



# Board of Adjustment Review

The Board of Adjustment convenes as necessary to review applications for variances, deviations, interpretations, and appeals as outlined below.

A pre-application meeting is required prior to application submittal; please call (801) 399-8374 to make an appointment. Date of pre-application review meeting: \_\_\_\_\_ Time: \_\_\_\_\_

- **Staff member assigned to process application:** \_\_\_\_\_

APPLICATION DEADLINE:                      Thirty (30) days prior to the applicable Board of Adjustment meeting

The Board of Adjustment meets on the 2<sup>nd</sup> and 4<sup>th</sup> Thursdays of the month as needed.

## Application Submittal Checklist

The Planning Division will only accept complete applications with supporting documents as outlined below. Submitting an application does not guarantee that your application will be placed on the next Board of Adjustment agenda.

The following is required as part of the application form submittal:

- Complete Application Form
- A non-refundable fee made payable to Weber County (see *Fee Schedule* below)
- Obtain signature of the owner(s) on the application and any authorized representatives
- All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF files of the respective plans.
- A narrative explaining your request. If your request is for a variance please explain how the request meets the requirements for: (see *Review Criteria*).

## Fee Schedule

Property Zoning \_\_\_\_\_ Fee Required   \$500.00  

- Appeal \$ 500
- Variance \$ 600

## Duties and Powers of the Board of Adjustment

1. To act as the appeal authority from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps.
2. To hear and decide variances from the requirements of the Weber County Land Use Code.



# Weber County

## Procedure

The Board of Adjustment shall adopt rules and regulations, consistent with Utah state code and Weber County ordinances, for conducting its business and may amend such rules from time to time. Such rules may include policies and procedures for the conduct of its meetings, the processing of applications, the handling of conflict of interest and any other purpose considered necessary for the functioning of the board.

1. Application and Notice.
  - A. Any person or entity wishing to petition the Board of Adjustment for an appeal or interpretation of the Land Use Code or Zoning Maps, or for a variance from the requirements of the Land Use Code may commence such action by completing the proper application and submitting it to the Weber County Planning Division office. Applications must be submitted at least 30 days prior to the date of the meeting at which the application will be considered. The application must clearly explain the appeal, interpretation, or variance being requested, and must be accompanied by the required fee and applicable supporting information.
  - B. After a complete application has been submitted and accepted, the Planning Division shall prepare a staff report to the Board of Adjustment, schedule a meeting of the Board, and send notice to property owners within 500 feet of the parcel on which the request has been made. Notice may be sent to other interested persons or organizations upon written request.
2. Meeting.
  - A. The Board of Adjustment shall hold a public meeting to decide upon the appropriate action to be taken on an appeal, variance, or interpretation request. The concurring vote of at least three (3) of the five (5) Board members is required to decide in favor of the request.
3. Decision and Minutes.
  - A. After the Board of Adjustment has made a decision, a notice of decision shall be prepared by the Planning Division, signed by the Board of Adjustment Chair or the Chair's designee, and sent to the appellant in accordance with Chapter 31 Section 4 of the Weber County Land Use Code. This notice acts as the Board's written decision for an appeal, variance, or interpretation request. Decisions of the Board of Adjustment shall be final at the time a notice of decision is issued.
  - B. The minutes of all meetings of the Board of Adjustment shall be prepared and filed in the Weber County Planning Division office. The minutes shall be available for public review and access in accordance with the Government Records and Access Management Act.
4. Expiration.
  - A. If the Board has decided in favor of a variance request, the approval is valid for a period of 18 months. If an approved variance request has not been acted upon within this time frame, the approval shall expire and become void.
  - B. If the Board has made an interpretation to the Zoning Map or Land Use Code, the interpretation is valid until an amendment to the Zoning Map or Land Use Code is made which changes the conditions upon which the interpretation or decision was made.



## Weber County

5. Appeal of Decision.
  - A. Appeals from decisions of the Board of Adjustment are made directly to the District Court as designated in Utah state code.

