

Minutes of the Board of Adjustment meeting held on Monday, September 9, 2013, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Travis Nay, Chair  
Tom Halliday, Vice-Chair  
Preston Olsen  
Rosi Haidenthaller  
Chad Wilkinson, Community Development Manager  
Brad McIlrath, Assistant Planner  
G.L. Critchfield, Deputy City Attorney  
Citizens

Excused: Roger Ishino

The Staff Review meeting was held from 5:15 to 5:30 p.m. The Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

Travis Nay explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and is based on state outlined criteria, and that financial issues are not considered a hardship.

#### APPROVAL OF MINUTES

Ms. Haidenthaller made a motion to approve the minutes from August 13, 2013 as submitted. Mr. Halliday seconded the motion.

A voice vote was made. The motion passed, 3-0.

#### CONFLICT OF INTEREST

Ms. Haidenthaller stated that she is the property owner to the north side of George Bori, Case #1475, but that will not affect her ability to make an impartial decision on the case.

#### CASE #1475 – GEORGE BORI – 5738 South Marco Road – Project #13-143

George Bori was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a rear yard accessory structure height variance, in order to construct a new detached garage with an overall height that exceeds the height existing dwelling, at the property addressed 5738 South Marco Road. Murray City Code Section 17.100.090 G states: "An accessory building may consist of only one story, and may not exceed the lesser of twenty feet or the height of the residential dwelling on the property." An accessory structure is limited to the lesser of 20 feet, or not higher than the residential dwelling on the property. The applicant is requesting a variance to the accessory structure maximum height standards of the R-1-8 zone. Plans and information provided by the applicant indicate the height of the dwelling, which is based on building height definition, show the dwelling is 18 ft. 2 inches high and the proposed garage will be 19 ft. 8 inches high for a variance request difference of 1 ft. 6 inches. The applicant plans to create a storage mezzanine area above the garage and has increased the pitch of the roof to an 8/12 pitch for additional height for the storage area. If the pitch of the roof is changed, it can comply with the height requirement and still provide a storage area. The height limit for accessory structures apply to all properties in the R-1-8 zoning district. Without the variance, the applicant would still be able to build an accessory garage structure with a change of roof pitch to a lower pitch such as a 6/12

pitch, which will provide the same floor area storage space and meet the maximum building height standards of the R-1-8 zoning district. The applicant mentions in the application materials that there are other existing garage structures that have storage space in this residential area that have been approved. Based on a review of City variance records, we did not find any variances for accessory structures roof height in this residential area. The general topography of the lot, with the exception of the raised concrete driveway and pad is gently sloping. The concrete parking pad has been elevated for the location of the proposed garage structure, which does not constitute a special circumstance that would require a variance if the roof pitch is modified. The variance relates to the pitch of the roof and storage area. There does not appear to be special circumstances related to this lot that do not apply to other properties in this area. Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds that the proposal does not meet the standards for a variance. Therefore, staff recommends denial.

Mr. Nay asked staff what the change of pitch would be to accommodate the height. Mr. Wilkinson answered that there are a few options in pitch height, and a smaller pitch would change the overall height to meet code.

George Bori, 5738 S Marco Road, stated he has reviewed the staff report. Mr. Bori expressed concern about changing the pitch of the roof. Mr. Bori explained his concern regarding drainage on the property. He provided pictures of the flooding and excess water he has had on his property as of recent.

Ms. Haidenthaller stated that not only does 5730 South Street, Turner Road, Woodstock Ave and 1145 East Street also drain into this one gutter.

Mr. Bori confirmed that they receive water from 1300 East Street all the way through the neighborhood including water breaks. Mr. Bori explained that he raised the height of the cement pad so that he had a 2 percent slope from the pad to the street. Mr. Bori stated that the City requires that the storage space only be 1/3 the size of the garage, so that reduces the storage space significantly and if he must reduce the height, the storage area will be reduced even more.

