

BOARD OF ADJUSTMENT

MEETING AGENDA Thursday, January 26, 2017 4:30 p.m.

**Pledge of Allegiance*

Regular Agenda Items

1. Minutes Approval of the August 25, 2016 and November 10, 2016 meeting minutes.
2. BOA 2016-08 Consideration and action on a request for a 12 foot variance to the front yard setback in the FR-3 Zone, located at 6803 E 6675 N in Eden. (Carson Young, Applicant)
3. Election: Election of Chair and Vice Chair for 2017
4. Adjournment

The regular meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah.

Please enter the building through the front door on Washington Blvd. if arriving to the meeting after 5:00 p.m.

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a 12 foot variance to the front yard setback in the FR-3 Zone.
Agenda Date: Thursday, January 26, 2017
Applicant: Jeff Burningham, Owner
Authorized Representative: Carson Young
File Number: BOA 2016-08

Property Information

Approximate Address: 6803 East 6675 North, Eden
Project Area: 0.28 acres
Zoning: Forest Residential Zone (FR-3)
Existing Land Use: Vacant
Proposed Land Use: Residential
Parcel ID: 22-119-0008
Township, Range, Section: T7N, R1E, Section 1

Adjacent Land Use

North:	Unimproved road	South:	Vacant Residential
East:	Residential	West:	Vacant Residential

Staff Information

Report Presenter: Steve Burton
sburton@co.weber.ut.us
801-399-8766
Report Reviewer: RK

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 17 (Forest Residential FR-3 Zone)

Background

The applicant is requesting a variance for a reduction to the front yard setback in the Forest Residential FR-3 Zone. The front yard setback for the FR-3 Zone is 25 feet. The applicant is proposing to build a home with the garage 12 feet to the front lot line; this would require an approval of a 13 foot variance to the standard. The application and an explanation of the request have been prepared by the applicant (Exhibit A). A site plan was not submitted with the application.

The subject property is Lot 50-R in the Powder Mountain West Subdivision Phase 3. This lot is in a remote area of the county surrounded by the Powder Mountain Ski Resort. Lot 50-R is at the eastern part of the subdivision where the road (Aspen Drive) straightens out before curving into Powder Mountain West Phase 2. Aspen Drive is an unimproved and unmaintained private road which for many months is snowbound, causing owners to have to ski or snowmobile to their properties from the resort's parking area. Lot 50-R was deemed a "Restricted Lot" during subdivision review due to its slope, and will be required to undergo a Hillside Review.

Lots in the FR-3 Zone are often small in area, having a minimum lot area of 6,000 square feet for a single home. Likely due to the slope and remote location, Lot 50-R has an area of 12,205 square feet. The FR-3 Zone also requires that lots have 40 % of its area left as open green space per The Uniform Land Use Code of Weber County, Utah (LUC) §104-17-5(g). This requirement can impact the potential building envelope on lots.

The property is unique given the slope of the lot. The applicant has stated on the application that the slope of the lot is more steep than others in the area. A topographic map that was provided with the original plat of Powder Mountain West Subdivision Phase 3 does show lot 50-R with a 30% slope, while other lots in the same phase have a 26% to a 28% slope.

The adjacent lot to the East, lot 51-R, received approval of a variance for a 10 foot front yard setback in February 2008. This variance was granted due to the slope of the lot, which on the previously mentioned topographic map had a slope of 28%.

Staff has found some concerns for placing the garage too close to the right of way, some of which are:

- Sight visibility for traffic on 6675 N.
- Sight visibility for traffic pulling out of the garage and onto 6675 N.
- The proximity to other homes nearby.
- The ability for off street parking in the driveway.

No information has been submitted by the applicant addressing these concerns.

