

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

August 12, 2010
12:15 p.m.

City Annex Building, Council Chambers
680 Park Avenue

Members Present: Stephanie Austad; Alex Creek; Steve Davies; Len Stenzel; and James Wyatt.

Members Absent: Jake Cordova; Hal Latin; Richard Lee; and Kendall Phillips.

Staff Present: DaNiel Jose, Current Planner.

Also Present: The applicant.

Changes to Agenda: None.

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

Minutes: July 22, 2010.

Motion by Creek, seconded by Austad, to approve the minutes of July 22, 2010, as presented.

Motion passed 5, 0, 0.

Public Hearings: Variance Request
.29 Acres E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, T 2N, R 37
755 N. Colorado Avenue

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

- The applicant is requesting a variance to encroach 29-feet into the required 30-foot side yard setback for a corner lot.
- The area is un-platted/metes and bounds.
- Although the elevation of the lot changes and is not perfectly square, it is larger in size than most in the area.
- A permit was not acquired prior to construction.
- There is ample room on the lot to construct the shed within the legal building envelope.
- The shed is located 18" from the south property line.
- A number of photos were submitted by the applicant for review.
- Staff recommends denial.

Jose confirmed for Creek that there is not an issue with the clear-site triangle for the corner of Colorado and Mountain View. Jose told Austad the depth of the rear yard is approximately 19-feet. However, there is adequate room for proper placement of the structure.

Chair Wyatt opened the hearing to public comment.

Sherry Garcia
755 N. Colorado Avenue
Idaho Falls, ID

Mrs. Garcia stated the new construction was positioned so the neighbor's tree could not damage it, as happened in the past. They planned to purchase a shed from Home Depot and did not know they needed a building permit until informed by a passerby. When the permit was applied for, she found out a 30-foot setback was required. It is not possible to

construct a similar structure in the narrow rear yard with utilities located along the south side of the house. The shed is 12' x 16' and very structurally sound.

Chair Wyatt noted the letter from an unhappy neighbor, of which the facts were not entirely correct. Mrs. Garcia said they did get a permit for the fence, but did not understand the constraints of a corner lot. She said the shed is approximately 10-feet in height. The shed will be sided and if approved wired for electricity.

Joseph Garcia
755 N. Colorado Avenue
Idaho Falls, ID

Mr. Garcia said visibility from the corner has improved with the removal of a mature pine tree and shrubs. Positioning the shed next to the home may concentrate runoff from the house of which the foundation is cinderblock. As well, the new placement isolates it from fire and other problems. He told Davies that a metal shed was located in the northwest corner of the lot, but sustained damage from branches off a neighbor's tree and is the reason for the new location. He has placed the shed as far from a neighbor's tree overhanging several feet into his yard. Mr. Garcia said the new construction could be lifted from the concrete piers by undoing the bolts that anchor the floor joists to the cement piers. He informed the board the northwest corner is more desirable for family entertaining while the south side is more convenient for storage.

Sherry Garcia
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Idaho Falls, ID

Mrs. Garcia said both sides of the neighboring properties are heavily treed. They continually deal with falling branches in the yard. Snow caused a good portion of an existing tree to fall in the shed. Most trees are over 60-years old and 100-feet tall.

Chair Wyatt closed the hearing to public comment.

Discussion by the Board: Creek believes the unique shape of the corner lot and elevation of the property makes a large portion of the lot unusable. Due to the number of obstacles and good construction practices by the owner he recommends approval of the variance. Davies approves of the appearance and construction of the shed, but is unable to justify the placement with such a large lot. Jose confirmed that if the structure is brought up to fire code it may be constructed up to the property line so long as it is 12-feet or more behind the house; or 5-feet from the rear of the home if they observe the required side yard setback.

Jose said there is no information available as to why the rear yard is less than required 25-feet. Austad said the property is unique due to the rear yard setback. Davies agrees that it is a unique lot and pre-existing home with frontage on two streets, but struggles with granting a 29-foot variance. Wyatt believes other options are available for placement of the shed. He believes the difficulty before the board is to achieve five (5) concurring votes.

Chair Wyatt opened the hearing to public comment.

Sherry Garcia
755 N. Colorado Avenue
Idaho Falls, ID

Mrs. Garcia said the home existed prior to the construction of I-15. The street in front of their home was modified due to the construction and the retaining wall was erected to keep

the dirt in place. The home was constructed in the early 50's. The northwest corner of the lot is the only place where grass grows and is ideal for entertaining and the play equipment for their grandchild. She asked the board to approve her request.

Jose confirmed the rear yard setback in an R-2 zone is 25-feet.

Chair Wyatt closed the hearing to public comment.

Motion by Austad, seconded by Creek to approve the variance as written due to the unique nature of the property summarized in previous discussion and it is not a nuisance to the neighborhood.

Aye: Stephanie Austad; Alex Creek; Steven Davies; Len Stenzel; and James Wyatt.

Nay:

Abstain:

Miscellaneous: The next meeting is Thursday, August 26, 2010. Austad will not be in attendance.

Adjourn: Meeting adjourned at 1:10 PM.

Debra Petty, Recording Secretary
Board of Adjustment