



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a variance request for a new dwelling to encroach up to 65 feet into the required 75 foot front yard setback and up to 30 feet into the required 40 foot side yard setback on Lot 101 of Green Hill Country Estates Phase No. 6

Agenda Date: Thursday, September 26, 2013

Applicant: Tracy and Sherie Frehner

File Number: BOA 2013-08

Property Information

Approximate Address: 1306 North Maple Drive

Project Area: 2.9 Acres

Zoning: Forest Zones (F-5 and F-40)

Existing Land Use: Vacant lot

Proposed Land Use: Construction of a new single-family dwelling

Parcel ID: 21-085-0005

Township, Range, Section: T6N, R2E, Section 4

Adjacent Land Use

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

Staff Information

Report Presenter: Sean Wilkinson
swilkinson@co.weber.ut.us
801-399-8765

Report Reviewer: JG

Applicable Ordinances

- Weber County Land Use Code Title 104 (Zones) Chapter 9 (Forest Zones F-5, F-10, and F-40)
- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)

Background

The applicant is requesting a variance to allow a new dwelling to encroach up to 65 feet into the required 75 foot front yard setback and up to 30 feet into the required 40 foot side yard setback on Lot 101 of Green Hill Country Estates Phase No. 6. The lot has a total area of 2.9 acres but only approximately one acre of the lot can be built on due to steep slopes identified on the subdivision plat. In addition to the limited size, most of the buildable area is located in an F-40 Zone which has larger setbacks (75 foot front, 40 foot sides, 30 foot rear) than the F-5 Zone (30 foot front, 20 foot sides, 30 foot rear) which is typical for most of the lots in the subdivision. There is also a stream adjacent to the rear boundary of the buildable area which has a 50 foot setback from the high water mark. When all of these setbacks are applied, the buildable area is reduced to a sliver that is only approximately 20 feet wide at its widest point (see Exhibit C).

The steep slopes, stream corridor setback, and F-40 Zone setbacks severely limit the ability to build a single-family dwelling on this lot. Therefore, the applicant has requested this variance in order to obtain permits to build the proposed dwelling. The variance is large and a small portion of the proposed dwelling is located within 10 feet of the front property line adjacent to Maple Drive. However, the dwelling is designed to maximize the front yard setback area to the largest extent possible, while not encroaching into the 50 foot stream corridor setback and creating the need for another variance.

Summary of Board of Adjustment Considerations

Title 102 Chapter 3 of the Weber County Land Use Code 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 Zoning Ordinance. In order for a variance to be granted it must be shown that 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 Zoning Ordinance.
 - 1. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - 2. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- 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.

The applicant has submitted a narrative addressing the above criteria, which is attached as Exhibit A. Staff's analysis and findings are discussed below.

- a. Based on the physical constraints of this property and the additional setback requirements described above, it is unnecessary to strictly enforce the 75 foot front yard and 40 foot side yard setback requirements. Literal enforcement of this requirement would place an unreasonable hardship on the applicant by not allowing a dwelling to be built. While other properties in this area have similar hardships associated with steep topography, only four other lots in the subdivision are in the F-40 Zone. This is not a self-imposed or economic hardship because the hardship is created by the physical attributes of the property, including the steep topography, stream corridor, and limited building area.
- b. The special circumstances attached to this property are the physical attributes of the property associated with the steep topography, stream corridor, and limited building area. Other lots in the F-40 Zone typically have at least 40 acres which provides relief from the larger setbacks.
- c. The physical property boundary conditions would deprive the applicant of the ability to build a dwelling if the setback requirements are strictly enforced. Single-family dwellings are allowed in the F-40 Zone, other properties in this area have dwellings, and the applicant will be denied a right to build that others possess. The requested variance will restore the right to build that is being affected.
- d. The applicant has received approval of the proposed dwelling location from the Green Hill Country Estates HOA. The proposed variance also protects the stream corridor which is encouraged by the Ogden Valley General Plan.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code. Approval of the variance allows the applicant to build a dwelling and maintain the stream corridor, and provides relief from the physical hardships associated with the property.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the F-40 Zone. If the requested variance is granted, it will not affect the goals and policies of the Ogden Valley General Plan.

Conditions of Approval

- Meeting the requirements of applicable County review agencies.
- Obtaining a land use permit and a building permit prior to construction.

Staff Recommendation

Staff recommends approval of the variance for a new dwelling to encroach up to 65 feet into the required 75 foot front yard setback and up to 30 feet into the required 40 foot side yard setback on Lot 101 of Green Hill Country Estates Phase No. 6., based on its compliance with the applicable variance criteria listed in this staff report.

Exhibits

- Applicant's Narrative
- Green Hill Country Estates Phase No. 6
- Site Plan with Setbacks
- Site Plan with Dwelling
- E-mail from Green Hill Country Estates HOA

Location Map

