

BOARD OF ADJUSTMENT MINUTES
AUGUST 20, 1996

Present: Dean Jolley, Planning Commission Representative; Sydnie Shurtliff, Acting Chairman; Dean Thurgood, Clarence (Bud) Neslen; Blaine Gehring, Planning and Redevelopment Director; Connie Feil, Recording Secretary.

Absent: Chairman Paul Summers; Vice-Chairman Verlon Duncan; Mike Nielsen, City Prosecutor and Kevin Murray.

Sydnie Shurtliff welcomed all those present then had the Staff and Board Members introduce themselves. Approval of the minutes for June 11, 1996 was postponed until September 10, 1996. This was a special meeting held after Planning Commission and began at 8:00 P.M.

1. Consideration of a variance of 5 feet to a required front yard setback of 20 feet and a variance to allow building on slopes greater than 30% at 2368 S. Maple Hills Drive, Shaun and Hollie Wyllie, applicants.

Shaun and Hollie Wyllie were present. Shaun Wyllie explained that last May he and his wife purchased this lot not knowing that it is an unbuildable lot. When purchasing the property no one gave them any information on the zoning nor were they informed that you cannot build anything on a 30% slope. This property is unbuildable without a variance to build on a 30% slope and a 5 foot variance to build within 15 feet of the front property line.

Mr. Gehring explained that Maple Hills Subdivision #2 was the first subdivision under the foothill ordinance. The City Council approved the subdivision with conditions which would later become the Foothill Ordinance. One of the conditions is not to be able to build on slopes greater than 30%. The City did not insure that each lot approved on the subdivision plat met all the criteria. Thus, the City approved some lots that are not buildable. Since that time the City has required a disclaimer be put on each plat which notes that Bountiful City does not necessarily accept each lot on a plat as buildable. This was not the case with Maple Hills Subdivision #2. The Wyllies have purchased the lot thinking it is a legitimate building lot and have filed for a permit. The "hardship" was created by the City and was certainly not created by the current owners and applicants. About 90% of this property is more than 30%. The property is literally unbuildable without the variance taking away not only the enjoyment of a property right, but the enjoyment of the entire property.

There was a discussion that followed. This lot is an unbuildable lot and creates a hardship on the property owners that they themselves did not create. The Wyllies purchased the property without any knowledge that is an unbuildable lot. There isn't any problem with the parking or the driveway. While the setback will be only 15 feet a total of 20 feet will be available behind the sidewalk because of the park strip area being adjacent to the front yard setback. The Staff has not received any phone calls or mail for or against this approval.

The Staff recommends granting both variances in that substantial enjoyment of property rights is being provided in each case. Neither variance will be contrary to the public interest nor contrary to the spirit and objectives of the zoning ordinance. And neither hardship being alleviated by either variance was not created by the property owner.

Bob Schimming, residing at 2119 S. Bountiful Blvd., feels that this is not the Wyllies fault and these variances should be granted.

Howard Lakin, residing at 2347 Maple Hills Drive, has some questions concerning the 5 foot variance. The 5 foot is a suggestion from the City. The closer the foundation can be brought to the sidewalk, the more the house can be built into the hillside which makes it more sound structurally. The building code requires a 2% grade from the garage back out to the street.

Ted Farr, residing at 2408 Maple Hills Drive, had to abide by all the ordinances of the City when he built his home. He feels that this variance should not be approved. If he has to abide by the codes, he feels everyone else should do the same. It was brought to Mr. Farr's attention that his lot is not in the Maple Hills Subdivision #2 so the ordinances had to be met.

Jack Vanschelt, residing at 2392 Maple Hills Drive, has some concerns with the structure of the home that it meets all codes.

Dean Thurgood made a motion for approval of a variance of 5 feet to a required front yard setback of 20 feet and a variance to allow building on slopes greater than 30% at 2368 S. Maple Hills Drive. Motion was seconded by Dean Jolley and voting was unanimous.

The approval of this variance was based on the fact that the Wyllie's have proven a hardship and would not be able to build without a variance. Other homes in the area have shorter driveways and this one will not detract from area.

Meeting adjourned at 8:25 P.M.

