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PLEASANT GROVE CITY
BOARD OF ADJUSTMENT MINUTES
April 16, 2015

7:00 P.M. BOARD OF ADJUSTMENT MEETING

Present: Chair Frank Johnson, Stephanie Green, Pat Ellington, Tom Petersen, Sterling Wadley, Gail Christiansen

Excused: Milt Fugal

Staff: City Planner Royce Davies, Planning Tech Barbara Johnson, Community Development Director Ken Young

Chair Frank Johnson welcomed those present and called the meeting to order at 7:00 p.m. He stated that Board Secretary, Barbara Johnson, properly noticed the meeting as required by the Open and Public Meetings Act. It was verified that there was no ex parte contact between Members of the Board and parties being heard tonight and no bias was formed by any member of the group.

ITEM 1: Public Hearing to consider the request of Jonas Otsuji for a corner lot width variance of approximately 15 feet from the 95-foot lot width requirements in City Code Section 10-9B-4 on property located at approximately 985 North 100 East in the R1-8 (Single Family Residential) Zone. **LITTLE DENMARK** *Continued from March 19, 2015.

Applicant: Jonas Otsuji

City Planner, Royce Davies, presented the staff report and stated that this item was continued from March 19, 2015. Mr. Davies presented aerial photographs and the vicinity map showing the current property lines. The applicant intends to do a half cul-de-sac, which falls under the flag lot ordinance. Mr. Davies stated that under this ordinance, the applicant would be able to subdivide provided he is able to meet the zoning requirements for the lots. All of the proposed lots meet the requirements with the exception of the corner lot which is below the standard width. The property is currently zoned R1-8 which requires a 95-foot lot width, while the subject lot would only be 80 feet wide. The applicant was requesting a 15-foot variance, which would allow him to subdivide.

The applicant, Jonas Otsuji, declared that Mr. Davies covered the application thoroughly. There were no questions for the applicant.

1 Chair Johnson opened the public hearing. There were no public comments. Chair Johnson closed
2 the public hearing.

3
4 The Board discussed the five criteria for granting or denying an application.

- 5
6 1. The Board of Adjustment may grant a variance only if literal enforcement of the zoning
7 ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry
8 out the general purpose of the zoning ordinance.

9
10 Board Member Ellington commented that it would cause a hardship on the applicant and the City if
11 the variance were not granted because the property could not be developed.

12
13 Board Member Wadley asked if the subdivision would occur without developing the corner lot. It
14 was confirmed that there was already a home on the corner lot, so the variance would be required.

- 15
16 2. There are special circumstances attached to the property that do not generally apply to other
17 properties in the same district.

18
19 Board Member Ellington expressed his concern for City roads and the need for them to align. He
20 stated that this application did not seem to create a conflict.

- 21
22 3. Granting the variance is essential to the enjoyment of substantial property rights possessed by
23 other property in the same district.

- 24
25 4. The variance will not substantially affect the General Plan and will not be contrary to the public
26 interest.

- 27
28 5. The spirit of the zoning ordinance is observed and substantial justice is done.

29
30 The Board Members agreed that the application met the five criteria.

31
32 **MOTION:** Board Member Christiansen moved that the Board of Adjustment approve the
33 applicant's request for a historical special exceptions variance for a minimum corner lot width
34 requirement (Section 10-9B-4), finding that it meets all five criteria for a variance. Board Member
35 Ellington seconded the motion. The motion passed unanimously.

36
37 **ITEM 2:** Public Hearing to consider the request of Cole and Heather Goodman for a side yard
38 setback variance of approximately 15 feet where 25 feet is required and a variance to meet 2007 City
39 Code requirements for a four-foot sidewalk with no park strip for property located at approximately
40 1780 North 100 East in the R1-12 (Single Family Residential) Zone. **BIG SPRINGS.**

41
42 **Applicant:** Cole and Heather Goodman

43
44 Mr. Davies presented the staff report and stated that this item is also tied to a subdivision. He noted
45 that the property was illegally subdivided. Mr. Davies also stated that the property is currently
46 zoned RR (Rural Residential), however, the applicant is requesting a variance based on a projected

1 zoning of R1-12, which has been requested by another applicant who owns the property to the east.
2 That applicant intends to include the subject property as part of the subdivision to correct the illegal
3 subdivide.

