

**MINUTES OF THE COTTONWOOD HEIGHTS CITY  
BOARD OF ADJUSTMENT MEETING**

**Thursday, June 13, 2013**

**6:00 p.m.**

**Cottonwood Heights City Council Room  
1265 East Fort Union Boulevard, Suite 250**

***ATTENDANCE***

**Board Members:**

Bob Wilde  
James Adinaro  
Don Antczak  
James Holtkamp  
Noor Ul-Hasan  
Doug Folsom

**City Staff:**

Community and Economic Development Director,  
Brian Berndt  
Planner, Larry Gardner  
Planning Technician, Mike Johnson  
City Attorney, Shane Topham  
City Geologist, Tim Thompson

**1.0 WELCOME/ACKNOWLEDGMENTS**

Chair Bob Wilde called the meeting to order at 6:07 p.m.

**2.0 ACTION ITEMS**

**2.1 (Project #BOA 13-002) Action on a Request from Charles Moore for a front yard setback variance of the R-1-8 Zone to 15 feet on lots 1 through 3 and a variance from the minimum buildable area requirement of Chapter 19.72.040 Sensitive Land Ordinance for Lot 3 of Prospector Hills No. 10 Plat C located at 7545, 7555 and 7567 Prospector Drive**

Planner Larry Gardner reported that the applicant, Charles Moore, currently owns two lots on Prospector Drive and has requested a front yard setback. He wants to subdivide and create a total of three lots. The requested variance involves reducing the front yard setback and the minimum buildable area. State law and City ordinance both require a test of hardship be met for the lots. The lots contain significant slopes and an earthquake fault runs through the property. After having reviewed the application and based on the required testing, Mr. Gardner stated that the hardship was created on Lot 3 and was self-imposed by Mr. Moore. Therefore, he cannot be granted the variance on the basis of hardship. Staff recommended denial of the variance based on the fact that the property does not meet the criteria for hardship.

Mr. Moore stated that he subdivided the Prospector Hills property approximately 35 years ago. He agreed with concerns that safety should be taken into consideration and objected to staff's claim that the hardship was self-imposed. He is of the understanding that it was due to a fault discovered on the south end of the property. Mr. Moore desires to subdivide the two parcels and create a third. He described the property in question and detailed the square footage of each lot.

Chair Wilde questioned the buildable space that currently exists on the property.

Mr. Moore stated that Lot 1 has 3,505 square feet of buildable space and Lot 2 has 3,578 square feet.

Board Member Ul-Hasan saw no hardship in the situation in that there is buildable space on the existing parcels.

Mr. Moore reported that he did not request the three-lot configuration in 2007 because he had the intention at that time to develop the parcel into five lots. He submitted a subdivision request several months ago and since then has been working with staff.

Board Member Holtkamp confirmed that the two parcels were originally purchased by Mr. Moore individually, and not as a single parcel.

It is Mr. Moore's opinion that the hardship was created years ago by the earth's fault slippage and was no fault of his own. The 15-foot setback was imposed for both existing parcels.

Cole Cannon agreed with Mr. Moore with respect to the additional square footage being ample to create a third parcel. He believes that a smaller buildable space is more desirable and easier to maintain.

Board Member Ul-Hasan indicated that the variance completed in 2007 was based on fault information available at the time. She believes that two homes were adequate based on the buildable space of both parcels.

Chair Wilde stated that the allowance of an additional lot would not comply with the current City ordinance.

***Motion: Board Member Ul-Hasan moved to deny the request based on the following:***

- 1. Literal enforcement of the zoning ordinance would not cause an unreasonable hardship for the applicant and does not carry out the general purpose of the zoning ordinance.***
- 2. There are no special circumstances attached to the property that do not generally apply to other properties in the same district.***
- 3. Granting the variance is not essential to the enjoyment of a substantial property right possessed by other property in the same district.***
- 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.***
- 5. The spirit of the zoning ordinance is observed and substantial justice is done in determining whether enforcement of the zoning ordinance will cause no unreasonable hardship.***

***Board Member Antczak seconded the motion. All members present voted in favor of the motion.***

**2.2 (Project #BOA 13-003) Action on a request from Cole Cannon for a front yard setback variance of the R-1-8 Zone and a variance from the minimum buildable area requirement of Chapter 19.72.040 Sensitive Land Ordinance located at 7389 Prospector Drive**

(18:36:09) Planner Mr. Gardner reported that the applicant owns three parcels of property located at 7389 Prospector Drive and wishes to construct a home on the lot. The lot has a steep slope and is impacted by a fault. Two extensive geologic evaluations were conducted to determine the location of fault lines and evaluate the stability of the slope. The slope of the lot together with the faults makes it difficult to create a buildable area using standard requirements. The applicant requested the buildable area be reduced from 3,500 square feet to 2,700 square feet and the front setback reduced from 25 feet to five feet. The three main issues included: (1) the fault line, (2) a significant slope to the east, and (3) a large water line that runs through the property owned by Salt Lake Public Utilities. Mr. Gardner stated that the conditions existed when Mr. Cannon purchased the property. Staff recommended approval because the lot meets the tests of hardship required by State law and City ordinance. It is Mr. Gardner's opinion that Mr. Cannon does meet the requirements for hardship. Mr. Gardner detailed the conditions enumerated in the staff report.

The applicant, Cole Cannon, presented pictures of the property to the Board. Thomas Romney from Focus Engineering detailed the specifics of the proposed garage. Mr. Cannon stated that he agrees with the staff's recommended conditions.

City Geologist Tim Thompson detailed the scenario of a fault rupture. He explained that slope stability will be completed to incorporate the location of the fault line. Mr. Thompson emphasized the importance of vegetation retention.

City Attorney Shane Topham suggested that if there is a motion to approve, that specific reference to the conditions be attached to the variance.

***Motion: Board Member Adinero moved to approve the request subject to the following:***

***Requirements:***

- 1. A professional slope stability assessment shall be conducted and submitted to the City for approval, especially post-earthquake, prior to issuing a building permit.***
- 2. A Site Reclamation Plan shall be submitted by the applicant and be on file with the City to be followed and acted upon prior to the issuance of the building permit.***
- 3. Lots 1, 2, and 3 shall be consolidated.***
- 4. The structure shall be engineered for a post-earthquake typography.***

***Findings:***

1. *Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.*
2. *There are special circumstances attached to the property that do not generally apply to other properties in the same district.*
3. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.*
4. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
5. *The spirit of the zoning ordinance is observed and substantial justice is done.*

***Board Member Ul-Hasan seconded the motion. All present voted in favor of the motion.***

**2.3 Approval of June 13, 2013 Minutes**

Chair Wilde reminded the Board that if there are no modifications submitted, the minutes will be automatically approved.

**3.0 ADJOURNMENT**

The Board of Adjustment Meeting adjourned at 6:51 p.m.