
Minutes of the Board of Adjustments meeting of April 16, 2020, held via Zoom Video Conferencing at 4:30 p.m.

Members Present: **Laura Warburton-Chair**
 Bryce Froerer-Vice Chair
 Phil Hancock
 Rex Mumford
 Nathan Buttars

Staff Present: Rick Grover, Planning Director; Steve Burton, Principle Planner; Courtlan Erikson, Legal Counsel; Marta Borchert, Secretary

- Pledge of Allegiance
- Roll Call

Approval of minutes for February 27, 2020. Chair Warburton moves to approve the minutes as presented. All members voted aye. Motion carries (5-0).

BOA 2020-02: Consideration and action on a request for a 25-foot variance to the 75-foot stream corridor setback at 4243 N Powder Mtn Rd, Eden Utah

Steve Burton states the request is to be able to build within 25 ft. into the stream setback. The applicant is requesting the variance so that he may build a home. The applicant is Robert Bracken has stated that the irrigation easement and the stream setback are the site-specific hardships that warrant the granting of a variance. Mr. Burton states that he has reviewed the request against the variance criteria. It is a year-round stream that requires a 75 ft setback from the high watermark. Mr. Burton shows the Board members the site plan that the applicant has provided indicating the applicant can place the home 50 ft away from the highwater mark. Mr. Burton goes over the criteria: *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 relating 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 is done.* Mr. Burton states that based on these criteria he has found that hardship does exist specifically the Wolf Creek Stream and irrigation easement shown on the subdivision plat. The other lots are not as affected by this. Staff does not feel that the hardship is self-imposed or economic. He notes that the irrigation easement is necessary to ensure proper irrigation to the surrounding area. The proposed dwelling is a normal-sized dwelling for the area. The proposed use is permitted within the same zone. The proposed unit will remain 50 ft outside of the stream which will provide a buffer. Staff feels based that this granting the variance would not go against the goals and recommendations in the General Plan. He notes that Weber County Engineering has not found any issues concerning the proposal. Staff recommends approval of the 25ft variance into the 75 ft corridor setback based on the findings listed in the staff report. The applicant has stated that the proposal meets the variance criteria.

Robert Bracken states that they tried hard to make it work with the 75-foot setback. He notes that the house designed around the property. He states part of the reason they designed their home that way was to preserve as many trees as possible. They chose the lot because of the trees and wildlife.

Chair Warburton asks if there are any questions.

There are none.

Public Comment:

Dear Planning Commissioners:

My family has lived adjacent to this lot since 1975. It is a major deer and wildlife migratory path with the creek. The amount of change in this zoning pushes the animal crossing to within a few feet of the creek and on a steep drop off. With this land owner's drive and structures going from the state highway all the way across to the creek, this will block the animals' safe pathway.

For this reason, I do not think it a good idea to allow the 15 foot exemption.

Thank you.

Sincerely,

Jeff & Deja Mitchell

I am an owner of property located within 500 feet of this address.

I do not believe you should issue a variance to allow a dwelling to be located 15 ft. into the stream corridor setback.

Some streams in this area are seasonal, others contain irrigation water for the farmers in the flats. We have seen seasons in which the stream goes out of its banks. We also had to replace a lot of carpeting when one of the streams got blocked.

Please do not grant this variance.

Rona Lee Maughan

MOTION: Bryce Froerer moves to approve BOA 2020-02: Consideration and action on a request for a 25-foot variance to the 75-foot stream corridor setback at 4243 N Powder Mtn Rd, Eden Utah based on the finding that 1. The applicant has demonstrated that the proposal meets the variance criteria outlined in LUC §102-3-4, and the Wolf Creek stream and the irrigation ditch are the hardships. Also based on all agency requirements. Phil Hancock Seconds. Motion carries (5-0)

Rules of Order: Approval of Rules of Order- This item was removed from the agenda because the rules of order were approved and review at the February 27, 2020 meeting.

Adjournment- 4:47pm

Respectfully Submitted,

Marta Borchert