



## BOARD OF ADJUSTMENT

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### MEETING AGENDA

**Thursday, October 24, 2024  
4:30 p.m.**

- *Pledge of Allegiance*
- *Roll Call*

#### Regular Agenda Items

**1. Minutes: August 8, 2024**

**BOA 2024-06:** Consideration and action on a request for a 7.11 foot variance to the front yard setback in the FR-1 zone, to facilitate the construction of an attached awning to an existing water treatment facility for Pineview Water, located at approximately 880 Ogden Canyon Rd, Ogden, UT, 84401

**Planner: Tammy Aydelotte**

#### Adjournment

*The Board of Adjustments meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1<sup>st</sup> Floor, 2380 Washington Blvd., Ogden, Utah*  
***In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8374***

August 8, 2024

Minutes of the Board of Adjustments meeting of August 8, 2024, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 pm.

Member Present            Bryce Froerer  
                                 Rex Mumford  
                                 Jannette Borklund  
                                 Marshall McGonegal  
                                 Neal Barker  
                                 Ben Peterson

Staff Present: Rick Grover, Planning Director; Felix LLeverino, Planner; Chris Crockett, Legal Counsel; Tiffany Snider, Secretary

- Pledge of Allegiance
- Roll Call

**1. Election of Chair and Vice Chair**

Neal Barker made of motion for Rex Mumford as for Chair this meeting. Janette Borklund seconds the motion. Motion carries (6-0)

**2. Minutes: April 25, 2022. Approved as presented**

**3. Training from Chris Crockett regarding legal requirements to approve a variance**

The BOA hears two subjects regarding variances. The first is the variance itself, the second is an appeal. A variance is an exception to the county code. There are 5 requirements to grant a variance and each one needs to be satisfied for the variance to be approved.

A. *Any person or entity desiring a waiver or modification of the requirements of the 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 five criteria are met:*

1.B.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.*

1.B.1.1 *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.*

1.B.1.2 *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.B.2 *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*

1.B.2.1 *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.*

August 8, 2024

- 1.B.3 Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- 1.B.4 The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- 1.B.5 The spirit of the land use ordinance is observed and substantial justice done.*

**If it is found that one of the stipulations does not apply the BOA is legally prohibited from granting the variance.**

**Questions:**

**Q: Explain the self-imposed aspect.**

**A: Self-imposed burdens do not relate to a physical characteristic of the land. Examples of characteristics of the land include slope or a water body running through the land. It is something that the land owner has added to the land themselves. Economic concerns are considered self-imposed.**

**Q: In evaluating variance requests, the board takes into consideration what similar properties have been granted in the past. How is this done if the properties are different that a fair comparison cannot be made?**

**A: It comes down to the physical characteristics of the property and the board would need to use that to justify the variance.**

**Q: During a variance hearing is it ok to refer to legal counsel?**

**A: Yes. Questions can also be directed, via the chair, to staff.**

**3. BOA 2024-04:** *Consideration and action on a request for an 8' variance to the front yard setback, a 14' variance to the west side, a 5' variance to the east side, and a 10' variance to the rear yard setback. Property is on Old Snowbasin Road. FV-3 Zone.*

**Planner: Felix Lleverino**

This request was previously approved 10/22/2020 for a previous owner and has expired (only valid for 18 months). The applicant is requesting variances to the front, sides, and rear minimum yard setbacks of the Forest Valley (FV-3) zone for the construction of a single-family dwelling. The applicant feels that a variance is necessary to build their desired home. The applicant cites the shape of the parcel, the square footage of the parcel, and ridgeline location as unique circumstances that should justify a variance to the setbacks. In this zone the minimum yard setbacks for a SFD are Front: 30', Rear: 30', Sides: 20'. New setbacks requested are Front: 22', Rear: 20', Side (west): 10', Side (East): 15'. The planner then walked through the criteria for issuing a variance.

**Questions:**

**Q: Was the lot created prior to the current zoning?**

**A: Yes, it is a grandfathered lot size.**

**Q: What is the actually size of the lot?**

**A: .57**

**Q: Please explain why the setbacks are what they are.**

**A: They help to shape the look of the neighborhood. People who move to rural areas expect to have more space. In some forest zones the lot sizes are larger for more privacy.**

August 8, 2024

**Chair invited Tyler McCue to address the board.**

**Tyler McCue of Magelby Construction 1291 West Center Street Lindon, Utah**

Working with client to determine setbacks for new home. When he purchased the land the setbacks were already approved for the previous owner. A developer built the Sundance subdivision next to the applicants' lot. All lots in that subdivision are 3+ acre lots. The smallest is 23,000 sq ft. The current setbacks allow for an 11,000 sq ft. home. The variances will allow for a 19,000 sq ft. home. The 19,000 fits within the adjacent subdivision.

