



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a 15 foot variance to the front yard setback in the RE-15 Zone for Lot 51 in The Highlands at Wolf Creek Phase 4.

Agenda Date: Thursday, July 13, 2017

Applicant: Joseph and Robin Donovan, Owner

Authorized Representative: Ray Bertoldi

File Number: BOA 2017-03

Property Information

Approximate Address: 3922 North Zermatt St, Eden

Project Area: 0.41 acres

Zoning: Residential Estates (RE-15)

Existing Land Use: Vacant Residential

Proposed Land Use: Residential

Parcel ID: 22-219-0011

Township, Range, Section: T7N, R1E, Section 23

Adjacent Land Use

North:	Open Space	South:	Residential
East:	Residential	West:	Residential

Staff Information

Report Presenter: Steve Burton
sburton@co.weber.ut.us
801-399-8766

Report Reviewer: RK

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 3 (Residential Estates RE-15 Zone)

Background

The applicant is requesting a variance for a reduction to the front yard setback in the Residential Estates RE-15 Zone for Lot 51 in The Highlands at Wolf Creek Phase 4. The front yard setback for the RE-15 Zone is 30 feet. The applicant is proposing to build a home 15 feet to the front lot line; this would require an approval of a 15 foot variance to the front yard setback standard. The property is located at 3922 North Zermatt Street in the Wolf Creek Resort area of Weber County. The application and an explanation of the request, along with an elevation map, have been prepared by the applicant (see Exhibit A).

The application states that the intent of the request is to minimize site disturbance and the massing of downhill elevation of the home in terms of basement height. The applicant has stated that if the 30 foot setback were enforced, the home would begin at about a 10 foot vertical difference from the street. The applicant has stated that the setback reduction would benefit the owner as well as adjacent neighbors by protecting view corridors to the east and west as the home would not be pushed more to the south of the property.

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. In order for a variance to be granted it must be shown that all of the following criteria have been 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 literal enforcement of the land use code 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 literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
- 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.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice done.*

Staff's analysis and findings are discussed below:

- a. Literal enforcement of the Land Use Code would require an undesirable result. Due to the significant grade drop off at the front of the lot, literal enforcement of the 30 foot front yard setback would result in a steep driveway, which could cause a safety concern.
- b. The steepness of the slope is unique to this property. Other properties in this area are not as impacted by the steep slope as this parcel, specifically the 10 foot drop off from the front of the lot, as seen on the elevation map.
- c. Granting the variance would allow the owner of Lot 51 to build a home within an area not as affected by slope and would also preserve the neighboring view corridors to the east and west.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and development is not contrary to any public interest.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but provide justified compensation to the building area allowing for the single family dwelling to be built.

Staff Recommendation

Staff recommends approval of the variance request to reduce the front yard setback in the RE-15 zone to 15 feet for Lot 51 of The Highlands at Wolf Creek Phase 4. This recommendation is based on compliance with the applicable variance criteria discussed in this staff report and conditioned upon meeting all other applicable review agency requirements.

Exhibits

- A. Application and elevation map

Location Map 1



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 May 24, 2017	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) Joseph and Robin Donovan		Mailing Address of Property Owner(s) <i>15724 Leavenworth St. Omaha, NE 68118</i>	
Phone <i>402-968-8062</i>	Fax <i>402-330-6273</i>		
Email Address alta1@centurylink.net		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) Ray Bertoldi		Mailing Address of Authorized Person 2726 Harrison Blvd. Ogden, Utah 84403	
Phone 801-476-4330	Fax		
Email Address rbertoldi@bertoldiarchitects.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 3922 North Zermatt St Eden, Utah 84310		Land Serial Number(s) 222190011	
Current Zoning RE-15			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 17,734 SF	Lot Frontage/Width 114.05	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 30 Feet	Rear Yard Setback 30 Feet	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 12 Feet	Side Yard Setback 12 Feet	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

We would like to request a variance to reduce the front setback for the property from 30 feet to 15 feet. The intent on this reduction is to minimize site disturbance and the also the massing of the downhill elevation of the home in terms of basement height. We would like to disturb as little of the existing hillside as possible from a not only a visual perspective but practical. As you can see on the topographic survey, there is significant grade drop off from the street, about 10 feet for 15 feet in horizontal distance. If we keep with the existing setback, the structure will begin at about 10 foot vertical difference from the street assuming the driveway is somewhat flat coming into the home, something the owners would like to do rather than a driveway sloping down to the garage on the north side of the building. Aside from the benefits provided to the Owner we believe it would also benefit the adjacent neighbors by protecting view corridors to the east and west as the structure would not be pushed further to the south. We also feel this can provide a smaller floor to floor dimension on the downhill side and less retaining walls on the down hill slope of the same.

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.

significant cost increases for high retaining walls. Foundation walls & structural fill due to significant grade change at the road cut.

