



1
2
3 PLEASANT GROVE CITY
4 BOARD OF ADJUSTMENT MINUTES
5 September 18, 2014

6
7 **7:00 P.M. BOARD OF ADJUSTMENT MEETING**
8

9 **Present:** Chair Tom Petersen, Vice Chair Stephanie Green, Milt Fugal, Frank Johnson, Sterling
10 Wadley, Gail Christiansen

11
12 **Excused:** Pat Ellington

13
14 **Staff:** City Planner Royce Davies, Planning Tech Barbara Johnson
15

16 Chair Tom Petersen welcomed those present and called the meeting to order at 7:00 p.m. In addition
17 to Chair Petersen, the Board Members present were identified as Vice Chair Stephanie Green, Milt
18 Fugal, Frank Johnson, Sterling Wadley and Gail Christiansen. Pat Ellington was excused. He stated
19 that Board Secretary, Barbara Johnson, properly noticed the meeting as required by the Open and
20 Public Meetings law. It was verified that there was no ex parte contact between Members of the
21 Board and parties being heard tonight and no bias was formed by any members of the group. Voting
22 members were identified as Chair Petersen and Board Members Green, Johnson, Christiansen,
23 Fugal, and Wadley. It was noted that Board Member Fugal would serve as the alternate at this
24 meeting.
25

26 **ITEM 1:** Public Hearing to consider the request of Lorraine Herrera for a variance of approximately
27 2.5 feet on either, 1) the side yard setback from the City Code Section 10-9-B-7 where 10 feet is
28 required, or 2) the flag lot stem minimum width from City Code Section 10-15-14-G-1 where 25 feet
29 is required, on property located at 565 East 300 North in the R1-8 zone. **MONKEY TOWN**
30 **NEIGHBORHOOD.**

31
32 **Applicant:** Lorraine Herrera
33

34 **MOTION:** Board Member Wadley moved to approve the agenda. Board Member Christiansen
35 seconded the motion. The motion passed unanimously.
36

37 City Planner, Royce Davies, presented the staff report and displayed an aerial photo of the property.
38 He explained that the applicant has officially requested a 2.5-foot variance from the side yard
39 requirement on the west side of the home. He reviewed the City Code and noted that upon
40 approving flag lots, it must be determined that no other transportation access to the property is

1 feasible. Mr. Davies then presented drawings submitted by the applicant that showed the
2 surrounding parcels and their respective sizes.

3
4 Mr. Davies stated that staff suggested decreasing the width of the flag lot stem as opposed to
5 decreasing the side yard. This can be done a number of ways. There is a 20-foot minimum
6 requirement for the actual paved surface inside of the stem. It was noted that the applicant has about
7 five feet of room to accomplish this. If they were to reduce the stem width by 2.5 feet, they would
8 be left with about 1' 3". Mr. Davies presented a photo of the property, and identified an electrical
9 utility pole. In speaking with Rocky Mountain Power, they strongly recommended a distance of 18
10 feet from the bottom of the pole to the new pavement. Mr. Davies commented that this makes sense
11 from a safety standpoint, however, if the size of the flag lot width is reduced, very little room will
12 remain.

13
14 Mr. Davies relayed that City Engineer, Degen Lewis, suggested that if the access width is not
15 decreased a variance for the side yard can be granted. This would present an opportunity for a future
16 developer to meet the standard side yard requirements, which would bring the lot into compliance. It
17 was noted the previous day that the applicant submitted another drawing that indicated that her
18 neighbor was worried about possible flooding impacts from snow and rain fallout. A two-foot
19 retaining wall was requested. Mr. Davies expressed that this particular matter is not up to staff to
20 decide. In conclusion, Mr. Davies stated that staff is in favor of leaving the flag lot stem its original
21 width and alternatively cutting into the side yard.

22
23 Board Member Wadley clarified that staff's recommendation is based primarily on the utility pole.
24 Mr. Davies answered in the affirmative and added that narrowing the access seems trickier for access
25 in general. He explained that wider accesses were designed for such a reason. While the pole could
26 be moved, it is an expensive process. Clarification was made that if the variance is granted there
27 would be seven feet between the house and the access rather than 10 feet. With regard to the
28 retaining wall, it would need to be agreed on by the adjoining neighbors.

