



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, interpretations, and appeals 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: 6/27/16 Time: 9:30 AM

- Staff member assigned to process application: Ben Hatfield

APPLICATION DEADLINE: Thirty (30) days prior to the applicable Planning Commission meeting

The Board of Adjustment meets on the 2nd and 4th 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. If your request is for a variance please explain how the request meets the requirements for: (see *Review Criteria*).

Fee Schedule

Property Zoning RE 15 Fee Required _____

- Board of Adjustment Review \$225

Duties and Powers of the Board of Adjustment

1. To act as the appeal authority from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps.
2. To hear and decide variances from the requirements of the Weber County Land Use Code.



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Procedure

The Board of Adjustment shall adopt rules and regulations, consistent with Utah state code and Weber County ordinances, for conducting its business and may amend such rules from time to time. Such rules may include policies and procedures for the conduct of its meetings, the processing of applications, the handling of conflict of interest and any other purpose considered necessary for the functioning of the board.

1. Application and Notice.

- A. Any person or entity wishing to petition the Board of Adjustment for an appeal or interpretation of the Land Use Code or Zoning Maps, or for a variance from the requirements of the Land Use Code may commence such action by completing the proper application and submitting it to the Weber County Planning Division office. Applications must be submitted at least 30 days prior to the date of the meeting at which the application will be considered. The application must clearly explain the appeal, interpretation, or variance being requested, and must be accompanied by the required fee and applicable supporting information.
- B. After a complete application has been submitted and accepted, the Planning Division shall prepare a staff report to the Board of Adjustment, schedule a meeting of the Board, and send notice to property owners within 500 feet of the parcel on which the request has been made. Notice may be sent to other interested persons or organizations upon written request.

2. Meeting.

- A. The Board of Adjustment shall hold a public meeting to decide upon the appropriate action to be taken on an appeal, variance, or interpretation request. The concurring vote of at least three (3) of the five (5) Board members is required to decide in favor of the request.

3. Decision and Minutes.

- A. After the Board of Adjustment has made a decision, a notice of decision shall be prepared by the Planning Division, signed by the Board of Adjustment Chair or the Chair's designee, and sent to the appellant in accordance with Chapter 31 Section 4 of the Weber County Land Use Code. This notice acts as the Board's written decision for an appeal, variance, or interpretation request. Decisions of the Board of Adjustment shall be final at the time a notice of decision is issued.
- B. The minutes of all meetings of the Board of Adjustment shall be prepared and filed in the Weber County Planning Division office. The minutes shall be available for public review and access in accordance with the Government Records and Access Management Act.

4. Expiration.

- A. If the Board has decided in favor of a variance request, the approval is valid for a period of 18 months. If an approved variance request has not been acted upon within this time frame, the approval shall expire and become void.
- B. If the Board has made an interpretation to the Zoning Map or Land Use Code, the interpretation is valid until an amendment to the Zoning Map or Land Use Code is made which changes the conditions upon which the interpretation or decision was made.



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5. Appeal of Decision.

- A. Appeals from decisions of the Board of Adjustment are made directly to the District Court as designated in Utah state code.

Decision Criteria and Standards

1. Appeals from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps

- A. The Board of Adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Weber County Land Use Code and Zoning Maps.
- B. The Board of Adjustment may hear only those decisions in which the land use authority has applied the Weber County Land Use Code or Zoning Maps to a particular application, person, or parcel.
- C. The appellant has the burden of proof that the land use authority erred.
- D. All appeals to the Board of Adjustment shall be filed with the Planning Division not more than 15 calendar days after the date of the written decision of the land use authority.
- E. Appeals to the Board of Adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.

2. Variances from the requirements of the Weber County Land Use Code

- A. Any person(s) or entity desiring a waiver or modification of the requirements of the Weber County Land Use Code as applied to a parcel of property that they own, lease, or in which they hold some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of the Land Use Code.
- B. The Board of Adjustment may grant a variance only if the following 5 criteria are met:
 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 Land Use Code.
 - 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.
 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.



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- a. 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.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the land use ordinance is observed and substantial justice done.
- C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- D. Variances run with the land.
- E. The appeal authority may not grant a use variance.
- F. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 1. Mitigate any harmful effects of the variance; or
 2. Serve the purpose of the standard or requirement that is waived or modified.

For Your Information

This application can be found at the following Planning Division web site: www.co.weber.ut.us/planning. Copies of the applicable Weber County Land Use Code and other helpful information are also available at this web site.

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 6/24/16	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) Somerset Lands LLC, Donald Fulton/Sharon Jean Clark		Mailing Address of Property Owner(s) PO Box 65999 SLC, UT 84165	
Phone 3852424277	Fax		
Email Address bluemohomes@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) Donald Fulton		Mailing Address of Authorized Person PO Box 65999 SLC, UT 84165	
Phone 3852424277	Fax		
Email Address bluemohomes@gmail.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

- 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
- 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
- Other: _____

Property Information

Approximate Address 6260 So. Jared Way (2125 E.) Ogden, UT 84403		Land Serial Number(s) Parcel ID: 076650001	
Current Zoning RE 15			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 3.38 Acres	Lot Frontage/Width 529.01	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 30'	Rear Yard Setback 30	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 10	Side Yard Setback 10	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

Please review the Notice of Decision by the Planning Commission Dated June 16, 2016. Please review the minutes of the Planning Commission Meeting Dated May 10th, 2016.

We request an appeal of the language of the decision of the Planning Commission - Notice of Decision, line 2.

Grounds for request:

- 1) The zoning ordinance requires lots in this zone to have a minimum of 15000 square feet per lot. The recorded plat by Reeve and Associates shows a total area of 147244 square feet. The number of lots that may be placed on this land are to be determined during subdivision procedure and not at the acceptance of an Access Exception. The scope of the planning meeting and decision of the planning commission was very narrow as stated during the meeting by the county Attorney Chris Crockett.
- 2) The way the motion was worded and passed occurs as a denial masked as an acceptance. It went against staff recommendations and was not relevant to the application presented. An application for an Access Exception - denying owner rights per Land Use Code and the Zoning Ordinance.
- 3) We request that line 2 of the Notice of Decision be stricken. It is irrelevant. ROW's are distinct from Access Exceptions as are the rules that govern them.
- 4) The planning commission erred in that it did not make a motion specific to the application. The application was for an Access Exception - typically an administrative decision based on planning and staff recommendations.

Variance Request

Explain how 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.

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.

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.

Variance Request (continued...)

Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.

Property Owner Affidavit

I (We), Somerset Lands and Donald Fulton, 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.

(Property Owner)

(Property Owner)

Subscribed and sworn to me this _____ day of _____, 20 _____,

(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)