

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

3
4 **Thursday, September 14, 2017**

5 **6:00 p.m.**

6 **Cottonwood Heights City Council Chambers**
7 **2277 East Bengal Boulevard, Cottonwood Heights, Utah**
8

9 ***ATTENDANCE***

10
11 **Members Present:** Chair Noor Ul-Hasan, Don Antczak, Pete Ellison, Doug Folsom, Rich
12 Robinson

13
14 **Staff Present:** City Planner Andrew Hulka, City Recorder Paula Melgar

15
16 **Others:** Adam Breen, Breen Homes

17
18 **BUSINESS MEETING**

19
20 **1.0 WELCOME/ACKNOWLEDGMENTS**

21
22 Chair Noor Ul-Hasan called the meeting to order at 6:08 p.m. and welcomed those in attendance.

23
24 **2.0 ACTION ITEMS**

25
26 **2.1 (Project #BOA 17-005) Action on a Request from Breen Homes for a Variance from**
27 **the Flag Lot Setback Requirements at 3507 East 8740 South.**

28
29 City Planner, Andrew Hulka, presented the staff report and stated that the request is for a variance
30 to the flag lot setback requirements. The request pertains to Lot 10 of the Sutton Subdivision, a
31 platted subdivision approved by the County in the 1970s. And aerial photo of the project was
32 displayed. It was noted that the shape of the lot is peculiar. It is technically a flag lot because
33 there is not adequate frontage directly abutting the public street to the south. The variance request
34 is due to the presence of a fault line that runs through the majority of the lot. The City’s ordinance
35 for fault mitigation requires a minimum 20-foot setback from each side of the fault line in order to
36 construct a habitable structure. It also requires that the applicant conduct a geological hazards
37 assessment and follow certain procedures. If the setback recommendation is greater than 20 feet,
38 the setback takes precedence. It shall not, in any case, be less than 20 feet from the fault line.

39
40 Mr. Hulka explained that the flag lot setback requirements are greater than standard lot setbacks.
41 On a flag lot the required setback is 20 feet on all sides of property not including the flag stem.
42 The presence of the fault line in addition to the flag lot setback requirements constrain what is
43 buildable on the lot. Therefore, the applicant has requested a variance to the west side to reduce
44 the setback from 20 feet to five feet. Mr. Hulka clarified that if granted, the five-foot variance
45 would apply to the front setback.
46

1 The plan shows the 20-foot setback, however, the applicants have requested the ability to reduce
2 the setback to five feet, if needed. That would allow them to shift the house to the south an
3 additional 15 feet. That would have the greatest and only impact on the existing homes. Given
4 that the applicants, in their narrative, have proposed to build a single-story home and references a
5 nine-foot main floor with a shed style roof sloping up to the east and away from the adjacent
6 properties. Staff suggested that the building height and roof pitch be worked into any mitigating
7 conditions. If this were a standard lot, the minimum setback without a variance would be eight
8 feet. It was noted that the staff report is considering only the primary structure on the property as
9 being eligible for the variance.

10
11 Mr. Hulka explained that an attached structure can be up to three feet from the property line as it
12 and is not considered part of the request. The five criteria that every variance must meet were
13 outlined as follows:

- 14
15 1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the
16 applicant that is not necessary to carry out the general purpose of the ordinance.
- 17
18 2. There are special circumstances attached to the property that do not generally apply to other
19 properties in the same district.
- 20
21 3. Granting the variance is essential to the enjoyment of a substantial property right possessed
22 by other property owners in the same district.
- 23
24 4. The variance will not substantially affect the General Plan and will not be contrary to the
25 public interest.
- 26
27 5. The spirit of the zoning ordinance is observed and substantial justice is done.

28
29 Mr. Hulka stressed that in order to approve a variance, the Board must find that the request meets
30 all five.

31
32 If the Board was inclined to approve the request, staff recommended a few conditions be added to
33 address building height and roof pitch. The intent was to mitigate impacts to extent possible to the
34 properties on the west.