Clarification was made that the original variance approved on the west side was 10'. The request now is 14'. The request is not the same as the original approval.

Tyler McCue is representing the owner in the meeting. The owner of the property was unable to attend.

**Questions:**

**Q: Will the building plans fit the lot better if the variance is granted? If the request is denied will the home still fit on the lot? The request is so the home is more in line with other homes in the area?**

**A: The project was already moving with the architect in place with the previously approved variances.**

**Q: Is there a precedent for re-approving an expired variance?**

**A: Not bound by any previous decision. This is a new application as the previous approval has expired.**

**Q: Do we have access to minutes from the previous approval?**

**A: Previous minutes could not be found. The initial motion was tabled.**

**Q: What is the unreasonable hardship incurred by the owner by building a smaller home?**

**A: Cannot enjoy their property the same as their neighbors. In addition, see below from the applicant:**

The applicant's narrative states that literal enforcement of the setbacks "pose limitations that hinder the owner's ability to develop and utilize the property to its full potential."

b. The applicant states that the lot size of .57 acres is a special circumstance that exists that does not generally apply to other properties in the same zone.

c. The applicant's narrative provides an argument that granting a variance is essential to the enjoyment of a substantial property right that is possessed by other properties in the same zone because this property is located on a ridge which limits the height of the home to 35 feet and that the rear of the property is at a slope.

d. The General Plan indicates that this area should be developed as planned and zoned. The applicant states that "adjusting these regulations will enhance the functionality and aesthetics of the property while remaining in compliance with local zoning ordinances and regulations."

e. The applicant's narrative explains that the impact on the neighboring properties is minimal, and in the best interest of the community

**Brian Hartman of Magelby Construction 1291 West Center Street Lindon, Utah**

- **With regard to the hardship, the owner purchased the property with the understanding that the variances were already approved. The lot is similar to a regular residential lot size, which would accommodate the larger home. The variances proposed would be similar to those of a regular residential lot size.**
- **Clarification from Rex Mumford that he was referring to an A-3 lot size, not a small residential lot.**
- **Q: Architecturally any hardships present due to the more restrictive setbacks.**  
**A: No, just the shape of the lot is the hardship.**
- **Q: When was the lot purchased?**  
**A: 2021??**
- **Rex Mumford restated the original variance request was not the same as the current request. This request is for an additional 3000 sq ft.**

August 8, 2024

**Chris Crockett:** Since this request is an administrative application, public comments are not required and at the discretion of the Chair.

**Rex Mumford – Calls for public comment**

**Denise Green 5580 Snowbasin Road (neighbor)** If you allow this to happen then it will happen over and over. Second concern is about water scarcity. Had 2 wells that dried out. Very concerned it will impact her and her livelihood.

**Janette:** Thinks it is a lot of house for that size of lot. House size can be reduced.

**Rex Mumford asks if any of the five criteria bother her.**

**Janette:** Can't think of which one she thinks is applicable.

**Rex Mumford concerned with a four sided variance.**

**Neal Barker wants property owners to be able to use their property. Who determines how much water each home is allowed to use. But water isn't part of what we are supposed to discuss. But, it matters.**

**Rex Mumford:** Weber Basin Exchange grants water based on lot size, not home size.

**Neal Barker state although it matters it is not up to the BOA to determine size or architecture of home. Lot is odd shape and affects how you can build a home.**

**Marshall McGonegal does not see that it fits the criteria for an approval.**

**Rex Mumford:** Are other homes in the area larger than 11000 sq ft? Is it on a hill? Are they restricted on height?

**Felix:** There is a mix of home sizes in the area. Not sure how many are larger than 11,000 sq ft. It is on a ridge line and they are restricted to 35'. The height of the structure cannot be averaged, as it can in other zones.

**Chris Crockett:** The financial burden of having to redesign the home cannot be taken into consideration for this variance request.

**Ben Peterson:** Is the home size restricted to 11,000 sq ft.

**Rex Mumford:** No, just the building footprint. They can have more than 1 story as long as it doesn't exceed 35' in height.

**Chris Crockett:** We have ordinance for zoning all over. We are not allowed to build what we want without adhering to those laws. These ordinances still allow property owners to build and enjoy their property. He has no opinion on the outcome of the proceeding.

**Rick Grover:** Appreciates the discussion and the time being put into the process.

**Chris Crockett:** Because there are 5 members here instead of three the vote does not have to be unanimous. Only majority vote required.

**Rex Mumford:** Feels there is a self-imposed hardship. Also, reiterates that this is not the same request as the previous request that was approved.

