



Sandy City, Utah

10000 Centennial Parkway
Sandy, UT 84070
Phone: 801-568-7141

Meeting Minutes

Board of Adjustment

Thursday, September 12, 2019

6:30 PM

Council Chambers

Meeting procedures are found at the end of this agenda.

Present 3 - Bruce Bryner
Burke Staker
Tyler Brown

Absent 3 - Brian Jones
Steven Wrigley
Matt Hale

4:45 PM FIELD TRIP

1. [19-315](#) Field Trip Map for the September 12, 2019 Meeting

Attachments: [091219 FT Map.pdf](#)

5:45 PM EXECUTIVE SESSION

Executive Session and Dinner in the Public Utilities Conference Room at City Hall

6:30 PM REGULAR SESSION

Welcome

Pledge of Allegiance

Introductions

Public Hearings

2. [BOA-08-19-5](#) Firefly Forest Subdivision - Final Review - Alleged Error Review
[696](#) 3392 E. Deer Hollow Circle
[Community #29 - The Dell]

Attachments: [Staff Report.pdf](#)
[Appeal Motion Form.pdf](#)
[Vicinity Map.pdf](#)
[Application Submittal.pdf](#)
[051619 PC Minutes.pdf](#)

Mr. James Dunkelberger, attorney for appellants Kelly Powers, Trent Pearce, Zhibin Guo and Kirk Olsen, presented his argument that the evidence from the May 17, 2018 Planning Commission meeting be taken into consideration.

Mr. Bruce Baird, attorney for the Platts, presented his argument on why the previous evidence has no relevance to the Board of Adjustment hearing.

A motion was made by Burke Staker, seconded by Bruce Bryner, that the record is not incomplete or deficient. The motion carried by the following vote:

- Yes:** 3 - Bruce Bryner
Burke Staker
Tyler Brown
- Absent:** 3 - Brian Jones
Steven Wrigley
Matt Hale

Mr. James Dunkelberger, attorney for appellants, Kelly Powers, Trent Pearce, Zhibin Guo and Kirk Olsen, presented his case to the Board of Adjustment.

Bruce Baird, attorney for Platt's, presented his case to the Board of Adjustment.

Mr. Dunkelberger responded to comments made by Mr. Baird.

Mike Wilcox, Zoning Administrator, presented the staff report to Board of Adjustment.

Discussion between Board members and Mike Wilcox regarding subdivision process.

Burke Staker opened the meeting to public comment of which there was none.

Meeting closed for public comment.

Discussion amongst Board members regarding alleged error.

Tyler Brown asked Mr. Dunkelberger if there was a specific statutory requirement in the Land Development Code that he felt the Planning Commission erred on - or was his argument solely based on his opinion that the Planning Commission made its decision using facts that were false?

Mr. Dunkelberger stated that there was a misrepresentation from Mr. Baird at the May 17, 2018 Planning Commission meeting. He feels that the Planning Commission did not have all the correct information in order to make their decision.

Bruce Baird responded to Mr. Dunkelberger's claims. He stated that there was no misrepresentation, and that the Planning Commission and City staff did not err. He feels that Mr. Dunkelberger has never met his burden of proof.

Discussion between Board of Adjustment members and Mike Wilcox regarding prior Planning Commission meetings.

Board of Adjustment members discussed the information that had been presented amongst themselves.

A motion was made by Burke Staker, seconded by Bruce Bryner, that the decision be tabled for a later date when more Board of Adjustment members are available. The motion carried by the following vote:

Yes: 3 - Bruce Bryner
Burke Staker
Tyler Brown

Absent: 3 - Brian Jones
Steven Wrigley
Matt Hale

A motion was made by Burke Staker, seconded by Bruce Bryner, that the previous motion be reopened. The motion carried by the following vote:

- Yes:** 3 - Bruce Bryner
Burke Staker
Tyler Brown
- Absent:** 3 - Brian Jones
Steven Wrigley
Matt Hale

A motion was made by Burke Staker, seconded by Bruce Bryner, that the decision be tabled until January 9, 2020. The motion carried by the following vote:

- Yes:** 3 - Bruce Bryner
Burke Staker
Tyler Brown
- Absent:** 3 - Brian Jones
Steven Wrigley
Matt Hale

3. [BOA-07-19-5](#) Bryce Zundel Variance Request
[685](#) 10471 South Wasatch Blvd
[Community #29 - The Dell]

Attachments: [Staff Report.pdf](#)
[Variance Motion Form.pdf](#)
[Vicinity Map.pdf](#)
[Applicant Request Letter.pdf](#)
[Seven Springs Plat.PDF](#)
[Zundel Residence Grading Plan.pdf](#)
[Arch Plans.pdf](#)
[City Engineer Letter.pdf](#)
[Geotechnical Study - Lot 27 Seven Springs.pdf](#)

Mike Wilcox, Zoning Administrator, introduced variance request to Board of Adjustment.

Josh Madsen with Gilson Engineering, and Mark Miller, General Contractor, presented to the Board of Adjustment their reasoning for the variance request.

Mike Wilcox presented the staff report to the Board.

Burke Staker opened the meeting to public comment. It was also noted that all emails and letters that had been received by the Board will be made part of the record.

Marc Moracco, who joined the meeting via speakerphone, gave his statement to the Board. Hal Cousins was his representative.

Mr. Moracco asked if the Board had received his email and attachments. Mike Wilcox assured him that they had.

