



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 reduction of lot width for two (2) lots with existing homes within the Agricultural (A-1) Zone.

Agenda Date: Thursday, May 22, 2014

Applicant: Dan Musgrave

File Number: BOA 2014-05

Property Information

Approximate Addresses: 706 South 4100 West and 708 South 4100 West; Ogden UT

Project Areas: 43,558 square feet and 43,560 square feet; respectively

Zoning: Agricultural Zone (A-1)

Existing Land Uses: Residential

Proposed Land Uses: Remain as existing

Parcel ID's: 15-046-0060 and 15-046-0062

Township, Range, Section: T6N, R2W, Section 16

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Agricultural

Staff Information

Report Presenter: Steve Parkinson
sparkinson@co.weber.ut.us
801-399-8768

Report Reviewer: JG

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 5 (Agricultural Zone, A-1)

Background

The applicant is requesting a variance to reduce the lot width by 50 feet (150 feet to 100 feet), for two (2) parcels in the A-1 zone (ID 15-046-0060 & 15-046-0062) to allow two (2) existing homes to be on individual lots, in the A-1 Zone. Each of the existing homes would be within a parcel that has the required lot area (40,000 square feet) and will meet the required setbacks.

The home on the south (708 So. [15-046-0062]) originally was a small dwelling built around 1856. According to county records it was torn down and a new home was built around 1910. This is the home that exists today. In 1953 the dwelling to the north was built (706 So. [15-046-0060]). Both dwellings were built on one tract of land prior to any zoning requirements.

Over the years two (2) additional dwellings have been built south of the 1910 dwelling, the first in 1981 and the second in 1983. Both of these dwellings were built on separate parcels, both in accordance to the Land Use Code requirements.

Under the current Land Use Code, two (2) dwellings on one parcel are not allowed. However the existing homes qualify as a non-conforming use, but in order to sell either one of these two (2) historic homes, they need to be on separate parcels.

The issue that comes into play is the fact that between the dwelling that was built in 1983, and the northern property line of the dwelling built in 1953, there is only 200 feet and today's zoning code requires each lot to have a minimum width of 150 feet.

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 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.*

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. Literal enforcement of the Land Use Code would deem one (1) of these two (2) dwellings unusable as a dwelling. Granting the variance will not change the character of the neighborhood, nor increase the number of dwelling units due to the fact that two (2) dwellings units already exist. Staff feels that this is not a "self-imposed hardship" because of the history of these two homes, being built prior to zoning, being built where they are located, and being built on one parcel, both legal at the time they were each constructed.
- b. The special circumstance attached to this property is the history of the area, along with how the neighborhood has developed over the past 150 years. If someone, 150 years ago, would have placed the older home 50 feet farther south than it currently is located, then this would not be an issue today. These two (2) homes are a non-conforming use, with rights to continue as two (2) dwelling units on one parcel, based on that the two (2) homes existed prior to zoning.
- c. Zoning gives the property owner rights to construct dwelling units under certain requirements. When dwelling units were constructed prior to zoning they still legal, but they weren't reviewed as to placement on property.
- d. The General Plan indicates this area should allow and be preserved for single-family dwellings; nothing within the request is to change this desire.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code. Approval of the variance would allow the two (2) dwelling units to continue, but be on separate parcels under separate ownership.

Conformance to the General Plan

No additional dwellings will be constructed, allowing the area to remain as it is currently constituted. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Western Weber General Plan.

Conditions of Approval

- Meet all other applicable review agency requirements.
- Obtaining subdivision approval for the two (2) lots.

Staff Recommendation

Staff recommends *approval* of the variances for a reduction of lot width of 50 feet for parcels 15-046-0060 and 15-046-0062, in the A-1 Zone, subject to its compliance with the applicable variance criteria discussed in this staff report.

Exhibits

- A. Applicant's Narrative
- B. Pictures of Neighborhood

Location Map



Exhibit "A"

Applicant Narrative

Please explain your request

My great, great grandfather and grandmother traveled from Liverpool England in the Martin Handcart company and homesteaded this existing property. In 1856 they built a log cabin and in 1890 they built the existing home on the parcel ## 15-046-0062, In 1954 my grandparents built the home on parcel #15-046-0060. Both these homes were built before any zoning ordinances. I would request there be an equal division of these two homes, which would give both 100 foot frontage, and therefore request a variance on the frontage width of each. Each home would still meet the one acre zoning ordinance.

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.

The variance would not affect the comprehensive plan as both homes were built prior to any zoning ordinances. A hardship would exist if these two homes could not be divided as legal lots, as far as loans, Insurance, and legal habitation. The pioneer house has very significant historical value.

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 zoning ordinance today's request 150' frontage these two homes would still have 100' frontage and exist on 1-acre lots and would meet all side and rear setbacks.

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.

There are other homes in our area that were built pre-zoning ordinances that have been granted frontage variances. Granting of this variance is essential to preserve the historic significance of this property, similar to other properties in the zone.

Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.

Both these homes were built pre-zoning ordinance and are not self-imposed. All other requirements have been met.

Exhibit "B"



Picture #1 – this is looking from the northern dwelling (circa 1953) and heading south.



Picture #2 – this is looking at the property line between the two (2) dwellings and their relationship to each other and the dwellings surrounding.



Picture #3 – this is looking from the southern dwelling (circa 1910) and heading north.