



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 area of 171 square feet on Lot 34 of Woodland Estates Subdivision Unit 2, in the Residential Estates RE-20 Zone.

Agenda Date: Thursday, April 10, 2014

Applicant: Stan Booth

File Number: BOA 2014-04

Property Information

Approximate Address: 2575 East Woodland Drive; Ogden UT

Project Area: 19,978 square feet

Zoning: Residential Zone (RE-20)

Existing Land Use: Vacant lot

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

Parcel ID: 07-089-0010

Township, Range, Section: T5N, R1W, Section 23

Adjacent Land Use

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

Staff Information

Report Presenter: Steve Parkinson
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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 3 (Residential Estates Zone RE-20)

Background

The applicant is requesting a variance for a reduction of lot area of 171 sq. ft. on Lot 34 of Woodland Estates Subdivision Unit 2, in the RE-20 Zone. Requirements for this zone are as follows:

- Lot area 20,000 sq. ft.
- Lot width 100 ft.
- Setbacks Front – 30 ft, sides – 10/14 ft, rear – 30 ft.

Woodland Estates Subdivision Unit 2 was approved as a subdivision in 1959. Lot 34 had enough lot area at the time, however, over the past 55 years the property lines between Lot 34 and Lot 35 have moved several times leaving the property as it exists today. The lot currently has a total area of 19,978 square feet, which is 22 square feet short of the required lot area.

However, on Woodland Drive just south of 5950 South a large rock sits in the middle of the road. The County is requesting some additional right-of-way (149 sq. ft. – see Exhibit B) in order to make the street safer for vehicle traffic especially during the winter months. Because of this additional request from the County, the applicant has included the County's request into their variance request. Thus the total variance request is 171 sq. ft.

Staff has had discussion with the applicant regarding the possibility of asking the neighbor for some additional land back. The applicant has asked the neighbors to sell additional property, but the land owners have refused. This lot has always been intended to have a single-family dwelling built upon the parcel as is evident with the surrounding uses and design of the neighborhood.

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 this property as an un-buildable parcel and would, therefore, be an unreasonable hardship to the land owner. This issue is peculiar to this property and not associated to any other property in the neighborhood. The request for a variance is not a self-imposed hardship and allows the County to improve safety on a public road.
- b. The special circumstances attached to this property are based on the fact that the previous property owners had moved the southwestern property line several times thus making this particular parcel 22 square feet less than the required area, as well as the large rock in the middle of the road which created an additional request from the County for 149 sq. ft.
- c. When subdivisions are approved each lot is intended to have a single-family dwelling built upon it. In this case, this is the last parcel within the neighborhood that remains vacant.
- d. The General Plan indicates this area should allow and be preserved for single-family dwellings, which is what is being proposed.
- 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 allows the County to improve public safety.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the RE-20 Zone. 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 a land use permit and a building permit prior to construction.

