

# 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 <i>3-27-2013</i>	Fees (Office Use) \$225.00	Receipt Number (Office Use) <i>1731</i>	File Number (Office Use) <i>BOA 2013-4</i>
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## Property Owner Contact Information

Name of Property Owner(s) <i>Melvin R. Clarice Trust</i>		Mailing Address of Property Owner(s) <i>8500</i>	
Phone <i>801-3888500</i>	Fax		
Email Address <i>ejharris@marketstar.com</i>		Preferred Method of Written Correspondence <input 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) <i>Elroy J. Harris Trustee</i>		Mailing Address of Authorized Person <i>6502 E. Summit Cove Huntsville Utah 84317</i>	
Phone <i>801-388-8500</i>	Fax		
Email Address <i>ejharris@marketstar.com</i>		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: \_\_\_\_\_
- A Special Exception to the Zoning Ordinance:  
 \_\_\_ Flag Lot   \_\_\_ Access by Private Right-of-Way   \_\_\_ Access at a location other than across the front lot line
- 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: *Request to divide 220460030 & realign to 220400028*

## Property Information

Approximate Address <i>Clarke Lane Eden Utah</i>	Land Serial Number(s) <i>#220460030 #220400028</i>
Current Zoning <i>Residential, &amp; Agricultural</i>	

Existing Measurements		Required Measurements (Office Use)	
Lot Area <i>3.86</i>	Lot Frontage/Width	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)



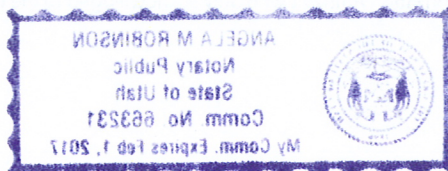
**Variance Request (continued...)**

List the special circumstances attached to the property covered by the application which do not generally apply to the other property in the same zone.

*See attached #3*

Based upon the previously stated special circumstances, clearly describe how the property covered by this application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.

*See attached #4*







**Weber County**

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, interpretation, and special exceptions 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: 3-27-2012 Time: 1:00

- Staff member assigned to process application: Scott Mendoza

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 and if your request involves one of the three item listed below; how the request meets the requirements for: (see *Review Criteria*)
  - A. Variance
  - B. Flag Lot
  - C. Special exception

### Fee Schedule

Property Zoning \_\_\_\_\_ Fee Required \_\_\_\_\_

- Board of Adjustment Review

\$225

### Duties and Powers of the Board of Adjustment

In addition to any other powers given by State law or the Weber County Zoning Ordinance Chapter 29, Board of Adjustment, upon the timely filing of an appeal, within 15 days, from the date of the final decision being appealed, after proper notice and Public Hearing, the Board of Adjustment shall have the following powers:





