

Pleasant Grove



Utah's City of Trees

**PLEASANT GROVE CITY
APPEAL AUTHORITY MEETING MINUTES
CITY HALL CONFERENCE ROOM
70 SOUTH 100 EAST
PLEASANT GROVE, UTAH
TUESDAY, JANUARY 7, 2025**

PRESENT: Craig Call, Esq., Hearing Officer
Daniel Cardenas, Community Development Director
Jacob Hawkins, City Planner
Christina Gregory, Planning & Zoning Assistant
Jeremy Wangemann
Bruce Black
Brian Stevens
Sari Stevens

Hearing Officer, Craig Call, called the meeting to order at 2:00 p.m.

1. Public Meeting: Variance from City Code Section 10-9B-7-F-2: Setback Requirements for Accessory Buildings in Single-Family Residential Zones. (Big Spring Neighborhood)

Public Meeting to Consider a Request from Jeremy Wangemann for a Variance from City Code Section 10-9B-7-F-2: Setback Requirements for Accessory Buildings in Single-Family Residential Zones. The applicant is requesting to adjust the required setbacks for a carport from the interior side property line. The property is located at 1647 North 390 East in the R1-10 (Single-Family Residential) Zone.

Hearing Officer Call reported that he reviewed the packet prepared by Staff and he did not believe the facts were in dispute. The Staff Report was consistent with Mr. Wangemann's application in describing the property and proposed setbacks so the question was whether the application legally met the five required criteria for a variance and if it involved a substantial property right. The application included an explanation of how the property is unique and how other property owners in the neighborhood would have the ability to do things that the rules do not specifically allow the applicant to do, as well as information on existing easements.

Hearing Officer Call reported that State law requires proof that the variance is necessary to enjoy what the courts have declared to be a substantial property right. For example, if you cannot get access to the property to be able to use it. Another example is if the lot had a steep slope and City Code prohibited building on a slope, that would be a legitimate basis for a variance request because

1 a person is entitled to use their property as long as that use does not create a hazard to the health,
2 safety, or welfare of the community.

3
4 The applicant, Jeremy Wangemann, stated that the proposed accessory structure will meet three of
5 the four required setbacks for the property. The issue is the required four-foot setback from the
6 north property line. He was requesting a variance to allow for a two-foot setback on that side. His
7 position was that it would be wasteful to put the structure four feet from the property line because
8 leaves, trash, and weeds could accumulate in the area. Other properties in his neighborhood have
9 similar structures with similar setbacks, although City Staff has indicated that those structures may
10 not be legal. Mr. Wangemann provided a photograph of a structure that has been in his
11 neighborhood for over 14 years and is located on the property line and three feet from the home.
12 His opinion is that the structure has not been a hindrance to the community because Code
13 Enforcement has not been called. His proposed structure would be two feet closer to the fence line
14 than the current Code allows but would allow him to use more of his property. His neighbors
15 approve of the structure. Unlike some buildings in his neighborhood, it will be professionally
16 installed and blend in with his home.

17
18 City Planner, Jacob Hawkins, reported that the City permits accessory buildings to have graduated
19 setbacks based on the proposed height of the structure. In this case, there are approximately 18
20 feet between the home and property line, which would permit a 12-foot-tall, 9-foot-wide carport,
21 for example. The applicant requested a 12-foot-wide structure, which would require a variance.
22 Mr. Wangemann clarified that he verified the measurement, and there is 20 feet between the home
23 and the property line.

24
25 Planner Hawkins stated that because it would be possible for the applicant to meet the zoning
26 ordinance with a smaller structure, a variance would be required for the larger structure requested
27 by the applicant. Community Development Director, Daniel Cardenas, added that Staff does not
28 have the authority to override the rules explicitly outlined in City Code. Code would allow a
29 smaller structure to be built, so they were required to deny the application.

30
31 Hearing Officer Call reported that he had reviewed the photographs included in the packet, and he
32 believed he had a clear understanding of the issue. The home is 20 feet from the fence on the north
33 property line. The applicant wishes to place a structure in that area that will not be attached to the
34 home.

35
36 Mr. Wangemann asked if he would be allowed to move the structure closer than six feet from the
37 house. Director Cardenas clarified that City Code would require a 10-foot side yard setback for
38 an attached structure. Detached structures must be six feet from the house to meet fire department
39 requirements, and the setback from the property line is determined by the height of the building.
40 The gradual setback allowance was put in place in response to complaints from property owners
41 who did not want neighboring structures close to their property lines. City Code requirements run
42 with the land, not the property owner. He appreciated Mr. Wangemann's efforts to reach a
43 compromise, but Staff did not have the authority to change City Code.

44
45 Mr. Wangemann referred to the photograph of the neighboring nonconforming structure and noted
46 that it did not meet setback requirements. He stated that he has spoken with all his neighbors about

1 the proposed structure on his property and he did not believe it would be an infringement or
2 detriment to Pleasant Grove City, but he would respect the law. He was willing to adjust the
3 building's height if necessary. In response to a question from Director Cardenas, he stated that the
4 structure in the photograph is in the area of 1500 North. He then presented Google Earth images
5 of other structures in the area that he believed were also not in compliance with setback
6 requirements. Director Cardenas reported that the Code Enforcement Officer investigates issues
7 when complaints are filed. Mr. Wangemann stated that because there had been no complaints
8 about the structures, he believed that indicated the community's acceptance. Director Cardenas
9 clarified that those structures may not have been permitted by the City.

10
11 Mr. Wangemann presented views of the proposed accessory structure at varying heights and noted
12 that it would be a detached garage. Director Cardenas stated that the purpose of the meeting was
13 to discuss the height and setbacks but not the design, colors, or anything like that; that would be
14 addressed separately.

