
Other properties in our area have two car garages either attached or detached to store vehicles. If not allowed to have a garage, I would be denied a property right that others in my neighborhood have.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
The granting of the variance will not affect the general plan. It will not be contrary to the public interest because no access will be gained from 2700 West. There are other garages along 2700 West to my fence line is approximately 28 feet, which places the proposed garage further out of public view.
5. The spirit of the zoning ordinance is observed and substantial justice done.
The spirit of the zoning ordinance is observed because I will be able to have a garage and improve my property.

Discussion

Mr. Spendlove indicated that he had noticed how narrow the street was and noted that it seem like all the lots are built, established, and that everyone has a lot of vehicles and I had to pull over and let traffic come by before I could get around. I believe it would be beneficial to get those vehicles off of the street to promote greater movement of the traffic which would be accomplished by a garage or allowing individual's access to a garage.

Mrs. Christensen said that also crossed my mind as one of the substantial justices for the spirit of the zoning ordinance would be to have people allowed to have their vehicles off of the street.

Mr. Farnsworth acknowledged that he was very impressed with the care of the property and said that he knows that the applicant will be required to build the garage to code. The fact is that Mr. Ramos has kept his property in outstanding condition and I think substantial justice is done so that the vehicles can be enclosed in a garage and improve the aesthetics of the home.

Mrs. Christensen indicated that as she drove down the street, (and I believe there are 18 homes that front 2700) she counted 9 garages from Winchester down to 4100. As Mr. Ramos suggested, there are a half a dozen more sheds that are right on the property line or very close to it.

There being no further discussion regarding this application, Chairperson Christensen called for a motion. She stated let the motion show that Mr. Farnsworth is here as an alternate and will participate in the discussion, but will not render a vote.

Motion

Mr. Moore stated I move that we approve application B-17-2008 based on the applicant meeting the five variance criteria.

Mr. Uluakiola seconded the motion.

A roll call was taken.

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

Motion carries – all in favor

_____ - B-17-2008 – _____

B-18-2008

**Valley Fair Mall – Satterfield Helm - Variance
3601 South 2700 West
C-2 Zone**

REQUEST:

Mr. Jonny Arbuckle, representing the Valley Fair Mall, is requesting a variance from Title 11-6-104(2)(b) of the West Valley City Code. This title would require that a proposed pole sign for the Valley Fair Mall be setback 35 feet from the existing right-of-way along 3500 South. The applicant is requesting a variance of 28 feet in order to place the proposed pole sign within 7 feet of the existing right-of-way, but 31 feet from the curb.

BACKGROUND:

WEST VALLEY CITY GENERAL PLAN recommends commercial land uses.

- As members of the Board of Adjustment may have noticed, the Valley Fair Mall is undergoing a substantial modification. As part of this process, a conditional use permit was reviewed and approved by the Planning Commission. At staff's recommendation, new buildings adjacent to 3500 South and 2700 West are required to be taller and closer to the street. This concept helps achieve one of the philosophies of the City Center vision and provides a more appealing street scene.

- ❑ During the conditional use process, the Planning Commission approved the height and design of all signage. However, during these discussions, specific sign locations were not yet known. As a result, setback considerations were not addressed.
- ❑ Staff is in the process of reviewing a pole sign application on the north side of the mall property. This sign is 40 feet tall and would require a setback of 35 feet from the 3500 South right-of-way. However, because the right-of-way is larger at this location than others along this same street, the sign would be positioned in a future drive aisle planned for the mall. In order for the sign to be located outside of the drive aisle, the sign would be setback another 15 feet for a total distance of nearly 50 feet. This setback distance would render the sign ineffective for vehicles traveling from the west. The building presently under construction is between 24-32 feet tall and is located closer to the street. Therefore, the building will block any sign located that far back into the property.
- ❑ As mentioned previously, the right-of-way along 3500 South is substantially larger at this location with a width of approximately 170 feet. In a typical situation, the property line is located approximately 10 feet from the back of curb. The property line in this case, is located approximately 24 feet behind the curb.
- ❑ As a result of the larger right-of-way, the property does have special circumstances that do not apply to other properties. There are few, if any other locations where the right-of-way extends that far into a property. Although the increased right-of-way is near the on-ramp to I-215, it does seem excessive given 3500 South is fully widened at this point.
- ❑ Staff has included a site plan of the existing building and pole sign locations. The first number shows where the sign would be located in order to meet the setback standards. The Board will see from the site plan, that the building would block sign visibility from the west. The second illustration is where the pole sign is being proposed.

ORDINANCE SUMMARY:

Title 11-6-104(2)(b) of the West Valley City Code would require a minimum setback of 35 feet as it relates to a new pole sign.

Mr. Lehman presented the application.

Ms. Naegle noted this does not look like a typical pole sign to me.

Mr. Lehman responded that the Sign Ordinance has improved a lot.

Mrs. Christensen questioned if the sign is placed in the back and people go under the freeway will they still be able to see the sign?

Mr. Lehman responded that it is visible coming from the east as well as the west.

