

BOARD OF ADJUSTMENT MINUTES
April 11, 2000

Present: Chairman Bud Neslen, Vice-Chairman Ron Barlow, Brent Wynn, Kevin Murray, Leon Thurgood, Dean Holbrook, City Prosecutor J.C. Ynchausti, Planning Director Blaine Gehring, Recording Secretary Connie Feil.

Absent: Planning Commission Representative Paul Summers.

Bud Neslen welcomed all those present and had the Board Members introduce themselves. Ron Barlow made a motion to approve the minutes for September 28, 1999 as written. Brent Wynn seconded the motion and voting was unanimous.

1. Consider a variance to allow building on greater than 30% slopes at 1388 E. Northridge Drive, Blair Jones, applicant.

Blair Jones, applicant, Todd Jones, son of the applicant, were present. Kern Weaver, student, was also present.

Blair Jones explained that when he purchased the property he did not know that this lot was unbuildable. Mr. Jones assumed that this lot was approved by the City when the subdivision was developed. Mr. Jones has had house plans engineered for this lot over a year ago. When Mr. Jones talked with Mr. Rowland about the site plan, he found out that this lot is unbuildable. Mr. Jones has now been working with Mr. Gehring to find a solution so Mr. Jones can build on his property.

Todd Jones explained that when he was developing this subdivision it was a long and costly project. This involved putting in the detention basin, which the City participated in. The reason the City participated in this project was that more than 100 homes were put out of the flood zone. Now Lot 5 is questionable for building. This lot was used for the main traffic for bringing equipment etc. in and out of the canyon to develop the subdivision. It has been cut and graded during the development.

Kevin Murray mentioned that as a Board it is required to find something peculiar about the lot that renders it unbuildable under current ordinances. Mr. Murray asked Mr. Jones is the entire slope on the lot such that without the variance it can't be built on? Mr. Jones answered that the lot has been cut and filled during the development of the subdivision. There is a small area at the bottom of the lot that levels out. A retaining wall will have to be built in this area. All remaining space is on a two to one slope.

Blaine Gehring explained that Mr. Jones is the owner of Lot 5 of Eagle Ridge Subdivision Plat A which was approved by the City Council on February 10, 1993. The lot is located directly adjacent to a large detention basin on the west side of Northridge Drive.

When a subdivision is submitted and reviewed, the topography is usually taken from aerial

photos and drawn at 5 foot contour intervals. When final building plans are submitted, however, an onsite survey is done and drawn at 2 foot contour intervals. In most cases there are no problems between the two. Every now and again there are problems and the lot does not meet buildable standards under the ordinance. Such is the case here.

Chapter 13 of the Zoning Ordinance is the Foothill overlay. One requirement of that overlay zone is that no undisturbed ground over 30% slope is considered buildable. That means that no grading, excavating, or building may occur on such ground. In this case, all of the property on this lot is over 30% slopes. And, about a third of the property is fill from the road and the detention basin excavation and grading. (That can be seen on the property) Mr. Jones is seeking relief through a variance to simply use his property.

Answering the requirements under State Law:

1. Obviously, literal enforcement of the ordinance would create an undue hardship by not allowing use of this property at all. This hardship was created by the City and has nothing to do with economics associated with building on the lot.
2. Special circumstances do apply to this which generally do not because the City approved a lot which, after tighter surveys and review, is not buildable.
3. Granting of the variance is essential for the enjoyment of the property. Without it, the property would be useless and could constitute a legal taking under the law.
4. The owner wants to build a single family home on the property. The general plan calls for single family homes in the area.
5. The spirit of the zoning ordinance is upheld and observed.

Staff recommends granting the variance to use and build on slopes greater than 30% only where necessary to build the residence on the property. The variance should not allow the use of such slopes anywhere on the property for any other purposes.

There was a brief discussion. Mr. Neslen gave those present the opportunity to express their opinions about the variance. Lloyd Hayes and Boyd Black, neighbors, are in favor of the variance. They feel that it will add to the neighborhood and look better than an empty lot. Don Swenson and Lynn Keller sent letters to Mr. Gehring in favor of the variance. No calls or letters in opposition have been received.

Kevin Murray feels that this proposal is justified. There is an undo hardship that is not self-imposed. If the ordinance is enforced, the lot will be unbuildable. This does follow the State Law and should be granted to allow to build. This variance should be granted only to build the house.

Kevin Murray made a motion to grant a variance to allow building a house only on greater than

30% slope at 1388 E. Northridge Drive. Dean Holbrook seconded the motion and voting was unanimous.

Meeting adjourned at 7:22 p.m.