

# 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 09-08-2019	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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## Property Owner Contact Information

Name of Property Owner(s) Elwood Powell on Behalf of Bayview and Kristin Zaugg		Mailing Address of Property Owner(s) 4834 Van Buren Ave. Ogden, Utah 84403	
Phone 801-499-9763	Fax		
Email Address elwood.powell@gmail.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) Zane S. Froerer		Mailing Address of Authorized Person 2661 Washington Blvd., #201 Ogden, Utah 84401	
Phone 801-621-2629	Fax		
Email Address zane.froerer@froererlaw.com		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 3960 N. 3175 W. Ogden, Utah 84404		Land Serial Number(s) 190100085	
Current Zoning A-1			
Existing Measurements		Required Measurements (Office Use)	
Lot Area	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)

## Applicant Narrative

Please explain your request.

That the alternate access approved by revoked. The approval violates Weber County Ordinances for the A-1 Zone. Specifically, it is in violation of 108-7-30 and 108-7-31. The applicant failed to show proof of a legal right to access the agricultural parcel, the parcel is in a recorded subdivision and the applicant has failed to submit an application to amend that subdivision. The county has yet to create or approve the subdivision of the lots therefore it failed to properly consider the factors in 108-7-32. The approval is in violation of 23-30, 23-31, 23-32. The proposed subdivision of these lots does not have sufficient frontage for a dedicated street or a flag lot. The County failed to take into account that the road from which access was approved is a private road maintained by Bayview Community Association and the County may not simply designate or dictate how the public accesses or uses that private drive. The approval creates a defacto approval of a flag lot in violation of the County's ordinances and the zoning requirements for the A-1 zone. It also is a violation of the County's fire code regulations. The Application failed to provide the appropriate site plan and map, reusing a subdivision plan from another application. Even though the application did not seek approval of the future anticipated subdivision, the staff's recommendation relied upon the conclusion that the future division was in compliance with all county ordinances. Until an application for subdivision and amendment of the existing subdivision is submitted, this decision is wholly improper and beyond the scope of the application. The Planning Staff's recommendation for approval was flawed. It failed to comply with 108-7-31 by finding that it is impractical and unfeasible for the applicant to extend the street to the existing lot. The Staff cannot make a recommendation regarding a lot that does not yet exist. This is nothing short of the Staff blatantly disregarding the county's own ordinances to rubber stamp a land use application. No evidence or analysis of how the Staff arrived at this decision is provided and they do nothing to document their "substantial evidence." This is wholly conclusory and without any actual evidence. In the Notice of Decision, the Staff approved the application citing to the finding that "the proposed subdivision conforms to the Western Weber Plan" and applicable ordinances. This is absurd since there is no "proposed subdivision." An applicant of a land use decision may not be vested with any rights until an application for a land use has been properly filed with the County. This finding is incorrect on its face and exceeds the scope of the land use application on its face. The application was for a Flag lot access for a lot that does not have frontage on a street. The lot in question does have such access. Until a subdivision is approved, granting the application would be improper. Further, the access strip may be no longer than 800 feet. Because the "street" is a private drive, the application seeks approval of a private right of way which is cumulatively longer than 800 feet. Finally, the lot is within a recorded subdivision, therefore, a flag lot is not permitted.

## 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.

**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:

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

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

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

This allowance will affect the land owners substantially in this Subdivision. And it is contrary to the interests of all land owners in the area. As well as the consistency of residential buildings.

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

The Spirit of the Land <sup>use</sup> ordinance has not been observed & justice has not been granted to all land owners of interest. If this easement is allowed.

**Property Owner Affidavit**

I (We), Kristin Zaugg, 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.

Kristin Zaugg  
(Property Owner)

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

Subscribed and sworn to me this 18th day of September, 2019.



Cheryl L. Honstein  
(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 Planning  
 2380 Washington Blvd, Ste 240

**Customer Receipt**

Receipt Number **117759**

**Receipt Date**  
**09/21/19**

Received From:  
 Froerer & Miles Atto

Time: 13:55:3  
 Clerk: amorby

Description	Comment	Amount
ZONING FEES	Board of Adjustment	\$500.00

Payment Type	Quantity	Ref	Amount
CHECK		29166	

AMT TENDERED: \$500.00

AMT APPLIED: \$500.00

CHANGE: \$0.00