

**MINUTES OF THE HOLLADAY BOARD OF ADJUSTMENT
MEETING**

Tuesday, May 9, 2006

6:00 p.m.

Council Chambers - 4707 S Holladay Blvd.

Holladay UT 84117

ATTENDANCE

Board of Adjustment Members:

Henry Kesler, Chair
Barbara Dunn
Carrie Greenberg
Wayne Janssen - excused
Dominic Welch
Mike Pusey - Alternate

Staff:

Paul Allred, Community Develop. Dir.

Chairman Kesler called the meeting to order at 6:03 pm and Board Member Dunn read the chair's statement.

1. NEW BUSINESS

1.1 Variance Request for Ed Hammond - 5484 S Indian Rock Rd

Background:

The applicant is requesting a side yard setback variance of 5.5 ft and is located in the R-1-10 zone. The applicant is proposing a substantial remodel/addition to the home and would like to add a new garage, family room, master bedroom and change to a hipped roof. The lot is irregular in shape and has some slope. The Board may wish to consider the following:

- * The hardship would appear to be *self-imposed* due to the house design and size
- * The variance is not *essential* but rather *convenient* to the enjoyment of the property and;
- * That it would seem the hardship is *not peculiar to this property alone* in the area.

Discussion:

Chairman Kesler asked about the existing area to be modified in the front yard, is whatever remodeling they do meet the minimum front yard set back requirements? Any new construction should meet the zoning requirements in the front yard. The only issue before the Board tonight is the side yard variance.

Mr. Allred replied "no", because they do not currently meet the front yard setback requirement. With the addition they are proposing to come closer to the setback requirements by about 2ft, or in other words, they proposed to come more into compliance with the front setback. They have an existing non-conforming front yard. The city, as a matter of policy, has been allowing in-line additions or extensions which are the

extension of an existing non conforming use as long as the extension does not further encroach on the nonconforming setback. If we use the idea that in practice we allow an in-line addition, then staff's opinion is you wouldn't have to come into complete compliance by touching the structure because you are going closer to the requirement. Board Member Pusey commented that as long as the foundation remains in place we were ok. If it was removing the foundation, then it is not an in-line but new construction.

Mr. Allred clarified that they are modifying the existing garage in the front, but the front line of the building will be moved back as part of the modification moving it slightly further away from the street and closer to the front setback requirement.

Ed Hammond - applicant. He is trying to improve the home which is deteriorating. They have tried to address the concerns of the neighbors. Would like his home to be more consistent with the appearance of other homes in the area. Want to add at total of 1300 sq ft and a garage to the side. Would like to build a standard two-car garage attached to the home. The current garage is substandard in its construction and appearance and that combined with the flat roof of the home and garage needs to be replaced or repaired. The unique circumstance of the lot create a hardship because without the variance there is not enough space on the side of the home to build an attached two-car garage. Because of the location of the home on the lot, it doesn't leave any room to build a garage without a variance. The hardship is that if he cannot build the garage he could not make the home consistent with the other homes in the neighborhood and area that have a standard two-car garage. Another hardship is his engineer stated there has been settling on the footing and foundation on the rear corner of the house where the garage will be built. When he bought the home the rear room and kitchen had settled about 4 inches and cracked diagonally across the corner of the room. Had to have the footings and foundation raised with a helical pier due to poor load bearing capacity of that side of the house. Thus the need to create a new bearing wall away from the one that has settled.

Board Member Pusey asked if the applicant anticipated taking out the current driveway and replacing it with a new one to the south? Is there anyway to save the tree?

Mr. Hammond responded that yes the driveway will be relocated. There are a lot of trees on the lot and the largest one will need to be removed and relocated to the front yard.

Board Member Greenberg asked about the soil on the south side and what measures are being taken for the new garage on that site?

Mr. Hammond stated that the engineer will use wider footings to accomplish the load bearing.

Chairman Kesler opened it up for public comment.

Gisla Rada - 5498 S Indian rock Rd. They are the neighbors to the south and the only ones really effected. They feel the garage and driveway will be closer to their home and bedroom window, thus disturbing their sleep. They are sensitive to noise and both her and her husband suffer from sleep problems. If the driveway and garage were on the other side they would have no problem.

Chairman Kesler closed the public portion of the meeting.

Board Member Dunn asked what the setback is the north side? It looks closer than 10ft and the neighbor to the south is also close to the property line. Seems both homes on the north and south are also non-conforming.

Chairman Kesler read from the General Plan under the residential land use section that says “to preserve the country “rural” character of existing neighborhoods.” Feels the zoning code has done that and this is the objective to pursue as well as the objective of encouraging property owners to improve their property and stay in the city.

Board Member Dunn feels that the Board has been fairly consistent in trying to preserve the nature of the neighborhoods but also to allow existing home owners to expand and utilize their property in order to stay in the area. The hardship with this home is where the home was placed on this property originally doesn't allow for expansion.

Board Member Welch stated that the Board has allowed these types of variances within reason. He is concerned about the potential impact upon the neighbors

Board Member Greenberg feels there is a hardship that can be overcome. She is sympathetic to the neighbor but in the criteria it states that “self-imposed or economic hardships are not to be considered” and this applies to neighbor and not be considered.

Board Member Pusey asked if the garage can be modified or moved forward?

Mr. Hammond stated that garage could be moved forward but it will block the kitchen window and not sure if it will make any difference. He has tried to find ways to improve or respond to the neighbors concern about noise. There are a number of trees that provide some type of noise barrier and is willing to narrow the garage width by a foot.