August 8, 2024

**Motion: Jannette Borklund** moves to BOA 2024-04: *Consideration and denial on a request for an 8' variance to the front yard setback, a 14' variance to the west side, a 5' variance to the east side, and a 10' variance to the rear yard setback. Property is on Old Snowbasin Road. FV-3 Zone*, based on the findings that it is a self-imposed hardship based on the size of the home.

**Marshall McGonegal** seconds the motion.

Rex Mumford calls for a roll call vote:

**Jannette Borklund: Aye**

**Neal Barker: Nay**

**Marshall McGonegal: Aye**

**Ben Peterson: Nay**

**Rex Mumford: Aye**

Motion carries (3-2)

Neal Barker: What if the applicant wanted to amend the application to support a different variance.

Rick Grover: The applicant would have to submit a new request with the alternative variances.

**Respectfully Submitted,**

Tiffany Snider



# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

<b>Application Request:</b>	Consideration and action on a request for a 7.11 foot variance to the front yard setback in the FR-1 zone, to facilitate the construction of an attached awning to an existing water treatment facility for Pineview Water, located at approximately 880 Ogden Canyon Rd, Ogden, UT, 84401
<b>Agenda Date:</b>	Thursday, October 24, 2024
<b>Applicant:</b>	Ogden City Corporation
<b>File Number:</b>	BOA 2024-06

### Property Information

<b>Approximate Address:</b>	880 Ogden Canyon Rd, Ogden, UT, 84401
<b>Project Area:</b>	2.00 acres
<b>Zoning:</b>	Forest Residential (FR-1)
<b>Existing Land Use:</b>	Public Utility Substation (Pineview Water Treatment Facility)
<b>Proposed Land Use:</b>	Public Utility Substation
<b>Parcel ID:</b>	20-017-0008
<b>Township, Range, Section:</b>	T6N, R1E, Section 16, SW 1/4

### Adjacent Land Use

<b>North:</b>	Vacant – Ogden City/Forest Service	<b>South:</b>	Ogden Canyon Rd
<b>East:</b>	Public Utility Substation	<b>West:</b>	Forest Service Road

### Staff Information

<b>Report Presenter:</b>	Tammy Aydelotte tayelotte@webercountyutah.gov 801-399-8794
<b>Report Reviewer:</b>	RG

## Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 17 (Forest Residential Zone FR-1)

## Background

The applicant is requesting a 7.11 foot variance to the minimum front yard setback required in the FR-1 Zone (30 feet) leaving a 20 foot setback from the front lot line. The applicant is also requesting a 10 foot variance to the rear yard setback (30 feet) leaving a 30 foot setback to the rear lot line. The applicant feels that a variance is necessary to install the minimum width canopy for the dewatering portion of the water treatment plant. The applicant's narrative and site plan are included as **Exhibit A**.

## Summary of Board of Adjustment Considerations

LUC §102-3 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. For a variance to be granted it must be shown that all of the following criteria have been met:

- 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.*
  - 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.*

- b. 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. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
- c. 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.*
- d. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- e. The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- f. The spirit of the land use ordinance is observed and substantial justice is done.*

## **Staff Analysis**

The list below are points taken from the applicant's narrative as compared to the above listed point of BOA consideration (see **Exhibit A** for the full narrative):

- a. The applicant's narrative indicates that granting a variance is needed in order to continue a use tied to a substantial property right that is possessed by other properties in the area.
- b. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will allow the construction of an awning that is necessary for their dewatering area.

## **Conformance to the General Plan**

Public utility substations are allowed as a permitted use in the FR-1 zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

## **Exhibits**

- A. Application
- B. Site plan and brief explanation of request



# Exhibit A – Application

## Ogden City Corporation -Board of Adjustment

- [+ Add Follower](#)
- [✍ Change Status](#)
- [✍ Change Review Due Date](#)
- [✍ Edit Project](#)

<b>Address:</b> 916 Ogden Canyon, Ogden, UT, 84401	<b>Project Status:</b> Accepted
<b>Maps:</b> <a href="#">County Map</a> , <a href="#">Google Maps</a>	<b>Status Date:</b> 10/4/2024
<b>Project Type:</b> Board of Adjustment	<b>File Number:</b>
<b>Sub Type:</b> Board of Adjustment	<b>Project Manager</b>
<b>Created By:</b> Ruston Monson	
<b>Created On:</b> 10/3/2024	

- [Application](#)
- [Documents 1](#)
- [Comments 1](#)
- [Reviews 0](#)
- [Followers 5](#)
- [History](#)
- [Reminder 0](#)
- [Payments 1](#)
- [Internal 0](#)

### Application

- [+ Add Building](#)
- [+ Add Parcel](#)
- [+ Add a Contractor](#)
- [✍ Edit Application](#)
- [Print](#)
- [Building Permit](#)

