

BOARD OF ADJUSTMENT MINUTES
December 10, 1996

Present: Paul Summers, Chairman; VerlonDuncan, Vice Chairman; Dean Thurgood, Sydnie Shurtliff, Bud Neslen; Blaine Gehring, Planning and Redevelopment Director; Connie Feil, Recording Secretary.

Absent: Dean Jolley.

Paul Summers welcomed all those present then had the Staff and Board Members introduce themselves. Dean Thurgood made a motion to approve the minutes for November 12, 1996 as written. Sydnie Shurtliff seconded the motion and voting was unanimous.

1. Consideration of a variance to build on ground greater than 30% slope at 3128 S. Sunset Hollow Drive, Keith & Nedra Buxton, applicants.

Keith & Nedra Buxton were present. Nedra Buxton explained that the house they would like to build will sit back 20 feet from the property line and measures approximately 45 feet deep. There will be about 15 feet behind the home for a back yard with a rock retaining wall at about 80 feet back from property line. An additional 10 feet for construction of the wall would mean a total of 90 feet from front property line.

Blaine Gehring explained that the 20-foot setback would be granted by ordinance because of the slope because there is a 10-foot elevation change within the first 50 feet. A variance is needed to build on the 30% slope. There is a buildable pad in the back of the lot but a variance would still need to be granted to build a road on 30% slope to reach the home. The Staff feels that it would be less obtrusive to build toward the front of the lot rather than cut a road to the back of the property.

The Chairman asked if there have been any letters or phone calls for or against this proposal? There have only been some phone calls asking questions about the proposal.

The Public hearing was opened to the public for their comments and concerns. Wayne Olson has some concerns with granting on a 30% slope. He feels that the ordinance states no building on 30% slope and this should not be granted. He has some concerns with run off and the effects it will have on the springs on the property.

Blaine Gehring explained that the City prefers people not to build on the 30% slope. There are lots that without building on 30% would be unbuildable and have no value. If these lots are not allowed to have some type of reasonable building granted then the City may have to buy the property as unbuildable. The Board of Adjustment hears each case separately and is granted if no other alternative is possible. If there is a buildable pad the owner will have to build on it without a variance.

Rex Lethin has some concerns with further construction above his lot. This area is buildable and he has concerns with problems this can create. Mr. Gehring mentioned that the area up above is not in the subdivision and has no City approvals and will not receive any approvals. This lot was approved by the City and now deemed unbuildable the City should grant a reasonable variance to build a home on it.

Glen Dawson has concerns about allowing this variance. If this one is allowed then others above him, in phase two, will also be granted. Mr. Dawson asked if the lots in Sunset Hollow were disclaimed by the City? Mr. Dawson wants to know what states that this is a unique lot?

Mr. Gehring mentioned that there is a disclaimer on the plat however, because this lot is not buildable, the City Attorney feels the City needs to make some reasonable accommodations to build on this lot. The State law says that in order to grant a variance there has to be some type of unique circumstances and hardship' on each individual lot. The Buxtons had to show a topography on this lot. The evaluation of the topography shows that within the first 100 to 125 feet of the lot there is no buildable area.

Sydnie Shurtliff asked Mr. Gehring to read the application submitted by the Buxtons.

1. Describe the variance requested: To build on ground greater than 30% slope.
2. Describe the unique and special circumstances peculiar to your property which do not apply to other property in the same zone and/or neighborhood? The ground less than 30% is not accessible under Bountiful City Ordinance.
3. How will these unique and special circumstances deprive your property of any privileges possessed by other properties in the same zone and/or neighborhood? We have put money into this property, not only for the ground but for property taxes. We are not able to build on this lot.
4. How and by whom were these unique and special circumstances created? As I understand, this property was acceptable for building when the subdivision was developed. It was later that the City put a disclaimer on the plat.

Mr. Gehring mentioned that the circumstances were created by the City.

Paul Summers asked if there are other lots in the City with this same type of circumstances? If there are other lots with the same circumstances as this lot, and it is approved, will we have to approve the others lots as well? Mr. Gehring response was at this time the Staff does not know how many lots there are. The City does not have the detailed topography on those individual lots. If the same circumstances apply to other lots as this one then it would also need to be approved.

Sydnie Shurtliff made a motion to deny the motion to grant approval to build on a 30% slope at 3128 S. Sunset Hollow Drive. Paul Summers seconded the motion and voting was past by

majority vote. Voting was three in favor of denying the approval and one in favor of granting the approval. Dean Thurgood abstained from voting.

2. Consideration of a variance of 10 feet to a required front yard setback of 30 feet for Lots 77, 78, 79, 86 and 87 in Bountiful Subdivision Phase Two, Papanikolas Brothers Enterprises, applicant.

Louis Falvo, representing Papanikolas Brothers Enterprises, was present. Steve Fisco, representing Ivory Homes, was also present. Mr. Falvo explained that what he is requesting is to change the front setback from 30 feet to 20 feet. The problem with the 30 foot setback is that Davis County Flood control is now requiring an extra 10-foot creek easement. With the loss of 10 additional feet, the width of the buildable area is shortened. In order to build the same size of home, as the rest of the subdivision, a 10- foot variance will be needed.

There was a discussion about when the subdivision was approved and designed if there wasn't anyone aware that there was a problem with the creek? After the time the final plat approval was given, Davis County requested that the additional 10 feet be given. It is not an easement, it is a request to stay off of the easement an extra 10 feet in case there is a need for replacement or repairs.

Blaine Gehring mentioned that whenever there is a covered concrete ditch the additional 10 feet is requested. Why this request was not asked for at the beginning, Mr. Gehring does not know. In some other cities it is allowed to have 20 foot setback if on a cul-de-sac.

John Davis mentioned that the creek behind some of these lots is covered and some are not. The creek is open from behind Viewmont's football field and is open down through a concrete channel starting at lots 78 and 79. It is covered as it goes west to Pages Lane. Mr. Davis would like to see this variance granted so smaller homes will not be built which would lessen the value of his home.

It was asked if it would be possible to build smaller homes on these lots. Steve Fisco mentioned that it is possible but it would be a substantial cost to redesign the existing designs to smaller ones. If they weren't asked for the additional 10 feet there would not be a problem. The unique circumstances that they are dealing with is the additional 10 feet required by the Davis County Flood Control.

There have not been any letters or phone calls for or against this variance.

Dean Thurgood made a motion for approval of a variance of 10 feet to a required front yard setback of 30 feet for lots 77, 78, 79, 86 and 87 in Bountiful Shadows Subdivision Phase Two. Bud Neslen seconded the motion and voting passed by majority vote. Sydnie Shurtliff opposed the motion.

Meeting adjourned at 7:55 P.M.