29
30 Mr. Davies referenced Section 2-4-5-K, Historical Property Special Exceptions. He noted that in
31 researching the property in the County records, he discovered that the serial number has existed
32 since 1979. The aforementioned section states the following:

33
34 *"A property is considered 'historical' if it was established on the tax rolls, with a residential dwelling on a*
35 *legally subdivided parcel, prior to August 20, 1985."*

36
37 Chair Petersen asked if a neighboring property met all of the requirements for a flag lot. Mr. Davies
38 answered in the affirmative and noted language included in the staff report relative to the matter. It
39 was noted that the property owner would own the flag lot, rather than having it revert back to City
40 ownership. Board Member Fugal asked for clarification on the public notice which was distributed
41 prior to this meeting. He noted that the notice was a request for a variance on the side yard or the
42 flag lot stem. However, the application has only been made indication for a variance on the side
43 yard. The Board further reviewed the matter.

44
45 The applicant Lorraine Herrera, pointed out that in order for the Board to approve any changes, she
46 has to provide proof of a hardship. She made reference to two letters, and explained that one of the

1 letters was from Marlon and Denise Bird. It pertained to the flag lot on the east side of the subject
2 property. She has been trying since 2004 to obtain access from Mr. and Mrs. Bird, including two
3 separate times this year. Ms. Herrera offered to pay for the right to use the flag lot but her request
4 was denied. Furthermore, Ms. Herrera is not included in a vicinity plan, as was presented to the
5 Board by Mr. Davies.

6
7 Ms. Herrera stated that she would be willing to install a retaining wall, as was requested by one of
8 her neighbors. She was of the opinion that the wall would be more beneficial if it were placed along
9 the property line with the gravel located on her side of the wall. Any excess water would drain into
10 the gravel on her property rather than onto her neighbor's property. Ms. Herrera continued to discuss
11 the matter with the neighbor, who was present at the meeting. Board Member Johnson asked that
12 they continue their discussion after the meeting. He noted that the Board cannot make suggestions
13 or legally require that Ms. Herrera install a retaining wall. Board Member Johnson asked Ms.
14 Herrera if she plans to build a home on the flag lot. She confirmed that she does.

15
16 Chair Petersen opened the public hearing.

17
18 Rod Dejel reported that he lives across the street from Ms. Herrera. He asked if the City needs to
19 have the pavement centered on the width of the flag lot and commented on how the gravel will affect
20 water drainage. He suggested that Ms. Herrera be allowed to install the pavement all the way on the
21 east side. Staff noted that there isn't any language in the Code indicating that a person cannot install
22 pavement all the way to one side. Mr. Dejel also inquired about the public noticing procedure.
23 Board Member Fugal explained that everyone in the City is impacted by this application. Therefore,
24 the item needs to be properly advertised.

25
26 There were no further public comments. Chair Petersen closed the public hearing.

27
28 Board Member Christiansen felt that because the item was only noticed for the side yard, the Board
29 cannot consider a variance on the flag lot stem at this time. Board Member Fugal stated that it is not
30 always best to grant a variance if access can legally be created otherwise. Board Member
31 Christiansen referred to the aforementioned ordinance section relating to historical lots. According
32 to City ordinance, any narrow, pre-existing lot created prior to 1985 can be approved for a variance.

33
34 Board Member Fugal argued that the ordinance language implies that the Board can grant a
35 historical property a special exception, which is not a variance. A historical special exception would
36 grant the applicant a 25% reduction in the stem width, which would eliminate the need for a variance
37 to the side yard setback. Board Member Fugal noted that in order for the Board to approve the
38 special exception, the item would need to be renoticed. Board Member Christiansen was concerned
39 with how it will affect the applicant financially. The Board discussed the legal need to renotify the
40 item as well as whether the applicant needs to meet the five criteria listed in the application, if a
41 special exception is granted, rather than a variance.

42
43 **MOTION:** Board Member Johnson moved to table the Lorraine Herrera request for a variance from
44 the minimum side yard requirement in the R-1-8 Zone (Section 10-9B-7) until the next Board of
45 Adjustment meeting on October 16, 2014, based on the need to renotify the item and grant a

1 Historical Special Exception rather than a variance. Board Member Wadley seconded the motion.
2 The motion passed unanimously.

3

4 **ITEM 2:** Approve Board of Adjustment Minutes from June 26, 2014.

5

6 **MOTION:** Board Member Christiansen moved to approve the Board of Adjustment Minutes from
7 June 26, 2014. Board Member Johnson seconded the motion. The motion passed unanimously.

8

9 The meeting adjourned at 7:50 p.m.

10

11

12

13

14 _____
15 Tom Petersen
16 Vice-Chair, Pleasant Grove City Board of Adjustment

17

18

19

20 _____
21 Barbara Johnson
22 Secretary

21

22 Date Approved: _____