



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 28 foot variance to the 40 foot side yard setback standard for large accessory buildings.

Agenda Date: Thursday, August 20, 2015

Applicant: Jason Kelley

File Number: BOA 2015-07

Property Information

Approximate Address: 6681 West 200 North, Warren UT

Project Area: 0.99 acres

Zoning: Agricultural Zone (A-2)

Existing Land Use: Residential

Proposed Land Use: Remain as existing

Parcel ID: 10-110-0001

Township, Range, Section: T3N, R3W, Section 13

Adjacent Land Use

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

Staff Information

Report Presenter: Ben Hatfield
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Report Reviewer: JG

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 8 (Agriculture A-2 Zone)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplemental and Qualifying Regulations)

Background

The applicant is requesting a 28 foot variance to the standard of 40 feet for side yards on a large accessory building. In applying for a building permit for an additional detached large garage, the applicant’s site plan proposed setbacks that did not conform to standards of the Land Use Code. The following are those standards. In essence for large garages such as this they are to be 40 feet from the front lot line and for corner lots, 40 feet from the side lot line bordering a street.

Sec. 108-7-16. - Large accessory buildings (1,000 square feet or larger).

- (a) Accessory buildings 1,000 square feet or larger in area that accommodate uses meeting zoning requirements shall:
- (1) Be located at least six feet from the rear of a dwelling in the residential estates zones and at least ten feet from the rear of a dwelling in the agricultural and forest zones.
 - (2) Have a side yard setback of at least ten feet on an interior lot and 40 feet on a corner lot where the side property line is adjacent to a street.
 - (3) Have a maximum height of 25 feet.

Exceptions. The side yard may be reduced to three feet (except in a forest zone) and the height increased to 35 feet if the accessory building is located at least 100 feet from a property line adjacent to a street and at least 40 feet from a dwelling on an adjacent lot.

- (b) One accessory building which is subordinate to the dwelling in area and height may be located in front or to the side of the dwelling provided:
- (1) It is located not less than 40 feet from any property line adjacent to a street.

- (2) The large accessory building conforms to the dwelling in architectural style and materials on all sides of the building and the roof. Large accessory buildings on agricultural parcels containing at least 5.25 acres and a single-family dwelling shall be exempt from this requirement provided that the accessory building is located at least 100 feet from a property line adjacent to a street.
- (3) It meets the side yard requirement for a main building in the zone in which the building is located, and it is located at least 40 feet from a dwelling on an adjacent parcel.
- (4) In no case shall the front yard setback be less than the required front yard setback for a main building in the zone in which the building is located.
- (c) Accessory buildings that exceed the dwelling in area by more than double as measured by the footprint of the dwelling shall require approval by the planning commission as a design review.
- (d) Accessory buildings used for the keeping of animals and fowl shall also meet the requirements of [section 108-7-8](#). Accessory buildings shall also meet the requirements of [section 108-7-4](#)

The application and an explanation of the request have been prepared by the applicant and included as Exhibit A. Exhibit B is a site plan from the applicant. Exhibit C is the subdivision plat for the lot. Exhibit D are photos of the neighbor's garage which is an example of what the applicant would like to build.

As stated by the applicant, in the request, the building would be 12 feet from the property line. The applicant's plan for the property is to have the rear area continue to be flood irrigated and be a pasture for his livestock. The property also has a septic system and drain field behind the home limiting a buildable location in that area. The existing property has landscaping that would be impacted if an increased setback were to be required.

The applicant's request for the 28 foot variance to build the garage near the roadway is based on the following items:

- The property is flood irrigated and the placement of a garage in that area would disrupt the flow of water through the property.
- A septic system and drain field currently exists utilizing some of the lot's buildable area.
- Existing landscaping would be impacted.

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. The hardship caused by the literal enforcement of the standard would not be considered unreasonable. There are many other locations on the lot in which the building can comply with the code standards. An alteration in the building's design would also alleviate any setback difficulties. This property is similar to one acre lots through the county which also may be flood irrigate, have septic systems, or be on corner lots. There is nothing peculiar to this

property or this circumstance. The site conditions listed by the applicant are in whole self-imposed specifically the layout and placement of buildings and other uses and features within the property. All were created by the owner or a previous owner and not dictated by unusual natural topography.

- b. Again, there are no special circumstances attached to this property. The lot standards for the A-2 Zone are the same as other zones which are a majority of lots within unincorporated Weber County. The standards which are requested to be varied apply to all properties regardless of the zone it is in. Therefore, everybody else is subject to this same standard.
- c. Although other nearby properties can enjoy the additional benefit of a detached garage, they can easily do so because of the design and placement of improvements on their property. No essential right of enjoyment is harmed in this case by the enforcement of the code. Again there are other areas within the property to place a building. By reducing the size of the building below 1,000 square feet the setback standards would also be reduced allowing for this right.
- d. The codes are based on the direction of the General Plan and therefore by the public's interest, a variance would be contrary to that interest. The request of 12 feet from the right of way of 6700 west would result in an unsafe and undesirable condition. 6700 West has been planned as major roadway in the General Plan requiring an 80 foot width right of way (40 foot half width). Homes along 6700 West are required to have a setback of 30 feet. Placing the proposed garage only 12 feet from the property line narrows the field of vision for drivers and would partially block the intersection of 200 North and 6700 West.
- e. This variance request is an attempt to avoid the requirements of the County Land Use Code. Granting the request would serve as a substantial injustice to other land owners who have complied with the standards causing themselves additional expense and hardship.

Conformance to the General Plan

Standards for Large Accessory Buildings have been established in the Weber County Land Use Code due to the public's request and follow the goals and policies of the Western Weber and Ogden Valley General Plans.

Conditions of Approval

- Not applicable

Staff Recommendation

Staff recommends *denial* of the variance for a 28 foot variance to the side yard setback for a larger accessory building based on its inability to comply with the applicable variance criteria discussed in this staff report.

Exhibits

- A. Application and narrative
- B. Applicants site plan
- C. Subdivision plat
- D. Examples of the proposed garage

Maps

