

Minutes of the Hearing Officer meeting held on Wednesday, July 13, 2016 at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Scott Finlinson, Hearing Officer
Jared Hall, Manager of Community Development Division
Brad McIlrath, Assistant Planner

Mr. Finlinson opened the meeting and welcomed those present. He reviewed the public meeting rules and procedures.

CONFLICT OF INTEREST

Mr. Finlinson stated that he has no conflicts of interest for this agenda. Mr. Finlinson stated his written decision will be available one week from today, Wednesday, July 20, 2016 after noon at the Community Development office. A copy may be picked up at the Public Services Building, 4646 South 500 West at that time.

CASE #1530 – DENNIS WINSLOW – 553 West LaSalle Drive – Project #16-84

Dennis Winslow as the applicant present to represent this request. Jared Hall reviewed the location and request for variances for rear yard accessory buildings lot coverage and total buildings lot coverage for this R-1-8 residential zone property. Murray City Code Section 17.100.090.H. Area of Accessory Buildings: Accessory buildings and structures may not cover more than twenty-five (25%) percent of the rear yard area. Murray City Code Section 17.100.130: Permissible Lot Coverage: All buildings including accessory buildings and structures, shall not cover more than thirty-five (35%) percent of the area of the lot or parcel of land. The zoning regulations for the R-1-8 zone allow accessory buildings to cover a maximum of 25% of the rear yard and the total lot buildings may cover a maximum 35% of the total lot, whereas the applicant has constructed structures that cover 45% of the rear yard and 47% of the total lot. One of the building inspectors notified Community Development Division a storage/patio structure had been recently been constructed without a building permit, which is located behind the existing dwelling. The applicant made written reference to a higher elevation for the property to the south for a reason to construct the storage patio structure. The Murray City Engineer indicated the higher subdivision grade to the south was required and approved by the City Engineering due to the sewer line requirements for the Pehrson Subdivision at Kalia Cove. The applicant has submitted a written narrative in the variance analysis form explaining the reasons for the variances request. A mailing was mailed on June 30, 2016. As of the date of this report, there have been no phone calls or responses. Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, staff finds the proposal does not meet all the standards for the rear yard structure coverage and total lot coverage variances, therefore, staff recommends denial of the requested variance.

Dennis Winslow, 553 West LaSalle Drive, stated about 10 years ago, the Kalia Cove Subdivision was developed. When that was done, a lot of fill was brought in because the developer wanted a walk-out basement which is not a problem. The problem is that it also elevated the driveway about 8-10 feet above the original grade of the property. This caused the driveway on the adjacent property to be higher than his 6 foot privacy fence located at the rear of his property. Mr. Winslow cited an example of 5 years ago when his son was leaving to go into the military, he declined from having a farewell barbeque party due to the lack of privacy they have in their rear yard. He said he talked to the building

department at that time with regards to having a patio. He was told he did not need a building permit for a patio or a fence less than 7 feet in height. He stated that two years ago he installed the patio cover and was unaware that he needed to obtain a building permit. He stated he had a metal roof installed and wanted to install a snow stop on the roof to prevent snow falling onto the neighbor's property, but he cannot install the snow stop due to the "stop work order" from the city.

Mr. Winslow stated he wants the ability to secure his belongings when he is out of town. Having the covered garage allowing him to securely store a 1973 Thunderbird with 19,000 miles that he inherited from his parents. He stated he is asking for a 12% coverage variance in order to keep the detached garage. He stated the Murray City Inspector, Jay Fuller, indicated to him that the structure is well built even though there is no building permit for it.

Mr. Finlinson asked if there are doors that close on the patio structure. Mr. Winslow responded there are doors and he can lock the structure.

Randy Young, 6046 Jamaica Way, Murray, stated he has lived in his home for 58 years. He stated that this coverage variance for 12% is virtually negligible and is not seen from the street. He stated the existing privacy fence was done professionally and at no time while the fence or structures were being constructed, did anyone come over and complain about them. He stated he can't imagine why this is an issue now. He stated there are numerous similar violations throughout the city and questioned why Mr. Winslow is being scrutinized. He stated Mr. Winslow could have a used war surplus in the neighborhood and also an RV lot in their neighborhood and worrying about a garage in Mr. Winslow's rear yard that you cannot see from the street is a waste of time. He stated he is in favor of granting the variance for Mr. Winslow.

Javier Talamantes, 554 West LaSalle Drive, stated he has lived here for 6 ½ years across from Mr. Winslow. He stated he has had no issue with Mr. Winslow's property or his accessory buildings. He stated Mr. Winslow is a good man and takes care of his property. He stated he is an immigrant who came from northing and appreciates people trying to do the right thing and through codes. He stated that Mr. Winslow is attempting to meet the code and do the right thing. He stated he is in favor of granting the variance.

