

2 The Lindon City Board of Adjustments held a meeting on **Thursday, June 13, 2013**
beginning at 6:00 p.m. in the Lindon City Center, Lower Level Conference Room, 100
North State Street, Lindon, Utah.

4 **Conducting:** Jeff Southard, Chairperson

6 **PRESENT**

8 Glenn Mitchell, Boardmember
Greg Slater, Boardmember
10 Steve Smith, Boardmember
Jeff Wilson, Boardmember
12 Hugh Van Wagenen, Planning Director
Kathy Moosman, City Recorder

14 The meeting was called to order at 6:05 p.m.

16 **APPROVAL OF MINUTES** – *The minutes from the Board of Adjustments meeting of*
18 *April 11, 2013 were reviewed and approved.*

20 The Board reviewed the minutes of the meeting of April 11, 2013. Several
wording changes were made to the minutes to clarify the intent of the discussion relative
22 to the variance request from the Black Scot Development application specifically.
Chairperson Southard called for a motion to approve the minutes as amended.

24 **BOARDMEMBER WILSON MOVED TO APPROVE THE MINUTES OF THE**
26 **MEETING OF APRIL 11, 2013 AS AMENDED OR CORRECTED. BOARDMEMBER**
28 **SLATER SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE**
MOTION CARRIED.

30 **CURRENT BUSINESS** –

- 32 1. **Request for Variance: Rear Yard Setback Requirement – Marlin Sharpe:**
34 **540 North 675 East.** The applicant, Marlin Sharpe, is requesting a variance of
36 10.5 feet from the required 30 foot rear yard setback in the R1-20 zone
(Residential Single-Family) zone. If approved, the front rear yard setback on the
lot would be 19.5 feet from the property line.

38 Hugh Van Wagenen, Planning Director, opened the discussion by explaining this
is a request for a variance for a rear yard setback requirement by Marlin Sharpe who is in
40 attendance. He further explained that Mr. Sharpe is requesting a variance of 10.5 feet
from the required 30 foot rear yard setback requirement in the R1-20 (Residential Single-
42 Family) zone. Mr. Van Wagenen noted that if the variance is approved, the rear yard
setback on the lot would be 19.5 feet from the property line.

44 Mr. Van Wagenen then showed a plat map depicting the area in question. He
noted the Lindon City Code in question reads as follows:

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3 **17.44.080 Yard Setback Requirements:**

4 *The following minimum yard requirements shall apply in the R1 zones: (Note: All*
5 *setbacks are measured from the property line, or for property lines adjacent to a street*
6 *the setback shall be measured from the street right-of-way line.)*

7 *1. Rear yard setback: thirty (30) Feet.*

8 Mr. Van Wagenen added that the applicant is requesting this variance in order to
9 build an enclosed addition where an existing deck is part of the home. The deck does
10 extend into the current rear yard setback, but is allowed to do so by the following Linton
11 City Code as follows:

12 **17.44.090 Projections into Yards:**

13 *(b) The structures listed below may project into a rear yard not more than twelve (12)*
14 *feet: A shade structure or uncovered deck...extending from the main floor level and/or*
15 *ground level of a building, provided such structure is open on at least three (3) sides.*

16 Mr. Van Wagenen stated that because the new addition will be enclosed and
17 supporting a roof structure, code requires that it meets the required setbacks of the zone.
18 The new addition does not meet the required setbacks and, therefore, Mr. Sharpe is
19 requesting a variance. Mr. Van Wagenen noted that Mr. Sharpe has provided some
20 diagrams, photographs, and a written response to the criteria for granting a variance for
21 the Boardmembers review while considering his request.

22 Chairperson Southard invited Mr. Sharpe to address the Board at this time. Mr.
23 Sharpe explained that he contacted his neighbors in his cul-de-sac and the neighbors
24 directly behind his residence regarding this proposed variance, and they were all in
25 support of his proposal. He noted that this addition will improve his property. He added
26 that they are separated from the neighbors by fencing and a landscape berm. Chairperson
27 Southard inquired if the addition will be the same size as the existing deck and if it will
28 be cantilevered with a foundation. Mr. Sharpe confirmed it will be cantilevered with a
29 foundation. Mr. Sharpe also commented that now is a good time to do this addition with
30 interest rates down. He noted that he has an architect to prepare the plans and also a
31 contractor who is willing to get the addition done quickly. Mr. Van Wagenen stated that
32 notices were mailed out to the neighbors and property owners within 300 ft. of Mr.
33 Sharpe's residence and staff has not received any comments, objections or letters back
34 from those notices.

35 Chairperson Southard then closed the public portion of the meeting and stated that
36 the Board will deliberate and go through the code, which is what is expected of them.
37 Chairperson Southard also reiterated that the Board is not here to decide if the code
38 makes sense or is appropriate, but that it is applied properly.

39 The Board went on to review the five state criteria which must be met in order to
40 approve a legal variance according to LCC 17.10.050(2)(a) as follows:
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1. **Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;**

Statement from Mr. Sharpe: Our family room is too small when having family over for dinner and other activities. Furniture has to be moved so the table can be enlarged for guests. Adding to the space will help accommodate our family gatherings. We have contacted the neighbors during the past few weeks and showed them what we want to do. They are all very supportive, but they understandably do not want to change their property boundaries to accommodate the setback for this addition.

Boardmember Discussion: *This would accommodate the family with the expansion. This home is already smaller than some of the homes in the vicinity. This is not an attempt to make up lost ground but seems to be a right the other lots have enjoyed because of the lot configuration. The way the lot is designed it is not very deep and seems to be the narrowest and not a very deep home. Mr. Sharpe talked to all of his neighbors and notices were sent out with no negative feedback or objections. Chairperson Southard inquired if the variance is granted, does that mean that the whole back of Mr. Sharpe's house can be blown out completely and is the board allowed to restrict the variance to only the width of the addition. Mr. Van Wagenen replied that it does reduce the setback for the whole property however; he thought that conditions could be imposed on the variance to allow only for the addition. Mr. Sharpe commented that he would not have a problem with imposed conditions. Boardmember Slater mentioned that he has a problem with setting a precedent in the future.*

Chairperson Southard commented with conditions imposed to declare (in the minutes) that a lot with a 95 ft. depth and smaller is something to consider that there is a hardship when the lot size is considerably smaller than the average lot sizes in Lindon; there is a hardship when your lot is significantly below average on the depth of your lot that is imposed by the large setbacks. He further stated that it needs to be clear, in the discussion and the minutes, that the reason that there is a hardship is because the lot was 95 ft. deep and most lots in that area and neighborhood are significantly deeper. Boardmember Smith commented because of the slopes in certain areas they have had to be developed in interesting ways; not like the flatland areas. Mr. Van Wagenen noted that current code requires a minimum lot depth of 100 feet.

Following discussion the Board concurred that the criteria are met.

2. **There are special circumstances attached to the property that do not generally apply to other properties in the same zone;**

Statement from Mr. Sharpe: This property is in a cul-de-sac that makes the property long but not wide. Use of this property setbacks and back property is

2 very narrow. However, the homes to the back of this property and home to the
3 South are large and the homes have large back yards. The property addition
4 would not be a hindrance to the neighbors all around the property. The existing
5 deck has not been a problem with them close to the property lines as it now exists.

6 **Boardmember Discussion:** *The depth of the lot (approximately 95 ft. deep) is*
7 *not as deep as the surrounding lots and meets the criteria based on the depth of*
8 *the lot.*

10 *Following discussion the Board concurred that the criteria are met.*

12 **3. Granting the variance is essential to the enjoyment of a substantial**
13 **property right possessed by other property in the same zone;**

14 **Statement from Mr. Sharpe:** Most properties surrounding this property are large
15 plots that make it possible to have larger homes. Because our property is long and
16 narrow, this home is smaller than other homes in the neighborhood. An
17 additional 12' x 24' is a tiny portion of the present dwelling and would not impact
18 other property owner's enjoyment of their property.

19 **Boardmember Discussion:** *The surrounding lots could generally do an addition*
20 *similar to Mr. Sharpe's without being in violation because of the size of the lots.*

21 *Following discussion the Board concurred that the criteria are met.*

22 **4. The variance will not substantially affect the General Plan and will not be**
23 **contrary to the public interest, and;**

24 **Statement from Mr. Sharpe:** This addition is small enough that it will not
25 impact the neighbors and public interest because it is in the back yard of the
26 home.

27 **Boardmember Discussion:** *This is not an issue to the General Plan that would*
28 *be a problem and is not contrary to the public interest. Nothing is being to the*
29 *property that de-values other properties in the general area or directly with the*
30 *adjoining neighbors.*

31 *Following discussion the Board concurred that the criteria are met.*

32 **5. The spirit of the land use ordinance is observed and substantial justice**
33 **done.**

34 **Statement from Mr. Sharpe:** This property land is smaller and the home is small
35 for this area. The addition will not impact other neighbors use or view from their
36 homes. Homes surrounding our property have trees that block the view of their
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property and would not make any difference for them with their backyard view.
We also have large trees that block the view of the neighbor's homes.

Boardmember Discussion: *The spirit of the land use ordinance in regards to keeping neighbors happy and being good neighbors is met by providing adequate setbacks. Substantial justice is done by allowing Mr. Sharpe to still have the property rights that the site may or may not be prohibited with the current setbacks.*

Following discussion the Board concurred that the criteria are met.

Following discussion, the Board felt that the variance did meet all of the required criteria and standards and, therefore, the recommendation was to approve the variance. Chairperson Southard then called for further comments or discussion. Hearing none he called for a motion.

CHAIRPERSON SOUTHARD MOVED TO APPROVE THE VARIANCE REQUEST FOR A 10.5 FOOT VARIANCE FROM THE REQUIRED 30 FOOT REAR YARD SETBACK IN THE R1-20 ZONE SPECIFICALLY FOR THE WIDTH OF THE ADDITION (24 FEET) BEING PROPOSED; NOT A BLANKET VARIANCE FOR THE ENTIRE WIDTH OF THE PROPERTY, AND, AS PER DISCUSSION POINTS, BECAUSE THE DEPTH OF THE LOT IS BELOW THE REQUIRED AMOUNT IN THE CURRENT CODE AND, THEREFORE, IS PROBABLY NARROWER THAN THE TYPICAL LOTS IN THAT NEIGHBORHOOD, THAT IT IS JUSTIFIED AND A HARDSHIP THAT IS IMPOSED UPON THE APPLICANT . BOARDMEMBER WILSON SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

CHAIRPERSON SOUTHARD	AYE
BOARDMEMBER MITCHELL	AYE
BOARDMEMBER SLATER	AYE
BOARDMEMBER WILSON	AYE
BOARDMEMBER SMITH	AYE

THE MOTION CARRIED UNANIMOUSLY.

ADJOURN

BOARDMEMBER SMITH MOVED TO ADJOURN THE MEETING AT 6:51 P.M. BOARDMEMBER MITCHELL SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

Approved – September 26, 2013

Jeff Southard, Chairperson

Hugh Van Wagenen, Planning Director