



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a variance for lot area, lot width, and setbacks for two parcels in Ogden Canyon with a boundary adjustment.

Agenda Date: Thursday, June 18, 2015

Applicant: Paul Fifield and Andrew Deckman

File Number: BOA 2015-04

Property Information

Approximate Address: 398 Ogden Canyon and 400 Ogden Canyon

Project Area: 0.38 acres

Zoning: Forest Residential Zone (FR-1)

Existing Land Use: Residential

Proposed Land Use: Remain as existing

Parcel ID: 20-028-0028 and 20-028-0016

Township, Range, Section: T6N, R1E, Section 18

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Residential

Staff Information

Report Presenter: Ben Hatfield
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Report Reviewer: SW

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 13 (Forest Residential FR-1 Zone)

Background

The applicants are requesting a variance for a reduction to the lot width and lot area requirements of the Forest Residential FR-1 Zone and any other setback requirements which may result from a shift of property lines. The application (Exhibit A) and an explanation of the request (Exhibit B) have been prepared by the applicant. Exhibits C and D are two surveys of the property. Exhibits E and F are plats of the County ownership plats in the area for 1966 and 2015.

As stated in Exhibit A two homes had been built on Lot 16 as part of the Hermitage Subdivision, one in 1922 and another in 1933, both prior to the adoption of modern zoning code requirements. In researching the homes, it was found that by 1966 Lot 16 had been divided into Lot 16A and 16B. In 2004 both boundaries had been altered which was reflected by a survey by Mountain Engineering labeled "Boundary Adjustment Lot 16, Hermitage Subdivision (Fifield – Barnes Properties)." This reconfiguration left one parcel slightly smaller than it was before, and reduced the setback distance to the existing home.

In reviewing the survey it appears that the property line described prior to 1966 went through the home of Lot 16B (Fifield). A separate survey done in 2001 also shows that property line placed in the same location. It appears that both owners worked out a placement of a new property line which was nearly an equal distance between each home, and left an appropriate area for vehicle parking. This new property line created the following:

	<u>Area</u>	<u>Width in feet at the front lot line</u>	<u>Setbacks in feet</u>
Lot 16A	0.123 acres	50.17	Front 12.0, Rear 17.66, Sides 17.33 and 7.0
Lot 16B	0.262 acres	79.83	Front 36.5, Rear 00.83, Sides 15.25 and 6.5

Access to the two homes historically was through an easement to the northwest. However, the placement of this easement was not followed and conflicted with the placement of the home on an adjacent property. The agreed upon new alignment was also established in 2004 with the plat as a 14 foot right of way from the south side of the lots and running westward to a private road.

The variance request is based on two main factors. First, the homes and properties were historically built prior to zoning standards for lot width, lot area, and setbacks. A placement of a property line through a home not only causes disputes among owners, but also causes troubles in related industries which rely on code compliance such as finance, title, insurance, and real estate. Second, there are difficult boundary conditions surrounding the properties including steep slopes and historically small lots compared to the current one acre standard (FR-1 Zone). Lot 16 is bounded to the north by an Ogden City water supply pipeline running through an old right of way from the former Utah Light and Power Company. The area to the south is where the Hermitage hotel and grounds had been, thereby making it difficult in adjusting the affected properties (Lot 16).

Summary of Board of Adjustment Considerations

Title 102 Chapter 3 of the Weber County Land Use Code states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. In order for a variance to be granted it must be shown that all of the following criteria have been met:

- a. *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 Code.*
 1. *In determining whether or not literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
 2. *In determining whether or not literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
- b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 1. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice done.*

Staff's analysis and findings are discussed below:

- a. Literal enforcement of the Land Use Code would require an undesirable result. These structures were built prior to zoning regulations and the agreed upon Boundary Adjustment causes no issues to surrounding properties. This request is the best scenario to correct an error which was in place prior to zoning regulations.
- b. The special circumstances attached to this property are the historic nature of the lots and divisions of land created prior to the minimum zoning requirements. The placement of the described properties was in error and is poor in relation to the home locations.
- c. Zoning gives the property owner rights to construct a dwelling unit. Based on the current situation homes would need to be removed as they are not fully on the property described by deed.
- d. The General Plan indicates this area should allow and be preserved for single-family dwellings; no changes are proposed.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but to correct a mistake that occurred many years ago and render existing lot width, lot area, or setback requirements legal. Granting the request would serve as substantial justice to allow the current owners enjoyment of their property as has been done for many years.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-1 Zone and granting this request will not increase the number of existing dwelling units in the area. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Conditions of Approval

- That boundaries continue to following the agreed upon 2004 survey (Boundary Adjustment Lot 16, Hermitage Subdivision).
- Meet all other applicable review agency requirements.

Staff Recommendation

Staff recommends *approval* of the variance for Lot 16A and Lot 16B in the Hermitage Subdivision for a reduction to the lot width, lot area, and setbacks as shown on the 2004 Boundary Adjustment Lot 16, Hermitage Subdivision plat. This recommendation is based on compliance with the applicable variance criteria discussed in this staff report.

Exhibits

- A. Application
- B. Applicant's narrative
- C. 2004 survey Boundary Adjustment Lot 16, Hermitage Subdivision
- D. 2001 survey discovering the error
- E. 1966 ownership plat
- F. 2015 ownership plat

Location Map

