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2  
3 PLEASANT GROVE CITY  
4 BOARD OF ADJUSTMENT MINUTES  
5 March 17, 2011

6  
7 **PRESENT:** Vice-Chair Malone, Stephanie Green, James Butterfield, Stephen Phelon and Tom  
8 Petersen.

9  
10 **Excused:** Chair Sterling Wadley and Frank Johnson

11 **Absent:**

12  
13 **STAFF:** Ken Young, Comm. Dev. Director and Barbara Johnson, Secretary

14  
15 **6:30 PM BOARD OF ADJUSTMENT TRAINING MEETING**

16  
17 Vice-Chair Malone welcomed everyone to the meeting and called the meeting to order at 6:30 pm.

18  
19 Director Young gave the members a new site plan to review for Item 1. The members reviewed the  
20 site plan and then had a brief discussion on the flag lot stem width. Director Young also gave the  
21 members a copy of the site plan for Item 2 that showed the dimensions of the build able area.

22  
23 **7:00 PM BOARD OF ADJUSTMENT MEETING**

24  
25 **PRESENT:** Vice-Chair Malone, Stephanie Green, James Butterfield, Stephen Phelon and Tom  
26 Petersen.

27 **Excused:** Chair Sterling Wadley and Frank Johnson

28  
29 **STAFF:** Ken Young, Comm. Dev. Director, Degen Lewis, City Engineer and Barbara Johnson,  
30 Secretary.

31  
32 **Applicants:** Susan Brandon and Kyle Honeycutt with Richmond American Homes.

33  
34 Vice-Chair Malone welcomed everyone and then called the meeting to order at 7:00 pm. He asked  
35 everyone to silence their cell phones. In accordance with Article II, Paragraph 2.3 of the Board By-  
36 laws he indicated that he would preside at this hearing and the meeting is called to order. In addition to  
37 myself the Board members present tonight are Mr. James Butterfield, Mrs. Stephanie Green, Mr.  
38 Stephen Phelon and alternate member Tom Petersen. The Board Secretary, Mrs. Johnson, is present  
39 and I would request that she record in the minutes of this hearing that we have the required Quorum  
40 present and all members here tonight will be voting. The official minutes of this hearing will be

1 available for public review, when published. He introduced the city staff Mrs. Barbara Johnson,  
2 secretary and Ken Young, Comm. Dev. Director.

3  
4 Vice-Chair Malone asked Mrs. Johnson if this meeting and the agenda have been publicly advertised.  
5 Mrs. Johnson stated that they have. He also asked the members if they received their staff briefing  
6 packets. All members said yes. Have each had ample time to study the packet? All members said yes.  
7 Mr. Phelon said for the record that the members were given additional information tonight at the  
8 training meeting. Has there been any ex parte contact with the applicant? All members said no. Are  
9 there any comments and/or questions regarding the agenda? All members said no.

10  
11 Vice-Chair Malone stated for the record: This Board is concerned ONLY with the REQUEST, AS  
12 STATED, of the applicant(s) - We have no jurisdiction or authority to try to propose other solutions or  
13 in any sense solve the problem presented before us.

14  
15 Vice-Chair then read the agenda. He asked if there were any questions or comments on the agenda. He  
16 then called for a motion to make the agenda the order of the day.

17  
18 **MOTION:**

19  
20 Mr. Butterfield moved that the publicly advertised agenda be accepted as the Order of the Day for  
21 tonight's meeting. Mr. Phelon seconded the motion, and all members voted "Aye" Motion carried.  
22 (See attachment #1)

23  
24 **ITEM 1** Public Hearing for the Board of Adjustment to consider the request of Susan Brandon for a  
25 variance of approx. three (3) feet on the width of flag lot stem (City Code 10-15-10-G -1) where 25  
26 feet is required for property located at 31 South 400 East in the R1-7 (Single Family Residential)  
27 Zone. **OLD FORT NEIGHBORHOOD**

28  
29 Director Young said the original request was for the applicant, Susan Brandon, and her neighbors to  
30 the south, the Jaynes, were proposing to divide their properties, creating two new lots to the rear of  
31 their existing homes that front on 400 East. Their proposal showed more than sufficient area for all  
32 the new lots to meet the minimum lot size for the R1-7 zone, which is 7,000 square feet. The main  
33 difficulty in accomplishing this subdivision is the creation of a flag lot stem to access the two new lots  
34 in the rear. City Code requires a minimum of 25 feet width for the stem road, while the homes are  
35 required to have an 8-foot side yard setback.

36  
37 Director Young showed an aerial of the property and said the neighbor to the south; Mr. Jaynes  
38 decided not to participate in developing his property at this time. Director Young said as of yesterday  
39 we received an alternate site plan that shows the entire flag lot stem on Mrs. Brandon's property. He  
40 said this new site plan does not change the request as for what type of variance is being requested, it  
41 just moves it all on to the applicant's property.

