

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

**Thursday, December 11, 2014
6:00 p.m.
Cottonwood Heights City Council Room
1265 East Fort Union Boulevard, Suite 250**

ATTENDANCE

Members Present: Chair James Holtkamp, Noor Ul-Hasan, Don Antczak, Rich Robinson, James Adinaro

Excused: Doug Folsom

Staff Present: Community and Economic Director Brian Berndt, Senior Planner Glen Goins, City Attorney Shane Topham

BUSINESS MEETING

1.0 WELCOME/ACKNOWLEDGMENTS

Chair James Holtkamp called the meeting to order at 6:07 p.m. and welcomed those attending.

2.0 ACTION ITEMS

2.1 (Project #BOA 14-005) Action on a request for a variance by Michael Brodsky, Hamlet Homes, under section 19.92.070 of the Cottonwood Heights Municipal Code, for approval of a reduced lot width on a proposed two-lot subdivision of the property located at 1621 East 7200 South

Senior Planner, Glen Goins, presented the staff report and stated that the request is for a variance of lot width on property located at 1621 East 7200 South. All of the proposed lot sizes were determined to meet the minimum and all exceed 9,400 square feet. Comparable area subdivisions were discussed. Staff reviewed the proposal and the following required criteria:

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; and
5. The spirit of the zoning ordinance is observed and substantial justice done.

Staff recommended denial of the request.

Michael Brodsky, from Hamlet Homes, stated that the property was built and developed over 50 years ago at a time when the then current zoning permitted lots with a width of less than 70 feet. He feels that grandfathering the property in should be considered. The proposed design details were presented. Mr. Brodsky explained that the only variance they are requesting is for the front width. He is of the opinion that the proposal would be a significant economic benefit to the neighborhood.

Board Member UI-Hasan stated that the developer did not provide any information on the economic burden caused by not rebuilding the 50-year-old home. Mr. Brodsky said that the burden falls on the family who owned the property at that time. The value of the property, as it exists today, is significantly less than if it could be converted into two lots.

Board Member Adinaro asked if a flag lot had been considered.

Mr. Brodsky stated that the matter was given a great deal of thought and it was determined that the front lot would have to be so narrow that it would prohibit anything being built on it.

The property owner, John Brown, presented a history of the proposed property and stated that due to electrical placement and the structure of the existing home, it cannot be remodeled and needs to be demolished and rebuilt. Mr. Brown stated that his mother passed away last spring and requested that two homes be built in the proposed location. The idea of building one single-family home was considered, but determined to not be economically feasible as it would be overbuilt compared to the surrounding homes in the neighborhood.

Craig Whiting, Principal Broker of Block Real Estate Group, was present representing Hamlet Homes. He stated that the ownership of the family pre-dates the incorporation of Cottonwood Heights City. Tightened zoning regulations placed a burden on the family that was beyond their control. Incorporation of the City created a hardship as it limited what they could do with the property. He noted that several other surrounding lots are less than 70 feet wide. He believes this poses a hardship on anyone who may have owned property prior to the City's incorporation.

Mr. Goins confirmed that the properties are part of a Planned Unit Development and have been granted smaller lots. The overall density remains consistent with the R-1-8 Zone.

Board Member Adinaro moved to deny the proposed variance request based on the following:

- 1. Literal enforcement of the zoning ordinance does not cause an unreasonable hardship and the property can be developed.***
- 2. There is nothing unique about the property that does not apply to the neighborhood in large or Cottonwood Heights City as a whole.***
- 3. Finally, there is no substantial justice that granting this variance is needed to provide.***

The motion was seconded by Board Member Robinson.

Board Member UI-Hasan asked for clarification regarding the newly approved neighboring PUD development with permitted lots measuring less than the required 70 feet. She also asked if a hardship could be considered because there is a property on the same street and they are not being given the same right in terms of open space not being an option.

Mr. Goins stated that the current PUD guidelines allow for property of a certain size to request a development that once provided with a certain amount of open space, in return, may be able to develop smaller lots, fewer infrastructures, and a private lane, among other items if requested. The only requirement that needs to be met is that the density that could have been developed under the underlying zoning cannot be exceeded by the number of units requested.

Vote on motion: Don Antczak-Nay, Noor Ul-Hasan-Abstain, Rich Robinson-Aye, James Adinaro-Aye, Chair James Holtkamp-Aye. The motion passed 3-to-1 with one abstention.

Mr. Goins discussed alternate solutions pertaining to the proposed property.

2.3 Approval of the December 11, 2014, Minutes

Chair Holtkamp detailed the approval process. It was noted that the Board of Adjustment will move to approve the minutes of December 11, 2014, after the following process is met. The Recorder will prepare the minutes and email a copy of the document to each Board Member Board. The Board Members will then have five days to review the minutes and provide changes to the Recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the same process will be followed until the changes are made and the Board is in agreement, at which time the minutes shall be deemed approved.

3.0 ADJOURNMENT

Board Member Ul-Hasan moved to convene the Business Meeting and reconvene the Work Session. The motion passed with the unanimous consent of the Board.

The Board of Adjustment meeting adjourned at 6:46 p.m.

Minutes approved: 01/12/2015