

Weber County Planning Division www.co.weber.ut.us/planning 2380 Washington Blvd., Suite 240 Ogden, Utah 84401-1473

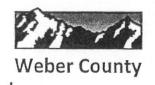
Voice: (801) 399-8791 Fax: (801) 399-8862

# Board of Adjustment Review

The Board of Adjustment convenes as necessary to review applications for variances, deviations, interpretations, and appeals as outlined below.							
A pre-application meeting is required prior to application submittal; please call (801) 399-8791 to make an appointment. Date of pre-application review meeting: 6/27/16 Time: 9:30 AM  • Staff member assigned to process application: Ben Hatfield							
Staff member assigned to process application:							
APPLICATION DEADLINE: Thirty (30) days prior to the applicable Planning Commission meeting							
The Board of Adjustment meets on the 2 <sup>nd</sup> and 4 <sup>th</sup> Thursdays of the month as needed.							
Application Submittal Checklist							
The Planning Division will only accept complete applications with supporting documents as outlined below. Submitting an application does not guarantee that your application will be placed on the next Board of Adjustment agenda.  The following is required as part of the application form submittal:  Complete Application Form  A non-refundable fee made payable to Weber County (see Fee Schedule below)  Obtain signature of the owner(s) on the application and any authorized representatives  All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF files of the respective plans.  A narrative explaining your request. If your request is for a variance please explain how the request meets the requirements for: (see Review Criteria).							
Fee Schedule							
Property Zoning RE 15 Fee Required							
Board of Adjustment Review     \$225							

## Duties and Powers of the Board of Adjustment

- 1. To act as the appeal authority from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps.
- 2. To hear and decide variances from the requirements of the Weber County Land Use Code.



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#### Procedure

The Board of Adjustment shall adopt rules and regulations, consistent with Utah state code and Weber County ordinances, for conducting its business and may amend such rules from time to time. Such rules may include policies and procedures for the conduct of its meetings, the processing of applications, the handling of conflict of interest and any other purpose considered necessary for the functioning of the board.

#### 1. Application and Notice.

- A. Any person or entity wishing to petition the Board of Adjustment for an appeal or interpretation of the Land Use Code or Zoning Maps, or for a variance from the requirements of the Land Use Code may commence such action by completing the proper application and submitting it to the Weber County Planning Division office. Applications must be submitted at least 30 days prior to the date of the meeting at which the application will be considered. The application must clearly explain the appeal, interpretation, or variance being requested, and must be accompanied by the required fee and applicable supporting information.
- B. After a complete application has been submitted and accepted, the Planning Division shall prepare a staff report to the Board of Adjustment, schedule a meeting of the Board, and send notice to property owners within 500 feet of the parcel on which the request has been made. Notice may be sent to other interested persons or organizations upon written request.

#### 2. Meeting.

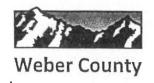
A. The Board of Adjustment shall hold a public meeting to decide upon the appropriate action to be taken on an appeal, variance, or interpretation request. The concurring vote of at least three (3) of the five (5) Board members is required to decide in favor of the request.

#### 3. Decision and Minutes.

- A. After the Board of Adjustment has made a decision, a notice of decision shall be prepared by the Planning Division, signed by the Board of Adjustment Chair or the Chair's designee, and sent to the appellant in accordance with Chapter 31 Section 4 of the Weber County Land Use Code. This notice acts as the Board's written decision for an appeal, variance, or interpretation request. Decisions of the Board of Adjustment shall be final at the time a notice of decision is issued.
- B. The minutes of all meetings of the Board of Adjustment shall be prepared and filed in the Weber County Planning Division office. The minutes shall be available for public review and access in accordance with the Government Records and Access Management Act.

#### 4. Expiration.

- A. If the Board has decided in favor of a variance request, the approval is valid for a period of 18 months. If an approved variance request has not been acted upon within this time frame, the approval shall expire and become void.
- B. If the Board has made an interpretation to the Zoning Map or Land Use Code, the interpretation is valid until an amendment to the Zoning Map or Land Use Code is made which changes the conditions upon which the interpretation or decision was made.



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#### 5. Appeal of Decision.

A. Appeals from decisions of the Board of Adjustment are made directly to the District Court as designated in Utah state code.

#### **Decision Criteria and Standards**

- 1. Appeals from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps
  - A. The Board of Adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Weber County Land Use Code and Zoning Maps.
  - B. The Board of Adjustment may hear only those decisions in which the land use authority has applied the Weber County Land Use Code or Zoning Maps to a particular application, person, or parcel.
  - C. The appellant has the burden of proof that the land use authority erred.
  - D. All appeals to the Board of Adjustment shall be filed with the Planning Division not more than 15 calendar days after the date of the written decision of the land use authority.
  - E. Appeals to the Board of Adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.
- 2. Variances from the requirements of the Weber County Land Use Code
  - A. Any person(s) or entity desiring a waiver or modification of the requirements of the Weber County Land Use Code as applied to a parcel of property that they own, lease, or in which they hold some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of the Land Use Code
  - B. The Board of Adjustment may grant a variance only if the following 5 criteria are met:
    - 1. 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.
      - a. In determining whether or not enforcement of the land use ordinance 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.
      - b. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
    - 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.



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a. 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.