4
5 Mr. Davies stated that the applicant will be required to install curb and gutter and all street
6 improvements required by the zone. He presented an aerial photograph of the property and
7 identified the existing sidewalk, curb, and gutter. Under the current Code, a six-foot sidewalk and a
8 four-foot park strip would be required. Mr. Davies stated that this would bring the sidewalk right up
9 against the applicant's home. To remedy this, the applicant was requesting a variance allowing them
10 to install a four-foot sidewalk. Mr. Davies informed the Board that the requirements in 2007 called
11 for a four-foot sidewalk attached to a curb without a park strip. He pointed out that this is what
12 currently exists on the other side of the street. Mr. Davies added that the variance would allow the
13 applicants to preserve some of the trees on their property.

14
15 Mr. Davies addressed the second part of the request for a side yard setback variance. In the RR
16 Zone, the side yard setback requirement is 30 feet, but the applicant is making the request based on
17 the projected zoning of R1-12, which only requires a 25-foot setback. Mr. Davies stated that this
18 portion of the application was complicated because there were many variables that could occur in the
19 future and cause issues with exact measurements. This variance would allow the applicants leeway
20 no matter the outcome of the other application.

21
22 Mr. Davies stated that without the variance the subdivision would not be able to occur since the City
23 is requiring that this property be included in the subdivision.

24
25 In response to a question from Board Member Wadley, Mr. Davies confirmed that the sidewalk on
26 the other side of 1800 North was only four feet wide with no park strip. There was also discussion
27 regarding the alignment of roads, however, they had not yet been discussed with the City Engineer.

28
29 Chair Johnson asked if there was enough space between the trees and the curb to install a sidewalk.
30 It was confirmed that some of the trees would have to be removed but it was not a substantial
31 property right to maintain vegetation.

32
33 A discussion was initiated by Board Member Christiansen about the possible rezoning of the
34 property. Mr. Young stated that property could be rezoned without the variance but the subdivision
35 could not be approved without it.

36
37 The applicants, Cole and Heather Goodman, stated that the home was built in 1948 and belonged to
38 Mr. Goodman's grandfather. The applicants moved into the home in 2007 and have made
39 improvements inside and out. Mr. Goodman expressed concerns with the sidewalk running next to
40 the house, and Mrs. Goodman stated that the sidewalk in front of the home is four feet and she
41 would like the side yard sidewalk to match. Mr. Goodman stated that if they had installed the
42 sidewalks when they purchased the home, a four-foot sidewalk would have been required.

43
44 Chair Johnson opened the public hearing.

45

1 Craig Smith stated that he caused the problem of the illegal subdivision but it was done innocently.
2 He implored the Board to grant the variance so that the Goodmans can continue with the
3 improvements they have been making to the home.

4
5 There were no further public comments. Chair Johnson closed the public hearing.

6
7 Board Member Ellington expressed concerns with street alignment. Mr. Davies stated that this
8 would be an engineering concern that would be addressed with the subdivision request.

9
10 Board Member Wadley asked the applicants if they would leave the current curb in place and install
11 the sidewalk four feet behind it. They confirmed that they would lose a few trees but that was
12 included in their plan.

13
14 The Board reviewed the five criteria for granting a variance.

15
16 1. The Board of Adjustment may grant a variance only if literal enforcement of the zoning
17 ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry
18 out the general purpose of the zoning ordinance.

19
20 The Board Members agreed that no one should have a sidewalk that close to their home.

21
22 2. There are special circumstances attached to the property that do not generally apply to other
23 properties in the same district.

24
25 The subject property is a special circumstance since it was illegally subdivided by the previous
26 owner.

27
28 3. Granting the variance is essential to the enjoyment of substantial property rights possessed by
29 other property in the same district.

30
31 4. The variance will not substantially affect the General Plan, and will not be contrary to the public
32 interest.

33
34 5. The spirit of the zoning ordinance is observed and substantial justice is done.

35
36 The Board agreed that the application met the five criteria.

37
38 **MOTION:** Board Member Ellington moved the Board of Adjustment approve the applicant's
39 request for a side yard setback variance from the minimum side yard setback of 10 feet and street
40 improvements requirement to only a four-foot sidewalk (Section 10-9B-4 and 11-3-4). Board
41 Member Christiansen seconded the motion. The motion passed unanimously.