### Decision Criteria and Standards

1. Appeals from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps
  - A. The Board of Adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Weber County Land Use Code and Zoning Maps.
  - B. The Board of Adjustment may hear only those decisions in which the land use authority has applied the Weber County Land Use Code or Zoning Maps to a particular application, person, or parcel.
  - C. The appellant has the burden of proof that the land use authority erred.
  - D. All appeals to the Board of Adjustment shall be filed with the Planning Division not more than 15 calendar days after the date of the written decision of the land use authority.
  - E. Appeals to the Board of Adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.
2. Variances from the requirements of the Weber County Land Use Code
  - A. Any person(s) or entity desiring a waiver or modification of the requirements of the Weber County Land Use Code as applied to a parcel of property that they own, lease, or in which they hold some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of the Land Use Code.
  - B. The Board of Adjustment may grant a variance only if the following 5 criteria are met:
    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 Land Use Code.
      - 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.
    2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.



## Weber County

- a. 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.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the land use ordinance is observed and substantial justice done.
- C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- D. Variances run with the land.
- E. The appeal authority may not grant a use variance.
- F. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
  1. Mitigate any harmful effects of the variance; or
  2. Serve the purpose of the standard or requirement that is waived or modified.

### For Your Information

Copies of the applicable Weber County Land Use Code, this application, and other helpful information are also available at this web site. [webercountyutah.gov/planning](http://webercountyutah.gov/planning)

# Weber County Board of Adjustment Application

**Application submittals will be accepted by appointment only. (801) 399-8374. 2380 Washington Blvd. Suite 240, Ogden, UT 84401**

Date Submitted / Completed 1/5/2024	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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## Property Owner Contact Information

Name of Property Owner(s) Kelli Booth & Chad Booth		Mailing Address of Property Owner(s) 2661 Washington Blvd. #201 Ogden, Utah 84401	
Phone	Fax		
Email Address cgbooth23@gmail.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) Zane S. Froerer		Mailing Address of Authorized Person 2661 Washington Blvd. #201 Ogden, Utah 84401	
Phone 801-621-2690	Fax		
Email Address zane.froerer@froererlaw.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    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 5204 E. 2500 N. Eden, Utah 84310	Land Serial Number(s)  224060002
Current Zoning FB-Overlay	

Existing Measurements		Required Measurements (Office Use)	
Lot Area	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

## Applicant Narrative

Please explain your request.

In Weber County, Utah, two crucial applications were considered at the 12/05/2023 County Commissioner Hearing: the amendment of the street regulating plan and the Eden Crossing Rezone. We strongly recommend the denial of both applications, as they contradict the County's General Plan and risk promoting the urban sprawl that the Plan aims to prevent.

The proposed amendment to the Street Regulating Plan significantly diverges from the General Plan by suggesting extensive changes to the county's infrastructure. This includes the creation of new roads and a private sewer system, which disrupts the existing plan's intent to maintain distinct areas within Eden. Such a fundamental change not only disregards the General Plan but also bypasses the statutory process mandated by Utah Code 17-27a-401, 403, and 404 for amending a general plan. This approach is illegal under CLUDMA, as it attempts to modify the General Plan without following the prescribed legal procedures.

Additionally, the Eden Crossing Rezone application appears to engage in spot zoning, granting specific privileges to a particular property that are inconsistent with the surrounding area's zoning and the General Plan. Both applications fail to adhere to recent statutory amendments to CLUDMA concerning water use and preservation. The county's current General Plan does not reflect these changes, rendering it out of compliance and unable to approve new infrastructure until these updates are integrated. This suggests that the applications meet the factors outlined in Utah Code 17-27a-801(3)(b)-(d) in that it is arbitrary, capricious, lacks substantial evidence, is based on an incorrect interpretation of a land use regulation, and is contrary to the law. Therefore, we urge the county to reject these applications to uphold the integrity of the General Plan and the law.

For a more detailed narrative, please see the attached Memorandum.

## 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.

**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:

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

**Variance Request (continued...)**

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

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

**Property Owner Affidavit**

I (We), \_\_\_\_\_, depose and say that I (we) am (are) the agent(s) of the applicants 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 (as provided by the applicants).

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

\_\_\_\_\_  
(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)