

Minutes of the Board of Adjustment meeting held on Monday, November 18, 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
Roger Ishino
Tim Tingey, Director Administrative & Development Services
Chad Wilkinson, Community Development Manager
Ray Christensen, Senior Planner
G.L. Critchfield, Deputy City Attorney
Citizens

Excused:

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

Mr. Halliday made a motion to approve the minutes from September 9, 2013 as submitted. Mr. Ishino seconded the motion.

A voice vote was made. The motion passed, 5-0.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

CASE #1477 – MARY BACCA – 6143 South Clear Street – Project #13-172

Brandon Doole on behalf of Mary Bacca was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a side yard setback variance for an existing detached garage in order to construct an addition to the main dwelling. The variance request is for the property addressed 6143 S. Clear Street which is located in the R-1-8 zoning district. Murray City Code Section 17.100.080.F. Side Yard Accessory Buildings: Such buildings and structures located in a side yard must comply with this chapter's setback requirements for dwellings. 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) side yards shall not be less than twenty feet (20'). The applicant is requesting a 2.67' side yard setback variance for the existing detached garage. Currently the detached garage is to the rear of the main dwelling and is required to meet the requirements of rear yard accessory buildings. The applicant is proposing to construct an addition to the rear of the home and by doing so; the garage will become a side yard accessory building. Side yard accessory buildings are required to meet the same side yard setback requirements of main dwellings. For the R-1-8 zoning district the minimum side yard setback for main dwellings and side yard accessory buildings is eight feet (8'), with a total of twenty feet (20') for both side yards. The detached garage is 5.33' from the

south property line and therefore does not meet the minimum side yard setback standard. In order to construct the addition to the main dwelling, the applicant is requesting the 2.67' side yard setback variance. 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 recommends approval with conditions.

Mr. Halliday asked Mr. Wilkinson the width of the lot. Mr. Wilkinson responded that the lot is 70 feet in width and that the zoning regulations require an 80 foot width.

Mr. Nay clarified that there is no change to the garage, but the definition of the garage location has changed by constructing the addition to the home. Mr. Wilkinson answered in the affirmative.

Brandon Doole, 7605 S Kingsbridge Drive, stated he is representing Mary Bacca for this project. Mr. Nay asked Mr. Doole if he has reviewed the staff report. Mr. Doole responded in the affirmative and stated he did not have any questions.

Ms. Haidenthaller asked the dimension between the existing garage and the house. Mr. Doole answered that the dimension is 5 feet 6 inches.

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

Mr. Ishino made a motion that the side yard setback variance be approved based on staff's finding of facts with the condition that a building permit shall be obtained and plans approved prior to construction. Ms. Haidenthaller seconded the motion.

Call vote recorded by Ray Christensen.

A ___ Preston Olsen
A ___ Rosi Haidenthaller
A ___ Tom Halliday
A ___ Travis Nay
A ___ Robert Ishino

Motion passed, 5-0.

Mr. Nay called for a motion for the Findings of Fact.

Ms. Haidenthaller made a motion to approve the Findings of Fact as written. Mr. Halliday seconded the motion.

A voice vote was made. The motion passed, 5-0.

CASE #1478 – MURDOCK HYUNDAI – 4679 South Hanauer Street – Project #13-175

David Ibarra was the applicant present to represent this request. Ray Christensen reviewed the location and request to expand the parking lot for the auto dealership and are requesting variances in order to not install the required six foot high solid masonry buffer wall and ten foot depth of buffer landscaping at the boundary between the C-D-C

(commercial zone) and R-1-6 (residential zone) at the property addressed 4679 South Hanauer Street. Murray City Code Section 17.160.100.C. requires ten feet minimum landscape depth where commercial zoning abuts residential zoning. Murray Municipal Code Section 17.160.110. requires where a site abuts a residential zone, a six foot high solid masonry wall shall be located along the property line and be in accordance with the City fencing ordinance. The Murray City Council recently reviewed and approved a Murray General Plan amendment and zone change for this property from R-1-6 (residential) to C-D-C (commercial) at the meeting dated August 27, 2013. The zoning regulations require compliance to code with installation of the required ten foot depth buffer landscaping and six foot high solid masonry wall. The applicant has submitted a request for variances in order to not install the required landscaping and masonry buffer wall at the south portion of the property adjoining the residential zone. The site has adequate width to install the required landscaping and solid masonry wall to comply with the zoning ordinance requirements. Based on review and analysis of the application materials, 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 landscaping and buffer wall variances. Therefore, staff recommends denial.

