

CITY OF IDAHO FALLS
BOARD OF ADJUSTMENT
P.O. BOX 50220
IDAHO FALLS ID 83405-0220
(208) 612-8276

March 24, 2011
12:15 p.m.

City Annex Building, Council Chambers
680 Park Avenue

Members Present: Steve Davies; Hal Latin; Richard Lee; Len Stenzel; and James Wyatt.

Members Absent: Stephanie Austad; Jake Cordova; Alex Creek; and Kendall Phillips.

Staff Present: Brad Cramer, assistant director; and Debra Petty, recording secretary.

Also Present: The applicant(s).

Changes to Agenda: None.

Call to Order: The meeting was called to order at 12:15 p.m. by Chair Lee.

Minutes: **January 13, 2011.**

Motion by Davies, seconded by Stenzel, to approve the minutes of January 13, 2011, as presented.

Aye: Steve Davies; Hal Latin; Chair Lee; Len Stenzel; and James Wyatt.

Nay:

Abstain:

Public Hearings: **Variance Request
Lot 11, Block 9, Mill Run, Division No. 6
1142 Caysie Circle**

Cramer described the request as outlined in the staff report, a part of the public record. He noted the following in regard to the project:

- The request is to reduce the required rear yard from 25' to 19'6", a reduction of 5'6" for the construction of a 10' x 18' addition to the rear of the home.
- In 1998, a variance request for the construction of a large home with a three car garage encroaching into the property setbacks was denied, as the board found nothing unique about the lot.
- As a result of the denial, the lot was eventually sold and a different home constructed meeting the required setbacks.
- At the time of denial there were 5 criteria for approval; today there are only 3 criteria.
- The board no longer considers whether there is a conflict with the comprehensive plan, or if there is no other reasonable use of the property if the variance is not granted.
- This corner lot is 31% larger than the average lot in the subdivision.
- Comparatively, it is smaller at 11,761 square feet than other corner lots in the subdivision at 12,272 square feet.
- The site does not meet the exemption for a 15' setback from a side street, as Caysie Circle is not a through street.
- The hardship is not the creation of the owner; according to the owner the builder positioned the house closer to the rear lot line than planned, however, there are no records to substantiate this claim.
- The home could have been positioned an additional 3' to the front of the lot and maintain the required setback, but this would still not provide the owner the required setback for the addition.

- If the board does not want to overturn the findings from 1998, consideration may be given to the placement of the existing home on the lot.
- The map depicting the buildable area indicates ample room for construction of the addition on the east side of the lot.
- Staff recommends denial of the request because it does not meet the three criteria for approval.

Chair Lee opened the hearing to public comment.

**Leslie Pincock
1142 Caysie Circle
Idaho Falls, ID**

Ms. Pincock said the request is purely a matter of convenience and not one of hardship. Costs would be reduced if they were able to construct the addition on the rear, as there would be no need to reconfigure the kitchen. The rear yard functions more as a pass through or side yard than a rear yard. The east side yard is used for play and entertaining. As the family grows and they consider taking in aging parents it would be nice to have a larger dining/kitchen area. She would appreciate the convenience the addition would provide.

Ms. Pincock said the previous owner of the lot was attempting to construct a much larger home when the board made their ruling in 1998 and does not believe the addition would encroach upon any of her neighbors. She believes precedence was set in support of her request, as a home on the southwest corner of Kelly Drive and Kortnee Drive, does not have room for a car to fit in the driveway without straddling the public sidewalk. It is obvious a variance was needed for the placement of the home.

Ms. Pincock understands a variance is not necessary if the addition were constructed on the east of the home, but it would necessitate changes to the kitchen, increase construction costs, encroaches on useable space for play/entertaining, and would cover two window wells. She said there were a number of mistakes made by the builder; one being the placement of the home an additional 4' back from the front of the cul-de-sac.

Chair Lee closed the hearing to public comment.

Discussion by the board: Cramer explained to the board that the home referenced at the corner of Kelly Drive and Kortnee Drive meets the exception to the ordinance for two houses on a side street. He said language was added to the ordinance to clarify this exception was for lots created on a grid. Ms. Pincock believes the setback for that particular home is viewed as a side setback and not a front setback.

Davies noted in 1998 the board found the request for a variance did not meet the criteria for approval and believes the present request does not meet current criteria for approval. He has mixed feelings about any decision by the board. Wyatt said it is a difficult decision, but finds nothing unique about the property that merits approval of the request. Davies stated the applicant has adequate property, but for them to consider the rear yard as a side yard would eliminate a conforming rear yard entirely.

Stenzel said he does not see a way for the board to approve a variance based on criteria. The best recourse for the applicant is to appeal to city council. Cramer explained city council must consider the very same criteria as the board. If council approves a request denied by the board, essentially they are saying the decision made by the board was wrong.

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Ms. Pincock said the design of the interior of the home prevents the addition of space to the east without increasing costs and constraints on the west side and to the front of the home preclude consideration of those locations. Most likely they will live with the inconvenience if the request is denied. The only loophole available to her is the consideration of the rear yard as a side yard.

Chair Lee closed the hearing to public comment.

Discussion by the board: The board found this decision particularly difficult as the request is not unreasonable, but there is nothing to support approval of the variance. Wyatt said the board must reach a decision in order to provide the applicant with options. Latin concurs with Wyatt.

Motion by Davies, seconded by Wyatt, to deny the request for a reduction of 5'6" to the required rear yard setback as the lot is not unique.

Aye: Steve Davies; Hal Latin; Chair Lee; Len Stenzel; and James Wyatt.

Nay:

Abstain:

Business:

Findings of Fact and Conclusions of Law for Lots 21-24, Block 12, Crows Addition (301 S. Boulevard).

Motion by Davies, seconded by Stenzel, to approve the Findings of Fact and Conclusions of Law for 301 S. Boulevard as presented.

Aye: Steve Davies; Hal Latin; Chair Lee; Len Stenzel; and James Wyatt.

Nay:

Abstain:

Miscellaneous:

There are no new applications for variances.

Adjourn:

Meeting adjourned at 12:56 p.m.

Debra Petty, Recording Secretary
Board of Adjustment