

Minutes of the Board of Adjustment Meeting held March 23, 2013 in the Weber County Commission Chambers, 1st Floor, 2380 Washington Blvd, commencing at 4:30 P.M.

Present: Deone Smith, Chair; Nathan Buttars; Rex Mumford; Phil Hancock; Bryce Froerer

Absent: Doug Dickson; Celeste Canning;

Staff Present: Jim Gentry, Asst Planning Director; Sean Wilkinson, Planner; Scott Mendoza, Planner; Chris Allred, Legal Counsel; Chad Meyerhoffer, Engineering Department; Kary Serrano, Secretary

****Pledge of Allegiance***

Regular Agenda Items:

1. Minutes Approval of the February 22, 2013 and March 14, 2013 meeting minutes

Chair Smith declared the meeting minutes with the noted correction approved.

2. BOA 2013-04: Consideration and action on a request to vary the lot area requirement on property located at 4770 East 2650 North in the Eden area in the Agricultural Valley-3 (AV-3) Zone. (Elroy J Harris, Applicant)

Scott Mendoza said the applicant is requesting a variance to the three acre area requirement for property located at 4740 E and 2650 N in Eden. The request is that the Board of Adjustment consider and approve a reduction in lot area that will allow for an existing home to be sited on a new 1 acre lot, rather than the existing parcel which consists of approximately 3.86 acres. The subject 3.86 parcel was created in July of 1995, a remnant of the previously approved (2 Lot) Kimbers Subdivision. When approved and recorded, the Kimbers Subdivision divided two (1 Acre) lots away from the original 5.95 acre parent parcel. The remaining acreage that makes up the subject parcel today resembles the shape of an "hourglass" in that it has two areas that are reconnected by a narrow stem that measures approximately 30 feet wide by 240 feet long. If the variance is granted, the applicant will divide approximately 2.86 vacant acres from the existing parcel and then add it to an existing agricultural and ranching operation that consists of approximately 53.25 acres. According to the applicant, the 2.86 acres has historically been used as a winter feeding area for the ranch, and has never been able to provide a useable or functional "residential" purpose for the existing home.

Chapter 29 of the Weber County Zoning Ordinance states that the "the Board of Adjustment may grant a variance only if the following five criteria are met. The applicant has submitted a narrative meeting the criteria listed. Granting the variance and allowing the applicant to voluntarily exclude the acreage within the northwesterly area of the existing parcel from future density calculations would be consistent with guidance given by the Ogden Valley General Plan which is to limit residential development to one unit per three acres. The General Plan states that the County should promote agriculture and working farms as an integral part of the Valley's cultural heritage. Granting the requested variance would allow the applicant to add the 2.86 vacant acres to the existing and contiguous agricultural and ranching operation making it a functional part of the farm.

Staff recommends that the Board of Adjustment determine the variance request's level of compliance with the applicable variance criteria presented. If it is found that the criterion has been met, the Board may approve the request. If it cannot be found that the criterion has been met, the Board may deny the request.

Rex Mumford asked if the smaller parcel is owned by the same owner as the 53.25 acres. In this 30 foot strip, does it have an open area ditch or is it just the pressure pipe. Scott Mendoza replied that it recently became the same owner. Besides the topography, there is the surface ditch, the open irrigation canal, and the pressurized irrigations system underneath the ground.

Rex Mumford asked when this subdivision was originally created, was it part of that 53.25 acre. Scott Mendoza replied that originally all of this belonged to the same owner. The first division of the larger parcel was for the Junior High; leaving approximately six acres, and then the subdivision in 1995 was recorded, and it pulled approximately two acres out of that six leaving almost four.

Chair Smith asked what is the motivation in taking that piece and joining it with a larger piece? Scott Mendoza replied the motivation would be for the future. There is a parcel that consists of nearly four acres, and the rear acreage isn't useable as far as developing because the access is limited.

Phil Hancock asked if this irrigation canal or ditch has a recorded easement and are there recorded easements in the stem that goes into this property. Scott Mendoza replied that there's a 20 foot right-of-way and a 60 foot right-

of-way shown on this ownership plat that are not part of the request today.

