

Bountiful City
Planning Commission Minutes
March 6, 2018
6:30 P.M.

Present: Chair – Sean Monson; Planning Commission Members – Jesse Bell, Jim Clark, and Tom Smith; City Council Representation – Richard Higginson; City Attorney – Clint Drake; City Planner – Chad Wilkinson; City Engineer – Paul Rowland; Asst City Planner Kendal Black and Recording Secretary – Darlene Baetz

Excused: Planning Commission Member – Sharon Spratley and City Council Representative – 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 February 20, 2018.

Jim Clark made a motion to approve the minutes for February 20, 2018 as written.

Tom Smith seconded the motion. Voting passed 5-0 with Commission members Bell, Clark, Hill, Monson, and Smith voting aye.

3. PUBLIC HEARING – Consider approval of a variance to allow for a parking space within the required front yard. The property is located at 3457 S Bountiful Blvd, Ryan and Sandra Call, applicants.

Ryan and Sandra Call were present. Kendal Black presented staff report.

The applicants, Ryan and Sandra Call, have requested a variance to allow for the addition of a concrete parking pad in the front yard setback and concrete in the parking strip at 3457 Bountiful Boulevard in order to allow parking within the required front yard setback. The property is located in the R-F zoning district.

The applicant has requested a variance to allow an existing concrete parking pad and concrete in the parking strip constructed at 3457 Bountiful Boulevard to remain. The issues were discovered when performing an investigation of a code enforcement complaint mentioning a vehicle parked on the sidewalk. A code enforcement case was started to address the concrete in the park strip, a vehicle parked on the sidewalk obstructing the public right-of-way, and the noncompliant parking pad. The parking pad was constructed without permit and does not meet City standards for driveways and allowed parking. The City initiated enforcement action in order to obtain compliance with the Code and the applicant has elected to request a variance rather than removing the noncompliant parking pad and concrete in the park strip.

The parking pad in question does not meet the standards in Section 14-18-105 (f) or the R-F zone. Single family residential requirements include a maximum drive access width of thirty (30) feet. The drive access at the applicant's home is approximately fifty (50) feet wide. It is mentioned in

the applicant's narrative that the drive access has been in place like this for over 25 years. City staff determined that this was probably built this way to access the utility easement that runs along the northern part of the property. It is important to note that at the time the driveway was originally constructed, the northern parcel was not a part of the applicants' property. The existence of the drive access did not make paving this area legal and should not be paved or used for parking. The parking pad and concrete in the park strip do not meet the standards of the Land Use ordinance. The applicant's written narrative has been included in this items file. The City will not approve of this variance in the public right of way and therefore the variance is limited to the concrete work on the applicant's property. The property has adequate off-street parking to meet code standards and therefore the elimination of the parking space will not cause an unreasonable hardship. Instead, elimination will bring the site into compliance with the original approval.

The applicant has listed several special circumstances including the steepness of the terrain on the north side of the house impeding the ability to add an RV pad for additional parking and adding an RV pad to the south of the home not being possible due to the proximity of the North Canyon Creek as justification for a variance. The street view image on Google Earth from May of 2016 shows that there was sufficient space and the grade was not too excessive to add an adequate RV pad. The applicant has changed the landscaping on the north side of the house since then. The current landscaping creates a difference in grade creating a "shelf". The portion by the existing driveway is leveled off to join in the same slope and elevation as the existing driveway, whereas the portion behind the driveway (to the north of the house) is raised up to create the shelf. Other options such as excavating the area near the house to provide additional parking could be accomplished without the need for a variance.

Staff recommends denial of the requested variance to allow for the continued use of the recently constructed parking pad for parking in the front yard setback in the R-F zone. Staff recommends removal of the parking pad and the concrete in the park strip in order to comply with the standards of the Land Use Ordinance.

The easement can be accessed from the top of the property.

Mr. Wilkinson stated that parking is not allowed in the front yard 20 ft setback. Staff clarified that the concrete to be removed would be the pad next to the driveway and under the trashcans.

Mr. Call described the area as not landscaped. He stated that the steepness doesn't allow for an RV pad on the northeast side of the home and that he was unfamiliar with the City code.

Chair Monson opened and closed the **Public Hearing** at 6:45 p.m.

Staff and the Commission discussed the location of the sewer line and that the pad was poured in November 2017 and discussed the possibility of additional parking that could be added on the north east side of the home. Mr. Hill clarified the easement and original setback with Mr. and Mrs. Call. Mr. Rowland discussed the repair or replacement of structures, landscaping, or flatwork within an easement. Structures and retaining walls on an easement are replaced at the owner's expense. Landscape and flatwork would be replaced at the Utility's expense.

Chair Monson explained the variance process and the Planning Commission approval process.

Von Hill made a motion to deny the variance to allow for a parking space within the required front yard at 3457 S Bountiful Blvd.

Jesse Bell seconded the motion. Voting passed 4-1 with Bell, Clark, Hill and Monson voting aye and Smith voting nay.

4. PUBLIC HEARING – Consider approval of a variance to allow a third driveway. The property is located at located at 992 E 550 N, Kevin Menlove, applicants.

Kevin Menlove was present. Chad Wilkinson presented the staff report.

The applicant, Kevin Menlove, has requested a variance to allow for a third driveway for the property located at 992 E. 550 North. The property is located in the R-4 zoning district.