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.

Very steep grades at road cut.

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.

Hardship is not self-imposed, the grades adjacent to the road & fill are pre-existing

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.

Requirement slope, sewer may require lift station for basement.
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:

Adjacent property to west is on a corner & does not have same grade profile.

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

The reduced setback will actually provide a better view corridor to the east & west views of adjacent properties. The reduction of additional rock retaining walls on the downhill side will leave unobstructed & provide a better visual from the entire neighborhood.

The downhill facade of the building will be reduced since the basement will not have to have a tall floor to floor height to reach grade without significant retaining walls and or structural fill.

Variance Request (continued...)

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

Variance should allow design solutions that benefit the public interest per other sections described here.

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

The spirit of the land use ordinance is observed & justice done by benefits outlined to the neighborhood described herein.

Property Owner Affidavit

I (We), Joseph R. Donovan and Robin L. Donovan, 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.

Joseph R. Donovan
(Property Owner)

Robin L. Donovan
(Property Owner)

Subscribed and sworn to me this 24th day of May, 20 17.

State of Nebraska - General Notary
STEPHANIE MESICK
My Commission Expires
June 21, 2019

Stephanie Mesick
(Notary)

Authorized Representative Affidavit

I (We), Joseph R. Donovan and Robin L. Donovan, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), Ray Bertoldi, 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.

Joseph R. Donovan
(Property Owner)

Robin L. Donovan
(Property Owner)

Dated this 24th day of May, 20 17, personally appeared before me Joseph R. Donovan and Robin L. Donovan the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

State of Nebraska - General Notary
STEPHANIE MESICK
My Commission Expires
June 21, 2019

Stephanie Mesick
(Notary)



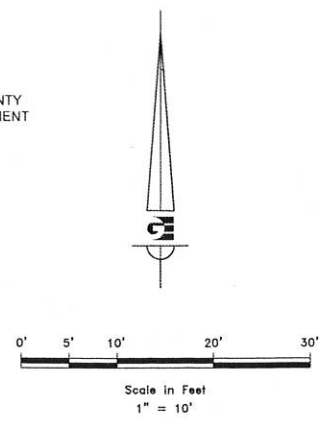
LOT 52
222190012

JOSEPH AND ROBIN DONOVAN
LOT 51, HIGHLANDS AT WOLF CREEK, PH. 4
222190011 CONTAINING 17,734 SQ.FT.

LOT 46
222190006

LOT 50
222190010

ZERMATT STREET



- LEGEND**
- WEBER COUNTY MONUMENT AS NOTED
 - SET 24" REBAR AND CAP MARKED GARDNER ENGINEERING
 - SUBDIVISION BOUNDARY
 - LOT LINE
 - ADJACENT PARCEL
 - SECTION LINE
 - EASEMENT
 - EXISTING FENCE LINE

NARRATIVE

THE PURPOSE OF THE SURVEY WAS TO DO AN AGRICULTURAL DIVISION OF THE PARCELS AS SHOWN AND DESCRIBED HEREON. NO DEVELOPMENT CAN OCCUR ON PARCELS A&B UNTIL THE INDIVIDUAL PARCEL GOES THROUGH THE PROPER SUBDIVISION PROCESS AND GETS APPROVAL FROM THE GOVERNING MUNICIPALITY. THE SURVEY WAS ORDERED BY CHUCK HEWARD. THE CONTROL USED TO ESTABLISH THE BOUNDARY WAS THE EXISTING WEBER COUNTY SURVEY MONUMENTATION AS SHOWN AND NOTED HEREON. THE BASIS OF BEARING IS THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 7 NORTH, RANGE 1 EAST, OF THE SALT LAKE BASE AND MERIDIAN WHICH BEARS SOUTH 0°22'02" WEST WEBER COUNTY GRID BEARING.

SURVEYOR'S CERTIFICATE

I, KLINT H. WHITNEY, DO HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH AND THAT I HOLD CERTIFICATE NO. 8227228 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND LAND SURVEYORS ACT. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS RECORD OF SURVEY PLAT IN ACCORDANCE WITH SECTION 17-23-20 AND HAVE VERIFIED ALL MEASUREMENTS, THAT THE REFERENCE MONUMENTS SHOWN ON THIS RECORD OF SURVEY PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY, AND THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE HEREIN DESCRIBED TRACT OF REAL PROPERTY.

SIGNED THIS 17TH DAY OF APRIL, 2017.

PROFESSIONAL LAND SURVEYOR
4/17/17
8227228
Klint H. Whitney
Klint H. Whitney
KLINT H. WHITNEY, PLS NO. 8227228

REVISIONS	DESCRIPTION
DATE	

TOPOGRAPHIC SURVEY FOR JOSEPH AND ROBIN DONOVAN
3922 N ZERMATT STREET EDEN UTAH

GARDNER

S1