Phil Hancock asked if the density for that remaining property would be recorded with that restriction, so that it could not be used in the future for density calculations. Scott Mendoza replied that those details have not been worked out; but if this Board could approve this in a way that would satisfy the County Surveyor and the Planning Division, that would accomplish what staff is trying to do. If approved on the dedication plat, a note would be made describing all those matters of fact, and a notice could be recorded on the title that could reference the board case.

Chair Smith asked on the Kimber Subdivision which was two one-acre lots, did they receive a variance or were they in a different zone? Scott Mendoza replied yes, it was a different zoning requirement at that time in 1995, and the zoning changed in 1998 to three acres.

Rex Mumford said Exhibit B.3.6 states, *"granting the variance is essential to the enjoyment of substantial property rights possessed by other properties in the same zone,"* and on the third bullet, *"while the land provides no value for the owner of the home, it would provide substantial value to the family."* If the property sold with the home, it would lose the Green Belt status and would be taxed as residential property which is the same as every other 3.86 parcel in the county. You can't get a Green Belt unless you have a 5.25 acres and the only reason they have Green Belt is because the adjacent property is the same ownership.

Elroy J Harris, Executor for Melvin R Clark Trust and a resident of Huntsville, said he wanted to clarify some the questions with some background information. The estate of Melvin Clark's father was divided into three parcels; one for his sister, one for his father, and the school decided not to build on all of it because of the canal and it was not feasible for them to own both sides of the canal property and they ended up with a 5.86 property. Later that property was divided into two other lots which were for the children of Kimber Subdivision. It was always considered that the farm was 57 acres with a house on it. For tax purposes the county obviously recognizes that it's a farm and that's the reason it gets Green Belt on the 3.86 because it's not considered part of the house, but part of the greater farm. When the laws changed in 2005, it's the only parcel of ground that is to the east side of the river and that's where it becomes critical for feeding in the winter time. Typically when you buy property with three acres, there would be some feasible access to build an out building or be able to drive back and forth. This would not have the same rights that another person would enjoy because it doesn't have the same access that another person would have connected to the property. It was never intended to be with that property, it was intended to be part of the farm. Part of the estate has a loan going under foreclosure, so they need to sell it. The potential buyers want to buy the house but not the land because the value of the land is more than the house.

The house that is connected to the property is also used as a barn and farm operation and it is essential to the family that this be retained by the family. While this is currently owned by the trust, the house would be sold to a different individual, and the rest would be connected to the farm. The proposal is a win/win for both the future land owners and current landowners of the farm. Let's do the right thing and adjoin it to the farm where it will remain in Green Belt, in agriculture, and if it was ever developed, it wouldn't go into the calculations.

Bryce Froerer asked how they would access the 52 acres. Elroy Harris replied on the west side of the subdivision there is about 66 feet of property on the south side of the river. If this property line was truly separated with the house, that would leave a 60 foot strip going all the way back, and that would be too narrow to use in any functional way. That gives access for the farm to the property back there, and when it is combined together it is connected to the bigger part where it's separated, and becomes an odd shaped unusable property. There is a 66 foot right-of-way that was given to him to access his property which adjoins the Melvin R Clark farm.

Chair Smith asked who currently lives in the home and is it over encumbered with payments that have not been made. Elroy Harris replied no one lives at the home, which was the home of Melvin R Clark. The payments are current and will go in foreclosure when the bank runs out of funds at the end of June.

Chair Smith asked if the 52 acres are currently encumbered. Elroy Harris replied that currently all of the property is encumbered and that he couldn't do anything with the property until the debt has been satisfied. The only clear

way to satisfy the debt would be to sell the house; he can't sell the house if it's connected to the acreage, and it's not economically feasible for the buyer because the land is worth more than the house. Right now it's held up in a trust that can't be transferred until the debt is satisfied.