1. Lots not having frontage on a street as required by this ordinance, but having access to such street by means of fee title access strips may be approved as "Special Exceptions" by the Board of Adjustment in any zone, provided that:
  - A. The Board of Adjustment determines that it is not feasible or desirable to extend a street to serve such lot or lots at that time. Criteria to be used in determining feasibility or desirability of a street shall include, but not be limited to, topography, boundaries, and/or an area in which a road would not open an area of 5 acres or more for development.
  - B. The access strip shall have a minimum width of 20 ft., a maximum width of 30 ft., a maximum grade of 15%, and a minimum vertical clearance of 14.5 ft.
  - C. The area of the access strip shall not be included within the minimum lot area requirement.
  - D. The lot shall meet all minimum yard and area requirements of the zone in which it is located, exclusive of the access strip.
  - E. Buildings shall be setback a minimum of 30 feet from any property line and 30 feet from the extension of the flag lot access strip. The depth of the front yard shall be the distance between the front line of the building and the property line or nearest line of the access strip, which the building faces.
  - F. The lot address shall be displayed in a prominently visible location at the street entrance to the access strip.
  - G. Each lot shall access a street by means of its own access strip. Successive stacking of lots on the same access strip is not permitted.
  - H. No building, structure or parking is allowed in the access strip, which is to be used solely as access to the lot.
  - I. The Board of Adjustment shall impose such other conditions to ensure safety accessibility, privacy, etc. to maintain or improve the general welfare of the immediate area.
  - J. No access strip shall exceed 800 feet in length.
  - K. A maximum of two flag lot access strips may be adjacent to each other.
  - L. A minimum turnout measuring at least 10 feet by 30 feet be provided adjacent to the traveled surfaces of the access strip at a maximum distance of 200 feet from the public street.
  - M. A turn-around area be provided at the home location to allow firefighting equipment to turn around. This area shall be a year round surface, capable of supporting fire equipment (a minimum inside turning radius of 30 feet and an outside turning radius of not less than 45 feet.)
  - N. Bridges, including decking and culverts shall be capable of supporting a minimum 20-ton weight capacity.
  - O. Switchback turns in sloped areas shall have a minimum 75-foot radius.
  - P. Road surfaces on private access ways shall have a minimum 12-foot finished road surface capable of supporting a 20-ton weight capacity with a surface approved by the County Engineer.
  - Q. A fire hydrant or other suppression method MAY be required by the Fire Chief.
  - R. The home location shall be shown on a plan submitted to the Fire District.
2. No flag lot shall be allowed which proposes to re-subdivide or include within it (including the access strip) any portion of an existing lot in a recorded subdivision.
3. The lot area exclusive of the access strip shall be a minimum of 3 acres.
4. The flag lot shall meet the minimum lot width requirements for the zone in which the lot is located, at the end of the access strip.





3. Each appeal, filed in proper form shall be placed upon the calendar of the Board and shall be heard in the order in which they appear on the calendar, unless advanced for hearing by order of the Board for good cause shown. The calendar of cases to be heard shall be posted in five days before the meeting at which the hearing is scheduled.
4. A Letter or Decision or any other action of the Board shall be sent to the applicant informing him/her that the minutes of such meeting are available at the Planning Commission Office upon the Board's approval of the minutes. The minutes shall contain findings as the basis for the Board's decision or action and the vote of each member of the Board, those absent being so marked.

#### **Review Criteria**

In exercising the above-mentioned powers, such Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; provided, that before any variance may be granted it shall be shown that:

1. 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.
2. Special circumstances attached to the property covered by the application, which do not generally apply to the other property in the same zone.
3. That because of said special circumstances, property covered by application is deprived of privileges possessed by other property in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. That the condition and/or circumstances are not considered economic or self-imposed hardships.

#### **For Your Information**

This application can be filled out online at the following Planning Division web site: [www.co.weber.ut.us/planning](http://www.co.weber.ut.us/planning)  
Copies of the applicable Weber County Zoning Ordinances and other helpful information are also available at this web site.



Board of Equalization request

Request dated : March 27, 2013

1) Application narrative

Please explain your request.

Request is made on behalf of the Melvin R. Clarke Trust

By Trustee Elroy J. Harris

Parcel # 220460030 & #220400028

The request is to allow a special exception and or variance to separate the home that was built in 1977 that sits on approximately 1 acre and that is included in parcel # 220460030 which has a total of 3.86 acres from the farm land of approximately 2.86 acres that is also included in this parcel. The parcel was never to be a standalone lot separate from the farm. The farm land is currently in greenbelt as it is contiguous to and is an essential part of the farming / ranching operation of parcel # 220400028 with 53.25 acres.

This farm land has little value to the home as it has no usable purpose to the home separate from the farm as it does not have adequate access since the only connection is the water channel and a small horse trail that connects the home site and the farm land. While on the other hand the farm land on this parcel is essential to the purpose of the farm operation. The property is necessary as it provides the winter feeding since it is the only property on the east side of the river that is connected by the strip of land that is on the east side of the river as part of parcel # 220400028 plus it surrounds the family home of the people who manage the farm. If this property were to be sold as part of the home it will no longer qualify for greenbelt and the purpose of the land which it was intended.

