

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	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) Jerry Burgess and Kathy Burgess		Mailing Address of Property Owner(s) 16605 Tiger Lilly Way, Riverside, CA	
Phone (951) 315-9983	Fax N/A		
Email Address Kathryn249@aol.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) Jerry Burgess and Kathy Burgess		Mailing Address of Authorized Person 16605 Tiger Lilly Way, Riverside, CA	
Phone (951) 315-9983	Fax		
Email Address Kathryn249@aol.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
 ___ **X** 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 763 Ogden Canyon Road, Ogden, Utah		Land Serial Number(s) AP# 20-047-0014	
Current Zoning Forest Residential 1			
Existing Measurements		Required Measurements (Office Use)	
Lot Area .21 acres	Lot Frontage/Width 73.86 ft	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 30 ft.	Rear Yard Setback 30 ft.	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 10 ft.	Side Yard Setback 10 ft.	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

The property at 763 was originally occupied by 2 sheds, converted to a summer home located about 10 ft from the roadway, violating the existing 30 ft setback.

In 2001 the summer home was torn down and plans were submitted and approved for the construction of the current home an improvement in the type of home. The current home was approved and inspected by the County of Weber as being in compliance with all laws and rules. Certificates of Occupancy were given and the home was occupied.

In 2014 plans were submitted to add a much needed garage to be located within the defined setbacks.

Plans were denied due to the original home violating the 30 ft front setback rule.

This was news since the County of Weber in 2001 accepted, approved, inspected, and made no comment on the location of the home and nothing has changed relative to the location of the boundary lines or home since that date. It is not practical to have either the home or the property lines moved.

It now appears the center of the front of the home is at 30 ft and appeared to be the intent to build the home parallel to the lane / front set back line. However, the contractor laid the foundation and rotated it a couple degrees on its front center causing the north corner of the home to violate into the setback by 2 ft while the other (south) end of the home went 2 ft away from the setback.

As property owner, I need to add a garage for my vehicle and equipment necessary to accommodate the home.

I am asking for the Board to grant a variance to allow the front of the existing home to legally exist in the front setback by approximately 2 ft to allow the legal construction of the garage.

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.

- 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.

1. The literal enforcement of the zoning and setback rules have caused a complete work stoppage on the garage addition which has no issues. I have been of the belief that my home that was built and inspected in 2001 by the County of Weber, and had no issues because it was approved. Now, due to a plan review 13 years after the original home was approved, there is an enforcement action being taken for violation of the setback by the existing home. This violation is preventing my much needed garage from being built. The reason given is understandable, but is also unreasonable due to the process that was afforded to and taken by the County of Weber in 2001. To permanently halt all legal additions to the home is an incredible hardship for me financially as well as preventing me from enjoying the functional use of a garage.

a: The location of my current home is located entirely on my property. The older summer home that was built in the early 1900s was in violation of the newer front setback requirements, similar to some of other older homes still in the grove. The new home was an improvement home and met the newer setback standards by being built farther back on the lot. The Weber County officials approved the construction of the newer home in 2001 with on-site inspections, and, following their inspections, they approved the home and deemed it as being legal.

Now, it seems unreasonable to enforce the standards in 2014 when the home was built in 2001 under the same guidelines and nothing was said or done in 2001 relative to the enforcement of the front setback standards.

So, the peculiar problem lies with the inspection, review and approval process that was supposed to catch this error in 2001 by the County of Weber. This makes my problem unique to my property today.

b: The current violation in the setback is neither self-imposed nor economic, but a result of, or failure of, the actions of the County of Weber in 2001 to act on the error through review or inspections. Now, in 2014 they acted by noting the error.

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.

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:

a: The special circumstances attached to this property that don't apply to other properties in the area would be the approval of the home by the County of Weber in 2001, now being reviewed and being claimed as non-compliant. The current plan review is preventing me from adding a very much needed garage to store materials and a vehicle. I have no other means to store tools and materials except in the living quarters of my home. Since the home was approved in 2001, it would be assumed that I was legally situated and like other homes in the grove, would be able to have a garage. The home can't move, and since it is now noted to violate the setback, I can't build the garage.