Chair Smith said that this is purely an economic decision, and this makes the all the other requirements null and void. Phil Hancock said he takes a different view; there is a reasonable solution that does not in any negative way affect the general plan, and helps the citizens of the county in making this change. He is in favor of this as a solution and would like to see staff be willing to work with the homeowners to resolve issues and problems. He understands the economic situation, but he doesn't believe the economic considerations here are large enough to merit consideration of this application.

MOTION: Phil Hancock moved to approve BOA2013-04 based on the findings that it does not degrade the general plan, that there be some sort of covenant or recording with the land that the density requirements be met, and that the additional ground cannot be used as density for any other surrounding property, whether it's joined into it or not to increase the density of the application. The unusual topography, irrigation canal, easements, and the shape of the property all are negative; and that the owner's response to the criteria items of 1-5 are justified. Nathan Buttars seconded.

DISCUSSION: Rex Mumford said the key to this is that restrictive note as part of your motion is an essential part of this so that they don't change the intent of the density. Phil Hancock said its right next to an approved two acre lot. Rex Mumford said that recently the county adopted an ordinance that boundaries within a subdivision could change as long as it didn't change what the zoning would have been at the time the subdivision was created and this goes along the same lines and he asked Mr. Mendoza if he had checked into that. Scott Mendoza replied they did look at that and the subject property is not within the subdivision. They interpreted this situation to be the subject parcel to be outside the subdivision so it wouldn't qualify. Chair Smith said that she agreed with a lot of things that were said and agrees that she would want our County and our Board to work with people and help them get through any of their issues that they might have. However, there is a three acre minimum zoning here, and the applicant stated that this is an economic matter that has to do with money. This sets a precedence giving an out for anybody else that wants to claim they are having a hard time. Here is an example of when this Board allowed this person to take this amount of property off, and they now want the same thing. This could lead to some lawsuits with this property that has been used for years, and now it's an economic hardship. Phil Hancock said that this Board was told on two occasions that the Board of Adjustment decisions do not set precedence. Chris Allred said that it doesn't in itself set a precedence meaning if you make a bad decision, it doesn't mean that you are required to perpetuate an incorrect decision so no it's not like a court case where you establish precedence. Phil Hancock said every decision has an economic side to it just because it's not at the forefront; there is not a decision made by this Board that does not affect someone or property economically. Chair Smith replied that typically that is not the main objective and clearly here, that is a main objective. Nathan Buttars said one thing that helps the applicant is the topography with the river, the canal, the ditch, the pipeline, and using those things could show that this isn't just economic, there are other hardships.

VOTE: A vote was taken with Bryce Froerer, Phil Hancock, Rex Mumford, and Nathan Buttars voting aye. Chair Smith voted nay. Motion Carried (4-1)

3. BOA 2013-05: Consideration and action on a variance from the zoning ordinance requiring custom exempt meat cutting to be located on and with direct access from a collector or arterial road located at 3788 E 4100 N, Liberty owned by Richard Ralph & Rulon Kent Jones in the Agricultural Valley-3 (AV-3) Zone. (Garet Jones, Applicant)

Jim Gentry said the applicant is requesting a variance from a requirement from the zoning ordinance to come off from a collector or arterial road. The applicant has applied for a Conditional Use Permit (CUP) for a Custom Exempt Meat Cutting operation located at 3788 E 4100 N in Liberty. The property is zoned Agricultural Valley (AV-3) which allows the use as a conditional use with exceptions. The preference is to access his property from 3800 East at a location this approximately 300 feet north of the intersection of 3800 East and 4100 North, and has direct access to 4100 North, which is a collector road, from his property. The conditional use site plan shows a proposed driveway access lying approximately 20 feet west of the intersection of 3800 East and 4100 North. However, the Weber County Engineering Division has stated that this location is possibly unsafe because of its close proximity to the intersection of 3800 East and 4100 North. This location was selected by the applicant because there is a steep

hill 44 feet from the edge of 3800 East. The Weber County Engineering Division did a traffic count on 3800 East (156 trips in a 24 hour period) and 4100 North (605 trips in a 24 hour period). The traffic on both is significantly below the carrying capacity of the roads. There are some other issues that need to be addressed in the CUP such as locating his parking in the back. Staff recommends approval of the variance request for access off of 3800 East, based on its compliance with the applicable variance criteria discussed in the staff report. They have a staff member in attendance from the Weber County Engineering Office if you have questions.

