

1 **MINUTES OF THE COTTONWOOD HEIGHTS CITY**  
2 **BOARD OF ADJUSTMENT MEETING**

3  
4 **Thursday, August 13, 2015**

5 **6:00 p.m.**

6 **Cottonwood Heights City Council Room**  
7 **1265 East Fort Union Boulevard, Suite 250**  
8

9 ***ATTENDANCE***

10  
11 **Members Present:** Chair Noor Ul-Hasan, James Adinaro, Doug Folsom, Pete Ellison, Don  
12 Antczak

13  
14 **Staff Present:** Senior Planner Glen Goins, City Attorney Shane Topham

15  
16 **Others Present:** Dan Mackintosh  
17

18 **WORK SESSION**

19  
20 **1.0 REVIEW BUSINESS MEETING AGENDA**

21  
22 Chair Ul-Hasan called the meeting to order at 5:39 p.m.  
23

24 Senior Planner, Glen Goins, presented the variance from Dan Mackintosh at 7572 Cory Hill Circle  
25 and 2838 Bridgewater Drive. The first property is located on the south side of Bridgewater Drive  
26 and is currently vacant. It is purported to be used in conjunction with the proposed Mackintosh  
27 Subdivision.  
28

29 The Mackintosh Subdivision also borders on Cory Hill Circle and is proposed to be a three-lot  
30 subdivision with an additional Lot 4, which is the subject of the variance request. It is  
31 approximately 14,420 square feet in size and is located between two existing developed properties.  
32 There is residential development to the east and west. Property owned by the Hodges lies to the  
33 west and Lot 4 of the Watts Subdivision is on the east. Both properties were approved for  
34 development in a different municipality when the property was under the jurisdiction of Salt Lake  
35 County. The R-1-8 Zone requires a minimum lot width of 70 feet in order to create a new  
36 building lot. After development occurs on both sides of the subject property, the lot now fails to  
37 meet Cottonwood Height's minimum standard through no fault of its own. Mr. Goins clarified  
38 that 70 feet are not required at the street frontage and the property is currently 62.03 feet wide,  
39 which as the reason for the variance request.  
40

41 Mr. Goins explained that the ordinance is very clear in terms of the deliberation for granting a  
42 variance and is based on the following five criteria.  
43

- 44 1. The first discussion is the easiest and it is whether the standard of hardship test is met. It  
45 cannot be a self-imposed hardship that is creating the need for a variance. This property is  
46 clear. As both sides were developed, the property left in the middle is a left-over remnant.  
47 Staff stated that it is close to 70 feet but the main factor to be considered is that it did not

1 create this hardship on its own. City staff finds that as Salt Lake County granted approval,  
2 it could be reasonably developed. It can be considered under the other criteria. The  
3 Ordinance under City Code allows the Board of Adjustment to grant a variance if literal  
4 enforcement of the Ordinance would cause an unreasonable hardship for the applicant that  
5 is not necessary to carry out the general purpose of the zoning ordinance. Staff found this  
6 to be the case as the property is 14,000 square feet in size, which is nearly double in size in  
7 terms of the minimum lot size standard. The lot is proposed for single-family development  
8 and, therefore, conforms to the ordinance particularly since the situation was not caused by  
9 any fault of the property.

- 10
- 11 2. Another test is that there are special circumstances attached to the property that do not  
12 generally apply to other properties in the same district. The other properties were all  
13 developed with the exception of this one. Mr. Goins called this a “Last Man In” as it gets  
14 left with what everyone else needed taken out of it. Therefore, staff believed the  
15 requirement had been met. The circumstances exist for the property that do not generally  
16 apply to other properties and adjacent developments have rendered the property unable to  
17 reasonably meet the minimum lot width standard.
  - 18
  - 19 3. Granting the variance is essential to the enjoyment of a substantial property right possessed  
20 by other property in the district. Staff finds that other than the lot width issue, this lot  
21 could be easily and reasonably developed and granting the variance will allow the same  
22 right that is enjoyed by others. The applicant provided a graphic showing how the  
23 property can be developed. Though it is not required, it is helpful because staff can now  
24 show how a home can fit on the lot and it solidifies the reasonable development test.
  - 25
  - 26 4. The variance will not substantially affect the General Plan and will not be contrary to the  
27 general interest. Staff finds that this does not adversely affect the General Plan. In fact, it  
28 fulfills and implements the General Plan.
  - 29
  - 30 5. The spirit of the zoning ordinance is observed and substantial justice is done. Mr. Goins  
31 added that with this request, the variance is 11%. Given that it is not that much, Mr. Goins  
32 said that it furthers a substantial justice given other factors such as surrounding  
33 development and the large size of the property.

34

35 Staff recommended approval subject to the following findings:

- 36
- 37 1. The proposal will not negatively affect the health, safety, convenience, order, prosperity  
38 and welfare of the present and future inhabitants of the city because the use is the same as  
39 now exists.
  - 40
  - 41 2. The proposal will not create and significant congestion in the streets or roads.
  - 42
  - 43 3. The proposal is permitted in the R-1-8 zone and is the same land use type as surrounding  
44 properties and will have no negative effect on the City’s tax base.
  - 45
  - 46 4. The proposal will not place any type of unreasonable burden on neighboring properties.
- 47

1 5. The proposal is in keeping with the intent of this title.

