

CITY OF OREM
BOARD OF ADJUSTMENTS MINUTES
June 22, 2022

STUDY SESSION

Place: City Council Conference Room

At 5:30 p.m. Mr. Bench called the Study Session to order.

Those present: Ott Dameron, Carlos Iglesias, Karen Jeffreys, David Moulton and Leslie Nelson, Board of Adjustment members; Jason Bench, Planning Division Manager; Cheryl Vargas, Associate Planner, Grant Allen and Matt Taylor, Senior Planners; Steve Earl and Aaron McKnight, Legal Counsel

Those excused: Rachel Stevens, Associate Planner

The Board members elected Karen Jeffreys as their Chair.

REGULAR MEETING

Place: City Council Chambers ([Click here for recording](#))

At **6:00 p.m.** Chair Jeffreys called the meeting to order and asked Mr. Moulton to give the invocation.

Those present: Ott Dameron, Carlos Iglesias, Karen Jeffreys, David Moulton and Leslie Nelson, Board of Adjustment members; Jason Bench, Planning Division Manager; Cheryl Vargas, Associate Planner; Grant Allen and Matt Taylor, Senior Planners; Steve Earl and Aaron McKnight, Legal Counsel

Those excused: Rachel Stevens, Associate Planner

Agenda Item 3.1 is a request by Sean Hadlock for the Board of Adjustment consider granting a variance for the property located at 2501 East Provo Canyon Road in the OS5 zone. This meeting will be for discussion only. ([Click here for recording](#))

Staff Presentation: The applicant is requesting to modify or rebuild an existing structure on a parcel located at 2501 East Provo Canyon Road. The parcel contains an older one-story structure built in 1924 containing 285 square feet. The applicant is requesting to build a new home containing approximately 1,008 square feet according to a concept floor plan submitted.

The parcel is located in the Flood Plain (adjacent to the Provo River) and is designated as Zone A on the Flood Insurance Rate Map (FIRM) dated June 19, 2020. Development in the flood plain is regulated by Orem City Code Chapter 10. *Flood Damage Prevention* and requires strict development standards within the flood plain. The ordinance requires (Section 10-3-3) that “No structure or land shall hereafter be constructed, located, extended, or altered or have its use changed without full compliance with the terms of this Chapter and other applicable regulations.”

Section 10-3-5 *Interpretation*. Outlines how the ordinances outlined in Chapter 10 should be interpreted:

In the interpretation of this Chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

A complete video of the meeting can be found at www.orem.org/meetings

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In order for the applicant to remodel or reconstruct a home at this location the Board of Adjustment must grant a variance as outlined below:

Section 10-5-1 outlines that “All new construction shall be required to connect to City’s sanitary sewer system.” Since this parcel is located approximately two (2) miles from the nearest connection it seems impracticable to require the applicant to connect to an existing sewer line. The current older cabin is using an existing septic system. The applicant suggests that “*Without a variance for connecting to the city sanitary waste system, we cannot build, add on or renovate on this property, and neither could any of the homeowners on Provo Canyon Road.*” According to the applicant, an inspection of the existing septic system was completed and it was in excellent condition according to the report provided. The report is part of the agenda for your review. However, according to the Utah County Health Department if a new structure is built on the site the applicant will be required to bring the site into compliance with all applicable requirements outlined by the Utah County Health Department. Those requirements will be the construction of a new septic tank, if a variance is granted. If the existing structure is remodeled the existing septic tank would be allowed to remain.

Prior to granting a variance additional information is needed to determine several issues pertaining to this property. These include:

The ordinance (Section 10-4-4 *Permit Review Procedures*) requires all new or substantially improved floodproof structures verification of the actual elevation in relation to mean sea level to which the structure has been floodproofed.