Rex Mumford said to clarify the traffic issue, the dangerous element identified by the engineer would actually be if someone was making the turn onto 3800 East or turning on to the subject property. Chad Meyerhauffer replied that is correct and that 4100 N. has an inverted curve and the hill that goes up so it is a dangerous situation where they access off of 4100 N.

Rex Mumford asked if there would be no other access to the meat facility and Jim Gentry replied this would be his access and his parking. The variance is only for access for this location and that is what is being discussed, not the site plan or the conditional use permit which will go to the Planning Commission once this variance is approved.

Chair Smith asked if this would be the same entrance previously used in the past. Jim Gentry replied that in the past this entrance on 4100 N. was used and then the semi trucks would come and block the intersection. To avoid that situation; they have a new access with parking in the field.

Garet Jones, applicant, and an Eden resident said that he is requesting a variance on a collector road. It's been difficult to get access at the proposed location where he wants the access on 4100 N. and the Engineering Department wants it 200 feet from the intersection. It is also easier to access on 3800 East due to the Hill. In reference to the conditional use permit; this road has low traffic use, usually about two employees per day, and there are two to four clients that visit the business per day and in many cases there are no clients. He has worked closely with Planning and Engineering Department.

Rex Mumford asked if 3800 East was wide enough for the semi trucks or any traffic proposed. Garet Jones replied yes but that they could eliminate the use of semi trucks.

Nathan Buttars asked for clarification of Mr. Jones' business and why is it in this area. Garet Jones replied that they have an elk farm, an underground building, and a plant to process and harvest animals. He was issued a special use permit from the county for the butcher shop that already existed there.

Richard Rohde, who resides in Liberty, said he was appalled when he saw the staff report and the consideration of the requirements that the entrance be on 3800 East. There is not a lot of traffic on 3800 East but there are a lot of children; twice in the morning and evening, waiting for a bus that park in this area. There is a 500 foot access for frontage on 4100 N. and they want to force commercial traffic where children walk. He gave a demonstration with pictures and an explanation for his presentation and added that this property doesn't have a hardship and it meets the requirements for the ordinance.

Georgia Rohde, who resides in Liberty, said the applicant wants to be allowed access from 3800 East to his meat cutting business. This is wrong because 3800 East is a road where commercial traffic is not allowed. Each of her neighbors bought their homes and properties here because 3800 East is a quiet dead end street with only residential traffic on it. The nearest residences to the Jones's facility had noise pollution from the cutting business as well the sight of animal carcasses coming loaded in vehicles at all hours. Their property values and safety would be adversely affected if the Mr. Jones is granted the variance to the zoning ordinance and allowed to run his commercial business again off of 3800 East. The biggest issue here is safety to the children that ride the bus every morning and evening at the corner of 3800 East and 4100 N. This is absolutely not acceptable to the residents close to 3800 East.

Sandra Tuck, who resides in Liberty, said this application was submitted on May 13 and the affidavit by the home owner stating that he wanted a representative was not signed. We were notified on May 19 that the meeting would be on May 23. Mr. Barry is one of the two most affected by this and due to his business that is in a third

world country, he was not able to attend because of the short notice. The other person is Clay Poulter who has been living and caring for his ill father and was unable to attend because of the short notice. The road on 3800 East where he wants to go in, the septic system comes from there and down the hill, and their parking is where the drain field is located, not 200 feet away from Clay Poulter's home. The semi's that come down have to pull into Mr. McFarland's or Mr. Poulter's yard.

Cal Stevens, who resides in Liberty, said that he was disgusted when there was a commercial development that was going in there. Mr. Rohde presented a situation where he would like to move the mess that he has on 3800 East across the street from her on 4100 N. and he would oppose that also because the road is steep. If that is the alternative, then he would suggest scrapping the whole thing.