The request is allow land to be used as it was intended for farming by approving the exception to separate the farm land on #220460030 and combine it with the farm land on parcel #220400028.

Attachment A - Current Property boundaries

Attachment A1 – Contiguous Farm Property

Attachment B – Proposed Property boundaries



2) Variance request

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

- A variance is requested as special circumstances peculiar to this property prohibits the future owner of this property to enjoy the property that one would expect to enjoy of similar property as there is not adequate access to make the property usable or beneficial.
- The variance will support the overall all purpose and intent of the land to remain as farm land in greenbelt so the overall plan will not be impacted as the property will better serve the spirit of the land use ordinance.
- The home needs to be separated from the rest of the property or it would create hardship to the family farm as it is not sellable as is. It is essential that the home is sold before the bank starts foreclosure. Prospective buyers only want to buy the home and 1 acre it is on as the remaining 2.86 acres does not have usable value.

3) List the special circumstances attached to the property covered by the application which do not generally apply to other property in the same zone.

- The remaining 2.86 acres is exceptionally odd shape and was never intended to be a standalone lot with the home when it was built in 1977 than later in 1995 when two more lots were carved out for family members. The property was intended to remain as an essential part of the family farm which contiguous and therefore should be grandfathered in.
- The remaining 2.86 acres is functionally land locked without reasonable access so under the special circumstances it needs to be separated . The additional property would not benefit the owner as it would deprive them of privileges that would be granted to other property owners who would have access and unconditional use of their property.
- The cost of the additional property would exceed the value of the home so the cost vs. benefit would not be consistent with other property with the same acreage.

4) Clearly describe how the property covered by this application is deprived of privileges possessed by other properties in the same zone; and that the granting is essential to the enjoyment of a substantial property right possessed by the other properties in the same zone.



- Owner of this property would be deprived of privileges for the additional land that is not part of the home that other owners of similar property would enjoy as owners would who would have access to their property for ranching or farming purposes.
  - The family trust needs to retain the additional property as it is an essential to have access on the east side of the river for winter feeding .
  - While the land provides no value for the owner of the home it would provide substantial value to family who have adjoining property and who manage the ranch.
  - If the property is sold with the home it would lose the greenbelt tax status and would be taxed as residential property without the benefit and use that others would have of similar property.
- 5) Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.

- The hardship is the result of the mortgage on the home and now requiring it to be sold after the death of the owner of the home and the entire 57 acre farm.
- It was never the intent or purpose in the overall planning zone to separate the farm between the two parcels making 2.87 of the farm residential by having it connected to the home
- If the property does not remain as part of the farm it would substantially reduce the functionality and effectiveness of the farm for which it is currently zoned as.



WEBER COUNTY CMS RECEIPTING SYSTEM  
OFFICIAL RECEIPT

\*\*\* REPRINT \*\*\*

Date: 02-APR-2013

Receipt Nbr: 1731

ID# 10845

Employee / Department: ANGELA - 4181 - PLANNING  
Monies Received From: MELVIN RAY CLARKE TRUST  
Template: PUBLIC WORKS  
Description: BOARD OF ADJUSTMENT

The following amount of money has been received and allocated to the various accounts listed below:

Total Currency	\$	_____	.00
Total Coin	\$	_____	.00
Total Debit/Credit Card	\$	_____	.00
Pre-deposit	\$	_____	.00
Total Checks	\$	_____	225.00
Grand Total	\$	=====	225.00

Account Number	Account Name	Comments	Total
2013-08-4181-3419-0550-000	ZONING FEES		225.00
TOTAL \$			225.00

Check Amounts

225.00

Total Checks: 1

Total Check Amounts: \$ 225.00

\*\*\* SAVE THIS RECEIPT FOR YOUR RECORDS \*\*\*