Mr. Finlinson closed the public comment portion for this agenda item. He stated the nature of these meetings is to gather information and he will take the information into consideration.

Mr. Finlinson stated he will make his ruling within the next week and the decision will be available after noon on Wednesday, July 20th at the Community Development Office at 4646 South 500 West.

CASE #1531 – LISA MILKAVICH – 534 East 4800 South – Project #16-94

Kevin and Lisa Milkavich were the applicants present to represent this request. Brad McIlrath reviewed the location and request for approval for an addition to a single-family nonconforming structure and a variance to the overall side yard setback standard for dwellings. Murray City Code Section 17.52.040 allows for a building or structure occupied by a non-conforming use, or a building nonconforming as to height, area, or

yard regulations to be added to, enlarged or moved to another location on the lot subject to authorization by the Hearing Officer. Murray City Code Section 17.100.080.B. states that for dwellings in the R-1-8 Zone, "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 proposes to construct a second story and a side entry addition to the existing single-family dwelling. The existing side yard setbacks include a minimum five foot two inch (5'2") side yard setback on the west side of the home and an eighteen foot (18'0") side yard setback to east of the dwelling. The total of the two existing side yards equal twenty-three feet two inches (23'2"). The proposed second story addition will maintain the existing setbacks; however the side entry addition will reduce the east yard setback to twelve feet eleven inches (12'11") and the total side yard setback to eighteen feet one inch (18'1"). Due to the existing non-conforming west side yard setback of only five feet two inches (5'2") the proposed expansion of the dwelling requires Hearing Officer Approval. The reduction of the total side yard setback to be less than twenty feet (20') as required by the zone requires approval of a variance by the Hearing Officer because the addition is increasing the non-conformity of the dwelling with regards to current zoning standards. The residence was constructed in 1922 and was conforming to the setback standards for dwellings with the adopted B-2 Zoning District in 1946. At that time, the minimum side yard allowed in the B-2 Zone was four feet (4') with the total of the two side yards being not less than twenty feet (20'). Based upon this prior conformance, the dwelling is considered to be *legal* non-conforming to current zoning setback standards.

The minimum property width required in the R-1-8 Zone is eighty feet (80') as measured at the twenty-five foot (25') front yard setback. The property only has a width of fifty eight and a quarter feet (58.25') which significantly reduces the buildable area that would otherwise be available to the applicant if the property met the standard width of eighty feet (80') for R-1-8 Zone. Without this site constraint, the applicant would be able to construct the side entry addition without reducing the total side yard setback to be less than twenty feet (20').

Notices were sent on July 1st, 2016 and as of the date of this report no public input has been received by Murray Staff.

The proposed expansion will not impose an unreasonable burden upon the adjacent properties. The five foot two inch (5'2") west side yard setback already exists and will not be reduced with the proposed second story addition. Although the overall side yard setback will be reduced, the proposed east side entry addition will maintain a twelve foot eleven inch (12'11") side yard setback. This larger side yard setback is typical of properties in the R-1-8 Zone if the opposite side yard setback is at a minimum of eight feet (8').

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 an expansion of a non-conforming structure and a variance. Therefore, staff recommends approval of the expansion of the non-conforming structure and a variance to the overall side yard setback for the property addressed 534 East 4800 South, with the following conditions:

1. Dwellings located on the property shall maintain a minimum setback of twelve feet (12') from the east property line.
2. The dwelling and all other structures shall comply with all applicable setback, height, and yard requirements of the R-1-8 Zone.
3. The proposed additions shall not encroach into the existing and established setbacks as shown on the submitted plans.
4. The applicant shall obtain a Murray City Building Permit prior to the construction of the proposed additions.


Mr. Finlinson asked if the 12 foot setback will be maintained on one side and is sufficient for any kind of access such as emergency. Mr. McClirath responded if the lot had 80 feet in width, a regularly sized lot, twelve feet is adequate for access and is the minimum for accessing a structure such as detached garage in the rear yard.

Lisa Milkavich stated they are trying to respect neighbors and maintain current setbacks as much as possible. She stated the only reason they are considering a pop out on the side of the home is to accommodate access and egress to the back door. The current door is difficult to get in and out of and they have to stand on the stairs to exit the home and this will help to meet current building code for egress. Mr. Finlinson responded that is a reasonable request.

The meeting was open for public comment. No comments were made and the public comment portion for this agenda item was closed.

Mr. Finlinson stated he will make his ruling within the next week and the decision will be available after noon on Wednesday, July 20th at the Community Development Office at 4646 South 500 West.

The meeting was adjourned at 1:05 p.m.



Jared Hall, Division Manager
Community and Economic Development