The applicant has requested a variance to Section 14-18-109 B to allow an existing paved area to remain and to be authorized as a driveway. The variance request is the result of enforcement action on the property which was initiated in June 2017 by the City in relation to an RV parked on a nonpaved surface and the use of a third driveway on the northwest corner of the property. The applicant has removed the RV and has petitioned the City to allow the paved area to remain and to be used a third driveway to the property.

The existing residence on the property was constructed in 2008. At the time of construction, the City identified an existing driveway approach on the northwest corner of the lot and required that the approach be removed. The City did not approve an access to the lower garage on the property at that time or subsequently. Many residences include lower garages used for the storage of yard maintenance equipment and other general storage and the City did not approve a vehicle access to this garage at the time of construction. The City also has no record of approval of a basement apartment on the property as this would have required the approval of a conditional use permit for an accessory dwelling unit. The permit issued for the property indicates a rough basement and did not indicate a basement finish. Based on aerial photography the paved area appears to have been constructed sometime between 2011 and 2013 after final inspection of the property by the City and has been used as a parking area for vehicles since its construction. A driveway approach was not installed and no permit was issued for the construction of a driveway. From aerial photography and street view images it appears that the paved area was accessed by a metal ramp placed in the right of way in the past. When the neighboring property to the west was constructed in 2015, a paved connection was constructed that was not shown on approved plans. This access appears to have been constructed as a way for vehicles to access the paved area on the applicant's property.

The applicant has submitted a narrative that describes the paved area as a "sidewalk." However, it is clear from photographic evidence that the paved area has been used as a parking area for several years. Section 14-4-105 F requires that driveways accessing parking on an interior side yard be at least 12 feet in width, requiring a 12 foot setback for the home. Based on the approved site plan, the home was constructed at the minimum 8 foot setback which would not provide adequate setback for the required driveway.

The site plan approved with the building permit did not include the paved area and the existing driveway approach was required to be removed in order for the property to comply with Code. The property has adequate off-street parking to meet code standards and therefore the elimination of the paved area will not cause an unreasonable hardship. Instead, elimination will bring the site into compliance with the original approval. State Code stipulates that a variance cannot be based on a hardship that is based on financial considerations or is self-imposed. The choice of building design and setbacks were a self-imposed condition.

The applicant has listed circumstances related to access of the basement garage and a mother-in-law apartment. The City has no record of approval for a basement apartment (which would have required the approval of a conditional use permit and recording of a deed restriction on the property). The issue is related to the number of allowed driveway accesses on a property. The Code limits the number to two access points. The applicant has elected to use both allowed accesses on the east side of the home. There are no special circumstances that apply to the property that do not apply to other similar lots in the zone. The design of the home with two driveway accesses on 1000 East was a choice of the property owner and is self-imposed.

Staff recommends denial of the requested variance to allow for a third driveway in the R-4 zone. Staff recommends modifications be made to the paved area to prevent vehicle parking in the future.

Mr. Wilkinson stated that an 8-ft setback was on the original plans and that a 12 ft setback is required for a driveway accessing parking in a rear yard. Anything less would need to go thru the variance approval process.

Mr. Menlove presented pictures and plans to discuss with the Commission Members that the City did not have. He also discussed that the basement apartment was set up for his mother-in-law and other family members. Mr. Menlove showed the Commission Members his set of the original plans for the driveway and garage in the rear yard as were drawn up and the intended use.

Chair Monson opened the **Public Hearing** at 7:16 p.m.

Eric Nelson resides at 995 E 550 North. Mr. Nelson stated that it is hard to understand the definition and stated that the driveway is not a true driveway. There is no code definition for the driveway width.

John Hilton resides at 89 W 1200 South. Mr. Hilton asked if this pad is a patio or walkway should there be parking located there.

Chair Monson closed the **Public Hearing** at 7:18 p.m.

Mr. Wilkinson shared the definition of a driveway. "Any off-street parking area has to be accessed through an approved drive exit or curb cut." "It is unlawful to drive a motor vehicle on any sidewalk, park strip or other area behind the curb within the public right away with the exception of an approved drive approach."

Mr. Rowland stated that Lloyd Cheney, Bountiful Assistant City Engineer, reviewed the proposed plans and wrote comments before the plans were released. Staff produced a copy of the approved

site plan with notes from Mr. Cheney.

Mr. Menlove commented that the approved plans showed all of the proposed changes before they were approved. Staff responded that the building permit did not include a finished basement and that the driveway was not shown on the approved plans.

Mr. Bell commented that this is an unfortunate set of events but there are a lot of mother-in-law apartments don't have vehicular access – it is not a requirement to have a driveway. This doesn't meet the code and Planning Commission members don't have the latitude to approve variance that can't be approved.

Chair Monson summarized the variance criteria and feels that they have not been met.

Mr. Hill asked staff if the third driveway could be left and used as a walkway or patio.

Mr. Wilkinson verified that the driveway should be cut back 25 ft to the front set back line in order to be considered a patio. And that in order to be considered a sidewalk the width would need to be reduced or other modifications made to prevent a vehicle driveway.

Jim Clark made a motion to deny the variance to allow for a third driveway for property located at 992 E 550 N.

Tom Smith seconded the motion. Voting passed 5-0 with Bell, Clark, Hill, Monson and Smith voting aye.

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

1. No Planning Commission meeting March 20, 2018.
2. J & L Garden Center has been demolished, work is moving forward.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:48 p.m.



Chad Wilkinson, Bountiful City Planner