42  
43 Director Young said this is a narrow deep lot in the Historical District of Pleasant Grove. The lot  
44 meets the 70' of lot width and plenty more than sufficient lot area, so there is room for this lot to be  
45 split as far as size.

1 Director Young said code requires a 25' minimum width on a flag lot stem. The proposal is to reduce  
2 the width of the stem by a total of 3 feet, to a width of 22 feet, which would provide for the minimum  
3 8 foot side yard setback. The only way to make this new proposal work is to remove the existing  
4 garage that is on the property. By removing the garage there is plenty of room to put a 22' wide stem  
5 and still have a 9 ft side yard setback which is 1ft more than required in this zone. He said there is an  
6 accessory garage behind the home so the requirement for a garage can still be maintained in this  
7 residential zone.

8  
9 Director Young said by putting the flag stem on the property, it reduces the width of the overall lot  
10 lower than the required, so there are two areas that need to be addressed before approving this request  
11 1) for the flag lot stem width and 2) for the lot width. Director Young indicated the sections of the  
12 code that will cover this request, 1) Historical Exception and 2) 10-15-14-2-1. He said the code does  
13 stipulate that the variance can not be more than 20% of the existing code requirement; this request  
14 does fall within the approval amount.

15  
16 Mr. Butterfield thought the 20% exception only fell within the historical exception variance. Director  
17 Young said he was right.

18  
19 Vice-Chair Malone then asked if the applicant had any comments. Mrs. Susan Brandon came forward  
20 and said she lives at 1345 North 800 West in Orem, Utah. She said her son was living in the existing  
21 home and was in a motorcycle accident and is paralyzed from the chest down. She said they talked  
22 about adding on to the existing home to make it handicap accessible, but then ran into several  
23 problems because of the existing garage. A new home on a flag lot was the only alternative for her  
24 son to have a home that is wheel chair accessible.

25  
26 Mrs. Brandon said several years ago her neighbor, Mr. Jaynes talked to her about developing their  
27 properties together so this is why we have started this process with the flag lot stem between our  
28 properties. Last Saturday she received a phone call from Mr. Jaynes stating he did not want to  
29 participate at this time, so that is why you have a revised site plan in front of you tonight.

30  
31 Mr. Phelon asked if Mr. Jaynes could use the flag stem in the future to develop his property. Director  
32 Young said there will have to be some sort of agreement between the property owners.

33  
34 Degen Lewis, City Engineer said when we have a project where there is a possibility of a neighbor  
35 adding onto the flag lot subdivision, we discuss that with the applicant and make provisions in the plat  
36 and in the CC &R's for the neighbor to purchase into the right to use the access.

37  
38 Mr. Butterfield said if the neighbor decides to build a home in the future and use the stem can the city  
39 stipulate that he would have to expand the right of way to 25 ft.

40  
41 Vice-Chair Malone asked if curb, gutter and sidewalk were required on a flag stem. Mr. Phelon said it  
42 is not required on a flag stem, just a hard surface driveway with a curb.

43  
44 Mr. Butterfield asked about the Medical Special Exception Variance for this property. Director Young  
45 felt the medical special exception could be used as the third option.

46

1 Director Young said he had a comment that he would like to recommend as a condition if the board  
2 should choose to go that route and that is, there is an existing situation in the existing home that Mrs.  
3 Brandon has an accessory apartment on the lower level of the home which is not currently in legal  
4 status. Director Young said staff would like a condition attached with the approval to have the  
5 accessory apartment eliminated that the home remain a one household unit again.  
6

7 Mr. Butterfield asked Mr. Young if the apartment was already denied by zoning. Director Young said  
8 yes. Mr. Butterfield said the board will not address the recommendation from staff and will let the  
9 zoning official enforce the code on the illegal apartment.  
10

11 Mrs. Brandon said she wants to be a law abiding citizen but said the Mayor's letter on accessory  
12 apartments was very confusing. Mr. Butterfield said the board has no authority to enforce zoning.  
13

14 Vice-Chair Malone then opened the meeting to a public hearing. There were no comments during the  
15 public hearing. He then closed the public hearing and brought the discussion before the board.  
16

17 **Discussion:**  
18

19 Mr. Butterfield said the historical special exception variance (City Code 2 -4-5 -K b) may be granted  
20 if the requested variances do not change the requirement of the zone by more than 20%. He said the  
21 frontage of this lot is 70 ft and will be reduced to 57 ft which falls within the 20% of the historical  
22 special exception variance and suggested this variance be used on the lot frontage. He then stated if  
23 the board should choose to grant the reduction on the flag stem width there should be a condition that  
24 the neighbor to south if they decide to develop their property they will have to add the addition 3 ft to  
25 the flag stem to make it the required 25 ft right of way.  
26