Nick Marriott, who resides at the Preserve, said that he uses 4100 N. twice a day, and when this was going on there was really no noticeable change that he could see. There is not a lot of traffic there and he didn't see a problem.

Jim Gentry said that eventually 4100 N. is going to be connected to Wolf Creek Drive and when development begins it will be a small segment. Eventually they will put in a major road the majority of the way to Wolf Creek. The only issue that they are addressing is the variance be granted or not, and it would have to go back to the Planning Commission with the septic system issue and some of these other issues to be addressed. Mr. Jones is planning on taking the vehicles off of 3800 East and not parking them there. A representative from the Weber County Engineering Department is here if you have some questions for him.

Chair Smith asked if all of the notices were mailed out in a timely manner. Jim Gentry replied that there is a statement in the Board of Adjustment that states that the application has to be in 30 days prior. The Planning Staff has the ability to waive that requirement, and it was waved waived for this and the next case. The notices were sent out the day the packets were sent out to the Board of Adjustment. There is no notice requirement by state code; the only notices that are required are for amended subdivisions, so notices were sent as a courtesy.

Chair Smith asked for clarification on the total amount of frontage. Jim Gentry replied that there is 500 feet of frontage and staff and engineering looked at another location. There are storm water and drainage lines that would have to be relocated and a hill that the Planning Commission and Engineering Departments were concerned about. The parking lot would be on back of Mr. Berry's property line based on the directions given by the Planning Commission. This is the best location and that is what the applicant is requesting.

Nathan Buttars asked if the property values on 3800 East would be affected by the proposed entrance. Jim Gentry replied that would a question for the assessors to address. There is a very minimal traffic increase by this and the roads right now can handle up to 2,000 vehicles per day. This will only add 6 to 10 vehicles per day so it wouldn't have a significant impact.

Rex Mumford asked in reference to the traffic count is that on an annual basis and if Mr. Jones is approved, would that be seasonal or year around? Jim Gentry replied the traffic count was just done for a 24 hour period. The applicant could do it year around. It's an agricultural use but could be considered commercial with the use in agriculture in the agricultural zone. The ordinance was amended to add that use in the zoning ordinance and that now gives him the option to cut livestock or any wild game. Right now, Mr. Jones' intention is mainly to cut up the elk that comes off of his elk ranch.

Chad Meyerhoffer, Engineering Department, said to clarify he is not a license engineer nor does he have a background in Traffic Specialty. He has conversed with the engineers in the department and none of them have expertise or specialty just in traffic engineering, but a lot of the information that they use is in the Astro Book.

Rex Mumford indicated that 3800 East is not a collector road, but he asked if it was width wise narrower than 4100 N. Chad Meyerhoffer replied that he would have to and double check it but both roads would have about 24 feet width of asphalt on them. The right-of-way width on 4100 N. is proposed to be a little bit larger right-of-way width than 3800 East. There is probably about an 80 foot right-of-way on 4100 N. and probably 60 or 66 foot on 3800

East.

Rex Mumford asked in your opinion coming off of 4100 N. is more hazardous than going off of 3800 East. Chad Meyerhoffer replied that according to UDOT, they like to limit the amount of accesses that they do have on the main road. So it is better with the idea that the more traffic you have going back and forth; the more access, the more chance you have people of turning left or accidents occurring.

Nathan Buttars asked if he could address the bus and the kid traffic. Chad Meyerhoffer replied he was not sure that he could address that issue, but if there is an access or a bus stop with more kids and traffic there, that could be a hazard.

Chair Smith asked if the applicant came up with this plan or did the Engineering Department. Chad Meyerhoffer replied the applicant came up with the plan. The Engineering Department was asked for consultation on what would be a safe option off of that access right next to the intersection. We looked at it and found that it is not a safe access and most of our conversation has been with the Planning Department.

Garet Jones, Applicant, said that he would address some the questions that were brought up. As far as the seasonality of the business, they are talking six trips a day and that would be in the fall months. The other animals that would be butchered, the maximum would be a few in a week. This is a new access and all those pictures with the semi traffic are not relevant. As for the hill that has always been there, it wasn't pushed up as it was mentioned. In reference to Mr. Marriott's point, if you are standing there taking pictures while the operation is going on, and are able to get pictures of a truck with an elk on the back, a normal passerby would not see one or more trucks a day dropping off an elk. This does not go on 100 times a day when the children are walking to the bus.

