

# 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 <b>9-13-12</b>	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 Del Beato, Jr.		Mailing Address of Property Owner(s) 789 Hamana Place Haikuy, HI 96708	
Phone 808-269-2533	Fax		
Email Address jdbmaui@yahoo.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) Thair H. Blackburn		Mailing Address of Authorized Person 3564 Lincoln Ave., Ste. 4B Ogden, UT 84401	
Phone 801-392-4773	Fax		
Email Address THBArchitect444@hotmail.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: \_\_\_\_\_
- 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
- 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: Setback exception at front for a new carport

## Property Information

Approximate Address 601 Ogden Canyon Rd.		Land Serial Number(s) TAX ID/Assessors Parcel No. 200200004	
Current Zoning Forest Residential Zone FR-1			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 10,726 ± s.f.	Lot Frontage/Width 417'	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 94'	Rear Yard Setback 57'	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 55'	Side Yard Setback 260'	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

## Applicant Narrative

Please explain your request.

At this site, vehicles now park between the Ogden River and State Highway 39. In the winter, the heavy snowfall covers the uncovered vehicles, creating an unpleasant and difficult situation that is possible to improve owner's and visitor's comfort without violating the zoning spirit or affecting the comprehensive zoning plan. The owners home is on the south side of the river, and a detached open carport is proposed on the north side of the river where cars now park. The special circumstance to consider is the river location that limits construction area depth at front.

## 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.

1. With respect for public interest, this variance is submitted to overcome a land configuration situation that has a limiting distance between the Ogden River and State Highway 39 in Ogden Canyon. This proposal should not affect the public interest adversely in any manner.
2. Variance Request: Roughly 55' exists between the north edge of the river and the south edge of the road right of way. With a 30' setback and a riverbank slope, carport land space is limited to only 13', making a hardship that physically can't be overcome. If the front setback is reduced to 22', a satisfactory carport space of 20'± can be utilized. This is the variance request.
3. The length of property, the abundance of trees on the property & the road curve preserve the same light, air, and view that protects neighbors. At present, the new structure will not even be noticed by neighbors.
4. Other property owners in this zone have had their homes located less than 30' from the front property line without causing a public problem. The open carport will not violate the spirit of the zoning requirements, nor will it cause any problem with public road snow removal.

**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.

The river comes closer to the road than in other locations. Leaving limited parking space on the north side of the river beyond the 30' setback.

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.

As mentioned previously, most all home owners in the area have non-conforming vehicle environmental coverage. With the Owner's home located on the other side of the river, this variance would allow him the enjoyment of a parking property utilization & right that other property owners in the FR-1 zone enjoy.

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

Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.  
The special circumstance of the river location and setback requirements already exist, independent of the proposed carport cost.

**Property Owner Affidavit**

I (We), \_\_\_\_\_, 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)







# Weber County Planning Division

## WEBER COUNTY AGENCY REVIEW OF BOARD OF ADJUSTMENT

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<u>PAPER</u>	<u>ELECTRONIC</u>	<u>AGENCY</u>
<input type="radio"/>	<input type="radio"/>	ENGINEERING
<input type="radio"/>	<input type="radio"/>	BUILDING INSPECTION
<input type="radio"/>	<input type="radio"/>	ASSESSORS
<input type="radio"/>	<input checked="" type="radio"/>	ATTORNEYS
<input type="radio"/>	<input type="radio"/>	HEALTH
<input type="radio"/>	<input type="radio"/>	FIRE
<input type="radio"/>	<input type="radio"/>	ANIMAL CONTROL SERVICES

## OTHER AGENCY REVIEW

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<u>PAPER</u>	<u>ELECTRONIC</u>	<u>AGENCY</u>
<input type="radio"/>	<input type="radio"/>	<u>ROCKY MOUNTAIN POWER</u>
<input type="radio"/>	<input type="radio"/>	<u>UTAH DEPT OF TRANSPORTATION</u>
<input type="radio"/>	<input type="radio"/>	_____
<input type="radio"/>	<input type="radio"/>	_____
<input type="radio"/>	<input type="radio"/>	_____
<input type="radio"/>	<input type="radio"/>	_____

--If processing by paper, please respond to this review request **by returning this form** and the attached plan **within 14 days** to:

*Weber County Planning Commission, 2380 Washington Blvd., Ste 240, Ogden, UT 84401-1473*

--If processing through Miradi, submit your response **within 14 days**

-- If you have any questions or need further information, please call 399-8791, Fax 399-8862

Thank You, Kary Serrano



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**Staff process checklist for appeals of the land use authority**

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- Date
- \_\_\_\_\_ Determine that a final land use decision has been render by the a land use authority
  - \_\_\_\_\_ Verify that the request for appeal was filed in a timely manner (15 days)
  - \_\_\_\_\_ Verify that the application for appeal is sufficiently complete for consideration. If not complete, inform the appelland, specifically, how the appeal is deficient
  - \_\_\_\_\_ Have the applications fees been paid
  - \_\_\_\_\_ Prepare staff report and place on appeal authority (Board of Adjustment) agenda
  - \_\_\_\_\_ Notify applicant of meeting and provide copy of staff report
  - \_\_\_\_\_ Send out notices as required. A public hearing is not required
  - \_\_\_\_\_ Place a copy of the label list of property owners in the file
  - \_\_\_\_\_ Review standards in the ordinance and state law that apply to the consideration of appeal
  - \_\_\_\_\_ Verify that the appeal authority is impartial and free of bias from conflicts of interest with regard to the matter
  - \_\_\_\_\_ The appeal body acts in a quasi-judicial manner and gather evidence impartially. Afford the appelland due process, which includes the rights of notice, to be heard, to confront witness, and to respond to evidence submitted by others
  - \_\_\_\_\_ The appeal authority can look at the issue as if the matter has not been decided before
  - \_\_\_\_\_ Allow the person bringing the appeal to present evidence supporting the appeal. The person bringing the appeal has the burden to show the previous decision was in error. If the person does not meet this burden, dismiss the appeal
  - \_\_\_\_\_ If a person appears in opposition to the appeal, and will be adversely affected if the appeal is granted, allow them to present evidence supporting their view. Allow each side to respond to evidence that is presented
  - \_\_\_\_\_ Deliberate, which can be done in private. Consider evidence that is before the appeal authority that is relevant and credible. Seek advice from professionals.
  - \_\_\_\_\_ If interpreting the law or ordinance, look to its plain language. Be consistent with prior interpretation. If the ordinance is ambiguous, interpret ambiguities in a light favorable to the use of property. If it is not ambiguous, give effect to the intent of the legislative body that enacted the ordinance. Harmonize conflicting provisions so that they can be reconciled. Do not impose absurd or unreasonable results
  - \_\_\_\_\_ If, in the opinion of the appeal authority:
    - a. The appelland has provided substantial evidence in the record to support their view, and there is no substantial evidence to the contrary approve the appeal
    - b. The appelland has failed to provide substantial evidence in the record to support their view, deny the appeal
  - \_\_\_\_\_ The decision must be supported by substantial evidence in the record and not solely by public clamor
  - \_\_\_\_\_ Preserve the record of the proceedings to document the law and evidence that was considered by the appeal authority
  - \_\_\_\_\_ Send applicant notice of decision

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**Staff process checklist for variances**

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- Date
- \_\_\_\_\_ Determine that a variance from the strict application of the land use ordinance could be appropriate to the physical circumstances involved with a potential application. Use variances are not allowed
  - \_\_\_\_\_ Verify that the application for appeal is sufficiently complete for consideration. If not complete, inform the appelland, specifically, how the appeal is deficient
  - \_\_\_\_\_ Have the applications fees been paid
  - \_\_\_\_\_ Prepare staff report and place on appeal authority (Board of Adjustment) agenda
  - \_\_\_\_\_ Notify applicant of meeting and provide copy of staff report