27 Mr. Phelon said the property owner to the south can not access the rear of the property without using  
28 the flag stem, so there needs to be some kind of agreement made with the Brandon's.  
29

30 The board then went through the five criteria.  
31

32 **The Board of Adjustment may grant a variance only if:**

- 33 (i) **literal enforcement of the zoning ordinance would cause an unreasonable hardship**  
34 **for the applicant that is not necessary to carry out the general purpose of the**  
35 **zoning ordinance:**  
36 (ii) **there are special circumstances attached to the property that do not generally**  
37 **apply to other properties in the same district:**  
38 (iii) **granting the variance is essential to the enjoyment of a substantial property right**  
39 **possessed by other property in the same district:**  
40 (iv) **the variance will not substantially affect the general plan and will not be contrary**  
41 **to the public interest: and**  
42 (v) **the spirit of the zoning ordinance is observed and substantial justice done.**  
43

- 44 • All members voted yes on the five criteria. There were no comments made.  
45

1 Vice –Chair Malone said after reviewing the five criteria each one passed unanimously. He then called  
2 for a motion.

3  
4 **MOTION:**

5 **At the Public Hearing, Mr. Phelon moved to approve the request of Susan Brandon**  
6 **for a historical variance on the lot width from 70 feet to 57.2 feet and a variance on**  
7 **the width of the flag lot stem from 25 feet to 22 feet on property located at approx. 31**  
8 **South 400 East with the following condition:**

- 9
  - **If the neighbor to the south wants to access the flag stem to develop his**  
10 **property in the future that he add the additional 3 feet at that time to make the**  
11 **flag stem width 25 feet.**

12 **Mr. Butterfield seconded the motion, and the Board unanimously voted, “Aye”**  
13 **Motion carried.**

14  
15 **ITEM 2 Public Hearing for the Board of Adjustment to consider the request of Richmond American**  
16 **Homes for a variance to encroach a portion of the home into the rear yard setback approx. nine (9) feet**  
17 **(City Code 10-9B-7 E) where 25 feet is required for property located at 1234 North 300 East in the**  
18 **R1-10 (Single Family Residential) Zone. BIG SPRINGS NEIGHBORHOOD**

19  
20 Director Young showed an aerial of Lot 14 in Larsen Acres Plat A and said Kyle Honeycutt of  
21 Richmond America recently approached the City with the desire to construct a new home on the  
22 subject property. It was determined that, due to the shape of the lot, the opportunities for building a  
23 home on the lot are very restrictive. The applicant claims that even by utilizing their shallowest floor  
24 plan, they are unable to meet the rear yard 25-foot setback requirement while meeting the minimum  
25 floor area of 1,200 square feet.

26  
27 Director Young said the City Code requirement for setbacks in residential zones, found in Section  
28 10-9B-7E, is 25 feet. Due to the shape of the lot, the best build able area is on the southern portion of  
29 the lot. However, the angled rear yard lot line causes an infraction in what would otherwise be good  
30 sized, workable build able area. At its narrowest point, the lot has a depth of 79 feet. Subtracting the  
31 two required front and rear setbacks, totaling 50 feet, a length of only 29 feet of build able area is left.  
32 This can severely restrict the type of home construction that can occur on this lot.

33  
34 Director Young said Richmond American Homes wants to build a home that fits the character of the  
35 existing development of the neighborhood, instead of creating something new and different that would  
36 fit a narrow build able area they wanted to be able to use one of their standard floor plans that they  
37 normally use therefore they are requesting to be able to encroach a corner of the home approx 9 ft into  
38 the rear yard setback. He stated Section 10-15-30I requires that homes built in the R1-10 zone have a  
39 main floor with a minimum of 1,200 square feet area of livable space. The applicant claims that by  
40 utilizing their shallowest plan with the 1,200 sq ft minimum floor area, the home necessarily  
41 encroaches into the rear yard setback at its northeast corner, by approximately 9 feet.

42  
43 Mr. Butterfield said he needed a better definition of livable floor space.

44  
45 Mr. Petersen wanted clarification that 1200 sq ft of living space has to be on the main floor. Director  
46 Young said yes.

1 Vice-Chair Malone then asked if the applicant had any comments. Kyle Honeycutt representing  
2 Richmond American Homes came forward and showed the members a sketch of the house plans they  
3 would like to build in Larsen Acres.

4  
5 Mr. Honeycutt said Richmond American Homes has bought multiple lots in the Larsen Acres  
6 Subdivision and said this lot in question is under consideration, but has a lot of challenges because it is  
7 so narrow. He said Richmond American Homes has over 250 house plans that they build all across  
8 the country and said there are a couple of house plans that will work for this odd shaped lot but will  
9 still encroach into the set backs and not meet the 1200 sq ft of living space that is required for this  
10 zone.