Nathan Buttars said so in your opinion the kids at the bus stop, kid traffic on that road, that wouldn't be affected by the access road. Garet Jones replied that is correct.

Chair Smith asked if it was feasible to have a delivery period for drop off and pickups during a certain period of time. Garet Jones replied yes and that would be something that could be discussed with the Ogden Valley Planning Commission.

MOTION: Rex Mumford moved to approve BOA 2013-05 granting a variance from the zoning ordinance requiring the access to be directly from the collector and allow it to be on the 3800 East local road for purpose of accessing the Jones property. Phil Hancock seconded.

VOTE: A vote was taken with Chair Smith, Nathan Buttars, Rex Mumford, and Phil Hancock voting aye and Bryce Froerer voting nay. Motion Carried (4-1)

4. BOA 2013-06: Consideration and action on a variance request for a new garage to encroach 15 feet into the required 30 foot front yard setback on Lot 1 of Montgomery Ranch Subdivision Phase 1 located at 7869 East 1300 North in the Agricultural Valley-3 (AV-3) Zone. (Larry & Denise Montgomery, Applicants)

Sean Wilkinson reviewed the staff report and stated that the applicants have stated that they cannot locate the garage further to the south due to the location of the existing septic tank and leach field. They further state that locating the garage to the west of the dwelling would block their front windows and doors and would disrupt the look and integrity of the neighborhood. Due to these conditions, the applicants believe that the garage cannot meet the 30 foot front yard setback required by the AV-3 Zone. Therefore, they have requested this variance in order to obtain permits to build the garage.

The applicants have submitted a narrative addressing the above criteria, which is attached as Exhibit A. The Planning Division's analysis and findings are discussed below.

a. The applicants believe that an unreasonable hardship exists due to the location of the existing septic tank and leach field, and that locating the garage west of the home would block their front windows and doors and disrupt the look and integrity of the neighborhood. While these are legitimate concerns, they are not peculiar to this property and could apply generally throughout the neighborhood. All of the dwellings in this neighborhood were required to locate a septic tank and leach field in an

appropriate area according to Health Department requirements and meet applicable yard setbacks for structures. Unfortunately, structures cannot be built within the lot area occupied by the septic tank and drain field on any of the lots in this neighborhood or in Weber County.

The applicants stated in their application that they were required by Health Department employees to locate the septic tank and leach field in its current location, but the application did not contain any supporting information. The applicants may have additional information that could distinguish this lot from others in the neighborhood and show that an unreasonable hardship exists, but any new information will have to be provided at the May 23rd meeting for the Board's consideration.

b. This lot is different from most of the lots in the AV-3 Zone because it is a flag lot with limited frontage on a road. The limited road frontage does not affect the location of the septic tank and leach field, nor does it require the dwelling to face a certain direction. Therefore, these hardships mentioned by the applicants cannot be considered special circumstances, unless additional information is provided as discussed previously. The applicants make a valid point in explaining that the dwelling was built facing west to match others in the neighborhood and preserve uniformity, but again, this circumstance does not relate directly to the hardship, as the garage was not planned when the dwelling was built. This lot has the same privileges as other lots in the AV-3 Zone that are required to meet setback requirements and avoid the septic tank and leach field area.

c. The lot is not being deprived of any property rights possessed by others in the AV-3 Zone. The applicants can still build a smaller garage in the same area that meets the 30 foot front yard setback, or the garage can be built in another location on the lot. The 30 foot front yard setback has not changed since 1994 when the dwelling was built.

d. Flag lots are exceptions to the typical lot frontage requirements and flag lot front lot lines are often located several hundred feet from the road. The flag lot front yard setback also provides for safety by allowing enough area for an emergency turnaround location or other safety measures in an unobstructed area. The Board should consider the safety, aesthetic, and other factors in determining whether or not the variance will substantially affect the general plan or be contrary to the public interest.

e. This variance request is not an attempt to avoid or circumvent the requirements of the Land Use Code. Rather it is an attempt to preserve uniformity and the general look of the neighborhood, while allowing the applicants to improve their lot. Based on the evidence submitted, the Board must determine if sufficient evidence has been presented. If there are unreasonable hardships caused by special circumstances related to the property then substantial justice would include approving the variance.