Mr. Moracco was not in favor of the variance.

Jack Cain has no issues with the lot being built on. He is the neighbor to the south of the property in question.

Burke Staker closed the meeting to public comment.

Deliberation among board members and staff regarding variance.

Burke Staker reopened the meeting to public comment.

Jack Cain asked for clarification on the size of the home in question and it's comparison to Mark Moracco's home.

Mr. Moracco, by speakerphone, stated that his home is approximately 4600 square feet.

Mike Wilcox stated that the average footprint of homes in that area is about 3000 square feet, including garage, based on GIS data.

Marc Moracco, by speakerphone, presented information to Board regarding the square

footage of each floor of his home.

Mark Miller presented information regarding design of Zundel property, the Moracco home and surrounding properties.

Mr. Moracco disputed some details presented by Mr. Miller.

Discussion between Board of Adjustment members, Mark Miller, Marc Moracco and Mike Wilcox regarding the grading and drainage of the property, and ways to minimize the cut on the property.

A motion was made by Burke Staker, seconded by Tyler Brown, that the Board of Adjustment approve the Variances 1 and 2, as outlined in the staff report, for the property located at 10471 South Wasatch Blvd. to include the following findings and conditions to mitigate the negative impacts of said variances:

Findings:

- 1. Literal enforcement of the zoning ordinance will cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. Literal enforcement of the zoning ordinance would not allow any home to be built on this platted subdivision lot.**
- 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone district. The property is severely limited by a difficult and small building envelope.**
- 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district. Having and maintaining a home on the property, inasmuch as it is a platted lot, is an essential property right.**
- 4. The variance will not substantially affect the general plan, and will not be contrary to the public interest. The general plan provides for homes to be built in this zone in spite of the steep hillsides, provided certain conditions are met.**
- 5. The spirit of the zoning ordinance is observed and substantial justice will be done by granting this variance. Not granting the variance would not allow any construction on this platted parcel, which would be a serious injustice.**
- 6. The City Engineer has found that the land is suitable for development after reviewing the geotechnical report provided by CMT Engineering Laboratories.**
- 7. The requested variance does not create any unmitigated impacts to the property or the area if certain conditions are met.**
- 8. The requested variance does not result in the violation of any other City ordinance.**

Conditions:

- 1. That the driveway be required to have a heating element to mitigate safety concerns.**
- 2. All proposed retaining walls be designed to follow the City Engineer's recommendation as contained in his letter dated September 5, 2019, including rock fall mitigation measures.**
- 3. If the development of the dwelling as proposed creates cuts and fills over 10 feet in height, that the applicant seek a special exception from the Planning Commission prior to issuance of a building permit.**
- 4. That the Planning Commission review a detailed grading plan of the lot prior to issuance of a building permit, which shows the proposed grading, cuts, fills and terracing on the continuous hillside of 30 percent slope.**

- 5. That a vegetation plan, in accordance with Development Code Section 15A-15-05 (B)(3) be reviewed and approved by staff prior to issuance of a building permit to ensure the disturbed area of the lot are properly restored, and drainage and slope stability issues are mitigated.
- 6. That the proposed home be allowed to be constructed to a footprint no larger than 3000 square feet (including the garage area) in order to reduce the impact to the hillside, and reduce the amount of disturbance to the natural vegetation.
- 7. That there be no hillside disturbance or grading beyond 20 feet on the sides of the proposed home, 30 feet on the rear of the proposed home, and no more than 110 feet average distance from the front property line.

The motion carried by the following vote:

- Yes:** 3 - Bruce Bryner
Burke Staker
Tyler Brown
- Absent:** 3 - Brian Jones
Steven Wrigley
Matt Hale

Administrative Business

Minutes

[19-316](#) Board of Adjustment Meeting Minutes from the August 8, 2019

Attachments: [BOA Minutes 8.8.19.pdf](#)

A motion was made by Bruce Bryner, seconded by Burke Staker, that the Board of Adjustment approve the minutes from the August 8, 2019 Board of Adjustment meeting.

The motion carried by the following vote:

- Yes:** 3 - Bruce Bryner
Burke Staker
Tyler Brown
- Absent:** 3 - Brian Jones
Steven Wrigley
Matt Hale

Adjournment

A motion was made by Burke Staker, seconded by Tyler Brown, that the meeting be adjourned.

The motion carried by the following vote:

- Yes:** 3 - Bruce Bryner
Burke Staker
Tyler Brown
- Absent:** 3 - Brian Jones
Steven Wrigley
Matt Hale

Meeting Procedure

1. Staff Introduction
2. Developer/Project Applicant presentation
3. Staff Presentation
4. Open Public Comment (if item has been noticed to the public)
5. Close Public Comment
6. Planning Commission Deliberation
7. Planning Commission Motion

In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comments will be limited to 2 minutes per person per item. A spokesperson who has been asked by a group to summarize their concerns will be allowed 5 minutes to speak. Comments which cannot be made within these time limits should be submitted in writing to the Community Development Department prior to noon the day before the scheduled meeting.

Planning Commission applications may be tabled if: 1) Additional information is needed in order to take action on the item; OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. No agenda item will begin after 11 pm without a unanimous vote of the Commission. The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regular scheduled meeting.

In compliance with the Americans With Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, or if you have any questions regarding the Planning Commission Agenda or any of the items, please call the Sandy City Planning Department at (801) 568-7256