



HIGHLAND CITY APPEAL AUTHORITY MINUTES

Thursday, June 23, 2022

Highland City Council Chambers, 5400 West Civic Center Drive, Highland UT 84003

Appeal Officer Vaughn Pickell

5:00 PM CALL TO ORDER

Present: Vaughn Pickell, Appeal Authority, Planner & GIS Analyst Kellie Smith, David Meyer, Brittney Meyer

The meeting started at 5:00 pm.

1. VARIANCE REQUEST

A request by David and Brittney Meyer for a variance from Section 13.30.150 of the Highland City Municipal Code to waive the requirement to connect to the City's pressurized irrigation system for outdoor watering.

Vaughn Pickell, Highland Appeal Authority Officer, called the meeting to order. Mr. Pickell identified a potential conflict of interest as the firm that is representing the Meyers had previously employed him approximately 20 years ago. Since 2006 he has not been affiliated with the firm; he asked both parties, Highland City and Mr. and Mrs. Meyers if they have any objections and both indicated they are comfortable proceeding with the hearing.

Mr. Pickell summarized the appeal, the purpose of which is to request an exception to the City's requirement for properties to connect to the Highland City Pressurized Irrigation system for outdoor watering. Mr. Pickell noted there are five elements in Utah State Code that must be met in order for the variance to be granted and it is the applicant's responsibility to provide their responses to those five elements.

Mr. Meyer discussed his process of purchasing the subject property and working with Highland City staff to connect the property to utility infrastructure; the City suggested that the property be annexed into Lehi City, but Lorin Powell, the City Engineer for Highland City, was not comfortable with allowing him to cut into 1200 East to facilitate utility connectivity, as that road was a new road. The applicants expressed their desire to stay in Highland City as the market values were higher. He then discussed difficulties of developing the property; he indicated that six months ago received an estimate of \$60,000 for boring to install the water line to connect to the property and those costs are likely close to \$90,000 or \$100,000 now due to inflation. This is more expensive than it would have been to install a well on the property. He has spoken with some City officials who indicated their preference for a well because that would be less disruptive to surrounding properties and infrastructure. He then noted he hired a firm to write the variance request; he understands he will need to purchase additional water shares, which are \$12,000 each, and it would cost him nearly \$60,000 to dig a well. The property will be single-

family in nature and he has no plans to subdivide the property further. He indicated that his written application materials provide additional details regarding the history of the parcel and the hardship that will be created if he is required to comply with the ordinance requiring connection to the pressurized irrigation system.

Mr. Pickell stated the written materials indicate that the subject property is not in an approved subdivision, but he reviewed County records and found that the area is actually an approved subdivision, and the area was originally platted as public open space. He asked how the property was converted from public open space to a buildable residential lot. Ms. Meyer indicated they purchased the property in 2018; the previous property owner sold a portion of his land to Lehi City for a road widening project and that is when the residential lot was created. Planner and GIS Analyst Smith clarified that the property was part of a Lehi City subdivision and was designated as public open space; Highland and Lehi City worked on a land trade that involved the subject property and it was anticipated the property would eventually be included in Lehi City and would be developed along with the property to the north. However, the owner of that property sold his land rather than develop it. There were no plans to develop the subject property and provide services to it. Mr. Meyer stated that Highland City can provide sewer services to the property, but no water service. Lehi City can provide water service, but no sewer service. He stated he feels caught between the two cities relative to service provision. Mr. Pickell asked where the culinary water comes from for the property. Mr. Meyer stated he receives culinary water from an existing well on the Wallace property.

Mr. Pickell discussed the five elements included in State Code that must be met in order for him to grant the variance; the first is that 'literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances' and he asked Mr. Meyer to discuss the hardship he would bear. Mr. Meyer stated that it is not impossible to connect to the system, but it will be very difficult due to the natural resources, topography, and the lack of existing utilities in the area.

Mr. Pickell indicated that he must determine whether any hardship caused by enforcement of the land use ordinance is due to circumstances peculiar to the property and note from conditions that are general to the neighborhood. He asked Mr. Meyer how his property is different from others in the area. Mr. Meyer stated that the other properties in the area have had utility services stubbed to their property and that is not the case for his property. If he were required to comply with the ordinance, he would need to bore under a river to get access to City utilities. He added that physical conditions are also unique to the property; the slope is approximately 25 to 30 percent and there is a great deal of vegetation on the slope that he hopes to preserve.

Mr. Pickell asked if their property is already connected to Highland's sewer system. Mr. Pickell stated the connection is possible, but he needs a sewer line easement from the City. He will also need to acquire utility easements for pressurized irrigation and culinary water. He stated he was under the impression that he could connect to Lehi City water, but Lehi City denied his request. Ms. Smith stated that she understands that Mr. Meyer has water shares for pressurized irrigation, but not water rights that allow him to dig a well.

Mr. Pickell asked if there any legal conditions that make connection difficult. Mr. Meyer reiterated he would need to acquire an easement from Highland City to connect. Mr. Pickell then stated that the hardship cannot be self-imposed or economic in nature; he asked if there is any other way for the property to be connected to the pressurized irrigation system. Mr. Meyer stated he is confused about the process to get water to his house; Dry Creek impedes the access to his home and there is no way to connect without boring under the creek or through Highland City property. Mr. Pickell returned to special circumstances attached to the property that do not generally apply to other properties in the same area. Mr. Meyer referred to his previous answer regarding anything peculiar about the property; he concluded that if he cannot bring the water to the property, it will essentially be useless.

Mr. Pickell asked if the applicant has discussed a surplus water agreement with Highland City. Mr. Meyer answered yes, but he does not have any documentation of those discussions. Mr. Pickell stated that Highland

City has designated the property as public open space on the General Plan Land Use Map; he asked if the variance will not substantially affect the general plan and will not be contrary to the public interest. Ms. Smith stated that the City is working on a comprehensive update to the General Plan, but she reiterated historic assumption that the area would eventually be developed for residential use.

Mr. Pickell then asked what substantial property rights other properties in the area enjoy that this property does not. Mrs. Meyer stated that he feels the best use of the property is residential, but that use is not possible without this variance. She added granting the variance will not create a situation where anything unsightly or inconsistent with neighboring properties occurs; there should be no negative impacts on the public interest.

Mr. Pickell inquired as to the public interest behind the ordinance requiring connectivity to the pressurized irrigation system. Ms. Smith stated the City can only bill for a utility if a customer has access to that utility. Mr. Pickell stated he is trying to determine if the spirit of the land use ordinance can be upheld if the variance is granted. Mr. and Mrs. Meyer stated the construction of the home will only add to the value and beauty of the City and if they had a reasonable way to connect to the pressurized system, they would absolutely do it.

Mr. Pickell thanked the applicant and City representatives for their participation in this hearing and indicated he will render his decision in writing at a later date.

The meeting adjourned at 5:49 pm.

ADJOURNMENT

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on June 23, 2022. This document constitutes the official minutes for the Appeal Authority Meeting.



Stephannie Cottle
City Recorder