

Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8374. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed August 25, 2021	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) SPAHEY, MARC C & WF ANGELIKA D SPAEY		Mailing Address of Property Owner(s) 3924 N 4800 E Eden, Utah 84310	
Phone 303-358-7571	Fax		
Email Address somersetd@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	
Phone 801-621-2690	Fax		
Email Address zane.froerer@froereriaw.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 3924 N 4800 E Eden, Utah 84310		Land Serial Number(s) 22-254-0006	
Current Zoning			
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.

See attached statement

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:

See attached statement

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

See attached statement

Variance Request (continued...)

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

See attached statement

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

See attached statement

Property Owner Affidavit

I (We), Angelika and Marc Spary, 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.

Angelika Spary
(Property Owner)

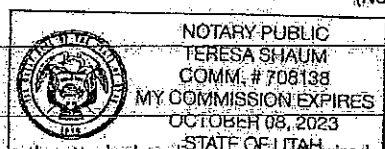
Marc Spary
(Property Owner)

STATE OF UTAH
COUNTY OF: Weber
ON THE 25 DAY OF August, 2021

PERSONALLY APPEARED BEFORE ME
Angelika & Marc Spary SIGNER(S) OF THE ABOVE
INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT
HE/SHE/THEY EXECUTED THE SAME

Teresa Shaum
(Notary)

Authorized Representative Affidavit



I (we), Angelika Spary and Marc Spary, the owner(s) of the real property described in the attached application, do authorize as my (our) representative(s), Zane S. Froerer, 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.

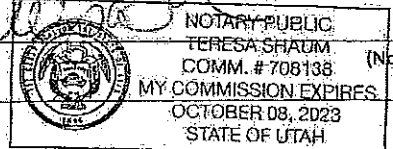
Angelika Spary
(Property Owner)

Marc Spary
(Property Owner)

STATE OF UTAH
COUNTY OF: Weber
ON THE 25 DAY OF August, 2021, personally appeared before me Angelika & Marc Spary the
signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

PERSONALLY APPEARED BEFORE ME
Angelika & Marc Spary SIGNER(S) OF THE ABOVE
INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT
HE/SHE/THEY EXECUTED THE SAME

Teresa Shaum
NOTARY PUBLIC



Zane S. Froerer (#10807)
FROERER AND MILES, P.C.
2661 Washington Blvd., Suite 201
Ogden, Utah 84401
801-621-2690
Zane.froerer@froererlaw.com

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF UTAH
COUNTY OF WEBER, OGDEN DEPARTMENT

In Re:

Permit Issued to Heidi Christiansen and Allen
Kirk Construction LLC
Property: Lot 22 of Fairway Oaks PRUD
3924 N 4800 E, Eden, Utah

Appellant: Angelika Spaey

NOTICE OF APPEAL TO BOARD OF
ADJUSTMENTS

This Notice is filed in conjunction with the Board of Adjustment Cover Sheet and Application which is being submitted on August 25th, 2021, to the Weber County Planning Department for submission to the Weber County Board of Adjustments.

Decisions Appealed

1. Weber County Stormwater Construction Activity Permit.
2. Building Permit Number 21U388 issued August 13th, 2021.
3. Land Use Permit Number LUP232-2021 dated 07-14-2021.
4. All other land use decisions related to the development and construction currently underway by Applicant Heidi Christiansen and Allen Kirk Construction, LLC.

While the Appellant intends to supplement the material she is submitting with this Notice and Application, contemporaneous with the filing of her Notice and Application, the Appellant has submitted the following:

1. Personal statement from the Appellant.
2. Plat for Fairway Oaks At Wolf Creek PRUD Phase 1
3. Preliminary Plat Fairway Oaks At Wolf Creek PRUD
4. Main Floor Plan + Basement/Footing foundation plan
5. Land Use Permit LUP232-2021
6. Building Permit 21U388
7. Approval of Storm Water Pollution Prevention Plan
8. Pictures
9. Fairway Oaks Home Owners Association Design Review Board Guidelines
10. Fairway Oaks Home Owners Association Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Fairway Oaks Home Owners Association
11. Weber County Commission Meeting Minutes September 3rd, 1998
12. Notice from Weber County Planning Commission dated August 6th, 1997
13. Ordinance 2008-14

GROUND FOR APPEAL

Appellant asserts that the land use decisions were issued without substantial evidence, are illegal, and based upon arbitrary and capricious grounds. In the Land Use Permit Comments, it is alleged that Planning staff found the proposed home plans were architecturally and materially

consistent with the existing homes in the community. This is not supported by substantial evidence. The Planning staff also approved the permits despite not receiving an HOA approval letter making the decisions arbitrary, illegal, and without substantial evidence. The decisions ignore the problems with drainage and water due to the condition of the soils. The decisions ignore the applicable setbacks. The Appellant reserves her right to further supplement this Notice with briefing to be provided to the Board of Adjustments.