11  
12 Mr. Butterfield asked how many levels are in the home. Mr. Honeycutt said it is a two story home.  
13 Mr. Butterfield said if the porch were eliminated you could move the whole house forward and meet  
14 the set back requirements and you wouldn't need a variance.

15  
16 Vice-Chair Malone said there are ranch style homes in this area and then he asked Mr. Honeycutt why  
17 they couldn't build a ranch style home on this lot. Mr. Honeycutt said their ranch style house plans are  
18 to deep and will not fit on this odd shaped lot. Vice-Chair Malone suggested drawing a new plan. Mr.  
19 Honeycutt said they are a production home builder and they like to stick to certain house plans, and  
20 prefer to build a certain type of home because the floor plan is very popular.

21  
22 Mrs. Green asked Mr. Honeycutt if he had approached the neighbor to see about acquiring additional  
23 property from them. Mr. Honeycutt said he had not.

24  
25 Director Young said there is a ditch that runs across the back of the property. Mr. Butterfield asked if  
26 there was a right-of-way for the ditch? Mr. Phelon said the ditch doesn't change anything, the set  
27 backs are measured from property line.

28  
29 Vice-Chair Malone then open the meeting to a public hearing.

30  
31 Mrs. Eileen Billings said she lives at 1248 North 380 East just east of this property. She said she  
32 didn't have any issues with this request. She said the property line is in the middle of the ditch, which  
33 is used for irrigating. She said the only other concern she had was the two trees that are right on the  
34 property line, if the trees were removed she would want them to pay the cost of the clean up.

35  
36 Mrs. Billings said the ditch can not be closed because they still flood irrigate their property. Mr.  
37 Phelon thought that was part of a development, to pipe the ditch. Mr. Butterfield asked if the ditch  
38 drains into a box on 1100 North. Mrs. Billings said yes.

39  
40 Mrs. Billings said a new home always adds value to the neighborhood.

41  
42 Vice-Chair Malone closed the public hearing and brought the discussion before the board.

43  
44 **Discussion:**

45  
46 Mr. Butterfield said the board is not allowed to consider profit or loss value of a property.

1  
2 Mr. Phelon said he has looked over the entire plat and said whoever developed this subdivision in the  
3 beginning created this problem by trying to squeeze in more lots. He said there are several house plans  
4 that will work on this lot.

5  
6 Mr. Butterfield felt this is a self imposed hardship.

7  
8 The board then went through the five criteria.

9  
10 **The Board of Adjustment may grant a variance only if:**

- 11 (vi) **literal enforcement of the zoning ordinance would cause an unreasonable hardship**  
12 **for the applicant that is not necessary to carry out the general purpose of the**  
13 **zoning ordinance:**  
14 (vii) **there are special circumstances attached to the property that do not generally**  
15 **apply to other properties in the same district:**  
16 (viii) **granting the variance is essential to the enjoyment of a substantial property right**  
17 **possessed by other property in the same district:**  
18 (ix) **the variance will not substantially affect the general plan and will not be contrary**  
19 **to the public interest: and**  
20 (x) **the spirit of the zoning ordinance is observed and substantial justice done.**

- 21  
22 • All members voted no.  
23 • All members voted no.  
24 • All members voted no and said a house can be build on this lot without a variance.  
25 • All members voted yes.  
26 • All members voted no.

27  
28 Vice –Chair Malone said after reviewing the five criteria each one has to pass unanimously. He then  
29 called for a motion.

30  
31 **MOTION:**

32 **At the Public Hearing, Mr. Butterfield moved to deny the request of Richmond**  
33 **American Homes for a variance to Section 10-9B-7E to encroach a portion of the**  
34 **home into the rear yard setback, for property located at 1234 North 300 East, based**  
35 **on the following findings:**

- 36 • **The request did not meet any one of the five criteria required in granting a**  
37 **variance.**

38 **Mrs. Green seconded the motion, and the Board unanimously voted, “Aye”**  
39 **Motion carried.**

40  
41 Review and approve the minutes from the February 17, 2011 meeting.

42  
43 **MOTION:**

44 **Mr. Butterfield moved to approve the minutes from the February 17, 2011 meeting as**  
45 **corrected. Mr. Phelon seconded the motion, and the Board unanimously voted,**  
46 **“Aye”**

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**Motion carried.**

**MOTION:**

Mr. Phelon made a motion to adjourn.

Meeting adjourned at 7:54 pm

\_\_\_\_\_  
James Malone  
Vice-Chair, Pleasant Grove City Board of Adjustment

\_\_\_\_\_  
Barbara Johnson  
Secretary

Date Approved: \_\_\_\_\_