**Project Description** Ogden City Water Treatment Plant-Dewatering Building Canopy Project

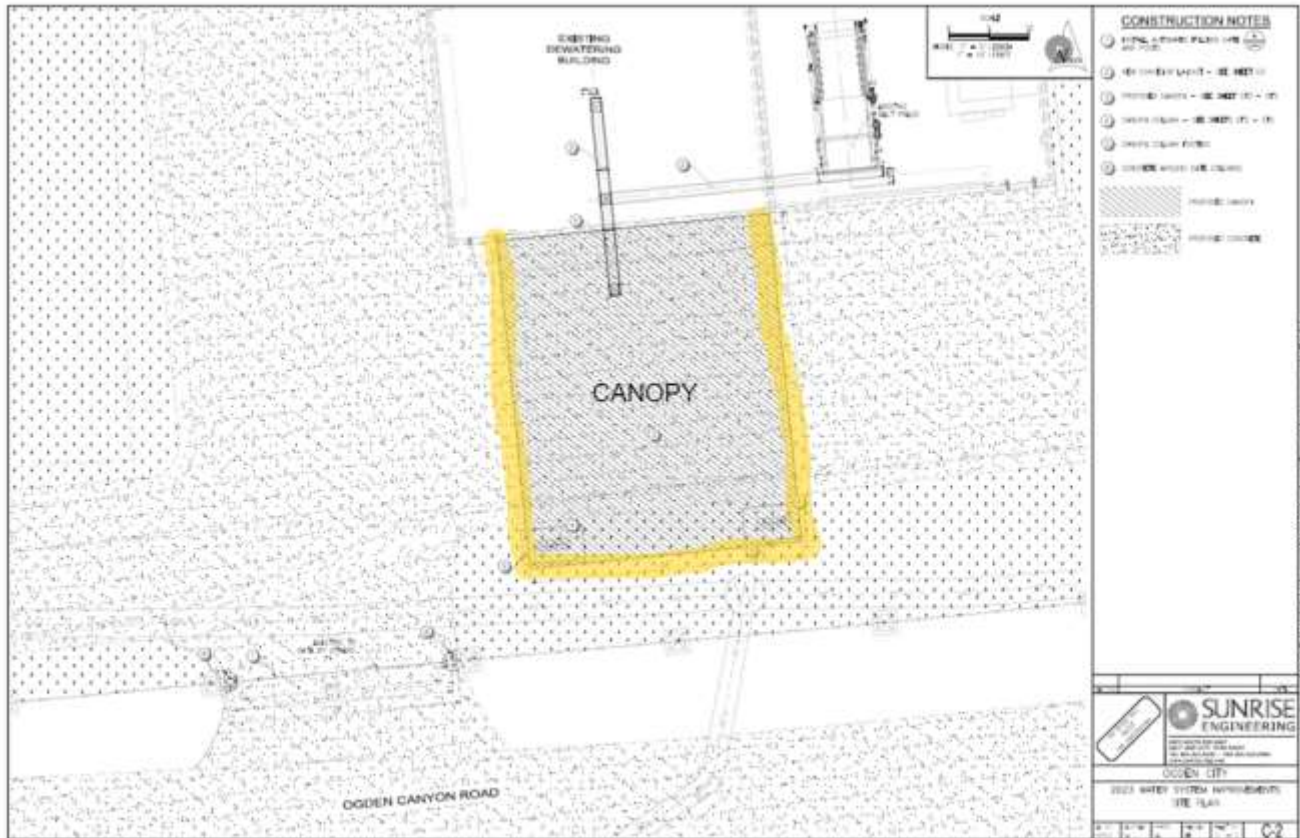
<b>Property Address</b>	916 Ogden Canyon Ogden, UT, 84401
<b>Property Owner</b>	Ogden City Corporation 801-629-8334 rustonm@ogdencity.com
<b>Representative</b>	Ruston Monson 801-629-8334 rustonm@ogdencity.com

<b>Accessory Dwelling Unit</b>	False
<b>Current Zoning</b>	
<b>Subdivision Name</b>	None
<b>Number of new lots being created</b>	0
<b>Lot Number</b>	N/A
<b>Lot Size</b>	N/A
<b>Frontage</b>	2 Acres
<b>Culinary Water Authority</b>	Not Applicable
<b>Secondary Water Provider</b>	Not Applicable
<b>Sanitary Sewer Authority</b>	Not Applicable
<b>Nearest Hydrant Address</b>	916 Ogden Canyon
<b>Signed By</b>	Representative, Ruston Monson

#### Parcel Number

[✖ Remove](#) 200170008 - [County Map](#)

## Exhibit B – Site Plan and Brief Explanation of Request



The Zone the water plant is in requires a 30' front setback. The UDOT R.O.W., to the canopy is 22.89', Ogden City is requesting a variance of 7' to meet the requirement.