Mr. Nay clarified with Mr. Christensen that the wall has to be a solid masonry wall. Mr. Christensen answered in the affirmative. Mr. Olsen clarified that the home on the property is no longer standing. There was a discussion regarding the fencing and landscaping requirements on this property.

David Ibarra, 438 E 200 S Salt Lake City, stated he is representing this request. Mr. Nay asked Mr. Ibarra if he had a chance to review the staff report. Mr. Ibarra stated he has reviewed the staff report. Mr. Ibarra wanted to clarify the intent. First, the intent was to respond to the complaints from the neighbors on the other side of that wall and that this had been a project that had been going on with Larry Miller auto business, who was the occupant prior to Murdock Hyundai. They had purchased all the old homes and put a nice buffer on the other side of the street so the people on the other side of the street saw a vinyl fence with trees and grass. After the homeowner of this property passed away, her son called and asked if Murdock Hyundai would be interested in the property as the Millers were interested as well. There had been complaints from residents on the opposite side of the street that we had employees parking on the street. They felt that it was a good solution to purchase the property and fix the parking problem. Mr. Ibarra stated that this is not a hardship; it is something they are willing to do to be a good neighbor. Mr. Ibarra explained their plan for the lot. Mr. Ibarra stated that Murdock Hyundai is fine with the intent of putting a masonry wall between the property and the apartment complex, the only concern is that the whole area will be blocked off from the neighbors, they wouldn't be able to see it and to put in ten feet of grass eleven parking stalls would be lost. The purpose of this lot was to get the cars off the street and onto the property and take care of the complaints received from the neighbors. Mr. Ibarra stated that the apartment complex would like to be bought out however, it has not been appraised at value and Mr. Ibarra does not want to buy it until it is appraised at value. Mr. Ibarra clarified that the cars being parked on the street are employee vehicles; there are about eighty-six employees that are employed at Murdock Hyundai. Mr. Olsen asked what currently is on the property regarding grass and landscaping. Mr. Ibarra stated there is about four feet of grass and they are willing to have three feet of grass there instead of ten feet of grass.

Mr. Nay asked staff how wide the property is. Ms. Haidenthaller asked if re-configuring the parking stalls have been considered. Mr. Ibarra stated that there have been five different ways for parking stalls to be placed considered.

Kevin Hunt, 113 Lakeview Drive, Stansbury. Kevin stated that on this property there will be a double row of parking on the north side of the property and a single row on the South side of the property. Mr. Hunt stated that if forced to go with the landscape plan they will net about eleven parking stalls.

There was discussion regarding the width of the lot and number of parking stalls.

Mr. Nay asked Mr. Ibarra if he had a chance to review the letter from the neighboring property. Mr. Ibarra responded in the affirmative. Ms. Haidenthaller clarified that Mr. Ibarra is not contesting the masonry wall between the property and the apartment complex. Mr. Ibarra agreed.

Mr. Nay opened the meeting for public comment.

Janna Hirst, 1853 Baywood Drive Salt Lake City. Ms. Hirst stated that she was at the meeting on behalf of Phil and Joy Goodsell, who own the apartment complex. She stated that she understood that when the commercial zoning was granted, Murdock Hyundai said they would meet all the requirements and now they are asking for those requirements to go away. Ms. Hirst stated that the residential area needs to be protected.