15
16 Hearing Officer Call stated that he could only grant an exception for substantial property rights,
17 and he was unaware of a case in which the desire to build an accessory structure was held to be a
18 substantial property right. Mr. Wangemann has full use of his property within the setbacks
19 normally provided for, and it was outside the Hearing Officer's authority to second-guess the City
20 Council's rules unless it involved something that approached a constitutional right. He believed
21 Mr. Wangemann made a compelling argument and that the City Council may want to consider
22 changing the law, but he was unable to grant the variance.

23
24 Mr. Wangemann asked for clarification on what height he would need for a three-foot setback.
25 Planner Hawkins stated that they would need to ensure a six-foot separation between the house
26 and the accessory structure. A 12-foot-tall structure would allow for a three-foot setback from the
27 property line, and each additional foot in height would require an additional foot of setback. Mr.
28 Wangemann stated that he could adjust the building height to meet the requirements for the three-
29 foot setback. Director Cardenas encouraged him to meet with Community Development
30 Department staff prior to submitting the Building Permit application. Requirements for colors and
31 materials were also discussed.

32
33 **2. Public Meeting: Variance from City Code Section 11-3-4-B-1: Maximum Length of**
34 **Cul-De-Sacs.**
35 **(North Field Neighborhood)**

36 Public Meeting to Consider a Request from Bruce Black for a Variance from City Code
37 Section 11-3-4-B-1: Maximum Length of Cul-De-Sacs. The Applicant is requesting to
38 adjust the existing vicinity plan for the area, which outlines how access and service can be
39 provided for any potential development. To amend the vicinity plan, the applicant proposes
40 for future development along 1930 North to end in a cul-de-sac, which would not conform
41 to the maximum length requirements of cul-de-sacs. The property is located at 1592 West
42 1800 North in the RR (Rural Residential) Zone.

43
44 Hearing Officer Call disclosed that the applicant's attorney, Brent Bateman, is a personal friend
45 and served as the Property Rights Ombudsman after Hearing Officer Call's term. Mr. Bateman
46 also serves on the board of directors of the Utah Land Use Institute. Hearing Officer Call is the

1 Executive Director of the Institute and receives compensation from them. He did not believe that
2 Mr. Bateman's participation changed his views, but he asked if there was an objection to him
3 hearing the matter because of that relationship. Director Cardenas stated that the City did not
4 object at that time. He will consult with the City Attorney and notify the Hearing Officer Call of
5 any concerns.

6
7 The applicant, Bruce Black, reported that he intends to subdivide the parcel into two lots, one for
8 his future home and one for the existing home. The current Vicinity Plan would require him to
9 create a connection from 1930 North to 1800 North, which neither he nor the owners of the two
10 parcels between his property and 1930 North desire.

11
12 Director Cardenas reported that the City's Vicinity Plan for undeveloped properties was adopted
13 to provide for pedestrian and vehicular access, to ensure that no parcels are landlocked, and to
14 allow the Public Works Department to connect utilities and public services through those roads.
15 The current Vicinity Plan includes a public right-of-way running north to south that was intended
16 to connect when Mr. Black's property was developed. At the time the Hall Haven Plat "A"
17 subdivision was approved in 2018, the developer was required to complete 1930 North to the end
18 of the property line of the subdivision.

19
20 Mr. Black intends to develop his property by adding one single-family dwelling at the rear of the
21 parcel. As it will be subdivided into two parcels and not a multi-parcel subdivision, Staff believed
22 it would be considered an excessive exaction to require him to extend 1930 North to connect to
23 1800 North since it does not pass the rough proportionality test. However, there are two additional
24 parcels between Mr. Black's property and the current end of 1930 North, so future access to those
25 properties must be considered. The solution would be to amend the Vicinity Plan to require a cul-
26 de-sac to access those lots if the adjacent property owners decided to subdivide.

27
28 The request was for a variance to Pleasant Grove City Code §11-3-4-B, which specifies the
29 maximum length of a cul-de-sac of 650 feet. The Engineering, Public Works, and Fire
30 Departments all approved of the plan and indicated that all required services could be provided via
31 the cul-de-sac. Staff was in favor of granting the variance.

32
33 *Brian Stevens* stated that he owns the property to the east of the subject parcel and has no intention
34 of subdividing his parcel. He is in support of the variance.

35
36 Director Cardenas clarified that the amendment to the Vicinity Plan would be a legislative
37 decision. The Planning Commission recommended approval of the Vicinity Plan Amendment
38 under the condition that the variance be granted for the termination of the road prior to coming
39 before the City Council for final approval.

40
41 Hearing Officer Call stated that a variance usually applies to the applicant's property, but in this
42 case, the variance would apply to properties not owned by the applicant. In response to his
43 question, Director Cardenas confirmed that Mr. Black applied for the variance at the City's request.

44
45 Hearing Officer Call stated that both the applicant and the City had identified an unconstitutional
46 exaction, which rises to the level of a constitutional property right. The City would be granted a

1 variance to extend the length of 1930 North past the 650 limit currently specified in the City Code,
2 and Mr. Black would be granted a variance from the requirement that his development comply
3 with the current Vicinity Plan. It is in the City's interest that a cul-de-sac be created. In response
4 to his question, it was clarified that there is currently a temporary turnaround at the end of 1930
5 North that was created when the Hall Haven Plat "A" subdivision was developed for emergency
6 and City vehicles. Hearing Officer Call will prepare a written decision to allow for this agreement
7 to move forward.

8
9 The Appeals Hearing adjourned at 2:46 p.m.

10
11
12 [SEE DECISIONS]

13
14 Hearing Officer

15 
16

17 Christina Gregory, Planning & Zoning Assistant

18
19 1/13/2025

20 Date Approved







