

BOARD OF ADJUSTMENT MINUTES
January 14, 1997

Present: Paul Summers, Chairman; Verlon Duncan, Vice Chairman; Bud Neslen, Dean Thurgood, Sydnie Shurtliff, Don Milligan, Planning Commission Representative; Blaine Gehring, Planning and Redevelopment Director; Connie Feil, Recording Secretary.

Verlon Duncan made a motion to approve the minutes with three spelling corrections. Dean Thurgood seconded the motion and voting was unanimous.

Election of Chairman and Vice-Chairman for 1997.

Paul Summers opened the floor for nominations for Chairman. Verlon Duncan made a motion to nominate Paul Summers for Chairman. Dean Thurgood seconded the motion and voting was unanimous. Mr. Summers opened the nominations for Vice-Chairman. Dean Thurgood made a motion to nominate Verlon Duncan for Vice-Chairman. Bud Neslen seconded the motion and voting was unanimous.

1. Reopen the public hearing held December 10, 1996, for further consideration of approving or disapproving a variance to build on ground greater than 30% slope at 3128 S. Sunset Hollow Drive, Keith & Nedra Buxton, applicants.

The public hearing was opened to those who had any concerns or comments. Wayne Olson was questioning why this issue was being reopened for a second time when it had been denied the first time?

Doyle Stephens has some concerns with the suitability of the land. Mr. Stephens feels that there is a problem with slope failures and high ground water levels in the spring and this is also an earthquake zone. He has some concerns that this lot is not suitable to build on because of the slope and if this lot is approved the lot adjacent to it will also be approved. If this happens there will be several lots with structures on them that are not stable. With these kind of problems, this area will become undesirable to buy in and will bring his property value down.

Verlon Duncan had a question about Mr. Stephens concerns with the earthquake zone? Mr. Stephens has two concerns with this. The first being the shallow ground water in the spring with the possibility of mud flows. The hillside has a number of springs in it which makes the ground unstable. The second concern is this lot is in an active earthquake zone. Any structure built on a 30% slope will have damage caused by the slippage from an earthquake. With these conditions and homes being built on a 30% slope, the neighborhood will be branded as not being stable. The property values will be lower because of it.

There was a discussion about the damage caused from an earthquake and how much fill will be

needed? All the area from Davis Boulevard and above is at risk with an earthquake. Some of these homes may be at a greater risk than others, but still remain in some type of danger. It was mentioned that this area is in an earthquake zone and when an earthquake happens it will not make a difference if a home is built on a 20% or 30% slope. There will be very little digging done and should not have any fill brought in.

Paul Summers mentioned that this issue should have been tabled because of some confusion on some of the issues. There was not enough information given to the Board, which is normally given, to make a proper decision. There have been some meetings with the Staff on looking at the facts. It was decided, since more information was given, that it was worth further consideration.

Nedra Buxton mentioned that the water in neighbors' back yards has nothing to do with more than 30% slope. The water above the subdivision has nothing to do with 30% slope. It is the way the land has been excavated. At this time there are no springs surfacing on this property. The water on other property is not coming from this lot.

Sydney Shurtliff asked when this property is being excavated will it disturb the natural spring area, what will be done for landscaping and what impact from this building will bring on the water? Mr. Gehring explained the reason the Staff has recommended the building pad be moved forward and limit it to 90 feet back is to not disturb any more natural area than necessary. Only the portion of the lot that is necessary to build on will be granted. The variance is only for the first 90 feet of the property. By the ordinance the landscaping can't be touched, it is natural and can't be changed. The impact from water will not be any different from this property than any other property. When you build and develop property the water will run somewhere.

Paul Summers asked how do the city codes deal with the drainage from homes? Mr. Gehring explained the building code requires that the drainage be away from the house and the driveway drain out to the street.

Blaine Gehring explained that the Buxtons have the right to use their property and be granted some use of the property. Under the State Statutes of the Board of Adjustment, it is the responsibility of the Board of Adjustment to find some reasonable use of the property. Without some kind of a variance the Buxtons have no use of their property. The variance would be limited to only what is necessary.