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

Ms. Haidenthaller asked if it had been discussed with the applicant prior to the zoning change of this parcel that they would be required to put the landscaping in. Mr. Olsen asked if there was any way to find out what was addressed at the City Council Meeting when the zoning change was made. Tim Tingey, Director of Administrative and Development Services, replied that when this went through the zoning change process there was a recommendation from staff of denial that went to the Planning Commission that made a similar recommendation, at City Council they approved the re-zone. With the re-zone that was approved, it included all the standards per the ordinance; however the applicant has the right to request the variance which would reduce or eliminate certain requirements. The bottom line is the Council approved the re-zone, nothing related to the plans associated with that. There was discussion on the proposal of what the property would be, including parking, but there were not a lot of specifics related to the plan.

Mr. Ishino asked the applicant if the requirement for the ten foot landscape was a surprise and when purchasing the property were the requirements not made clear. Mr. Ibarra responded in the affirmative, and stated that they were not made aware of the requirements when purchasing the property.

There was discussion about the landscape buffer on the property. Ray Christensen stated that there used to be a single family dwelling on this property which has since been taken out, previously, there was a requirement for landscaping on the North side of the property, although it was put in at a reduced amount at four feet, it had gone through some zone changes previously with some housing at the North location. It would have

been a requirement every time residential borders commercial and there isn't a variance currently on property. There was approval for the vinyl fence previously granted from the Board of Adjustment for this property.

Kevin Hunt stated that on the East end of the property has about a three to four foot landscape area and from there forward, to Hanauer, is asphalt abutting a curb wall. Mr. Ibarra stated that when first approaching the City, there was conversation that this project was City friendly and that the Mayor had been working on this project for some time and that a variance had been given to the Millers on the house that used to be there. Therefore, there was not thought that this would be an issue when purchasing the home. We would like a variance to subtract six feet, so instead of having ten feet of landscaping we would like four feet of landscaping.

Mr. Halliday asked if the vinyl fence continues on to the corner lot and then it will be a concrete wall along side of the apartment complex. How was the previous variance based, how was it granted and why was it granted? Mr. Wilkinson answered that the staff recommendation on that was also denial, as staff we try to be consistent. If a variance is granted for a portion of the landscaping, it needs to be verified that there is enough room to provide parking that meets the code standard for the dimensions. Mr. Ishino asked a question regarding landscape requirements. Mr. Wilkinson stated that landscaping includes a combination of trees, bushes and grass, the reason for the ten feet is to give room for trees.

There was a discussion on continuing this discussion so that layout and dimensions could be further researched.

Ms. Haidenthaller made a motion to continue case #1478 until the next meeting, December 9th, with some clarifications from staff, listed below:

1. What the variances were that have been granted in the past for landscaping, having to do with the adjoining properties on this project.
2. Any mention of landscaping in the City Council Meeting.
3. Dimensions of the lot and if a variance of anywhere from 3 ft. to 7 ft. were given, at this point in time, would that accommodate the parking desires.
4. Would restriping the lot would accommodate the desired parking.

Mr. Halliday seconded the motion.

Call vote recorded by Chad Wilkinson.

A _____ Preston Olsen
A _____ Rosi Haidenthaller
A _____ Tom Halliday
A _____ Travis Nay
A _____ Roger Ishino

Motion passed, 5-0.

CASE #1479 – BONNEVILLE BUILDERS – 5801 South Fashion Boulevard – Project #13-179

Boyd Anderson was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a variance to the landscaping and front yard setback standards of the G-O (General Office) zoning district for the property located at 5801 S. Fashion Boulevard. Murray City Code Section 17.144.070 requires a minimum front yard setback of 20 feet for buildings in the G-O zone. Murray City Code Section 17.144.130 C. requires a 10-foot width landscape area where the G-O zoned properties adjoin residential properties. The G-O zoning district requires a minimum front yard building setback of 20 feet. The applicant is requesting a variance to allow a setback of 15 feet. The landscaping standards of the G-O zone require a minimum 10-foot width landscape buffer where G-O property is adjacent to residential zoning. The applicant has requested a variance to eliminate this requirement. See the attached plan. A variance request to reduce the 10 foot landscaping buffer was previously reviewed by the Board of Adjustment on July 14, 2008. The Board denied the previous variance request based on concerns for impacts to the residential properties to the east. 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 proposals do not meet the standards for a variance. Therefore, staff recommends denial of the requested variances.