Mr. Bori stated that he had a 6/12 pitch, and with the trusses redesigned, the height for the inside storage area went from six feet to four feet inside. Mr. Bori stated that this addition isn't going to change the look of the neighborhood as surrounding neighbors have additions and garages that are the same height or higher. He also stated he had neighbors sign a document stating they had reviewed plans and were fine with them. Mr. Bori stated that there are future plans for an addition onto the home where roof lines will be re-pitched and the house will ultimately be taller than the garage.

Mr. Nay stated that if the plans had been reversed and the home addition was done first and then to the garage, a variance would not be necessary.

Veronica Bori, 5738 S Marco Road, stated that she has gone through the process with her husband and that her concern is with the hardships they are facing. She believes that if the garage pad sat lower, they would not be having this meeting and the height would be in compliance. She stated that they have had issues with drainage since they moved in 6 years ago and that she has been in contact with the City multiple times and it

has never been addressed. Ms. Bori expressed her concerns with the storage and the drainage. Ms. Bori stated that they love where they live and want to stay, but if the home doesn't fit their needs and they cannot add onto the home and garage, they will have to move.

Ms. Haidenthaller asked about the possibility of building an additional shed on the property. Mr. Bori answered that it is not possible, because the City has an ordinance for maximum coverage of lot with structures. With building another shed, they would exceed the limit on the property and would not be able to do an addition in the future that they would like to do.

Mr. Halliday asked staff if the height of this garage is measured from the grade of the garage floor, so if this was down a foot, it would still be the same height. Mr. Wilkinson responded that accessory structure height is measured from adjacent grade to the building so it doesn't change the height as you go up and down.

Mr. Olsen asked that with the pitch of the driveway having increased it doesn't matter as you are limited to the height of the structure itself. Mr. Wilkinson confirmed.

Mr. Halliday clarified with Mr. Bori that the interior of the garage is nine-feet. There was discussion on the height of the interior of the garage. Mr. Bori expressed that he was confused with the height that was being discussed. Mr. Wilkinson explained how building height is measured. There was some clarification on standards on where primary structure would be set. There was a discussion on building height and accessory structure.

Ms. Haidenthaller asked Mr. Bori if he measured where he dug out on the North side of the cement pad, what the depth of the cement pad. Mr. Bori replied that he did do a measurement and removed some of the soil to make it flat and the measurement at the halfway point was thirteen inches. He also mentioned that he failed to measure the rear where it will be exposed more and that will be about eighteen inches.

Mr. Halliday asked if this needed to be looked at to make sure the average grade is correct. Mr. Wilkinson responded that there has been some confusion about where the grade has been measured and that a conversation is needed. Mr. Wilkinson stated that he would like to look at the site before any decision is made.

Mr. Nay opened meeting for public comment. No comments were made by the public and public comment was closed.

Mr. Halliday made a motion that the variance be tabled for now and that it be rescheduled for the October 14, 2013 meeting. Ms. Haidenthaller seconded the motion.

Call vote recorded by Travis Nay.

A  Preston Olsen

A  Rosi Haidenthaller

A  Tom Halliday

A  Travis Nay

Motion passed, 4-0.