42
43 **ITEM 3** Public Hearing to consider request of Richard Guernsey for a variance from requirements
44 in the flag lot ordinance that would prevent a flag lot on his property and a variance to allow
45 driveway access onto a collector street on property located at approximately 820 East Grove Creek
46 Drive in the R1-20 (Single Family Residential) Zone. **GROVE CREEK.**

1 **Applicant:** Richards Guernsey

2
3 Mr. Davies presented the staff report and stated that the applicant intends to develop one lot on
4 which he will be able to build a home; however, the location of the lot presents a challenge with
5 regard to access. Mr. Davies presented aerial photographs and the Local Vicinity Plan. Mr. Davies
6 stated that Part A of the Flag Lot Ordinance states that “the purpose of a flag lot is to facilitate the
7 best use of interior areas of existing parcels which are no longer used for agriculture”. He added that
8 flag lots are permitted when an owner desires to develop a lot that is an interior, narrow, or deep
9 parcel that is not otherwise accessible using residential street standards.

10
11 Mr. Davies addressed the vicinity plan and stated that it is a hypothetical drawing and not something
12 that is set in stone. An applicant is welcome to change what is on the vicinity plan if they can
13 provide something that is feasible and provides connectivity. If a property is located in the areas
14 indicated in blue on the vicinity map, they are automatically disqualified from having a flag lot and
15 that is the case with this applicant. Mr. Davies stated that this is the reason the application is before
16 the Board of Adjustment.

17
18 Mr. Davies stated that a new standard has been established that prohibits private driveways from
19 having access on a collector road. The applicant would like to have a flag lot stem with access off of
20 Grove Creek Drive, which is a collector road. This is not permitted, since a flag lot stem is
21 considered a private drive. Mr. Davies presented drawings provided by the applicant showing
22 potentially how the vicinity plan could be changed to allow for a flag lot.

23
24 Chair Johnson could not see how the lot could be accessed at all. Mr. Davies stated that the first
25 suggestion to the applicant was to bring in a road but that could not be done without removing his
26 own home or the other homes in the area. The variance request was the alternative. Chair Johnson
27 also requested information about the turnaround options with a flag lot stem. Mr. Davies stated that
28 a turnaround for emergency vehicles is required by the ordinance and this would provide an area for
29 the resident to turn around so they wouldn't have to back out onto Grove Creek Drive.

30
31 In response to a question raised by Board Member Wadley, Mr. Davies confirmed that the Vicinity
32 Map was created by J&B Engineers; the City's contracted engineering company. The purpose of the
33 map was to identify the best way to meet the zoning requirements in an area and provide access. He
34 reiterated that the vicinity map was more hypothetical than a solid plan. Mr. Davies also stated that
35 the map was made without consultation or a public hearing and was adopted by ordinance. Property
36 owners become aware of the vicinity map when they come forward seeking development. He
37 restated that a property owner can present an alternative vicinity plan, which can be adopted if it is
38 reasonable. Mr. Ellington asked if changing the vicinity plan would negatively affect the City's
39 General Plan. Mr. Davies responded that it would not.

40
41 The applicant, Richard Guernsey, thanked the Board for taking the time to hear his request. He read
42 an email that he sent to staff, which was included as an exhibit to the staff report. In the email,
43 Mr. Guernsey stated that he was not aware of the vicinity map when he originally submitted the
44 request. He explained that he is not building an entire subdivision and has no intention of
45 developing the rest of his property in his lifetime. He would, however, like to build one home for his
46 daughter and her family. Mr. Guernsey stated that because of the vicinity plan, he cannot develop

1 his property the way he wants to. He was also upset that the vicinity map was put in place without
2 any sort of public notification. Mr. Guernsey also gave a brief history of the property and his family.
3 He wanted to make it clear that he had no intention of buying other property to build a road.

4
5 Chair Johnson opened the public hearing.

6
7 Shawn College gave his address as 790 East Grove Creek Drive and gave a brief history of the
8 property. He stated that they are currently remodeling the home next door with the intention of
9 moving in as soon as possible. He was opposed to the applicant building a road in the area because
10 it would encroach on his property by about 20 feet. Mr. College stated that he would like things to
11 remain as they are since the applicant already has a long driveway that could be utilized.