Mr. Olsen clarified that the building to the South is out of compliance in relation to landscaping and does not have a variance. Mr. Wilkinson stated that the building was approved under a previous code and there was a four foot landscape strip that was approved for that building, there was no variance. In order to construct a new building they would need to comply with all the standards of the code. They previously applied for a variance for that ten foot buffer which was reviewed by the Board of Adjustment and denied back in 2008. Subsequently the property owner divided the property and at the time of the subdivision the applicant was informed that any building on the new lot would have to comply with the current code.

Boyd Anderson with Bonneville Builders, 1759 Hubbard Avenue. Mr. Nay asked Mr. Anderson if he had an opportunity to review the staff report. Mr. Anderson answered in the affirmative and doesn't have any questions. Mr. Anderson stated that the property is under contract for purchase from the lender who took it in foreclosure, the whole process of where it got now is a little confusing. The existing building shown in the picture, is a condo, we stated in the application that the building had a fifteen foot setback and it really is twenty feet. Nonetheless we decided to proceed and ask for the variance to make the project feasible.

Ms. Haidenthaler stated that when the property was subdivided it was made clear that the property would need to be brought into current compliance standards, the notice was there.

Mr. Nay asked staff what height limit is for General Office in this area. Mr. Christensen responded that the G-O Zone allows thirty feet but the Planning Commission can approve up to thirty-five feet. Mr. Halliday stated that with the existing building it was approved and it is there with the change and breaking it off they can't cross one to the other. Mr. Olsen expressed that this property is odd shaped and isn't sure how it could be developed.

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

There was a general discussion regarding ingress and egress. Mr. Nay asked how many parking stalls are required for General Office. Mr. Christensen answered that five parking stalls are required per thousand square feet, but there can be deductions for restrooms, mechanical rooms and other things. Mr. Nay asked if the parking agreement has to be finalized before approving this. Mr. Christensen responded that there is already a parking agreement in place.

Mr. Anderson asked Mr. Christensen if parking has to be owned to meet ordinance requirements or can stalls be leased. Mr. Tingey answered in the affirmative, as long as there is enough parking for both buildings, it is possible. Ms. Haidenthaller asked if the landscaping buffer along the East side of the property is not granted, will the same parking configuration still be possible, will there still be enough width there.

Mr. Anderson asked if it was possible to continue this and consider the front setback if it can be worked out with the owners of the other building to lease a number of stalls.

Ms. Haidenthaller asked the board unofficially if they would consider a front variance for the fifteen foot property setback but deny the landscaping variance and require the ten feet of landscaping; if there isn't a possibility of that there is no point to continue this item. Mr. Olsen stated that he would be willing to continue this. Mr. Christensen stated that at the time this property was being divided with the subdivision there was no information given by the Planning Commission that there were any specific square foot of the building. Mr. Tingey stated that the Findings need to be looked at and determine if these variance setbacks meet these standards.

There was general discussion on approval or denial of this issue. Mr. Tingey stated that the applicant has not requested a withdrawal of this, there needs to be a decision made.

Mr. Anderson stated that they would be happy to look into trying to come up with a long term agreement with the adjacent property owners.

Mr. Halliday made a motion that this be postponed to a future meeting while the applicant looks at different ways to make this project work without as many variances. Mr. Ishino seconded this motion.

Call vote recorded by Ray Christensen.

A _____ Preston Olsen
A _____ Rosi Haidenthaller
A _____ Tom Halliday
A _____ Travis Nay
A _____ Roger Ishino

Motion passed, 5-0.

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Meeting adjourned.

Chad Wilkinson, Manager
Community & Economic Development