Board Member Greenberg likes the fact that in keeping with the city master plan they are trying to have a larger setback from the road. She feels the front reduction is beneficial and there are other non-conforming setbacks in the area.

Chairman Kesler clarified that the applicant could not extend the garage to the right? Would the staff have allowed the existing garage to be extended to the south at only a 25ft setback. This is a request to relocate a garage, increasing the setback from the street but at the expense of a side yard setback.

Mr. Allred commented that the whole idea of an in-line addition is that as long as it is not further encroaching upon an already non-conforming situation you would grant it. If the applicant had come is asking for a permit to widen the garage, staff would have said that is an in-line addition to a non-conforming setback. As long as the extension of the garage didn't encroach into any other required yard area.

6:52:40 Board Member Dunn made a motion to approve a variance (reduction) of the side yard setback of approximately 5.75ft. The reasons for granting the variance are that it would be an unreasonable hardship for the applicant if we did not grant it due to the lot and the nature of the soil condition and that it will improve the home overall and those two issues create the special circumstance. Granting the variance will not substantially effect the general plan and the spirit of the zoning law will be observed. Granting the variance is essential for the homeowner to enjoy their property. Board Member Welch seconded the motion. The Board roll call vote was as follows: Board Members Welch, Dunn, Greenberg, Pusey and Chairman Kesler in favor. The variance was approved by a unanimous vote.

1.2 Variance Request for Arnold Gentilezza - 1667 E Lakewood Dr (6:59:30)

Background:

The applicant is requesting a reduction of the side yard variance from 14 ft to 8 ft 8 inches which, if combined with the proposed addition on the west side, will result in a reduction of the combined yards from 24 to about 18ft 8in or a 5 foot 4 inch overall reduction. The home is located in the R-1-10 zone. The applicant proposes to remodel the home and preserve the architectural style, but the addition would not impact the front yard setback and will comply with the rear yard requirements. The Board may wish to consider the following:

- * is the hardship as explained by the applicant *self-imposed* due to the desire to mitigate water issues and the desire to maintain architectural integrity of the house design and size?
- * Is the variance actually *essential* or is it rather *convenient* to the enjoyment of the property? and
- * Is the hardship *peculiar to this property alone* in the area?

Discussion:

Arnold Gentilezza - applicant and homeowner. This home was a parade of homes entry in 1959 and is a California style home. The whole rear elevation is all glass, so any addition to the rear of the home would change the design. In addition there is a 75-100 year old tree in the back that would have to be removed if addition were required off the rear of the home. Mr. Gentilezza explained the due to the ground water table system he cannot go below the ground so the best solution was to restore the home and keep it all on a single floor. Most of the new homes have gone to two-stories and were approved under County zoning.

Chairman Kesler opened it up for public comment.

Kent Swan - 1666 Lakewood Dr. Spoke in favor of the request. He feels it will be an definite improvement of the home and keep it's architectural flavor. The hardship is that the home needs more square footage for their family.

Beck Cowden - 1631 Lakewood. Spoke in favor of the request. The Gentilezza's will do this with taste and beautiful. This will enhance the time period feeling of the neighborhood.

Brent Newren - 1538 E Lakewood. Spoke in favor of the request. The added square footage adds dimension to the neighborhood without creating the vertical high rise effect. This preserves the flavor of

the area.

Chairman Kesler closed the public comment portion.

Board Member Welch feels this is a good application. The criteria is hard, but the neighbors support it. The special circumstance is the water problem which limits a basement and that this is a new area of Holladay, only recently annexed into the city.

Board Member Greenberg commented that there seems to be a general need for more square footage in the area. They are also trying to keep the aesthetic appeal to the neighborhood, which is of older homes from the 50's and 60's, but not by building the homes more vertically which has a tendency to take away from the architectural feel of the area. This is a better option than going up with a taller home by means of a remodel or a tear down.

Board Member Dunn agreed with Mr. Allred on this being a well formed and understandable application and that the applicant had done a good job of addressing the criteria for obtaining a variance in his letter to the Board.

Board Member Pusey applauds the applicant and the architectural treatment. Is the addition a flat roof? Mr. Gentilezza responded that it is not a flat roof but will be slightly pitched about 1/4" per foot.

7:29:30 Board Member Dunn moved to approve the 5.5ft side yard variance request due to it meeting the five statutory criteria. and submit Mr. Gentilezza's two page introduction as how it meets the five criteria as the justification for the approval in the minutes. Board Member Pusey seconded the motion. The Board roll call vote was as follows: Board Members Dunn, Welch, Pusey, Greenberg and Chairman Kesler in favor. The variance request was approved by a unanimous vote.

2. OTHER BUSINESS

2.1 Approval of Minutes of January 10 and April 11, 2006

Chairman Kesler moved to approve the minutes of January 10, 2006. Board Member Dunn seconded the motion. The Board voted in the affirmative and the motion carried.

Chairman Kesler moved to approve the minutes of April 11. Board Member Dunn seconded the motion. The Board voted in the affirmative and the motion carried.

2.2 Staff Report

Mr. Allred updated the Board on the following:

- * working on the Holladay Village Center Moratorium
- * height continues to be an issue in the city. Staff is looking at the graduate height issue
- * PUD's continue to be an issue

3. ADJOURN

Chairman Kesler moved to adjourn to a training session. The meeting adjourned at 7:51 pm

I hereby certify that the foregoing represents a true, accurate and complete record of the City of Holladay Board of Adjustment meeting held Tuesday, May 9, 2006

Stephanie N. Carlson, CMC
City Recorder

Minutes approved: June 20, 2006