

# Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
----------------------------	-------------------------------	-----------------------------	--------------------------

## Property Owner Contact Information

Name of Property Owner(s) Ryan and Joan Border		Mailing Address of Property Owner(s) 5844 S 2550 E Ogden, UT 84403	
Phone 801-449-1754	Fax		
Email Address ryan_border@yahoo.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

## Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax		
Email Address 		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

## Appeal Request

- A variance request:  
      Lot area     Yard setback     Frontage width    Other: \_\_\_\_\_
- An Interpretation of the Zoning Ordinance
- An Interpretation of the Zoning Map
- A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance
- Other: \_\_\_\_\_

## Property Information

Approximate Address 5844 S 2550 E Ogden, UT 84403		Land Serial Number(s) 07-089-0025	
Current Zoning			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 1.38 AC	Lot Frontage/Width ~30ft	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 100ft	Rear Yard Setback 250ft	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 25ft	Side Yard Setback 50ft	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

## Applicant Narrative

Please explain your request.

We purchased this property in 2016. We are seeking a building permit to make improvements to our existing home.

When attempting to apply for our building permit, we learned that our property is not a "legal lot". There was a legal lot established in ~1958 ("lot 46"). In 2003/2004, there was a legal dispute regarding a neighbors driveway encroachment onto our property. Through acquiescence, part of our lot was taken away from a previous owner and given to the neighbor with the encroaching driveway.

At time of purchase, it was disclosed to us that part of the original property had been lost in the legal dispute. We did not know that the new property boundary had never been re-platted. All the survey work is on file with the county but it was never integrated into a "plat", and re-established as a "lot". We are not disputing the property boundary or attempting to reclaim the lost property.

We have also learned that when the court modified the property boundary, the remaining parcel (lot 46, minus the disputed area) no longer conforms to the minimum width. Lot 46 was a pie-shaped lot, located on a cul-de-sac. The court removed part of the front of the property. The lot was originally narrow at the front, but with the removed section, is now even more narrow; we estimate it to be approximately 30ft wide at a 30ft setback.

Our ultimate objective is to get a building permit to make the improvements to our home. To do this, we need a legal lot, which will mean creating a sub-division consisting of our remaining part of the original lot 46.

We are requesting a variance of the lot frontage width requirement to enable this.

## Variance Request

The Board of Adjustment may grant a variance only if the following five criteria are met. Please explain how this variance request meets the following five criteria:

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 Zoning Ordinance.

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.

Enforcement of the land use ordinance would create an unreasonable hardship by preventing development of our property. The hardship is located on our property, and was caused wholly by a court order resulting from a dispute between a neighbor and a previous owner of our property. It is not self-imposed or resulting from economic or financial issues.

Without the variance, a lot plat cannot be established. Without a platted lot, we can make no improvements to the property (the county will not issue a building permit on a parcel, it must be a legal lot). Our intent has always been to modify the home; our regular use and enjoyment of our property requires this variance.

## Variance Request (continued...)

2. There are special circumstances attached to the property that do not generally apply to the other properties in the same zone.

a. In determining whether 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.

Please describe the special circumstances attached to the property that do not generally apply to the other properties in the same zone:

Our request for variance is due to a court modification of our property boundary (long before our purchase), which was - apparently - never properly completed with the county. It is certainly an unusual situation, unique to this property, not generally applicable to other properties in the area.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

This is our residence. We bought it for the location, lot (what we now know to be a parcel), neighborhood, and views - even though the home itself does not meet our needs. Our intent has always been to modify this home, but we now find ourselves unable to do so without this variance (and the re-platting, and eventual building permit it will enable). We have engineered, architectural plans ready to submit for a permit; it was at the beginning of this submittal process when we discovered that our property was not a legal (platted) lot.

Other property owners in our zone are free to develop their properties. We are unable to develop our property because of the prior court action.

**Variance Request (continued...)**

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

We can foresee no adverse effect from granting this variance. The court ordered property boundaries have been established since ~2004, with no disturbance to the neighborhood or public in general. The court modification to our property boundary is the result of the court also determining that the current use was in place for 20+ years prior to 2004. The variance will not change the existing boundaries, or existing use of the property - it will only enable the existing parcel to be platted as a "lot".

5. The spirit of the land use ordinance is observed and substantial justice done.

We believe that this variance is in the spirit of the land use ordinance because it will not enable the creation of new lots (with accompanying impact to roads or neighbors) and will not be noticeable in any way. Granting the variance will allow the court ordered property boundaries to be officially recognized as a lot by the county, and enable us to develop our property.

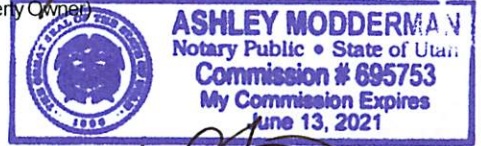
**Property Owner Affidavit**

I (We), Ryan & Joan Border, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

[Signature]  
(Property Owner)

[Signature]  
(Property Owner)

Subscribed and sworn to me this 31<sup>st</sup> day of July, 2017.



[Signature]  
(Notary)

**Authorized Representative Affidavit**

I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
(Notary)



**Weber County Corporation**

Weber County  
2380 Washington Blvd  
Ogden UT 84401

Customer Receipt	
Receipt Number	50981

Receipt Date
08/01/17

Received From:  
Ryan A Border

Time: 14:07  
Clerk: tbennett

Description	Comment	Amount
Board of Adjust	Board of Adjustment	\$600.00

Payment Type	Quantity	Ref	Amount
CHECK		575010483	

AMT TENDERED: \$600.00  
 AMT APPLIED: \$600.00  
 CHANGE: \$0.00