

**Bountiful City
Planning Commission Minutes
December 19, 2017
6:30 P.M.**

Present: Chair – Sean Monson; Vice Chair – Von Hill; Planning Commission Members – Jesse Bell, Tom Smith and Sharon Spratley; City Attorney – Clint Drake; City Planner – Chad Wilkinson; City Engineer – Paul Rowland; and Recording Secretary – Darlene Baetz
Excused: City Council Representation – Richard Higginson

1. Welcome and Introductions.

Chair Monson opened the meeting at 6:30 pm and welcomed all those present.

2. Approval of the minutes for December 5, 2017.

Tom Smith made a motion to approve the minutes for December 5, 2017 as written. Von Hill seconded the motion. Voting passed 5-0 with Commission members Bell, Hill, Monson, Smith and Spratley voting aye.

3. Swearing in of newly appointed Planning Commission Member - Jim Clark.

Shawna Andrus, Bountiful City Recorder, swore in Jim Clark who replaced Dave Badham as a Planning Commission member.

4. PUBLIC HEARING - Consider approval for a Variance from the driveway spacing and construction standards and yard coverage standards of the Bountiful City Land Use Ordinance for the properties located at 339 W 300 North and 349 W 300 North, Mark Lee and Mark Minnis, applicants.

Chad Wilkinson presented the staff report. Mark Lee and Mark Minnis were present.

The applicants, Mark Lee and Mark Minnis, have requested a variance to the required driveway spacing and construction standards and the maximum yard coverage standards in order to construct a shared driveway between their properties located at 339 and 349 West 300 North in the RM-13 zoning district. The driveway has already been installed and was constructed without proper permits from the City. Mr. Lee recently constructed a permitted driveway on his property and a follow-up inspection on this driveway prompted the enforcement action that resulted in the application for variance. The zoning ordinance requires a minimum separation of 35 feet between driveways on the same property and a minimum 5 feet separation between driveways and the adjacent side property line. The proposed driveway is located approximately 24 feet from the existing driveways on both the Lee and Minnis properties and therefore does not meet the minimum 35 foot separation standard for either property. The driveway also does not meet the minimum 5 foot separation requirement between driveways on adjacent properties.

In addition, the construction of the driveway has caused both properties to violate the maximum yard and lot coverage standards of the Code. The front yard of the Lee property has approximately 67 percent impervious coverage which exceeds the 50 percent maximum. In addition, the property exceeds the maximum lot coverage standard of 60 percent. The Minnis property also exceeds the required lot coverage with the construction of the driveway. The calculations submitted by Mr. Minnis do not include a large covered deck at the back of the house which must be counted toward the lot coverage

standard. The calculations performed by staff and the applicants differ. However, with the inclusion of the covered deck, both staff and applicant calculations verify that the lot coverage standard is exceeded on both lots and that the front yard coverage standard is exceeded for the Lee property.

Mr. Minnis describes his lot as a corner lot. The lot does not meet the definition for a corner lot as it does not front on two streets. Therefore the lot should not be considered to be a corner lot in consideration of the variance request.

The applicants have requested an additional variance to the Engineering specifications for driveways related to required curb cut and driveway approach standards. This standard is not part of the land use ordinance and may not be varied by the Planning Commission. Any resident wishing to access the public right of way must do so with a City standard approach.

Staff recommends denial of the requested variance, based on analysis of the required review criteria from State law included in the findings and a review of the materials submitted by the applicant.

Mr. Minnis spoke about the damaged curb and the height of the crown of the street. Both applicants discussed the concerns with winter parking and wanted to solve the problems without causing issues with the look of the area.

Chair Monson opened the Public Hearing at 6:51 p.m.

Art Curry resides at 331 W 250 North. Mr. Curry had no problem with the driveway and spoke about extra parking needed for the small lots in this area.

Chair Monson closed the Public Hearing at 6:52 p.m.

Mr. Bell stated that he recognizes the need for extra parking but did not feel that there is flexibility with state code for this variance.

Ms. Spratley discussed the swearing in of Jim Clark and the guidelines that should be met for the Planning Commission members.

Mark Lee stated the need for the rules/codes to be applied to everyone.

Mr. Wilkinson reported that this item came about due to a follow-up inspection for an asphalt patch and noticed an illegal driveway. Changing the code is a policy decision by the City Council.

Mr. Rowland reported that the build up of the road is not uncommon due to the age of the road.

Mr. Smith asked if there was a compromise that could be made for this issue.

Staff stated that there was no available compromise and that previous requests of the same subject have been denied.

Von Hill made a motion that the Planning Commission deny the variance from the driveway spacing and construction standards and yard coverage standards of the Bountiful City Land Use Ordinance for the properties located at 339 W 300 North and 349 W 300 North as outlined by staff. Sharon Spratley seconded the motion.

The motion to deny the Variance passed 5-1 with Commission members Bell, Clark, Hill, Monson and Spratley voting aye and Commission member Smith voting nay.

5. **PUBLIC HEARING** - Consider approval for a Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30 percent and to allow for cuts and fills and retaining walls in excess of 10 feet in height for the property located at 2452 Cave Hollow Way, Daniel and Carri Fergusson, applicants.

Chad Wilkinson presented the staff report. Daniel and Carri Fergusson, applicants; AJ Green, legal counsel; and Kelly Anderson, designer were present.

The applicants requested a variance to allow for encroachments on slopes greater than 30 percent for the property and for cuts and fills and retaining wall greater than 10 feet in height for the property located at 2452 Cave Hollow Way in the R-F (Residential Foothill) zone. The proposed variance would allow for construction of a new addition to the home and for modifications to the existing driveway on site.

