



DEPT. OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
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**BOARD OF ADJUSTMENT
MINUTES
June 11, 2020**

MEMBERS PRESENT:

Aaron Smith
Hannah Cicioni
Hunter Fry
Roger Clark
Andrew Curry
Mandel Samuels

OTHERS ATTENDING:

Ethan Hunter, City Planner
Chris Robinson, Planner I
Gloria Garcia, Planning Tech.

Aaron Smith called the meeting to order at 4:03 pm.

NEW BUSINESS

20-09: A request by Gus Blass for a variance to allow a 5' interior setback reduction at Tract 2A of Plat Record 2016-376 in the city's A-1 (Agricultural) and RMF-6A (Residential Multifamily, 6 units per acre, ownership) zoning districts.

Nathan Fairchild and Terry Parker represented the request. Staff stated that they have not identified a site specific hardship for the request of a 5' setback reduction (from 20' to 15'). Staff stated that in the applicant's hardship letter they stated a drop off towards the south necessitates the variance requested. Staff believes that there is sufficient space along the west side of the lot to accommodate the proposed building footprint without necessitating a variance. If the applicant can prove that shifting the building west is infeasible and the variance is necessitated, it appears that the proposed building footprint could be achieved with a setback reduction to 16.5' rather than 15'. The applicant should address both of these points otherwise, staff recommends denial of the request.

Fairchild stated that the setback is 20' and they are requesting a 5' reduction. Parker stated that there's a 30' change in elevation from the south of the house to the south property line. Parker stated there is an existing concrete golf cart path on the west side of the property and moving the house over to the east would give them a little more room.

Smith opened the public hearing. There were no public comments and the public hearing was closed.

Clark asked the applicant what the distance is from the furthest west point of the proposed residence to the cart path. Parker stated that with the variance, the proposed residence is almost 14' from the cart path. Clark asked if the property also sloped from east to west. Parker stated he believes it fairly leveled but it drops away from the residence going to the west. Fairchild stated that Parker is correct and that they are also trying to avoid a tree on the northwest corner.

Curry asked if moving the house to the west would require the construction of an additional retaining wall. Fairchild stated it would add a little bit of height and they're trying to keep it away from the path. Samuels stated that maybe they're trying to build too much house on the lot. Fairchild stated that the architects design what the owner wants and if they didn't have the existing cart path there would be more room to build.

Staff asked the applicants if this was a new cart path that was constructed. Fairchild stated he's not sure how long it's been there for but it is fairly new and runs down to Pinnacle Country Club. Fairchild stated part of the cart path was when they put the sewer in place for the neighbors to the east and they had to have access to it when Alex Blass did the utilities down there. Staff asked if it was a private path for the property. Fairchild stated that was correct.

Curry stated he's trying to find a way to make the cart path a hardship but if it only serves this property and was recently installed it sounds more like a self-imposed hardship, not a site specific hardship. Fairchild stated that the cart path is specifically there so that Rogers Water Utilities can access that. Curry asked if his customer granted an easement to RWU. Curry stated if they're calling this a utility access easement as opposed to a cart path, they would consider that very differently for hardship purposes. Curry asked if there is an easement reflected on the diagram. Clark stated that it shows a utility easement in the north and south.

Samuels asked staff if they found any evidence of what the applicant was referring to. Staff stated that this information was not presented to staff at the time of making the staff report and the information they used to make the recommendation to the board was that of the steep grade change to the south.

Curry stated another issue that needed to be addressed was that the information in front of the board indicated that they needed a 16.5' setback rather than the 15' that has been requested. Curry asked Fairchild if they needed that extra 1.5' for something. Fairchild stated that if they get as close as they can they're sure they can make it work.

Staff stated that when looking at the diagram, the structure is 16.5' from the property line, so the variance that would be granted in any situation would need to be 16.5' because that's the extent that's needed to make the building legally conforming to the zoning code. Parker stated when he placed the building he was trying to allow for the overhang to not go over the setback line. Staff asked if the additional overhang hit the 15' mark or if it stopped at 16.5'. Parker stated it would go to the 15' mark. Staff stated in that case

the 15' variance would need to be granted because overhangs are also included when calculating setbacks.

Staff stated that there was no utility easement indicated on the lot combination plat that was previously shown. Staff stated that they remember this coming through the office a while back and RWU does review these so whether it was existing or created via that plat, it would have been indicated as a utility easement.

Motion by Curry to deny the request as presented. Second by Cicioni.

Voice vote: Unanimous *Motion carried*

DENIED

Previous minutes: May 14, 2020

Clark motioned to approve the minutes from May 14, 2020. Second by Cicioni. Voice vote: (unanimous). Motion carried. **APPROVED.**

Meeting adjourned at 4:27 pm.

Roger Clark, Board of Adjustment Secretary