



Sandy City, Utah

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Sandy, UT 84070
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Minutes Summary

Board of Adjustment

Thursday, June 13, 2019

6:15 PM

Council Chambers

Meeting procedures are found at the end of this agenda.

Roll Call

Staff: Mike Wilcox, Zoning Administrator. Ryan Kump, City Engineer; Jennifer Ford, Board of Adjustment Secretary. Steven Osborn, Senior City Attorney, joined the hearing by telephone.

Present 6 - Brian Jones
Bruce Bryner
Steven Wrigley
Burke Staker
Matt Hale
Tyler Brown

5:00 PM FIELD TRIP

1. [19-190](#) Field Trip Map for June 13, 2019

5:45 PM EXECUTIVE SESSION

Executive Session and Dinner in the Community Development Conference Room, Ste 220 at City Hall

6:15 PM REGULAR SESSION

Welcome

Pledge of Allegiance

Introductions

Present 6 - Brian Jones
Bruce Bryner
Steven Wrigley
Burke Staker
Matt Hale
Tyler Brown

Public Hearings

2. [BOA-05-19-5](#) Schneider - Variance Requests
[660](#) 3381 East 9980 South
[Community #29 - The Dell]

Bruce Bryner, chairperson, asked for clarification if the property lines on the photos were survey grade.

Mike Wilcox explained that they are not. The survey of the subject property (3381 East 9980 South) provided by Applicants ("Schneiders") does show that a portion of the wall is on a neighbors property, west of the easterly edge of the subject property ("Property"). He stated that the Property does not meet the minimum of 10 foot setback from a 30-degree slope. The homeowners did not follow the retaining and grading plan that had been approved by the City.

Nathan Westover, attorney for Schneider's, discussed the variances and circumstances of this permit.

Brian Jones asked Mr. Westover if he had seen the City's staff report regarding Variance #1.

Mr. Westover stated that he had and that he understood that the City would recommend an approval on Variance Request #1.

In regards to Variance Request #2, Mr. Westover discussed the statutory requirements and the effects on his client.

Discussion then occurred between Board of Adjustment members and Jared and Jessica Schneider regarding the retaining wall.

Bruce Bryner stated that the wall is backfilled. He asked how that affects the rock fall concern that the homeowners had mentioned.

Ryan Kump, City Engineer, explained that the plan that was approved was carefully crafted around the rock fall risk, slope areas and setbacks. He said that there was not a concern regarding rock fall because the slope was not supposed to be cut into which was protected with native plants that made the soil stable.

Steven Wrigley noted that the Sandy City approved plan had given the Applicants a smaller yard, but the plan that the homeowners did actually put in, without City approval, doubled the yard size, approximately.

Mike Wilcox recommended that Variance #1 be approved with the conditions outlined in the Staff report. He said that the Sandy City Planning Division staff also recommends Variance Request #2 should not be approved.

No neighbors or other members of public in attendance sought to speak to the Board about this matter.

Bruce Bryner then closed this item to public comment.

A motion was made by Burke Staker, seconded by Brian Jones, that the Board of Adjustment approve the Schneider Variance Request #1 for a reduced setback from the designated hillside area of the Property as shown in Exhibit "E" of the Applicants' Letter for the Property located at 3381 East 9980 South, based upon

the following findings and conditions to mitigate the negative impacts of said variance:

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 Sandy City Development Code would require major modifications or moving the home, which is not practical.
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's in the same zoning district. Having and maintaining a home on the Property is an essential property right.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest. This reduced setback constitutes a minor impact to the general public interest
5. The spirit of the zoning ordinance is observed and substantial justice will be done. This reduced setback will not create a negative impact to the protected hillside as the hillside can be properly restored. Granting this variance also would create little negative impact to other property owners.

Conditions:

1. That the disturbed hillside shall be restored to its pre-construction state, which shall include the following:
 - a. The encroaching walls shown in the Staff Report as Encroachment #3a and #3b be removed or modified such that they are no longer visible after the original hillside contours are restored.
 - b. The slope is to be re-graded to match the pre-existing contours and natural slope.
 - c. A certification by a licensed land surveyor shall be presented to staff to ensure that this slope restoration has been properly executed prior to any revegetation of the hillside.
 - d. Restoration of the natural vegetation is required. A landscape plan produced by a licensed landscape architect should also be prepared and approved by the Community Development Director to meet all requirements of the Land Development Code (see Section 15A-15-04(B)(3)).
 - e. No further site improvements (relating to landscaping and grading) shall be performed until a revised site plan, grading plan, and revegetation plan of the disturbed hillside area be reviewed and approved by the City Engineer and Community Development Director.
2. Removal of the Notice of Non-compliance and issuance of the Certificate of Occupancy shall not occur until the above requirements have satisfactorily been completed as determined by the Community Development Director.

The motion carried by the following vote:

Yes: 5 - Brian Jones
Bruce Bryner
Steven Wrigley
Burke Staker
Tyler Brown

A motion was made by Brian Jones, seconded by Burke Staker, that the Board of Adjustment deny the Schneider Variance Request #2 which would require keeping all walls that encroach into the restricted sensitive areas of the lot (as described in the Applicants' Letter and further described as Encroachments #3a and #3b of the Staff Report) for the property located at 3381 East 9980 South, based upon the following findings:

Findings:

1. The need for this variance is self-imposed and is economic in nature. The Applicants purposefully and willingly built the walls after the slope was disturbed without a permit.
2. Literal enforcement of the zoning ordinance will not cause an unreasonable hardship for the Applicants that is necessary to carry out the general purpose of the zoning ordinance. There is no hardship in having a smaller yard due to the requirements of the Sensitive Area Overlay Zone.
3. There are special circumstances attached to the Property that do not generally apply to other properties in the same zoning district. The Property is severely limited by a difficult and small building envelope.
4. Granting the variance is not essential to the enjoyment of a substantial property right possessed by other property in the same district. Having a larger back yard is not an essential property right. They built knowing the restrictions of the lot and had an approved site plan that wasn't followed.
5. The variance will substantially affect the general plan and will be contrary to the public interest. This requested variance is contrary to the public interest as stated in the purpose statement for the Sensitive Area Overlay Zone in the Land Development Code.
6. The spirit of the zoning ordinance is not observed and substantial justice will not be done if this variance is granted. The intent of the ordinance is to preserve natural hillsides and not to allow disturbances and walls built into them.

The motion carried by the following vote:

Yes: 5 - Brian Jones
Bruce Bryner
Steven Wrigley
Burke Staker
Tyler Brown

Administrative Business

A motion was made by Tyler Brown to nominate Burke Staker as Board of

Adjustment chairperson. Steven Wrigley seconded the motion.

Yes: 5 - Brian Jones
Bruce Bryner
Steven Wrigley
Matt Hale
Tyler Brown

No: 1 - Burke Staker

A motion was made by Burke Staker to nominate Tyler Brown as vice-chairperson. Steven Wrigley seconded the nomination.

Yes: 6 - Brian Jones
Bruce Bryner
Steven Wrigley
Burke Staker
Matt Hale
Tyler Brown

Adjournment

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. Board of Adjustment Deliberation
7. Board of Adjustment 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.

Board of Adjustment applications may be tabled if: 1) Additional information is needed in order to take action on the item; OR 2) The Board of Adjustment feels there are unresolved issues that may need further attention before the Board is ready to make a motion. No agenda item will begin after 11 pm without a unanimous vote of the Board. The Board 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 Board of Adjustment Agenda or any of the items, please call the Sandy City Planning Department at (801) 568-7256.