- 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
- 4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
- 5. The spirit of the land use ordinance is observed and substantial justice done.
- C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- D. Variances run with the land.
- E. The appeal authority may not grant a use variance.
- F. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
  - 1. Mitigate any harmful effects of the variance; or
  - 2. Serve the purpose of the standard or requirement that is waived or modified.

#### For Your Information

This application can be found at the following Planning Division web site: www.co.weber.ut.us/planning. Copies of the applicable Weber County Land Use Code and other helpful information are also available at this web site.

We	eber County Boa	rd of Adjustment Appli	cation				
Application submittal	s will be accepted by appointmer	nt only. (801) 399-8791. 2380 Washington Blvd	I. Suite 240, Ogden, UT 84401				
Date Submitted / Completed 6/24/16	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)				
Property Owner Contact I	nformation						
Name of Property Owner(s)	lonald Fulton/Sharan Ia	Mailing Address of Property Owner(s					
Phone 3852424277	onald Fulton/Sharon Je	SLC, UT 84165					
Email Address bluemohomes@gmail.	com	Preferred Method of Written Corresp    X Email   Fax   Mail	ondence				
Authorized Representativ	ve Contact Information						
Name of Person Authorized to Rep Donald Fulton Phone	resent the Property Owner(s)	Mailing Address of Authorized Perso PO Box 65999 SLC, UT 84165	n				
3852424277  Email Address bluemohomes@gmail.	com	Preferred Method of Written Corresp  Email Fax Mail	ondence				
Appeal Request							
✓ Ordinance  ☐ A variance request: Lot areaYard  ☐ A Special Exception to the 2	setbackFrontage width  Zoning Ordinance:  ss by Private Right-of-Way	Access at a location other than across the front lo					
☐ An Interpretation of the Zo☐ Other:	ning Map						
Property Information							
Approximate Address 6260 So. Jared Way (2125 E.) Ogden, UT 84403		Land Serial Number(s) Parcel ID: 076650001					
Current Zoning RE 15							
Existing Measurements		Required Meas	Required Measurements (Office Use)				
Lot Area 3.38 Acres	Lot Frontage/Width 529.01	Lot Size (Office Use)	Lot Frontage/Width (Office Use)				
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)				
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)				

### Applicant Narrative

Please explain your request.

Please review the Notice of Decision by the Planning Commission Dated June 16, 2016. Please review the minutes of the Planning Commision Meeting Dated May 10th, 2016.

We request an appeal of the language of the decision of the Planning Commision - Notice of Decision, line 2.

#### Grounds for request:

- 1) The zoning ordinance requires lots in this zone to have a minimum of 15000 square feet per lot. The recorded plat by Reeve and Associates shows a total area of 147244 square feet. The number of lots that may be placed on this land are to be determined during subdivision procedure and not at the acceptance of an Access Exception. The scope of the planning meeting and decision of the planning commission was very narrow as stated during the meeting by the county Attorney Chris Crockett.
- 2) The way the motion was worded and passed occurrs as a denial masked as an acceptance. It went against staff recommendations and was not relevant to the application presented. An application for an Access Exception denying owner rights per Land Use Code and the Zoning Ordinance.
- 3) We request that line 2 of the Notice of Decision be stricken. It is irrelevant. ROW's are distinct from Access Exceptions as are the rules that govern them.
- 4) The planning commision errored in that it did not make a motion specific to the application. The application was for an Access Exception typically an administrative decision based on planning and staff recommendations.

#### Variance Request

Explain how the variance will not substantially affect the comprehensive plan of zoning in the County and that adherence to the strict letter of the ordinance will cause unreasonable hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.

Variance Request (continued)						tin integration  	en in the granter
List the special circumstances attached to the property			which do not	generally app	ly to the ot	her property in	the same zone.
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Based upon the previously stated special circumstance other properties in the same zone; and that the grant control in the same zone; and that the grant control is the same zone; and that the grant control is the same zone; and that the grant control is the same zone; and the zone; and the same zone; and the zone; and	tes, clearly descr	ribe how th	e property cov	vered by this	application	is deprived of	privileges possessed
properties in the same zone.	nung of the var	mance is es.	sential to the	enjoyment or	a substant	iai property ri	ght possessed by oth
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Variance Request (continued)		e de la companya de La companya de la co	ana ang ang ang ang ang ang ang ang ang	n vija en vija in vija
Explain how the previously listed special circumstances are not				
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Property Owner Affidavit		and the control of th	securing a disable or other agreement	
I (We), Somerset Lands and Donald Fulton and that the statements herein contained, the information promy (our) knowledge.	, depose and say th ovided in the attached	at I (we) am (are) the own d plans and other exhibits	er(s) of the property ident are in all respects true an	ified in this application d correct to the best of
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<u> </u>	_			
(Property Owner)		(Property Owner)		*
	20			th.
Subscribed and sworn to me thisday of	, 20,			
				(Notary)
				a la linera anti panamana mangin at na simana at m
Authorized Representative Affidavit			and the state of t	
I (We),	, the owner(s) of the	e real property described in represent me (us) regar	in the attached application ding the attached applica	n, do authorized as my Ition and to appear on
(our) representative(s), my (our) behalf before any administrative or legislative body pertaining to the attached application.	y in the County consi	dering this application ar	nd to act in all respects as	s our agent in matters
(Property Owner)	_	(Property Owner)	2.5	-
4		11.5		, the
Dated thisday of, 20 signer(s) of the Representative Authorization Affidavit who du	J personally appeare	ne that they executed the	same.	, the
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		*		(Notary)