

BOARD OF ADJUSTMENT MINUTES
August 8, 1995

Present: Vice Chairman Sydnie Shurtliff, Dean Thurgood, Michael Sant. Kevin Murray; Mike Holmes, Planning Commission Representative; Tom Hardy, City Manager; Matt Barneck, Asst. City Attorney; Blaine Gehring, Planning and Redevelopment Director; Connie Feil, Recording Secretary.

Absent: Chairman Paul Summers and Verlon Duncan.

Sydnie Shurtliff welcomed all those present then introduced the Staff and Board of Adjustment Members. The minutes for June 13 and July 11, 1995 were tabled until next meeting for approval of those members not present.

1. Public hearing to consider expansion of a non-conforming residential use in the C-G Zone at 2010 S. Main Street, Robert Bott, applicant.

Sydnie Shurtliff opened the Public hearing and welcomed Mr. Bott to come and sit at the table with the Staff and Members of the Board. Mrs. Shurtliff asked Mr. Bott to explain the reason for this proposal. Mr. Bott explained that he has a very small home and needs more living space for his large family. Mr. Bott desires to build a family room onto his existing home. The addition will be built where his patio now exists.

Mr. Gehring explained that when the new zoning ordinance was created the purpose was to separate residential from commercial uses. The property at 2010 S Main is now zoned for commercial with no residential allowed uses. This leaves this home as a non-conforming use. The Board of Adjustment has the power to allow for the expansion of a non-conforming use which this is.

There have been no letters or phone calls in favor or against this proposal. Mr. Bott mentioned that he has talked to Duff Willey and he is in favor of this variance. There are no problems with Windgate Apartments with this addition.

Michael Sant made a motion for approval of the expansion of a non-conforming use in the C-G Zone at 2010 S. Main as submitted. Motion was seconded by Dean Thurgood and unanimously approved. Sydnie Shurtliff abstained from voting.

2. Public hearing to consider a variance to the height of a fence at 570 E. Mill Street, F. Dean Brunson, applicant.

Sydnie Shurtliff opened the public hearing and welcomed Mr. and Mrs. Brunson to present the reason for their variance. Mr. Brunson explained that he would like to replace his existing fence with an 8' chain link fence to eliminate the deer depredation problem he is having. There exists a serious urban deer population that continues all year around. He desires to grow fruit trees and raise a productive vegetable garden. Mr. Brunson has spent several hundred dollars for trees and garden plants that are regularly destroyed by the deer. Other property owners in the neighborhood have the same problem. The proximity of the property to the Mill Creek drainage contributes to the problem

according to the State Wildlife Resources Department. The Wildlife Resources Department has indicated that deer winter feeding programs and encroachment of home building on wildlife habitat are major contributors to the year-round urban deer population problem.

Kevin Murray expressed his feelings knowing the problems that exist with the deer destroying the vegetation. Mr. Murray also feels before granting a variance it has to be determined that this is a peculiar problem. Mr. Murray feels that this is not a peculiar problem. This is a problem that the entire City faces. A variance is not the proper course of action for this issue. Mr. Murray feels this should go through the City Council.

A discussion took place between Board Members. It was felt that if this variance is granted it will mushroom throughout the City and it will open it to 8' fences all through Bountiful. In some cities 12' fences have been put up to prevent this problem. The question was made will an 8' be tall enough? In order for a variance to be granted it has to be a peculiar or unique situation. This issue has become a wide spread problem throughout the City so it is not peculiar or unique. There are more than one or two properties throughout the City involved with deer population.

It was decided to refer this issue to the Planning Commission for their review and recommendation. If any amendment to the zoning ordinance is made it needs to be recommended by the Planning Commission first. With the recommendation of the Planning Commission it then can be referred to the City Council for their review. It was also decided to table the request for a variance for Mr. Brunson pending the review from the Planning Commission and City Council.

Mike Holmes made a motion to table this variance, until further review, for the height of a fence at 570 E. Mill Street, F. Dean Brunson, applicant. Motion was seconded by Kevin Murray and was unanimously approved.

Kevin Murray made a motion to refer to the Planning Commission for consideration of the fence height for the problem with the deer population. Motion was seconded by Mike Holmes and unanimously approved.

Mrs. Shurtliff welcomed Tom Hardy, City Manager, and a Scout group that came in during the meeting. Mrs. Shurtliff explained to the Scouts why Bountiful City has a Board of Adjustment and its purpose.

Mike Holmes had some business to discuss that was not on the agenda. Mr. Holmes would like the City to consider changing the ordinance that a representative from the Planning Commission be present at the Board of Adjustment Meetings. Mr. Holmes is now serving as that representative. It causes a burden on him to be required to attend, twice a month, Planning Commission meetings and now an additional meeting for the Board of Adjustment.

Tom Hardy mentioned that this issue would be up to the Board of Adjustment to make a recommendation to the Planning Commission. The original idea was to enhance the inner-place and to prevent the Board of Adjustment, Planning Commission and City Council from not communicating and being at odds with each other. As far as Mr. Hardy knows this type of problem has not occurred in Bountiful. Mr. Hardy feels that Bountiful has a great Board of Adjustment

without having a Planning Commission Member on it.

Discussion followed regarding the purpose or role of the Board of Adjustment and Planning Commission. Planning Commission appeals can go to the City Council. There are no appeals that come back to the Board of Adjustment. When the Board of Adjustment rules on an item the only appeal that can be made is through the courts. Going by history there has been some items granted by the Board of Adjustment that should not have been. It is an advantage to have a Planning Commission Member present to help interpret and understand the ordinances better. This was the purpose of requiring a member to be present.

It appears to Mr. Holmes that once the Board of Adjustment rules on an issue that is final. There are no appeals other than court. Mr. Holmes sees no purpose for a Planning Commission Member to be present at these meetings. Mr. Hardy sees changes within the city as it is being developed. The parcels of land that have not been develop because of their unique circumstance and their topography are now going to be built on. There will be homes being built right to the limit of the ordinances. Homes being built on oddly shape unbuildable lots. Some of these might need changes to setbacks and 30% slope. If so, ordinances might need to be looked and maybe changed.

Mr. Gehring added that he has spoken with a couple of Planning Commission Members that have served on the Board of Adjustment and have felt it was a very good experience. Mr. Gehring would like to discuss this issue with the Planning Commission. Maybe it could be done on some voluntary bases. Mr. Gehring suggested taking this issue to the Planning Commission.

It was decided to take this issue to the Planning Commission for their recommendation. Meeting was adjourned at 7:45 P.M.