2  
3 Board Member Ellington asked if the neighbors had any objections. Mr. Goins explained that the  
4 City does not provide notices to individual property owners for Board of Adjustment matters. The  
5 City complies with State Code and there is a notice of general circulation sent. No comments  
6 were received.

7  
8 Chair Ul-Hasan asked if neighbors are aware that this property is part of a subdivision. Mr. Goins  
9 responded that it is a minor subdivision that does not require Planning Commission approval.

10  
11 Chair Ul-Hasan asked if Bridgewater Circle was front facing. Mr. Goins responded that  
12 Bridgewater Circle will be the access point. Chair Ul-Hasan wanted to make sure that at a later  
13 date the property owners ask for a different access and try to change the lot configuration. Mr.  
14 Goins responded that the only way it could be done would affect Lot 3, which would be  
15 impractical. Mr. Goins clarified that access was not an issue because it is one additional lot on a  
16 street that is not burdened. Chair Ul-Hasan was concerned about access and possible changes and  
17 how it might affect fire access. She clarified that this was something she did not want to come up  
18 later.

19  
20 A Board Member asked if the lot would be buildable under Salt Lake County's ordinance.  
21 Mr. Goins recalled that the standard was a 65-foot minimum for the zone, but could not confirm  
22 that it was buildable at the County level. Chair Ul-Hasan asked if the County was preserving the  
23 area for a park or open space. Mr. Goins explained that there was no record of that and the  
24 property owner holds clear title.

25  
26 A Board Member asked if any views would be obstructed by construction. Mr. Goins responded  
27 that it would be the side yard of west property and the rear yard of the east property. If anything,  
28 the view will be encumbered by the other properties.

29  
30 A Board Member asked if there was any expectation on the part of the neighbors for a view they  
31 are expecting to remain. Mr. Goins stated that there is not and added that in addition the City does  
32 not have an ordinance protecting views.

33  
34 **BUSINESS MEETING**

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36 **1.0 WELCOME/ACKNOWLEDGMENTS**

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38 Chair Ul-Hasan called the meeting to order at 6:00 p.m.

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40 **2.0 ACTION ITEMS**

41  
42 **2.1 (Project #BOA 15-011) Action on a request for a variance from Dan Mackintosh, for**  
43 **the Mackintosh Subdivision located at 7572 Cory Hill Circle & 2838 Bridgewater**  
44 **Drive.**

45  
46 It was reported that Mr. Goins presented the staff report during the earlier Work Session. Chair  
47 Ul-Hasan stated that his report would stand for the Business Meeting.

1  
2 The applicant, Dan Mackintosh reported that the property is narrow in spots because the property,  
3 going to the north was purchased by three different families to prevent encroachment of a ranch.  
4 The properties to the east and west has been developed by other families.

5  
6 Chair Ul-Hasan asked about a certain patch of property on the map. Mr. Mackintosh stated that  
7 when the property was purchased, there was still a barn with animals on a small patch of the  
8 property. The property being inquired about was owned by Charles Mann who requested that it be  
9 included in the property for development of future family homes.

10  
11 Chair Ul-Hasan wanted to make sure that the surrounding neighbors were aware of the  
12 development. In response, Mr. Mackintosh confirmed that he lives in the area and personally  
13 knows the neighbors.

14 Board Member Ellison disclosed that he has known Dan Mackintosh for many years. Chair Ul-  
15 Hasan asked if he felt he needed to not be a part of the vote today. Board Member Ellison felt that  
16 he was fine to vote. Chair Ul-Hasan agreed.

17  
18 *(6:05:50) Board Member Ellison moved to approve the variance request from Dan Mackintosh*  
19 *for the Mackintosh Subdivision located at 7572 Cory Hill Circle & 2838 Bridgewater Drive as*  
20 *staff recommended based on the staff's report. The motion passed unanimously on a voice vote.*

## 21 22 **2.2 Approval of the August 13, 2015, Minutes.**

23  
24 Chair Ul-Hasan stated that the Board of Adjustment will move to approve the minutes of August  
25 13, 2015, after the following process is met. The Recorder will prepare the minutes and email  
26 them to each member of the Board. The members will then have five days to review the minutes  
27 and submit any changes to the Recorder. If, after five days there are no changes, the minutes will  
28 stand approved. If there are changes, the process will be followed until the changes are made and  
29 the Board is in agreement, at which time the minutes shall be deemed approved.

## 30 31 **3.0 ADJOURNMENT**

32  
33 The Board of Adjustment Meeting adjourned at 6:06 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the*  
2 *Cottonwood Heights City Board of Adjustment Meeting held Thursday, August 13, 2015.*

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9 Teri Forbes  
10 T Forbes Group  
11 Minutes Secretary

12  
13

14 Minutes approved: