

1 Minutes of the Centerville **Board of Adjustment** Hearing held Monday, December 11, 2023, at
2 5:30 p.m. with participants present at Centerville City Hall, 250 North Main Street.

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4 **MEMBERS PRESENT**

5 Brian Hulse, Chair
6 David Hirschi
7 Paula Tew
8 Scott Sappenfield
9 David Ditto (arrived at 5:48 p.m.)

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11 **STAFF PRESENT**

12 Cory Snyder, Community Development Director
13 Lisa Romney, City Attorney

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15 **VISITORS**

16 Spencer Packer, applicant
17 Russell Wilson
18 Jared Westhoff, Symphony Homes

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20 **PUBLIC MEETING – DETERMINE EXISTENCE AND MODIFICATION OF**
21 **NONCONFORMING PROPERTIES**

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23 Community Development Director Cory Snyder said the applicant submitted a petition
24 requesting from the Board of Adjustment a determination of the existence of nonconforming
25 parcels located at approximately 2145 North and 300 West, also identified as Davis County Parcel
26 numbers 07-072-0079 and 07-072-0031. Both properties were currently located in an Agricultural
27 Low (A-L) Zoning District. Mr. Snyder summarized the elements of the petition:
28

- 29 • Petition Request #1 – Determination of the existence and modification of two
30 nonconforming parcels.
- 31 • Petition Request #2 – Allow for a modification/boundary line adjustment between the
32 two nonconforming parcels without affecting the determination of their nonconforming
33 status.
- 34 • Petition Request #3 – two parts:
35 ○ Allow for creation of a private access lane between lots within the Summerhill
36 Lane Subdivision to resolve access problems using Main Street; and
37 ○ Allow an additional modification/boundary line adjustment between the
38 nonconforming parcels and the Summerhill Lane Subdivision without affecting
39 the determination of their nonconforming status.
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41 Mr. Snyder said Parcel 0031 did not comply with minimum frontage requirements, and
42 Parcel 0079 did not comply with minimum frontage or minimum area requirements. He said
43 exhibits pertaining to Parcel 0031 spanned from 1908 to the present, while City Zoning Ordinance
44 dated back to 1954, and County Zoning Ordinance dated back to 1953. Mr. Snyder explained that
45 Parcel 0031 appeared to be an amalgamation of deeds dated 1908 and 1912, combined with a
46 single Tax ID in 1972. He said the Board of Adjustment would need to determine if the
47 amalgamation of the two historical deeds in 1972 constituted a legal parcel existence before both
48 the County and City Zoning Ordinances were adopted. Mr. Snyder said it was staff's position that
49 if the two historical parcels remained unchanged when combined into one, a determination of
50 legal nonconformance could be made.
51

52 Exhibits provided showed Parcel 0079 to have been created in 1969, subject to the 1953
53 Davis County Ordinance, but to not have been part of the City until annexation in 1980. Mr. Snyder

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1 said the petition did not show evidence that the parcel met County Zoning Ordinances in place
2 prior to annexation. Staff did not believe the petition showed Parcel 0079 to meet requirements
3 for a legal nonconforming determination.
4

5 Mr. Snyder said boundary line adjustments (Request #2) and plat amendments (Request
6 #3) did not fall within the Board of Adjustment purview. Staff recommended the Board of
7 Adjustment determine nonconformity for Parcel 0031. Responding to a question from the Board,
8 City Attorney Lisa Romney clarified that a sliver of property that did not meet zoning ordinances
9 at the time of creation, would not be eligible for legal nonconforming status. Mr. Snyder said staff
10 took the position that burden of proof fell on the applicant, therefore, staff did not spend time
11 researching the 1953 County Zoning Ordinance.
12

13 Spencer Packer, applicant, introduced Jared Westhoff with Symphony Homes. Mr.
14 Westhoff shared history between Mr. Packer's parcels and the neighboring Symphony Homes
15 Summerhill Lane Subdivision. He said they were ultimately trying to accomplish a north/south
16 deeded right-of-way for access to the Packer property. Mr. Westhoff said the parcel created in
17 1969 needed an east/west access. He said the desire was for a lot line adjustment so the deeded
18 right-of-way could be shared by both lots. Mr. Westhoff said a north/south access would work
19 better with UDOT by eliminating the need for access on Main Street, and would eliminate impact
20 on 14 parcels along Summerhill Lane.
21

22 Mr. Westhoff expressed the opinion that old county rules did not apply upon annexation.
23 He said it had been his experience that when a property was annexed, a city accepted the
24 annexed property as it was, as legally nonconforming. Mr. Westhoff said he believed the legal
25 nonconforming date for Parcel 0079 to be 1980, and commented that the property had not been
26 altered since that time. Mr. Westhoff referred to authority of the Board of Adjustment, and said he
27 believed it appropriate for the Board of Adjustment to deal with the complex lot line adjustment
28 because an access point adjustment was involved, and some of the Symphony Homes property
29 was included in the description. Mr. Westhoff said he had not researched the 1953 County Zoning
30 Ordinance because it was his understanding that when annexation was involved, previous rules
31 did not apply.
32

33 Responding to a question from the Board, City Attorney Lisa Romney said four deeds
34 were submitted to the City, including a 1981 tax deed from the County, and a 1981 quick claim
35 deed. Two of the deeds had one legal description, and the other two deeds had a different
36 description. David Hirschi asked if evidence had been submitted that the parcels were legally
37 conforming at the time they were created. A representative of the applicant said it was logical that
38 the two parcels merged in 1972 were legal parcels. He said the parcel created in 1969 was
39 created under legal County jurisdiction. Mr. Snyder responded that the parcel created in 1969
40 was not created by the County, but was a trust deed from Fadel to Carlton Investment. The tax
41 deed was dated 1981. No information was submitted proving the 1969 and 1972 parcels were
42 legal under County Ordinance.
43

44 Spencer Packer said he believed, based on a conversation with a County representative,
45 it could be questioned whether the 1908 and 1912 parcels had been amalgamated into one, or
46 remained two separate lots under one 1972 legal description. Mr. Hirschi suggested that whether
47 it was one or two lots did not affect the fact that they existed legally before the County Zoning
48 Ordinance was created. He expressed concern that he had not seen evidence that Parcel 0079
49 was conforming at the time it was created. Mr. Packer provided the Board of Adjustment with
50 additional documents pertaining to the parcels, and said he believed the information presented
51 showed that he owned two nonconforming lots. He said the proposed access point would come
52 between the two parcels with the desired lot line adjustment.

1 Mr. Snyder clarified staff's position that the proposed modification of a lot line fell under
2 authority of the Zoning Administrator, not under the broad jurisdiction of the Board of Adjustment.
3 A plat amendment fell under authority of the City Council. Designation of legal nonconforming
4 status fell under authority of the Board of Adjustment.
5

6 The Board of Adjustment discussed the petition. Paula Tew said she was comfortable with
7 designating Parcels 0031 and 0079 as legally nonconforming. Mr. Snyder said the Board of
8 Adjustment needed to decide if the 1972 deed made a change to the 1908 and 1912 deeds. The
9 property owner had been continuously paying property taxes on one lot since 1972. Chair Hulse
10 said he did not have a problem with Parcel 0031 being legally nonconforming. Ms. Tew asked if
11 only declaring one of the parcels as nonconforming would damage what the applicant hoped to
12 accomplish, and Mr. Snyder responded that the debate was not whether there is any damage,
13 but what qualifies as nonconforming, and then pending the Board of Adjustment's
14 declaration, it would determine how the applicant would broach the next step.
15

16 Mr. Hirschi said he believed Parcel 0031 could ultimately be determined to be legal
17 nonconforming, and Parcel 0079 could not, based on the record. Scott Sappenfield said he
18 agreed.
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20 Mr. Packer argued that Parcel 0031 was really two legal nonconforming lots (1908 and
21 1912 deeds), and said his desire with the Board of Adjustment was to have two nonconforming
22 lots. Ms. Romney said she understood the petition to request designation of Parcels 0031 and
23 0079 as two legal nonconforming parcels. She said the argument that Parcel 0031 was two
24 separate lots was added during the meeting and not part of the petition submitted. Ms. Romney
25 advised that the Board of Adjustment not recognize Parcel 0031 as two lots.
26

27 Mr. Westhoff said they were hoping to narrow the request that evening to whether Parcel
28 0031 was legally nonconforming, and one lot or two, with the applicant allowed to do further
29 research regarding whether or not Parcel 0079 was legally conforming at time of creation.
30

31 Mr. Hirschi said it was the Board of Adjustment's role to consider was what was included
32 in the petition. Responding to a question from Ms. Tew, staff explained that if Parcel 0031 was
33 declared legal nonconforming as one lot, the applicant would have to go through the subdivision
34 process.
35

36 Mr. Ditto made a **motion to table** the matter given that the issue had been a long-term
37 dispute between the parties, and new information was presented leading to an on-the-fly request
38 to modify the petition. Mr. Sappenfield seconded the motion, which passed by unanimous vote
39 (5-0).
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41 **ADJOURNMENT**

42
43 At 7:19 p.m., Ms. Tew **moved** to adjourn. Mr. Hirschi seconded the motion, which passed
44 by unanimous vote (5-0).
45

46
47 DocuSigned by:
48 Jennifer Robison
49 Jennifer Robison, City Recorder

01/23/2024
Date Approved



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