Sydney Shurtliff has reviewed this variance request, with some legal advice, and the property owners have the right to use their land like the neighborhood has used the land. Mrs. Shurtliff feels that the neighborhood also has the right to what goes into the neighborhood. The neighbors have rights but so do the property owners. If all building meets the city codes, it is contained and buildable, the property owner is not stepping on the neighbors' rights. Without a variance the property owner is losing their right to build.

Don Milligan mentioned that about two years ago there were about 1500 buildable lots in Bountiful. These lots are being built upon at a rate of 200 to 300 per year. Most of the desirable lots have now been built on. In order to build on some of the remaining lots there will have to be

variances granted.

Verlon Duncan made a motion to approve a variance to build on ground greater than 30% slope at 3128 S. Sunset Hollow Drive with the stipulation that the distance not be greater than 90 feet from the property line. Don Milligan seconded the motion and voting was unanimous.

2. Consider approval of a 10 foot variance to a required 30 foot wide driveway for multiple family units at approximately 561 West 2800 South, B.K. Enterprises, applicant.

Bartley Curtis and Craig Lee representing B.K. Enterprises were present. Bart Curtis mentioned that he is the President of B.K. Enterprises and the company owns Colonial Apartments. The piece of ground behind the apartments is owned by Arnell Heaps. Mr. Heaps was using the property that the apartments are now on to get to his property. Now that the apartments have been completed, this parcel of land that Mr. Heaps owns is now landlocked. Mr. Heaps has offered to sell this piece of property to add with the property for the apartments. B.K. Enterprises has purchased as much land as possible for the entrance to this area of the apartments.

According to the ordinance the entrance is 10 feet short of having the road and the landscaping that is required. A variance needs to be granted in order to improve the property.

Blaine Gehring mentioned some concerns that he and some neighbors have had is that since this property is landlocked it is hard to get to and maintain. The weeds have grown very high and dense and are very dry. There is no access to Mr. Heaps property and if there were a fire there would be no way to get to it.

Rex Smith mentioned that this issue has been denied before. The City Council denied the approval of 108 units because there was not enough room. B.K. Enterprises went to George Benedict to buy more property for additional parking for the apartments. Mr. Benedict sold them some property to cover the back of the apartments. Mr. Benedict will not sell any more of his property because he does not want an access to his house. If this is granted there is going to be problems with the fire trucks. Mr. Curtis is not going to agree because all he wants is the money for his pockets. The City is trying to fit all these apartments in little space. The Board of Adjustment is changing the law. The City Council denied this because there is not enough parking.

Blaine Gehring mentioned that this issue went before the City Council four weeks ago for a rezoning hearing. The City Council knows what the proposal was for and the rezoning was granted.

Paul Summers mentioned that the Board is not deciding how many apartments will be built on this property but if the driveway is acceptable at 20 feet verses 30 feet. Dean Thurgood mentioned that the density on this complex is less than what was proposed originally. There is also additional property to build these units on.

Sydney Shurtliff asked if the driveway will be a No Parking area? Mr. Gehring explained that it will be a No Parking area and that Mike Barfuss, from the Fire Department, will require that it be painted with red curbs. It will be posted "No Parking Fire Lane". The 20 foot driveway will be

adequate with the No Parking Fire Lane and painted red curbs.

Verlon Duncan asked since the roadway comes close to building No.4 can there be a stipulation for berm or rock formation to protect the building from being hit by a car? Mr. Gehring mentioned that a recommendation be made for the possibility of putting a decorative bollard on the corners of the building.

Bart Curtis explained that the building has a four foot high cement foundation and if hit there would not be any damage done to the building or those living inside.

Sydney Shurtliff made a motion to approve the 10 foot variance to a required 30 foot to 20 foot wide driveway for multiple family units at 561 West 2800 South. Dean Thurgood seconded the motion and voting was unanimous.

Meeting adjourned at 7:48 P.M.