Detached accessory buildings are allowed as a permitted use in the AV-3 Zone. Staff recommends denial of the variance request for a new garage to encroach 15 feet into the required 30 foot front yard setback. The recommendation is based on the applicants providing insufficient information to prove that unreasonable hardships and special circumstances related to the property exist. The applicants are not being denied the right to build a garage on the property, and a smaller garage meeting the front yard setback could be built in this location or the same garage could be built elsewhere on the property.

Nathan Buttars asked for clarification of a flag lot and the purpose. Sean Wilkinson replied a flag lot is typically used when there is sufficient area to create a lot but there is not sufficient frontage to meet the 150 ft lot width on the road requirement of the zone. This used to come before the Board of Adjustment but currently it's an administrative decision. When this was approved by the Planning Commission; the purpose was to allow the development of the lots that didn't meet frontage requirements, and still meet area requirements. It would make sense to grant as an access exception and allow them to build rather than requiring a road to come in and serve the lot.

Nathan Buttars asked what would be the purpose of the front line lot of a flag lot and why does that matter? Sean Wilkinson replied that the ordinance states that and they have to follow that. As far as why, that is because that is where the access comes from the road. That is where the flag lot actually opens up to meet the width requirements of the zone, it makes the most sense to call that the front lot line, and the closest lot line to the road where access comes from.

Chair Smith asked if the applicant doesn't have an established line; do they get to pick and choose which way it faces, and where it's going to be. Chris Allred replied that part of the reason that it was established as a front lot line in a place like that is so that others who build in a subdivision and nearby will know what they are getting into.

They will know objectively when they build what the setbacks are going to be within that lot. It may not have any more practical value than that but it will put everyone else on notice of what they can expect as far as setbacks.

In response to a question by Nathan Buttars, Sean Wilkinson replied that is correct that at least two of the homes face to the south and for these homes they both have access from the west. Staff does understand the applicant's argument to keep the uniform of the neighborhood facing the house to the west, unfortunately based on what the ordinance says, staff can't find where that is an unreasonable hardship.

Rex Mumford asked if this is considered a large accessory building, and if it's in front of the home, and by definition this is, it has to have the characteristics of the home. Are there any characteristics that are being required by the county? Sean Wilkinson replied no, the building was completely designed by the applicant and there are renderings of what the building would look like.

Phil Hancock said as he recalled an accessory building has to be 10 feet behind the back of the house. Sean Wilkinson replied it depends on the zone and in some zones it is 6 feet and in other zones it is 10 feet. They can also locate the building to the side or the front as long as they meet other requirements.

Phil Hancock asked if that still does not meet the distance to the back of the house. Sean Wilkinson replied that is correct, they still have to meet the setbacks from property lines but as far as being behind the home, they do not have to meet that setback because of these other restrictions that are placed on the larger buildings.

Brian Montgomery, the applicant's representative and a resident in Huntsville, said to clarify more on this land, all the family resides on this land with their own homes and it is maintained as a family farm. The reason for these flag lots, is that there is the barn where they store their equipment, and they didn't want to cut through their barn to get to the house. They own property all the way back to the canal and to the road. As far as the flat lot, he did not know anything about the setbacks when he built the house; he wanted it facing like everyone else, and the contractor told him that it had to be 40 feet back. The reason their access being that way to the back of the property is for their farm equipment being used and maintained. As for the Leach Line Sewer System, he had asked where would be the best place to put it, and was informed he should put it right behind the house with the three laterals going to the north, but he didn't have any written documentation for that. If he puts his garage 30 feet off, it will be behind his house, and right along those leach fields where he doesn't want to mess with that.

