

Minutes of the Hearing Officer meeting held on Wednesday, June 8, 2022, at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland – Hearing Officer
Susan Nixon – Associate Planner
Jared Hall – Community Development Director I
Rob Holfeltz, Anderson Engineering Company

Jim Harland stated one of the items on the agenda has been withdrawn, Item #3, Case #1591 for Kevin & Becky Potts.

CONFLICT OF INTEREST

Mr. Harland stated he does not have any conflicts with any of the cases being discussed today. He did drive by the house this morning to view it, he wanted to see what the yard and access looked like.

CASE # 1590 – Suzanne Hoggan – 17 East 6150 South - Project #22-073

Susan Nixon presented the application. This application was submitted on behalf of Suzanne Hoggan by Anderson Engineering, they are the surveyors and the ones handling the project for her. The property is located at the address above, on the north side of the road, adjacent to the parking lot for the senior center and ballfield; to the south is the senior center. The property is in the R-1.8 zone, residential, as is the parking lot and senior center. The intent of this application is to hopefully develop a subdivision flag lot, which would require Planning Commission approval if the variance were approved. The request is for the requirement of the flag lots in Section 17.76.140H which requires a four-foot landscape strip adjacent to the drive access that extends to the rear of the flag lot. Ms. Nixon explained the variance location is on the east side of the drive isle. She shows a green line where the proposed landscape strip would be, and the red line is where the new proposed property line would be. Due to an existing fire hydrant being located on the west side of the property in the southwest corner, it is just over five feet into the west property line; it extends into the drive access. Typically, a fire hydrant would be within the landscaping strip, however this is just on the outside of the landscaping strip. The intent is the applicant would like to have the variance to adjust the landscape strip on the east side for a length of 30 feet, which will then widen out to the four feet as it progresses northward. She showed photos of the front of the home, and on the right side of the home where there is an existing drive that goes back to the detached garage and an accessory dwelling unit. Additional photos show the ADU to the rear of the existing home and a rock fireplace and patio area. If the variance is denied, one of the scenarios is that they have to move the landscape strip to the east completely which they have enough room for, but it would require the rock fireplace and existing mature trees to be removed. With the home and yard, there is a lot of landscaping and it is very well manicured and immaculate. They feel that no one would visually notice the difference of the variance. For the variance, they have to meet five state criteria which are:

1 – Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose for the land use ordinance.

The applicant's request for the 28 foot width of the access strip entails four feet of landscaping, 20 feet of hard surface, and then another four feet of landscaping. The 20 feet of hard surface is to provide vehicular access and safety/emergency access. The fire department has reviewed this request and they are okay with it, as long as there is a 20-foot hard surface area. The property to the west of the parking lot is the Murray Center and Grant Park, and there is also additional landscaping that can be seen on the other side of the fence, which is by the senior center. Approval of the landscape variance would protect the existing mature trees, concrete curbing and mature lawn area to the east. Again, aesthetically you would never see the difference. The variance has requested to not install the four feet of landscaping on the east for a length of about 30 feet. Staff finds that the application meets this requirement for granting the variance.

2 – Special circumstances attached to the property that do not generally apply to other properties in the district.

Due to the fire hydrant being a little over five feet on the inside of the property it does make it difficult for the flag lot to meet the four-foot landscape area, and the width of the access, without having to move the fire hydrant. It seems very impractical for the applicant to have to move a fire hydrant two or three feet; it would be very expensive and the fire department doesn't want it moved. Additional findings were that this would maintain the paved 20-foot-wide drive access and reduce the four feet of landscape just for a length of 30 feet. If the existing requirements are enforced, it would require removal of the existing improvements such as the rock fireplace shown earlier. The placement of the fire hydrant and the existing mature landscaping caused special circumstances that do not generally apply to other properties, and the staff finds that this meets the requirement.

3 – The variance is essential to the enjoyment of a substantial property right possessed by other properties in the district.

This property is large enough to be subdivided into two, and to meet the flag lot regulations other than the exception of the drive aisle and access width as required by the code. Granting the variance would allow the existing well-manicured and mature landscaping, and site improvements to remain. A potential subdivision represents a substantial property right and staff finds that it meets this criteria.

4 – The variance will not substantially affect the general plan, and will not be contrary to public interest.