- \_\_\_\_\_ Send out notices as required
- \_\_\_\_\_ Place a copy of the label list of property owners in the file
- \_\_\_\_\_ Review standards in the ordinance and state law that apply to the consideration of the variance. The considerations are listed below
- \_\_\_\_\_ Verify that the appeal authority is impartial and free of bias from conflicts of interest with regard to the matter
- \_\_\_\_\_ Conduct the meeting. A public hearing is not required
- \_\_\_\_\_ The appeal body acts in a quasi-judicial manner and gather evidence impartially. Afford the appellant due process, which includes the rights of notice, to be heard, to confront witness, and to respond to evidence submitted by others
- \_\_\_\_\_ Deliberate, which can be done in private. Consider evidence that is before the appeal authority that is relevant and credible. After considering the standards and the evidence, determine if the applicant met the burden to establish by substantial evidence of the required findings:
  - a. 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.
  - b. Special circumstances attached to the property covered by the application, which do not generally apply to the other property in the same zone.
  - c. That because of said special circumstances, property covered by application is deprived of privileges possessed by other property in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
  - d. That the condition and/or circumstances are not considered an economic hardships or self-imposed hardships.
- \_\_\_\_\_ If, in the opinion of the appeal authority:
  - a. The appellant has provided substantial evidence in the record to support all four of the required findings, and there is no substantial evidence to the contrary, approve the appeal
  - b. The appellant has failed to provide substantial evidence in the record to support any one of the required findings, deny the appeal
- \_\_\_\_\_ The decision must be supported by substantial evidence in the record and not solely by public clamor
- \_\_\_\_\_ Preserve the record of the proceedings to document the law and evidence that was considered by the appeal authority. Any appeals are to district courts
- \_\_\_\_\_ Send applicant notice of decision

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**Staff process checklist for special exceptions flag lots**

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- \_\_\_\_\_ Verify that the application for a flag lot is sufficiently complete for consideration. If not complete, inform the appellant, specifically, how the appeal is deficient
- \_\_\_\_\_ Have the applications fees been paid
- \_\_\_\_\_ Prepare staff report and place on appeal authority (Board of Adjustment) agenda
- \_\_\_\_\_ Notify applicant of meeting and provide copy of staff report
- \_\_\_\_\_ Send out notices as required. A public hearing is not required
- \_\_\_\_\_ Place a copy
- \_\_\_\_\_ Review standards in the ordinance that apply to the consideration of a flag lot. The considerations are listed below
- \_\_\_\_\_ Verify that the appeal authority is impartial and free of bias from conflicts of interest with regard to the matter
- \_\_\_\_\_ Conduct the meeting of the label list of property owners in the file
- \_\_\_\_\_ The appeal body acts in a land use authority manner, and gather evidence impartially. Afford the appellant due process, which includes the rights of notice, to be heard, to confront witness, and to respond to evidence submitted by others

- \_\_\_\_\_ Deliberate. Consider evidence that is before the appeal authority that is relevant and credible. After considering the standards and the evidence, determine if the applicant met the burden to establish by substantial evidence of the required findings:
- A. The Board of Adjustment determines that it is not feasible or desirable to extend a street to serve such lot or lots at that time. Criteria to be used in determining feasibility or desirability of a street shall include, but not be limited to, topography, boundaries, and/or an area in which a road would not open an area of 5 acres or more for development
  - B. The access strip shall have a minimum width of 20 ft., a maximum width of 30 ft., a maximum grade of 15%, and a minimum vertical clearance of 14.5 ft
  - C. The area of the access strip shall not be included within the minimum lot area requirement
  - D. The lot shall meet all minimum yard and area requirements of the zone in which it is located, exclusive of the access strip
  - E. Buildings shall be setback a minimum of 30 feet from any property line and 30 feet from the extension of the flag lot access strip. The depth of the front yard shall be the distance between the front line of the building and the property line or nearest line of the access strip, which the building faces
  - F. The lot address shall be displayed in a prominently visible location at the street entrance to the access strip
  - G. Each lot shall access a street by means of its own access strip. Successive stacking of lots on the same access strip is not permitted
  - H. No building, structure or parking is allowed in the access strip, which is to be used solely as access to the lot
  - I. The Board of Adjustment shall impose such other conditions to ensure safety accessibility, privacy, etc. to maintain or improve the general welfare of the immediate area
  - J. No access strip shall exceed 800 feet in length
  - K. A maximum of two flag lot access strips may be adjacent to each other
  - L. A minimum turnout measuring at least 10 feet by 30 feet be provided adjacent to the traveled surfaces of the access strip at a maximum distance of 200 feet from the public street
  - M. A turn-around area be provided at the home location to allow firefighting equipment to turn around. This area shall be a year round surface, capable of supporting fire equipment (a minimum inside turning radius of 30 feet and an outside turning radius of not less than 45 feet)
  - N. Bridges, including decking and culverts shall be capable of supporting a minimum 20-ton weight capacity
  - O. Switchback turns in sloped areas shall have a minimum 75 foot radius
  - P. Road surfaces on private access ways shall have a minimum 12 foot finished road surface capable of supporting a 20-ton weight capacity with a surface approved by the County Engineer
  - Q. A fire hydrant or other fire suppression method may be required by the Fire Chief
  - R. The home location shall be shown on a plan submitted to the Fire District
  - S. No flag lot shall be allowed, which proposes to re-subdivide or include within it (including the access strip) any portion of an existing lot in a recorded subdivision.
  - T. The lot area exclusive of the access strip shall be a minimum of 3 acres.
  - U. The flag lot shall meet the minimum lot width requirements for the zone in which the lot is located, at the end of the access strip.
  - V. No subdivision shall be vacated, re-subdivided or changed in order to meet the above requirements.
- \_\_\_\_\_ If, in the opinion of the appeal authority:
- a. The appellant has provided substantial evidence in the record to support all of the required findings, and there is no substantial evidence to the contrary approve the special exception
  - b. The appellant has failed to provide substantial evidence in the record to support any the required findings, deny the special exception
- \_\_\_\_\_ The decision must be supported by substantial evidence in the record and not solely by public clamor
- \_\_\_\_\_ Preserve the record of the proceedings to document the law and evidence that was considered by the appeal authority
- \_\_\_\_\_ Send applicant notice of decision