The existing home on the site was constructed in 1978 with a two car garage. The current request is to allow for construction of a three-car garage with two stories of living space above. The request also includes grading and site work necessary to lower the driveway in order to provide a less steep access to the property. The driveway is currently quite steep with an average slope of 19 percent and a maximum slope of 26 percent. The proposal would bring the maximum slope down to 10 percent and the average slope to 8 percent. The predominant issue is the size and extent of the area to be disturbed in order to lower the driveway and construct a new garage. The applicant proposed three-car garage is 42 feet by 20 feet and includes space for an elevator and a large staircase. Above the garage the applicant proposes two stories of living space measuring 42 feet by 28 feet. The proposed addition will nearly double the size of the structure. The addition encroaches into areas of 30 percent slope adjacent to the existing driveway.

The applicant also proposes a turnaround parking area near the proposed garage that will further encroach into slopes exceeding 30 percent. A stairway connecting the entrance of the home to this parking area further encroaches into the constrained area of the lot. In addition to the encroachments into steep slope areas the applicant proposes a series of major cuts on the site that will result in the need for tall retaining walls. The plan shows one wall approaching 17 feet in height. The proposed cuts will be up to 15 feet in height in order to accommodate the driveway and garage.

Staff recommends denial of the requested variance.

Mr. Green had a presentation on the safety of the steepness of the driveway and the accidents that have happened during bad weather. He showed similar driveway issues in the Cave Hollow Way, none that are as steep and as long as the Fergussons. He spoke of the proposed service elevator to be installed due to health issues and the elevation change would have little or no impact of views for other neighbors. Mr. Green discussed the Bountiful City Foothill (R-F) ordinance 14-4-117 (d)(5) citing the impact of the existing manmade driveway.

Mr. Anderson explained the damage to the railroad ties and the reinforcements and repairs needed to fix the wall. The Fergussons want to bring the property back to the natural grade after the proposed retaining wall is built. He stated that the retaining walls would be 10 feet, 15 feet and 5 feet.

Staff asked for clarification on the proposed grading. The proposed plans show that there would be significant grading done on this property. Mr. Fergusson stated that the trees would not be removed and

there would not be as significant amount of grading as the plans shown.

Mr. Rowland discussed the history of the 30% slope requirements for the Residential Foothill (R-F) zone. The 30% requirements predate the foothill zone. The City did place a moratorium on development above the Lake Bonneville level (Bountiful Blvd). The district court said that the City could not place a moratorium and stop development above a certain area but the City could make reasonable set of guidelines and requirements for that development. This subdivision is the result of the lawsuit and those agreements including the encroachment of 30%, the maximum grade of 15% and the cuts and fills. These requirements were listed as approval for this subdivision in 1976. Cave Hollow was developed in 1976 and 1977. In 1978, the requirements listed for development of this subdivision were codified into the Foothill ordinance and basically has remained the same. Not in the requirement at that time was the maximum height of retaining walls which can't have a cut or fill greater than 10 feet. The maximum road and driveway slope is 15% for this zone. No variance was received when the driveway was originally constructed.

Chair Monson opened the Public Hearing at 8:06 p.m.

Debbie Schluter resides at 2482 Cave Hollow Way. Mrs Schluter wanted to verify that the Fergussons have considered all the options including a heated driveway.

Vic Schluter resides at 2482 Cave Hollow Way. Mr. Schluter is worried about the encroachment of the construction to their property.

Chair Monson closed the Public Hearing at 8:13 p.m.

Mr. Wilkinson stated that any property line dispute and neighbors tree removal is a civil matter between the neighbors. He clarified the disturbance of the 30% slopes and the recommendation from staff is based on current plans that showed the multiple slope disturbances.

Mr. Fergusson stated that there is no drainage which is making the retaining wall fail.

Mr. Monson doesn't feel that this variance meets the state code and discussed the options for minimal disturbance and the grade of the driveway. He feels that the proposed plans have incorrect information that was presented.

Mr. Hill believes that there is a way to fix the problem with less impact.

Mr. Bell stated that there could be a solution without the hammerhead and a 3-car garage. Possible new garage designs.

Ms. Spratley discussed that standards are to be followed and they are not always what the Planning Commission likes. She doesn't like the hammerhead for the approval and the possible disturbance.

Mr. Drake stated what choices the Planning Commission has to complete this agenda item.

Commission Members and staff discussed the possible solutions for this project with the size of garage, the hammerhead, and garage steps.

Tom Smith made a motion to deny the Variance to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30 percent and to allow for cuts and fills

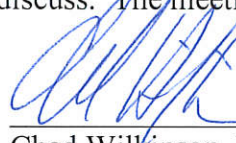
and retaining walls in excess of 10 feet in height for the property located at 2452 Cave Hollow Way as outlined by staff with the suggestion to submit changes that staff would be able to approve. Jesse Bell seconded the motion. The motion to deny the Variance passed 6-0 with Commission members Bell, Clark, Hill, Monson, Smith and Spratley voting in favor of the motion to deny.

6. Consider approval of the 2018 Planning Commission Meeting Calendar.

Von Hill made a motion to approve the Calendar with the cancelation of July 3 meeting. Jesse Bell seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Hill, Monson, Smith and Spratley voting aye.

5. **Planning Director's report, review of pending applications and miscellaneous business.**

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 6:45 p.m.



Chad Wilkinson, Bountiful City Planner