In addition, Section 10-5-2 *Specific Standards*. Requires new construction and substantial improvement of any residential structure to have the lowest floor, including basement, elevated to one foot above the base flood elevation and a certification provided by a registered professional engineer, architect, or land surveyor to certify that this requirement is satisfied. This would require the applicant to hire a professional as outlined above to determine the base flood elevation in order to certify that any new construction would be the one foot above base flood requirement. The applicant has indicated the cost for the study is between \$10,000 - \$15,000.

Based on the above requirements and before the applicant completes the study, the applicant has requested a discussion with the Board of Adjustment before hiring a professional engineer to determine the base flood elevation and certify the proposed elevation of the existing structure and/or proposed structure. The applicant understands this is a requirement prior to the Board granting any variance for this property. Staff supports a discussion with the board, however, would require the base flood elevation determination before recommending that a variance be granted to not require a connection to the City’s sanitary sewer system.

In addition, the engineered plans must also show the improvements including any addition or new structure shall demonstrate that the encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge as required in Section 10-5-1(H).

Chapter 10 also outlines specific factors the Board of Adjustment must consider in the determination for granting variances to Chapter 10. The applicant has addressed these questions and the information provided is part of the staff report for your review.

Section 10-4-5(G)

G. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances shall only be issued upon:
 - a. showing a good and sufficient cause;
 - b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

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- c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Variances may be issued by the Board of Adjustment for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- H. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Based on the factors outlined above the Board of Adjustment must decide whether the request for a variance meets the strict requirements for granting a variance in a flood plain.

Additional information will be provided by the applicant at a future Board of Adjustment based on the outcome of the discussion. Additional items would include:

1. Engineered drawings of the base flood elevation and supporting documentation supporting the determination.
2. An application to the Utah County Health Department for a new septic system, if a new structure or an addition is proposed.
3. Review by the Provo Water Users and/or other affected parties related to a new septic system, if applicable.

Chair Jeffreys asked the applicant to introduce himself. Sean Hadlock introduced himself. There was a discussion regarding the capacity of the current septic tank. ([Click here for recording](#))

- Specifics will have to be worked out with Utah County. ([Click here for recording](#))

Mr. Bench said the issue for tonight is to see if the Board would grant a variance for this property to not have to connect to the City sewer system but remain on a septic tank. There was a discussion regarding the possibility of having to relocate the current septic tank. ([Click here for recording](#))

Ms. Jeffreys asked what the plan is for the property. Mr. Hadlock said his family would use it and it would also be an Airbnb. ([Click here for recording](#))

Mr. Moulton asked how high the slope is as it goes toward the river. Mr. Hadlock thought it was about a 10' drop. Options to bring the new house up and out of the flood plain were discussed. ([Click here for recording](#))

Mr. Earl made a comment to make sure Mr. Hadlock understood that the Board was making no commitment to approve this item when this comes back before them. ([Click here for recording](#))

Board of Adjustment Action: Chair Jeffreys called for a motion to continue this item. Mr. Dameron moved to continue this item to an undetermined date. Ms. Nelson seconded the motion. Those voting aye: Ott Dameron, Carlos Iglesias, Karen Jeffreys, David Moulton and Leslie Nelson. The motion passed unanimously. ([Click here for recording](#))

Minutes: Chair Jeffreys called for a motion to approve the draft minutes of the July 17, 2019 meeting. Ms. Nelson moved to approve the meeting minutes for July 17, 2019. Ms. Jeffreys seconded the motion. Those voting aye: Ott Dameron, Carlos Iglesias, Karen Jeffreys, David Moulton and Leslie Nelson. The motion passed unanimously.

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Adjourn: Chair Jeffreys called for a motion to adjourn. Ms. Nelson moved to adjourn. Mr. Moulton seconded the motion. Those voting aye: Ott Dameron, Carlos Iglesias, Karen Jeffreys, David Moulton and Leslie Nelson. The motion passed unanimously.

Adjourn: 6:25 p.m.

Jason Bench

Approved: May 24, 2023