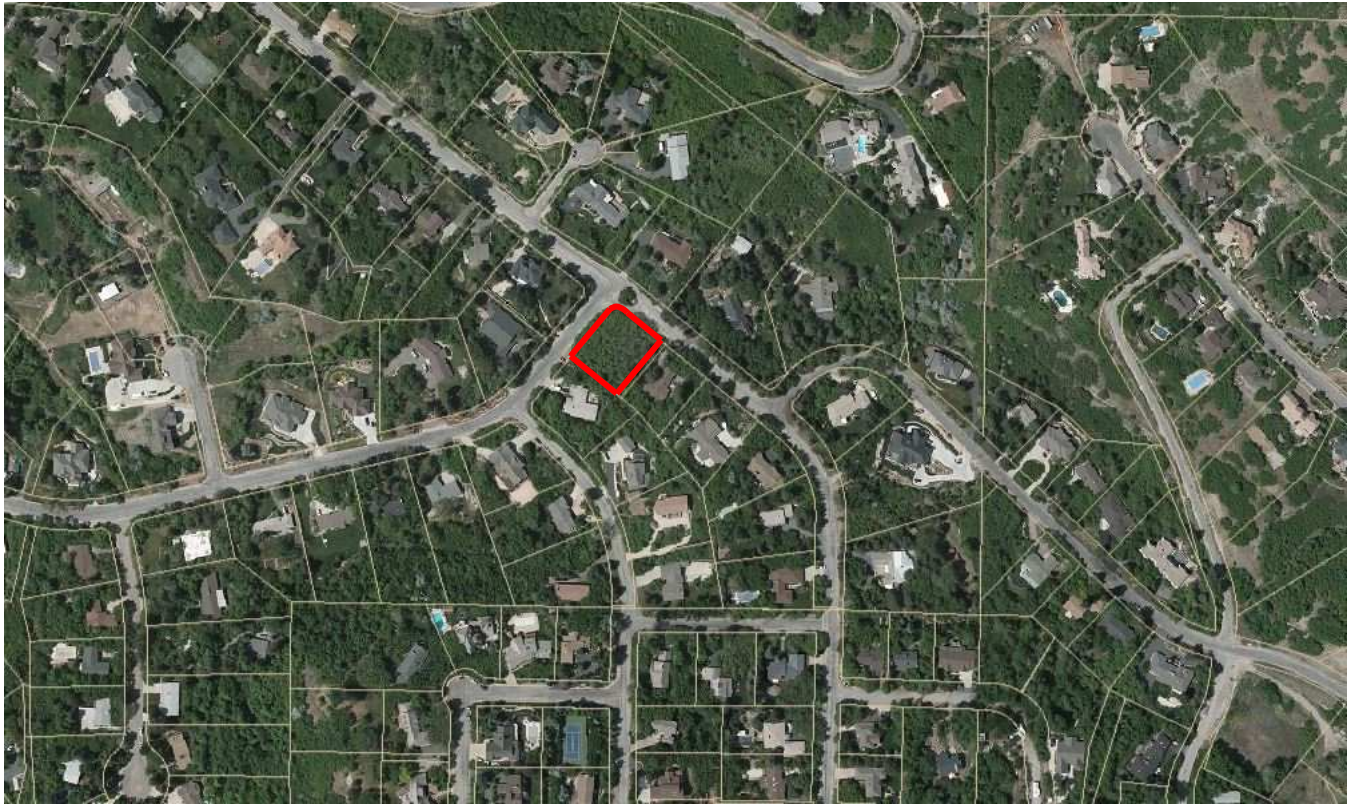
Staff Recommendation

Staff recommends *approval* of the variance for a reduction of lot area of 171 square feet on Lot 34 of Woodland Estates Subdivision Unit 2, in the RE-20 Zone, based on it's compliance with the applicable variance criteria discussed in this staff report.

Exhibits

- A. Applicant's Narrative
- B. Parcel plat with engineering's requested right-of-way

Location Map



APPLICANT NARRATIVE

The lot in question, on the corner of 5950 S Woodland Dr., is directly adjacent to the well known "ROCK IN THE MIDDLE OF THE ROAD". We are proposing a change to the radius of this corner, (see Woodland Estates Subdivision-Unit 2-2nd. Amendment), and dedicating 149 SqFt. to the county to make this cramped and unsafe roadway substantially safer for snow removal, vehicle passage and future curb, gutter & sidewalk for safer pedestrian travel (see exhibit A). We've consulted the County engineer with this proposal and he is supportive to this dedication of land as being a huge benefit to the public. This is certainly a unique situation, where else, in Weber Co., is there a giant boulder in the middle of the road substantially limiting safe and adequate usage. The dedication of land on the corner will not exceed 149 SqFt. but will make a substantial positive difference for the public.

We are asking for an overall variance that will not exceed 171 SqFt. This is to include the 149 SqFt. for the corner and an additional 22 sqft. , the small amount the lot is short of being a legal building lot.

VARIANCE REQUEST

Due to the special and UNIQUE circumstances of this "ROCK IN THE MIDDLE OF THE ROAD" and lot owner's willingness to dedicate 149 SqFt. to the county, which would allow more room for snow removal, vehicle passage, curb, gutter and sidewalk for safe pedestrian travel, the lot owner is requesting an overall variance to allow this reduced lot area as a legal building lot. This variance would be a huge benefit to the public and is supported by the County Engineer. By strictly adhering to the letter of the law would unquestionably cause an undue hardship to the lot owners who purchased the lot as a legal building lot and have been paying taxes as such ever since. The lot is easily large enough to accommodate most any house plans, certainly as well as any other 20,000 sq.ft. lot and well within parameters of current set backs.

Blue Spruce Investments Inc. are requesting a variance to the R-20 zoning their lot is in. They are asking the Board of Adjustments to allow their lot on the corner of 5950 S Woodland Dr to be considered a legal building lot. In doing so, they are offering to dedicate 149 sqft of their land to the county to create more space on the corner of 5950 S & Woodland Dr, (directly adjacent to THE ROCK IN THE MIDDLE OF THE ROAD)

The 5 criteria that needs to be met in order for the Board of Adjustments to grant a variance.

1. Literal enforcement of the ordinance would cause and unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance.
 - a. The unreasonable hardship associated with this particular lot is an inability to put a home on the lot due to the R-20 zoning. The circumstances peculiar to the property is the large rock in the middle of the road directly adjacent to the property. The applicant is offering to dedicate a portion of this lot, (not to exceed 149 SqFt.) directly adjacent to the rock, to the county, (see Woodland Estates Subdivision-Unit 2-2nd. Amendment). This extra surface area would give the county more, needed, room for snow removal, vehicle passage, future curb & gutter and sidewalk for safer pedestrian travel. The plan, supported by the Co. engineer, would substantially benefit the public and is unique to this particular property. It is the only lot that can offer these specific benefits to the neighborhood.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
 - a. This is obviously a unique situation. Where else in Weber Co. is there a massive boulder in the middle of the road that substantially restricts the passage of cars, bikes and pedestrians’.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
 - a. Absolutely, the right of home ownership. There is currently an offer in on the property and the buyers are very anxious to get started on building their home. They have plans that have been designed specifically for the property.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
 - a. This variance we have requested will in no way substantially affect the general plan, on the contrary, it will greatly enhance the flow of the motorized travel, snow removal, pedestrian travel and general health and safety of the neighborhood. The general plan intended the lot to have a home on it and the variance will allow this.
5. The spirit of the land use ordinance is observed and substantial justice done.
 - a. The spirit of the land use ordinance will certainly be observed, that of being a residential lot with a home on it and substantial justice will be done in the fact that the whole community using this road will be much better served by having the extra space for the good and safety of the neighborhood.

Exhibit "B"

Area County is requesting

