

BOARD OF ADJUSTMENT MINUTES
June 13, 2000

Present: Chairman Bud Neslen, Kevin Murray, Dean Holbrook, City Prosecutor J.C. Ynchausti, Planning Director Blaine Gehring, Recording Secretary Connie Feil.

Absent: Vice Chairman Ron Barlow, Brent Wynn, Leon Thurgood and Planning Commission Representative Paul Summers.

Bud Neslen welcomed all those present and had the Board Members introduce themselves. Kevin Murray made a motion to approve the minutes for April 11, 2000 as written. Dean Holbrook seconded the motion and voting was unanimous.

1. Consider a 12 ft. Variances to a required 20 ft. rear yards at 1260 E. Canyon Creek Drive, William Cook, applicant.

William Cook, applicant, was present. Blaine Gehring explained that Mr. Cook has a very unique shaped property on Canyon Creek Drive which borders North Canyon Creek along its entire south property line. It is very narrow in places and has some very steep slopes as it drops to the creek. Mr. Cook is desirous of building a garage to store his boat and recreational vehicle. Because of the shape and slope of his lot, there is only one place he can place such a structure. That is at the west end of his property near the road.

This area is only 55.24 feet in depth. In order to get the safe distance of 20 feet back off the road and a moderately sized garage of 30 feet deep, it only leave 8 feet to the property line in the rear. Mr. Cook is asking for a variance of 12 feet to the rear yard requirement of 20 feet to build the garage.

ANALYSIS

In looking at the criteria for a variance, Mr. Gehring offers the following:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out general purpose of the zoning ordinance. To find that a hardship exists, the Board must find that: (1) that the alleged hardship is located on or associated with the property for which the variance is sought; and (2) it comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

If there is a "unique" situation in Bountiful, this has to be it. Long and narrow with severe slopes to the creek over a good portion of the property, this lot does not lend itself to much of anything in the way of building. There are only a couple of places where any kind of structure could be placed.

Also, in determining whether or not an unreasonable hardship exists, the hardship may not be

self-imposed or economic. The first things that jump out on this one is the fact that Mr. Cook is building something which many would say creates the hardship thus making it self imposed. I do not feel that way about this instance. If he had a buildable area meeting all the requirements of the ordinance, that's where the garage would go. He doesn't have such an area on the lot which he did not create.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same districts. Again, State law says that the Board may find that special circumstances exist only if (1) they relate to the hardship complained of, and (2) they deprive the property of privileges granted to other properties in the same district. As mentioned, there are only a few places Mr. Cook can build anything on this property. Most lots in this zoning are deep enough to allow for a separate garage to be placed behind the home and within 3 feet of property lines. Mr. Cook does not have this option at all.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district. Mr. Cook deserves the right to at least try and fit a detached garage somewhere on this property as others do in the same area.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest. Right now Mr. Cook is parking his boat and RV next to the road. It would be in the public interest, not against it, to place them further back if possible. It also does not affect the general plan in any way.

5. The spirit of the zone ordinances is observed and substantial justice is done. The zoning ordinance allows for the placement of accessory buildings on property within 3 feet of a rear property line in other cases. There is another provision which says it has to be at least 5 feet to the rear of the main building. In this case, substantial justice will be done by allowing a similar accessory building to be within 8 feet of the property line, albeit not necessarily behind the main building.

Mr. Gehring recommends granting this 12 foot variance to the rear yard setback.

Kevin Murray is not sure where there is an existing garage. Mr. Gehring said there is a 2-car garage attached to the house but there is no other place on the lot for an additional garage to park a boat and truck.

There was a brief discussion before Dean Holbrook made a motion to grant a 12 foot variance to a required 20 foot rear yard at 1260 E. Canyon Creek Drive, William Cook, applicant. Since there is no other place on the property for an additional garage Kevin Murray seconded the motion and voting was unanimous.

Meeting adjourned at 7:25 p.m.