

Application to the Board of Adjustment for a Variance

The board of adjustment may grant a variance only if the following **five criteria** are met:

a. 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.

1. 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.

2. 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**.

Answer: The lot has a steep slope on the back of the lot that limits where a home can be built on the property. The property was originally lots 6, 7, 8, and 9 of the Hermitage Block 12 Subdivision. The combined frontage of all 4 lots that make up the new lot is approximately 288'. The average lot depth is 140' deep. All 4 lots that make up the new lot equal 1.16 acres, which exceeds the FR-1 zone's minimum lot size. The minimum front setback for an FR-1 lot is 30' from the edge of the public right-of-way along a street that is 80' or less in width. The lot meets all of the minimum lot requirements. The literal enforcement of the 30' front setback would substantially limit the opportunity to build on the lot. The 66' UDOT right-of-way in addition to the 30' front setback creates a hardship. The street's existing asphalt width is 25' wide. A majority of the homes that front onto Ogden Canyon Road are within the 30' front setback. The proposed building would be built outside of the right-of-way and will be setback at least 12' from the edge of the 66' right-of-way. When UDOT decides to develop the full 66' right-of-way, a majority of the homes in the canyon will impacted. A 66' right-of-way is wide enough to build a 5 lane highway. There are several barriers to building a 5 lane highway through the entire canyon. The setback reduction from 30' to 12' would not restrict UDOT from building the right-of-way in the future.

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

1. 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.

Answer: The lot is unique because it has a hillside on a majority of the lot which limits the placement of a single-family dwelling. The literal enforcement of the 30' front setback would severely limit the development of this property as an FR-1 zoned property. The lot was originally platted as 4 building lots, which

would have placed the buildable area of 3 out of the 4 lots closer to the Canyon Road. The consolidation of the lots allows the home to be placed in the best location where the lot has the most depth. The location of the proposed home is located at the deepest part of the property.

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

Answer: Several properties along Ogden Canyon Road have single family dwellings and other accessory structures that are within the 66' ROW. The proposed single-family dwelling would be completely outside of the ROW. A single-family dwelling is a permitted use in the FR-1 zoning district. Most of the land uses permitted on FR-1 property are based on having a single-family dwelling as the primary use.

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

Answer: The general plan supports single-family dwellings in Ogden Canyon. Living in Ogden Canyon has been enjoyed by its residents for many years. The construction of a home on this property does not limit how other people can use the canyon and is not detrimental to the public use.

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

Answer: The purpose of the FR-1 zoning district based on section 104-13-1 of the County Code states that the character and objective of the zone is to provide area for residential development in a forest setting at a low density, as well as to protect as much as possible the naturalistic environment of the development. The lot meets the 1 acre minimum lot size required for a single family home and the proposed location protects the hillside vegetation and does not disturb the hillside.

Every effort has been made to meet the existing code and the lot is limited by natural features.