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. 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.*

Staff's analysis and findings are discussed below:

- a. Literal enforcement of the Land Use Code would require an undesirable result. Because of the slope of the lot, literal enforcement of the 25 foot setback would create a safety concern for the driveway. This request is the best scenario to address the unique circumstances of this lot avoiding impacts to the slope.
- b. The special circumstances attached to this property are not self imposed or economic. The steep slope of the lot is the cause of the hardship.
- c. Other homes within this Zone and area are not impacted in the same way as Lot 50-R regarding slope. Therefore granting of the variance preserves the rights intended for this property. The additional area requested by the variance fall in line with the building envelopes of similar properties in the subdivision.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and development is not contrary to any public interest.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but provide justified compensation to the building envelope allowing for the single family dwelling to be built.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-3 Zone and granting this request will not increase the number of existing dwelling units in the area. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Staff Recommendation

Staff recommends approval of the variance for Lot 50-R in the Powder Mountain West Subdivision Phase 3 for a reduction of 13 feet to the front yard setback. This recommendation is based on compliance with the applicable variance criteria discussed in this staff report and conditioned upon meeting all other applicable review agency requirements.

Exhibits

- A. Application
- B. Public Comment

Location Map 1



Location Map 2



Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) <i>Jeff Burningham</i>		Mailing Address of Property Owner(s)	
Phone <i>801-358-4517</i>	Fax		
Email Address <i>W4185@hotmail.com</i>		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) <i>Casson Young Solitude Builders</i>		Mailing Address of Authorized Person <i>PO Box 829 Eden UT 84310</i>	
Phone <i>801-452-5020</i>	Fax		
Email Address <i>W4185@hotmail.com</i>		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 <i>6903 East 6675 North Eden UT 84310</i>	Land Serial Number(s)
Current Zoning	

Existing Measurements

Required Measurements (Office Use)

Lot Area <i>12,205</i>	Lot Frontage/Width <i>84.48</i>	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback <i>25</i>	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.

Please see Attached

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.

Attached

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:

Attached

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

Attached

Variance Request (continued...)

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

Attached

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

Attached

Property Owner Affidavit

I (We), Jeff & Sally Burroughs, depose and say that I (we) am (are) the owner(s) of the property 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.

(Property Owner)

(Property Owner)

Subscribed and sworn to me this

31 day of OCT
KATHY CROCKETT
NOTARY PUBLIC-STATE OF UTAH
COMMISSION# 688313
COMM. EXP. 04-01-2020

, 20 16

(Notary)

Authorized Representative Affidavit

I (We), Jeff & Sally Burroughs, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), Carson Young, 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 31 day of OCT, 20 16, personally appeared before me Jeff & Sally Burroughs, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

KATHY CROCKETT
NOTARY PUBLIC-STATE OF UTAH
COMMISSION# 688313
COMM. EXP. 04-01-2020

(Notary)

Narrative

We are requesting a 12' front front yard setback because of the steepness of the slope off the lot .

Granting a 12' front yard setback will enable us to build a HOA required garage and also give the required off street parking .

1- Caring out resort ordinance DRR1 . Front Set-back of 0'

2- This lot has a steeper slope then most lots in this zone . Which makes it very difficult to meet the requirements set for building in this zone . It also enables us to build a drive way that meets Weber County requirements of driveway slope .

3- Granting this variance is essential to this property to be able to build a safe and usable driveway because of the steepness of the lot . It is also essential for this variance to be granted in order to met the requirements of Weber County and the subdivisions requirements .

4-This variance will not effect the general plan of the zone because the rest of the zone is a zero front yard setback .

5- We are trying to maintain a front yard set back when the rest of the zone has a zero front yard setback .