Applicant:

**Jonny Arbuckle
Valley Fair Mall – Satterfield Helm
3601 South 2700 West**

Mr. Arbuckle stated that he would like to clarify some of the questions that have been raised by the Board. [He asked staff to go back to the visual aid which shows the site plan that has the letters on it] Mr. Arbuckle explained that the letters on the site plan represent the signage package that was approved by the Planning Commission as part of our conditional use permit.

The letter 'A' represents our large pylon signs on the freeway side. Those are 85 feet tall pylons similar in design to what you see in the package for the pylon on 3500 South. The letter 'B' is a 40 foot pylon which is what we are presently discussing. There will be another pylon sign on 2700 West. The 'C' represents the monument signs which are about 9' x 12' which are a little smaller. The sign that also would have been on 3500 South got moved to another location. As you look at the 'C' near the intersection of 3500 South and 2700 West which is the Olive Garden, you will see that we have moved that one further to the south and closer to the TGI Friday building at the entrance and that's a small 9' x 12' monument sign. That addresses what the Planning Commission approved during the conditional use permit process. There is an issue at this location. Steve explained that the setback requirement would position it into a drive line which is actually our main drive line coming around the east side that loops.

There is a lot of heavy traffic that travels along that road and to reconfigure that wouldn't make much sense for us on the site. Therefore, the sign will be placed further to the south than the 35' setback into the landscape island. Mr. Arbuckle said that they would like to move the sign closer to the street for line of site from the west. Moving the sign further west on the other side of the P-1-4 building would create similar site line issues coming from the east and the building would block the visibility there. Also, the Olive Garden sign is part of their approval of their lease and they did not want to have the sign that close to their building so it was placed on the other side of P-1-4 building.

Mr. Arbuckle addressed 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.
 - a. **The variance is located on our property.**
 - b. **Literal enforcement would impede the sign's ability to communicate with those traveling on 3500 South because of the adjacent buildings proximity to the street and height. The opportunity to connect with potential customers would be negated since visibility would be almost non-existent from the west.**
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.

The right-of-way along 3500 South is substantially wider at this point than in other places along this street. Consequently, this would place our sign well into the property limiting visibility.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
The size of our property allows us to have a pole sign on each of our frontages. Without the pole sign along 3500 South, (the most heavily traveled street) our property right is diminished by not being able to advertise successfully.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
One of the reasons we are seeking a variance is because the City required the adjacent building to be taller and closer to the street. That requirement meets the City Center vision which is part of the General Plan. Allowing the sign to be visible from 3500 South will allow future businesses to be successful and is therefore not contrary to the public interest.
5. The spirit of the zoning ordinance is observed and substantial justice done.
By granting the variance, the spirit of the zoning ordinance would be met and substantial justice done.

Mr. Arbuckle explained that this is not a situation where we are trying to take advantage of anything. The issue is that people will not be able to see the sign with the tall height of the building. Granting the variance would greatly improve our ability to lease the project and get the tenants recognition on the street and that is a very important street for them with the large amount of traffic that travels there. This has been a hot topic for us with leasing and where they get to go on those signs. I would hate to not be able to put a sign that we worked so hard on in a location that it could be seen and would really be a great benefit.

Mrs. Christensen questioned about the westbound traffic. Have you considered the site lines?

Mr. Arbuckle responded yes, and with the west bound traffic it will be visible. There will be trees lining that side of the site and we are redoing the landscaping on the site as part of this project. The issues with the trees will be addressed and we will be replacing some of them to improve that line of site with attractive landscaping as well which will tie in with the rest of the site.

Discussion

Mrs. Christensen questioned if the applicant has met the five variance criteria.

Mr. Farnsworth said that he questioned Steve about the additional signage and noted that he did address the issue stating that the additional sign 'C' won't be on the corner and there won't be any other signage along 3500 South.

Mrs. Christensen questioned are we requiring a berm?

Mr. Lehman responded that in this case we are not and noted that there will be a landscaped area so it won't just be stuck in a piece of asphalt. There will be landscaping around the sign which would then blend in going both east and west along 3500 South.

Mrs. Christensen questioned and there are no concerns about visual impairment?

Mr. Lehman responded, no because as Mr. Arbuckle mentioned, even though the sign is setback 7' from the right-of-way, there is an additional 14 feet from the back of the walk before you get to the right-of-way line. Essentially the sign will be 21 feet in back of the sidewalk and this section of 3500 South will not be further widened.

Ms. Naegle acknowledged that the applicant has done an excellent job of addressing the variance criteria. I believe that they have demonstrated all five criteria and I would like to make a motion.

There being no further discussion regarding this application, Chairperson Christensen called for a motion.

Motion

Sandy Naegle stated that in the matter of B-17-2008, I move to approve the variance after careful consideration of the five variance criteria and the demonstrations that have been made in the Board of Adjustment packets regarding location.

Mr. Moore seconded the motion.

A roll call was taken.

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

Motion carries – all in favor

____ - B-x-2008- ____

OTHER

The minutes from **October 1, 2008** were approved.

There being no further business the meeting adjourned at 6:55 p.m.

Karon Jensen, Administrative Assistant