Chair Smith asked if he owned that land behind the property, why didn't he redraw his lot line 15 feet back. Larry Montgomery replied that he didn't know that he could do that.

Bryce Froerer said the problem wasn't the property to the east but the property to the north. Larry Montgomery discussed this with his brother in law Brian Knowles, who didn't have a problem with that 15 feet. So between his 10 feet and with the 15 feet, that makes a total of 25 feet of frontage for the flag lot. He is still about 600 feet off of the main road.

Rex Mumford asked on Exhibit C you show your leach field running out, are those actually to scale? If those leach field stops at the edge of your house, you already have 15 feet and you only have to move the garage another 15 feet. Larry Montgomery replied that he was just guessing, but it's close to that so if they put it 30 feet, it's going to be right on the edge, and he just didn't want a big space between his garage and the property line. That is why he wanted to center it, if he was given 15 feet, then he wouldn't have to do any of that.

Sean Wilkinson said with the flag lot being so far off the road, this Board may want to look at lot lines, and see what practical purposes could be served. The ordinance definition is what it is as far as what that lot line is but you have to consider the criteria and if it meets the criteria.

Phil Hancock asked if the applicant had applied for a variance for the location of the front property line that might have been a possibility. Chris Allred replied that was what he was thinking during the discussion whether it would be possible to apply for a variance from that provision to change the frontage. The way the house is facing to the

west would it still meet setbacks? If they were to be granted a variance from that requirement and all the setbacks were shifted then everything would fit in the setbacks. As far as the rationale for setbacks, the neighbors who are his family aren't being imposed upon.

Nathan Buttars asked if they could amend their application tonight orally. Chris Allred replied no because it doesn't put others on notice that might have an interest. It seemed to him that there ought to be a mechanism to make that work, whether they would have them reapply so they can look at that, and say can they grant a variance for frontage. He was not sure why they couldn't because they would be asking for a variance from a land use ordinance and it would meet all those other criteria.

Phil Hancock said that he didn't see how they could approve the way the applicant has it. Even though he understands their reluctance, the septic tank is an economic hardship, and if that is a conventional system he would have to vote against it. But if there is a way they could look at moving the front yard setbacks at the front of the house.

Sean Wilkinson asked Legal Counsel in the ordinance it does say if the variance is granted, the Board can impose other conditions that would meet the requirement of the zone or meet the intent of the zone. As part of this variance, could something like that be imposed rather than coming back? Chris Allred replied leaning more toward yes, and it seemed to him that is not an unreasonable way of looking at things for the Board in their position.

MOTION: Nathan Buttars moved that the applicants amend their application so that the front line of their lot faces west and by doing so approve their application. Bryce Froerer seconded.

Chris Allred said that was more of a recommendation and that they didn't necessarily need a motion or there could be a different motion made to be addressed.

DISCUSSION: Rex Mumford said the language would state that they would change their frontage to orient with the west boundary. Nathan Buttars said he would accept that amendment. Chris Allred asked if they are asking the applicant to come back? Chair Smith asked if you are asking the applicant to come back or are you approving that as long as they amend the paperwork. Nathan Buttars replied that they approve it tonight as long as they amend the paperwork. Chris Allred said that he was not sure that was going where Mr. Wilkinson had suggested and maybe that should be made clear before you vote on that motion.

AMENDED MOTION: After several amended motions, Nathan Buttars moved to grant this variance request and impose a condition that the front lot line be now the west lot line rather than the north lot line and that setbacks on that west lot line be maintained in the future as a front lot line with the 30 ft setbacks or whatever other setbacks apply to the lot line in the future and that this be recorded on the title. Bryce Froerer seconded.

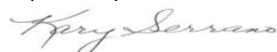
VOTE: A vote was taken with all members present voting aye. Motion Carried (5-0)

5. Training: Making Motions:

Sean Wilkinson said that there was no training at this time.

6. Adjourn: The meeting was adjourned at 6:45 p.m.

Respectfully Submitted,



Kary Serrano, Secretary,
Weber County Planning Commission