Whereas, other residents living in homes in the grove are able to utilize garages, sheds and even live in their homes which are currently in gross violation of the current setback rules. The garage being added in this request is not the violation, and complies with all the building standards and setback requirements, the focus of this variance deals with the house built 13 years ago.

To deny the garage addition based entirely on the location of the existing home, approved in 2001 by the County of Weber would not be reasonable in light of the fact that had the garage been built in 2001 with the home, I would not be here today trying to obtain a variance, still believing the home was legally built and placed.

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

a: As mentioned above, other residents living in homes in the grove are able to utilize garages, sheds and even live in their homes which are currently in gross violation of the current setback rules. The garage being added in this request is not the violation and complies with all the building standards and setback requirements currently in place.

I am in great need of a location to store materials, yard tools, and bring equipment to work on the property without fear of theft and to provide security of my personal equipment. I currently have to borrow tools and large pieces of equipment from neighbors because I have no place to store them at home. When I do have equipment, I have to chain and cable lock the equipment to trees in lieu of placing them inside my home. I am in need of a garage.

Variance Request (continued...)

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

The structure complies with the type of structure allowed in this zone. The structure is of the type allowed and was approved to be located on this lot. The only concern is the placement of the original home on the lot, that is, we discovered 13 years after being built, that it is skewed by 2 feet from what was expected and accepted. This mal-alignment is not perceptible until measured. This request for variance will not affect the general plan and will not be in conflict with public interest.

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

The home was built under the supervision of the County of Weber officials in 2001. The officials reviewed and approved the plans, the building of the home, and gave their approval for compliance and occupancy. All building was done in good faith and with compliance of known regulations according to the land use. The building of this home in 2001 required a movement of the home from the original 1900s position near the roadway back onto the lot to comply with a 30 ft setback therefore making the lot 'more in compliance' than it was before.

The funding for a garage in 2001 was not possible. Therefore, the placement of the home was made on the lot so as to leave sufficient space for the future garage at a later date. The current plans of 2014 were presented for the purpose of adding the garage for completion of the home.

The only objection to completing the garage portion is that the home was found to be built inside the front setback. To allow the completion of the garage, I can't proceed through the Planning Department unless a variance is given for the home that was built and approved as-built in 2001.

Since the County of Weber approved the home in 2001, it would only seem logical to accept the current (but incorrect) placement today. The justice should have been appropriately administered in 2001 as the officials had an opportunity to observe and inspect the home at different phases. However, they made no effort to stop or enforce an incorrect placement during their inspections. Therefore, justice would be served in 2014 by accepting the same approvals that were given in 2001 by the same entity, and, to do so would be accomplished with the granting of a variance to forgive the error that was not caught in 2001. There was no malice in building the home into the setback as it can be seen that it was centered at 30 ft on the plans.

Property Owner Affidavit

I (We), JERRY W. BURGESS & KATHRYN L. BURGESS 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.

Jerry W. Burgess
(Property Owner)

Kathryn L. Burgess
(Property Owner)

Subscribed and sworn to me this 01ST day of MAY, 2014.

By JERRY W. BURGESS
AND KATHRYN L. BURGESS



Jennifer Johnson
(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)

POSTAL ANNEX
3410 LA SIERRA AVE STE.F
RIVERSIDE, CA 92503
951-352-2105
FAX 951-352-2170
DOCUMENT SCANNING NOW AVAILABLE \$1/PAGE
DOCUMENT SHREDDING \$1.50/POUND
EMAIL:postalannex54@att.net
Wendy, Jennifer, Angie

Notary	10.00
Notary	10.00

SUBTOTAL	20.00
TAX	0.00
TOTAL	20.00
TEND Cash	20.00

Customer: None selected

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