12
13 There was a discussion between the Board, staff, the applicant, and Mr. College regarding what
14 Mr. Guernsey could legally do to gain access to the other lot. Board Member Wadley clarified that
15 the applicant was not required to build a full street but a flag lot driveway that requires a width of
16 25 feet.

17
18 Eldon Willis, another neighbor to the applicant, wanted to make sure that Mr. College was not going
19 to be negatively affected by a road being constructed. The Board clarified that the applicant was not
20 required to put in a full road and that a flag lot stem would not encroach on Mr. College's property.
21 Community Development Director, Ken Young, explained in more detail why the applicant, legally,
22 needs to install a flag lot stem rather than use the current driveway.

23
24 Mr. Guernsey added that they received a variance 20 years ago to build their home because the lot
25 width was insufficient to meet the ordinance requirements. There was further discussion about how
26 the flag lot stem could be organized. It was noted that it could be better finalized with staff after the
27 variance was granted. Mr. Guernsey stated that he would like the variance granted as soon as
28 possible, so they can begin construction on his daughter's home. Mr. Young stated that the flag lot
29 ordinance would apply regardless of the specifics.

30
31 Wayne Anderson gave his address as 720 North Grove Creek Drive and expressed concerns for
32 Mr. College's property. The Board assured Mr. Anderson that none of Mr. College's property
33 would be used for a flag lot stem.

34
35 There were no further public comments. Chair Johnson closed the public hearing.

36
37 Board Member Wadley confirmed that there were two issues being addressed with the variance
38 request. One was the flag lot itself and the other being access to the collector road. It was confirmed
39 that the variance would cover both issues. It was mentioned that the Board is looking at the spirit of
40 the ordinance and not necessarily the letter of the ordinance.

41
42 Board Member Ellington was not comfortable granting the variance without a specific request with
43 the exact footage and location of the flag lot stem. He preferred to continue the item until those
44 specifics could be provided.

1 Mr. Young stated that the Planning Commission would not be able to make any decisions on the
2 matter without having the full plat before them, which cannot be done unless the variance is granted.
3 Sending the matter to the Planning Commission to discuss the flag lot stem would be fruitless. The
4 application could be reviewed on the planning and engineering level if they preferred. Mr. Young
5 felt that a continuation of the item would be a waste of time because the request is before them and
6 could be acted on. The actual request would not change if delayed.

7
8 **MOTION:** Chair Johnson moved that the Board of Adjustment continue action until the next
9 scheduled meeting, where the applicant and staff can present an amended application. Board
10 Member Ellington seconded the motion. Vote on motion:

11
12 Board Member Peterson- Nay
13 Board Member Ellington- Aye
14 Chair Johnson- Aye
15 Board Member Christiansen- Nay
16 Board Member Wadley- Nay

17
18 The motion died 3-to-2.

19
20 The Board reviewed the five criteria for granting a variance.

- 21
22 1. The Board of Adjustment may grant a variance only if literal enforcement of the zoning
23 ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry
24 out the general purpose of the zoning ordinance.
25
26 2. There are special circumstances attached to the property that do not generally apply to other
27 properties in the same district.
28
29 3. Granting the variance is essential to the enjoyment of substantial property rights possessed by
30 other property in the same district.
31
32 4. The variance will not substantially affect the General Plan, and will not be contrary to the public
33 interest.
34
35 5. The spirit of the zoning ordinance is observed and substantial justice is done.

36
37 The Board agreed that the application met the five criteria.

38
39 **MOTION:** Board Member Christiansen moved that the Board of Adjustment approve the request to
40 allow a flag lot where the lot is located on the Local Streets Vicinity Plan and allow driveway access
41 onto a collector street (Sections 10-15-14 and 10-18-2-W-1-f). Board Member Wadley seconded the
42 motion. The motion passed unanimously.

43
44 **Review and approval of the Board of Adjustment Minutes from March 19, 2015.**

45
46 No corrections were made.

1 **MOTION:** Chair Johnson moved to approve the Board of Adjustment Minutes from March 19,
2 2015. Board Member Green seconded the motion. The motion passed unanimously.

3
4 The meeting adjourned at 8:55 p.m.

5
6
7 _____
8 Frank Johnson
9 Chair, Pleasant Grove City Board of Adjustment

10
11
12 _____
13 Barbara Johnson
14 Secretary

15
16 Date Approved: _____