In the general plan it calls for this area to be developed as single family residential, and part of that is accessory dwelling units or flag lots, since properties are getting more difficult to develop and there is not a lot of property left. The applicant does have an existing ADU, she is maximizing her potential for this property and now would like to have the flag lot. Again, it does meet the intent of the general plan and does provide opportunity for additional housing. Staff feels this is not contrary to public interest and will not affect the general plan, and that it meets this requirement.

5 – Spirit of the land use ordinance is observed and substantial justice done.

Staff feels that this request does observe the land use ordinance, does provide the 20-foot emergency access, provides the four feet of landscaping on the west, and does have a lot of landscaping on the east part of the existing lawn. Staff feels that visually, no one would know any different and it does help the property to be developed and actually would make more sense looking at it logically. Staff finds that this does meet this requirement and will not violate the spirit of the ordinance.

Unreasonable hardship analysis:

A – Located on or associated with the property for which a variance is sought.

The variance is on the subject property.

B – Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The special circumstances must relate to the hardship complained of and deprive the property owner of privileges granted by other properties in the same district.

This is due to the fire hydrant location.

Staff is recommending that this variance request be approved, based on subject findings as previously mentioned.

Mr. Harland asked to confirm that all five criteria have been met,

Ms. Nixon said that yes, they feel they have all been met.

Mr. Harland asked to go back to the landscaping photos on both sides. If this is not approved, would the fire hydrant have to be moved? Ms. Nixon responded that either the fire hydrant would have to be moved, or the property line and landscaping would all have to be shifted to the east.

Mr. Harland asked, if this is not approved, what landscaping is wiped out, is it the west or east side. Ms. Nixon said the west side would stay, but on the east side, all the mature hedges and trees and everything else would be part of the flag lot itself and would require the rock fireplace being removed.

Rob Holfeltz – Representing the applicant and Anderson Engineering

The permit was notarized by Ms. Hoggan to allow them to speak in her behalf. Another component of having the landscape on each side of the drive approach is to also be able to provide a utility corridor. One reason they can't just shift the line over and keep that landscaping and not incorporate it as part of the new flag lot, is that it is also the utility corridor for the sewer line. All that vegetation would have to come out so they can put in a utility line. In discussions with Ben Ford, Murray City Wastewater Supervisor, there is a stipulation that sewer laterals cannot go under a drive approach. This proposal clips the east corner of the driveway, but Mr. Ford had given his approval as requested. They said it was allowable because it is only clipping the corner, and the majority will be maintained within that landscaped area. In their findings, they don't have any issues with that.

Mr. Harland asked if the fire department is okay with the 20 foot width hard surface for access.

Ms. Nixon said yes, she spoke with Fire Marshall Puls and he said they were good with this.

Mr. Harland asked if the fire hydrant was recently installed, or if it has been there for a while.

Ms. Nixon said that has been there for quite a while.

Mr. Harland thanked Ms. Nixon for her report, there was some great detail in there and acknowledged that she did a great job with good research.

Mr. Holfetz said that at this point he thinks everything has been covered. Ms. Nixon did a very good job of laying out the situation. The 20-foot paved way is actually code, they are meeting the code set by the city. They just have that one little variance for tapering out the landscaping, for which they have already received approval from Wastewater Department. At this point they are just seeking approval for this variance.

Mr. Harland noted this was the step before going to the planning commission for approval for the flag lot, and it meets the requirements. He opened up the hearing for public comments; there were no comments and that part of the hearing was closed.

Ms. Nixon said she heard from the director of the Murray Senior Center, Cory Plant, indicated verbally that he was fine with it.

Mr. Harland noted that Cory used to be the Recreation Director and asked for confirmation that none of the neighbors responded to the notifications.

Ms. Nixon confirmed that was correct.

Mr. Harland didn't have any other questions, and thanked Mr. Holfetz for coming and representing the applicant and explaining the details. He thinks this is a pretty logical approval. They are normally not supposed to say they are going to approve these, but he has no problem with this and he intends to approve it. He said not to take any steps until they receive the written report from the planning folks, which will be available next Wednesday at noon, June 15. As discussed earlier with the staff, he will be out of town so he will probably have the report to Ms. Nixon by tomorrow or Friday at the latest so he can get it signed and taken care of for the applicant to pick up.

Meeting was adjourned at 12:46 p.m.



Jared Hall, Director