POWDER MOUNTAIN WEST SUBDIVISION - PHASE 3

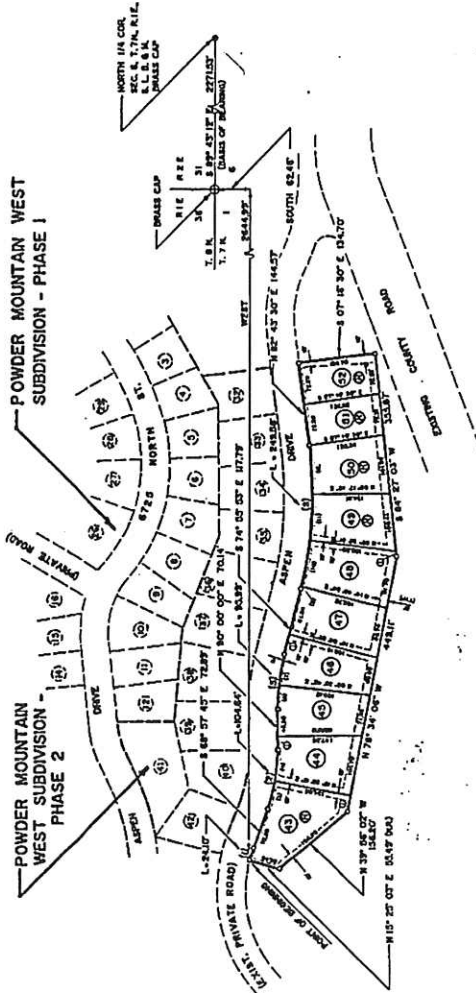
PART OF SECTION 1, T. 7 N., R. 1 E., S. L. B. 8 M.

WEBER COUNTY, UTAH

MAY 1995

CURVE DATA			
LOT	DELTA	ARC	CHORD
101	0° 27' 17"	21.00	21.00
102	0° 27' 17"	21.00	21.00
103	0° 27' 17"	21.00	21.00
104	0° 27' 17"	21.00	21.00
105	0° 27' 17"	21.00	21.00
106	0° 27' 17"	21.00	21.00
107	0° 27' 17"	21.00	21.00
108	0° 27' 17"	21.00	21.00
109	0° 27' 17"	21.00	21.00
110	0° 27' 17"	21.00	21.00
111	0° 27' 17"	21.00	21.00
112	0° 27' 17"	21.00	21.00

LOT INFORMATION			
LOT NO.	AREA (A.C.)	ACRES	OWNER
101	0.12	0.12	101
102	0.12	0.12	102
103	0.12	0.12	103
104	0.12	0.12	104
105	0.12	0.12	105
106	0.12	0.12	106
107	0.12	0.12	107
108	0.12	0.12	108
109	0.12	0.12	109
110	0.12	0.12	110
111	0.12	0.12	111
112	0.12	0.12	112



NOTES:
1. ALL LOT DIMENSIONS ARE INDICATED BY DIMENSION LINES.
2. ALL DIMENSIONS TO BE USED FOR PERMITS, EASEMENTS, AND PUBLIC UTILITIES.
3. ALL LOTS SHALL BECOME COUNTY PUBLIC TRUST PROPERTY.
4. ALL LOTS SHALL BECOME COUNTY PUBLIC TRUST PROPERTY.
5. ALL LOTS SHALL BECOME COUNTY PUBLIC TRUST PROPERTY.
6. ALL LOTS SHALL BECOME COUNTY PUBLIC TRUST PROPERTY.

WEBER COUNTY SURVEYOR

I HEREBY CERTIFY THAT I HAVE INVESTIGATED THE LINES OF SURVEY OF THE FOREGOING PLAT AND LEGAL DESCRIPTION OF THE LAND ENCLOSED THEREIN, AND FIND THEM TO BE CORRECT AND TO AGREE WITH THE LINES AND MONUMENTS ON RECORD IN THIS OFFICE.

SIGNED THIS 14th DAY OF MAY 1995

David L. Hays

WEBER COUNTY ENGINEER

I HEREBY CERTIFY THAT I APPROVE THE REQUIRED IMPROVEMENT STANDARDS AND DRAWINGS FOR THIS SUBDIVISION AND THE AMOUNT OF FINANCIAL GUARANTEE FOR THESE IMPROVEMENTS.