CASE #1476 – EMIR MAMAEV – 345 East 6310 South – Project #13-144

Emir Mamaev was the applicant present to represent this request. Brad McIlrath reviewed the location and request for a side yard setback variance to convert the detached carport into a garage for the property addressed 345 East 6310 South and located within the R-1-8 zone. Murray City Code Section 17.100.080.B. Side Yard: The minimum depth of one of the side yards of a residential dwelling is eight feet (8'), and the total width of the two (2) required side yards shall be not less than twenty feet (20'). The applicant is requesting a two foot six inch (2'6") side yard setback on the east side of the property in order to convert an existing carport into a twenty foot (20') wide garage. The proposed construction will reduce the total side yard setback to seventeen feet six inches (17'6"). The setback on the east side of the property where the garage will be located will be eight (8') feet and the setback on the west side of the property will be nine feet six inches (9'6"). The house was built in 1959 and conformed to the zoning at the time of construction. The variance request would be within 6" if the zoning were the same today as when the lot and dwelling were created. With the construction of the garage the minimum side yard setback of 8 ft. would still be met, but the total side yard setback would not be met by 2.5 feet. When the dwelling was built in 1959 the zoning for the area was R-2 which required a total side yard setback of 18 feet. Because the lot is narrower than the current zoning requires, there is not enough space to convert the carport to the enclosed garage. All of the lots within this subdivision were created and recorded prior to the application of the R-1-8 zoning district. Lots within the R-1-8 zoning district are required to have a lot width of 80 ft. and a total lot area of 8,000 sq. ft. This lot is narrower than the required width of 80 ft. with a width of 71'2." This lot is also smaller in total required area of 8,000 sq. ft., with the total area of this lot being 7,840 sq. ft. Due to the size of the lot, it would be difficult to meet the requirements of the current zoning ordinance with the addition of the enclosed garage. When the subdivision was originally created and recorded the zoning district required a total side yard setback of 18 ft. instead of the 20 ft. side yard setback required in R-1-8. In considering the original side yard standards, the request is within 6 inches of original side yard setback requirements. The narrow lot width constitutes a special condition that impacts properties in the neighborhood. Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds that the proposal meets the standards for a variance. Therefore, staff recommends approval with conditions.

Ms. Haidenthaller asked staff what is the structure that is directly to the side of the proposed garage and is that properly placed from its property line. Mr. McIlrath responded that it is the neighboring home and it is eight feet from the property line.

Emir Mamaev, 345 East 6310 South, stated he has reviewed the staff report and does not have any questions.

Mariya Mamaeva, 345 East 6310 South, daughter of Emir Mamaev, stated that they would like to keep two cars in the garage and the reason for the variance is because that is what it will take to have two cars in that garage to ensure that the doors open nicely. Mr. McIlrath explained that neighboring homes were looked at but in this type of situation this property would most likely be legal nonconforming and that the Board should review this request on its own merit and the Board of Adjustment is not in a position to create precedent. Ms. Mamaeva stated that she did not have any further questions at this time.

Mr. Nay opened meeting for public comment.

Steve Jarvis, 351 East 6310 South, stated that he lives just to the east of the property and he did some measuring of the property lines. Mr. Jarvis explained that they live on an easement and with the easement there is supposed to be eight feet between the property line and where they can build. Mr. Jarvis stated that where the garage is being built there is only thirty-two inches from the property line and he has an issue with that. He stated that in 1997 there was a fire at the property in question and the fire burned his home along the west side. He expressed concern with having a garage close to the property line.

Mr. Halliday clarified the measurement Mr. Jarvis gave regarding the location of the concrete slab to his property line. Ms. Haidenthaller explained to Mr. Jarvis that the concrete slab can be thirty-two inches from the property; it's the wall of the structure that will have to be eight-feet from the property line.

Mr. Nay stated that staff will speak for the easement if they have any information on it.

Mr. Nay closed the public comment portion of the meeting.

Mr. McIlrath stated regarding the easement, that the original plat was pulled when it was recorded and there were no easements in that specific area. There is a set-back that will need to be met but there were no easements.

There was discussion on whether or not the cement could stay as a walkway; the structure has to be set back eight feet from the property line.

Mr. Olsen made a motion to grant approval for the variance for the reasons in the staff report subject to the condition that they get the proper permits. Mr. Halliday seconded the motion.

Call vote recorded by Chad Wilkinson.

A \_\_\_\_\_ Preston Olsen

A \_\_\_\_\_ Rosi Haidenthaller

A \_\_\_\_\_ Tom Halliday

A \_\_\_\_\_ Travis Nay

Motion passed, 4-0.

Mr. Halliday made a motion to approve the Findings of Fact as proposed by staff. Seconded by Ms. Haidenthaller.

A voice vote was made. Motion passed, 4-0.

Meeting adjourned.

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Chad Wilkinson, Manager  
Community & Economic Development