Dated this 25th day of August 2021.

FROERER & MILES PC

/s/ Zane S. Froerer

Zane S. Froerer

Attorney

Zane S. Froerer (#10807)
FROERER AND MILES, P.C.
2661 Washington Blvd., Suite 201
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF UTAH
COUNTY OF WEBER, OGDEN DEPARTMENT

<p>In Re:</p> <p>Permit Issued to Heidi Christiansen and Allen Kirk Construction LLC Property: Lot 22 of Fairway Oaks PRUD 3924 N 4800 E, Eden, Utah</p> <p>Appellant: Angelika Spaey</p>	<p>NOTICE OF APPEAL TO BOARD OF ADJUSTMENTS</p>
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Dated this 25th day of August 2021.

FROERER & MILES PC

/s/ Zane S. Froerer

Zane S. Froerer

Attorney

Zane S. Froerer (#10807)
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Ogden, Utah 84401
801-621-2690
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<p>In Re:</p> <p>Permit Issued to Heidi Christiansen and Allen Kirk Construction LLC Property: Lot 22 of Fairway Oaks PRUD 3924 N 4800 E, Eden, Utah</p> <p>Appellant: Angelika Spaey</p>	<p>DECLARATION OF ANGELIKA SPAEY</p>
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I, ANGELIKA SPAEY, do declare that the following statements are true and correct, to the best of my knowledge, under penalty of perjury.

1. I am competent to testify to the matters in this Declaration.
2. I purchased 3924 North 4800 East, Eden Utah in 2001 and was told this was a planned residential unit development with small patio style homes. I was given pictures of the housing styles by John Lewis, the original developer of fairway oaks. He received CUP in 1997 for the area.
3. Lot 22 is uphill in the center lots of this subdivision. The width of this lot was reduced by around 2 feet when I took legal action against John Lewis to re-Platte Fairway Oaks in 2003. My home was built by John Lewis and was not on its building envelope until the 2008 Platte.

a. Lot 22 remained for sale for many years due to its limited building potential and slope with an active spring between lot 22 and 28. The soil is labeled as Qafi, a soil type shown on Weber Counties website that is labeled as one of the least stable soil types, and requires a soil test to build.

4. My homes foundation is surrounded by drainage gravel and my crawl space has at least 4' of drainage gravel to keep the area free of flowing spring water. The Conditional Use Permit or CUP document shows we are in an area that has hi spring activity close to the surface, hence no basements should be built. Given the springs and dense building lots most 'patio' style homes built and approved are at least 20' apart so that water flows do not erode the Qafi type soil and cause harm to downhill neighbors.

5. I have been working with Weber County Planning and Weber County Engineering to get the housing styles on record for the past year to make sure future homes were built to the CUP standards. The builder of lot 28 just to the right of my home built a three-story home (When?) completely ignoring housing styles and dimensions by building a 7500 square foot house, dwarfing its neighbors. This is the same builder proposed for lot 22. The HOA denied the building application, but Heidi Christiansen, the builder, went to Weber Planning and was told no housing styles were on file and she could build anything she wanted to build.

6. October of 2020 I was told that Heidi would be building on the lot above me and I worked to establish the CUP documents, soil conditions and housing styles for our HOA to enforce. In February 2021 I received the CUP documents for Fairway Oaks with the

commission meeting minutes and the engineering recommendations that only small patio style homes with no basements were to be built due to active surface springs.

7. I provided all the documents to the Fairway Oaks board members and to Steve Burton, a planner at Weber County planning, who approved Heidi's building plan and Tucker Weigh with Weber County Engineering, showing the soil types and the home styles. I wrote to Gage Froerer, one of the county commissioners, multiple times asking the county to accept this information and to use this in deciding in the building permit for the lot above mine, which is lot 22.

8. Our HOA denied the building plan for lot 22 provided by Heidi Christiansen because there was no engineering report on stormwater abatement and their building was too close to my foundation. I did not hear until 7/20/21 that they were planning to build without HOA approval because Steve Burton had approved their plan. Neither I nor the HOA was allowed to see the building plan.

9. The HOA board met with Ms. Christiansen to ask them (? Them or her) not to build on 7/28/21. They told her they had a buyer for the lot, and she said they would take 7 days to consider and get back to the Board with an answer. They (Heidi?) started the excavation on 8/17/21 without any contact with the Board.

10. I believe the structure being built is too close to my home per governmental regulations and that it should not be built.

11. We discussed remedies such as an injunction and I agreed to a retainer with Zane Froerer, and to hiring a soil engineer. I also agreed to get the building permit and other documents to delay this build.

August 24th, 2021

/s/ Angelika Spaey
Angelika Spaey