SIGNED THIS 14th DAY OF MAY 1995

David L. Hays

WEBER COUNTY ATTORNEY

I HAVE EXAMINED THE SUBDIVISION DOCUMENTS SUBMITTED WITH THIS PLAT AND FIND THEM TO BE IN CONFORMANCE WITH THE ORDINANCE REQUIREMENTS NOW IN FORCE AND EFFECT.

SIGNED THIS 14th DAY OF MAY 1995

David L. Hays

WEBER COUNTY PLANNING COMMISSION

THIS IS TO CERTIFY THAT THIS PLAT AND DESCRIPTION OF THIS PLAT WERE DULY APPROVED AND ADOPTED BY THE WEBER COUNTY PLANNING COMMISSION ON THE 14th DAY OF MAY 1995.

SIGNED THIS 14th DAY OF MAY 1995

David L. Hays

STATE OF UTAH
COUNTY OF WEBER

ACKNOWLEDGMENT

I, the undersigned, being a duly qualified and sworn Notary Public for the State of Utah, do hereby certify that the foregoing plat and legal description of the land enclosed therein, and find them to be correct and to agree with the lines and monuments on record in this office.

SIGNED THIS 14th DAY OF MAY 1995

David L. Hays

STATE OF UTAH
COUNTY OF WEBER

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SIGNED THIS 14th DAY OF MAY 1995

David L. Hays

Burton,Steven

From: Greg D'Alessandro [greggdalessandro@gmail.com]
Sent: Tuesday, January 10, 2017 1:21 PM
To: Burton,Steven
Subject: 6803 East 6675 North, Eden UT - VARIANCE APPLICATION for 13 feet front yard setback

Dear Mr. Burton

I am the owner of lot 34 in Powder Mt. West (which appears to be directly across the street from the subject lot seeking a variance for the 13 feet front yard setback). I just received the notice of hearing in the mail today. I live in NJ and am unable to attend the hearing on January 12, 2016.

My concerns are as follows:

1. Reducing the front yard setback will increase the effective height of any dwelling on the subject property relative to my property. If the variance is granted, the height of any proposed building should be reduced proportionally as well so as not to impact the view of the property across the street.
2. In the future (when there are 53 homes built in the subdivision) snowmobile access will no longer be viable. There is no offsite parking. Most current homes have at least two vehicles. The will result in excess of 106 vehicles which will need to be parked by each homeowner on their lot. Aspen Drive will need to be plowed. As the subject property is on the downward side of the street, there needs to be adequate room for snow to be pushed during plowing. Reducing the front setback may not leave adequate room for pushed snow during plowing. THIS MUST BE CLOSELY EXAMINED BY THE BOARD.
3. I, like all lot owners in Powder Mt. West, purchased my lot for its view and intend to build a home on my lot. Any granting of the variance must not detrimentally effect the views adjoining property owners. Anything that reduces the views beyond that otherwise allowed will negatively impact adjoining owners (particularly the lot across the street).

Please consider the foregoing when reviewing the above the application.

Greg D'Alessandro

Please note my new email: GreggDAlessandro@gmail.com

Burton,Steven

From: Mark Zanetti [zanetti.mark@gmail.com]
Sent: Tuesday, January 17, 2017 11:57 AM
To: Burton,Steven
Subject: Powder Mountain west subdivision lot 50 Burningham variance request

Steve,

For the record I am a homeowner in the Powder Mountain West subdivision lot #68 and oppose any set back variance for the following reason.

All the lots in the subdivision are on the side of the mountain and have a steep slopes some more than others. This makes some lots are more desirable to build on than others and lots are priced accordingly. Allowing variance of 13' instead of 24 allows the structure to be built considerably higher up the slop and increase the building envelope hight which blocks the views of the existing and future homes behind. There is good reason all lots in subdivision should follow the same building envelope, and not be allowed variance that will in effect increase building height.

Thank you for your consideration, please share my input with other members of the planning commission.

Mark Zanetti
6791 East Aspen Dr.
Eden , UT 84310
Cell: 808 282-1336