

**WEST VALLEY CITY
BOARD OF ADJUSTMENT
MINUTES**

December 2, 2009

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

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Russell Moore, Scott Spendlove, and Sioeli Uluakiola

Those Absent: Mark Farnsworth, Sandy Naegle, and Necia Christensen

WEST VALLEY CITY PLANNING DIVISION STAFF

Hannah Thiel and Karon Jensen

WEST VALLEY CITY LEGAL DEPARTMENT

Claire Gillmor

AUDIENCE:

Approximately two (2) people were in the audience.

B-16-2009
Bob Wager
1642 West Shelley Avenue

REQUEST:

Mr. Bob Wager, is requesting two variances from Section 7-6-305(1) of the West Valley City Code. This section requires that the frontage of a lot in the R-1-6 zone be 65 feet. This section also requires that the minimum size of the lot in said zone, be 6000 square feet. The applicant is requesting a frontage variance of 20.6 feet and an area variance of 343.44 feet. The purpose for these variances is to allow the applicant an opportunity to subdivide the existing property in order to create an additional building lot.

BACKGROUND:

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

- The subject property is known as lots 11-14 Block 5 Chesterfield Plat. The lots in question were established in July 1938. The existing single family dwelling was constructed on this property in 1938.
- The applicant is proposing to divide the existing property into 2 lots in order to make better use of the large side yard. The applicant had hoped to divide the property down the middle creating two 50-foot wide lots. A single family dwelling would then be built on the new vacant lot.
- As staff evaluated this proposal, an explanation was provided to the applicant that in many instances in the Chesterfield area, owners have been able to separate the property by deed, into a standard 50-foot wide lot. Although zoning requires that the frontage be 65 feet in the R-1-6 zone, the 50-foot wide lot is very common in this area and has been recognized by the City as a legal building width.
- In this case however, staff explained that the location of the existing dwelling would prohibit the property from being divided because of setback requirements. The only option would be to pursue Board of Adjustment relief regarding the frontage and area requirements.
- The applicant hired a land surveyor who has provided a concept plan showing the property dimensions in relation to the existing single family dwelling. As a result of this survey, the frontage and area of what would constitute the new lot is 44.40 feet, and 5,656.56 square feet respectively.

- If the variance was granted, the subject property would conform with many existing properties in the general area. Staff did explain the single family setbacks and design standards that would need to be met if a new single family dwelling was to be constructed. The applicant believes that the 44-foot width would provide sufficient width to accommodate a new dwelling.
- Should the Board of Adjustment approve the variance, the applicant will be required to submit a minor subdivision application.

Hannah Thiel presented the application.

Applicant:
Bob Wager
1642 W. Shelley Ave.

Representative
Michael Jacobs
5277 S. 3200 W.

Opposed
Theron Hope
1614 W Sunset Ave.

Michael Jacobs
5277 S. 3200 W.

Mr. Jacobs indicated that he is representing the variance application. Mr. Jacobs indicated that he had constructed the home and has recently purchased the property. I have worked in the building trade most of his life and as a framing contractor. I have done a lot of work in Park City and recently finished a home remodel project in the avenues.

Mr. Uluakiola questioned how many lots would you be subdividing?

Mr. Jacobs responded that he was requesting to subdivide one lot and indicated that the property could not be subdivided without the Board's approval to grant the variance request.

Theron Hope
1614 W Sunset

Mr. Hope stated that he was opposed to the variance request and noted that he didn't feel it was a good idea to grant the variance request for this property.

Mr. Jacobs said that he hopes to alleviate the concerns of the neighbors and addressed the 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 my property.**
 - b. **The variances will allow us to carry out the general purpose of the zoning ordinance because the general health, safety, and welfare of this community will remain intact. We are looking to comply with the general purpose of the zoning ordinance by improving then remaining property with a new single family dwelling.**
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
 - a. **The lots in question, 11-14, were created in 1938. A single family dwelling was also constructed on this property in 1938. There were no zoning laws back then, and the home was positioned in the middle of the property. With current zoning laws, the home would be too close to the property if it were divided.**
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
 - a. **This variance would allow us to place a new home on property that is very consistent with other properties in this area. The City allows the 50 foot wide lot based on old zoning policies. Although this lot would be less than 50 feet, there are many properties nearby that are at or less than what this request is for.**
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
 - a. **The property is zoned for low density land uses. We don't desire to put anything here but a single family dwelling. The width and area of the property would allow us to build a new residence meeting all zoning codes.**
5. The spirit of the zoning ordinance is observed and substantial justice done.
 - a. **The spirit of the zoning ordinance is observed because the variances relatively minor. The request is not out of character with other properties in this general area.**

Discussion:

The Board of Adjustment reviewed the 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.**

Mr. Spendlove indicated that he did not see an unreasonable hardship with this application and noted that the Board cannot address economic reasons as a hardship.

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

Mr. Moore stated Salt Lake County left West Valley City with many odd sized lots and most of the lots in this subdivision have a very similar configuration. The City traditionally allows a 50' frontage and I believe that granting the 20' variance in this case is too much and would be about 6' more than we have traditionally allowed here. Mr. Uluakiola agreed.

Mr. Spendlove commented that the property was purchased in November 2009. I believe this is a self imposed and an economic hardship which the Board of Adjustment cannot consider. This case is a "buyer-beware" situation and the buyer would know ahead of time that the lot could not be legally subdivided.

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

Mr. Spendlove said he did not believe subdividing a lot is a substantial property right.

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

Mr. Spendlove responded that granting the variance would be in violation of the City's objectives for the general plan.

Mr. Moore responded I believe the Board needs to hold to the 6,000 sq. ft. lot size and the Board of Adjustment members agreed.

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

The Board of Adjustment acknowledged that granting the variance would not meet with the intent of the spirit of the zoning ordinance.

There being no further discussion regarding this application, Vice-Chairperson Moore called for a motion.

Motion

Mr. Sioeli stated I move that we deny the variance, B-16-2009, based on the fact that the criteria provided by the applicant did not meet the hardship criteria for granting a variance.

Mr. Spendlove seconded the motion.

A roll call was taken.

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

Motion carries – all in favor – Variance denied

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OTHER

The minutes for the **November 4, 2009** Board of Adjustment public hearing were **approved**.

There being no further business the meeting adjourned at 6:30 p.m.

Karon Jensen, Administrative Assistant