35
36 Adam Breen from Breen Homes was representing the builder/contractor who currently owns the
37 contract to purchase. Chair Ul-Hasan asked about the proposed square footage of the home.
38 Mr. Breen stated that it will be 3,700 square feet in size including the basement. At one time there
39 were CC&Rs in place for the subdivision that required a minimum of a two-car garage and a
40 minimum 3,700 square foot home. Chair Ul-Hasan was concerned about the details of the report
41 with regard to having a basement. She stated that even with a 20-foot setback the City will
42 determine whether the lot is feasible for development.

43
44 Chair Ul-Hasan recommended that the Board review the report with regard to building a basement
45 that close. Mr. Hulka stated that a report was done but it is dated and does not meet all of the

1 standards contained in the current ordinance. A minimum update would be required to adhere to
2 the Sensitive Lands Ordinance.

3
4 Mr. Breen stated that some geotechnical work was done on the site. The geotechnical engineer
5 suggested that they stay 22 ½ feet from the lateral downhill side of the fault and 18 feet from the
6 uphill side of the fault. Their design has taken that into account, which was why they pushed the
7 home into the back corner.

8
9 A board member recalled several homes in the area had similar problems resulting from fault line
10 issues. He acknowledged that they have been an issue in the area for many years. It was noted
11 that in the neighborhood there are a total of 10 active faults running north to south and many homes
12 have been impacted by them. It was recommended that if approved, conditions of approval be
13 added.

14
15 Mr. Hulka stated that the single-story requirement will be enforced. Currently, the Code allows a
16 maximum height of 26 feet. The applicant stated that they will limit it to a one-story home with a
17 nine-foot main floor and a roof that slopes away from the properties to the west. Other conditions
18 could be imposed to limit the pitch of the roof or the overall height of the home if the Board feels
19 there is a negative impact by moving the home so far west.

20
21 A question was raised about the shop garage. Mr. Breen stated that the land is so tight that the
22 home itself is tight, long, and narrow. The desire of the homeowner is to have a wood shop on the
23 property, if possible. The size was proposed at 50' x 80'.

24
25 ***Pete Ellison moved to approve Project #BOA-17-005, a request from Breen Homes for a***
26 ***variance to reduce the front and side yard setbacks to five feet in order to construct a single-***
27 ***family dwelling at 3507 East 8740 South. Approval was subject to the following:***

28
29 ***Conditions:***

- 30
31 ***1. The applicant shall limit the structure to one story with a nine-foot main floor and shed***
32 ***roof that slopes up from west to east in accordance with the applicant's narrative.***
33
34 ***2. No permit shall be issued until a thorough fault rupture study has been completed and***
35 ***reviewed in accordance with Chapter 19.72 of the zoning ordinance.***
36
37 ***3. The maximum height of the roof on the east side shall be 15 feet.***

38
39 ***Finding:***

- 40
41 ***1. The proposed variance request satisfies all variance criteria found in Chapter 19.92.070***
42 ***of the zoning ordinance.***
43

44 Chair Ul-Hasan also recommended that the geological report be based on current City standards.
45 Mr. Hulka indicated that the City Engineer will not issue any permits until the geological report is
46 completed on any project.

1
2 *The motion was seconded by _____. Don Antczak – Aye, Pete Ellison – Aye, Doug Folsom*
3 *– Aye, Rich Robinson – Aye, Chair Noor Ul-Hasan – Nay. The motion passed 4-to-1.*

4
5 **2.2 Approval of the September 14, 2017 Minutes.**

6
7 The approval procedure for the minutes was described.

8
9 **3.0 ADJOURNMENT**

10
11 _____ *moved to adjourn. The motion passed with the unanimous consent of the*
12 *Board.*

13
14 The Board of Adjustment Meeting adjourned at 6:35 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the*
2 *Cottonwood Heights City Board of Adjustment Meeting held Thursday, September 14, 2017.*

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9 Teri Forbes

10 T Forbes Group

11 Minutes Secretary

12

13

14 Minutes approved: November 13, 2017