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**Staff process checklist for special exceptions access other than frontage**

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- \_\_\_\_\_ Verify that the application for access other than frontage is sufficiently complete for consideration. If not complete, inform the appellant, specifically, how the appeal is deficient
- \_\_\_\_\_ Have the applications fees been paid
- \_\_\_\_\_ Prepare staff report and place on appeal authority (Board of Adjustment) agenda
- \_\_\_\_\_ Notify applicant of meeting and provide copy of staff report
- \_\_\_\_\_ Send out notices as required
- \_\_\_\_\_ Review standards in the ordinance that apply to the consideration of access other frontage. The considerations are listed below
- \_\_\_\_\_ Verify that the appeal authority is impartial and free of bias from conflicts of interest with regard to the matter
- \_\_\_\_\_ Conduct the meeting
- \_\_\_\_\_ The appeal body acts in a land use authority manner, and gather evidence impartially. Afford the appellant due process, which includes the rights of notice, to be heard, to confront witness, and to respond to evidence submitted by others
- \_\_\_\_\_ Deliberate. Consider evidence that is before the appeal authority that is relevant and credible. After considering the standards and the evidence, determine if the applicant met the burden to establish by substantial evidence of the required findings:
  1. Special circumstances attached to the property covered by the application, which does not generally apply to other property in the same zone.
  2. Special or unique boundary conditions exist regarding the property
  3. Topographic or other physical conditions exist which would cause an undesirable or dangerous condition to be created for property access.
  4. The Board of Adjustment shall consider but not be limited to the following:
    - a. The access strip shall have a maximum grade of 15%.
    - b. A minimum turnout measuring at least 10 feet by 30 feet be provided adjacent to the traveled surfaces of the access at a maximum distance of 400 feet from the public street.
    - c. A turnout area be provided at the home location to allow firefighting equipment to turn around. This area must be a year round surface capable of supporting fire (a minimum 45 foot radius if circular)
    - d. Bridges including decking and culverts must be capable of supporting a minimum 20-ton weight capacity.
    - e. Switchback turns in sloped areas must have a minimum 75-foot radius.
    - f. Road surfaces on private access ways shall have a minimum 12-foot road surface width and be capable of supporting a 20,000 pound weight capacity with a surface approved by the County Engineer.
    - g. A fire hydrant or other fire suppression method may be required by the fire district.
- \_\_\_\_\_ If, in the opinion of the appeal authority:
  - a. The appellant has provided substantial evidence in the record to support all of the required findings, and there is no substantial evidence to the contrary, approve the special exception
  - b. The appellant has failed to provide substantial evidence in the record to support the required findings, deny the special exception
- \_\_\_\_\_ The decision must be supported by substantial evidence in the record and not solely by public clamor
- \_\_\_\_\_ Preserve the record of the proceedings to document the law and evidence that was considered by the appeal authority
- \_\_\_\_\_ Send applicant notice of decision