



HURRICANE CITY UTAH

Mayor

City Manager

Nanette Billings Kaden DeMille

Airport Board

*Robert Peterson
Beth Lock
Rick Wixom
Karen Daniels, Alternate*

Hurricane City Appeals Board Meeting Agenda

October 27, 2025

3:00 PM

City Council Chambers 147 N 870 W, Hurricane

Notice is hereby given that the Hurricane City Appeals Board will hold a Meeting in the City Hall Council Chambers located at 147 N 870 W, Hurricane, UT.

New Business

1. Consideration and possible approval of a variance request to remove the 10' distance between buildings requirement to allow for covered parking for the property located at approx.. 2800 W and Canyon Villas Way – Canyon Villas Subdivision, parcel number H-CNV-1. Canyon Del Sol LLC – applicant.

Approval of Minutes

1. August 6, 2019
2. September 3, 2019
3. October 29, 2020
4. April 13, 2021
5. June 4, 2021
6. January 7, 2022
7. August 16, 2022
8. October 3, 2022
9. July 7, 2023
10. January 17, 2024

Adjourn



STAFF COMMENTS

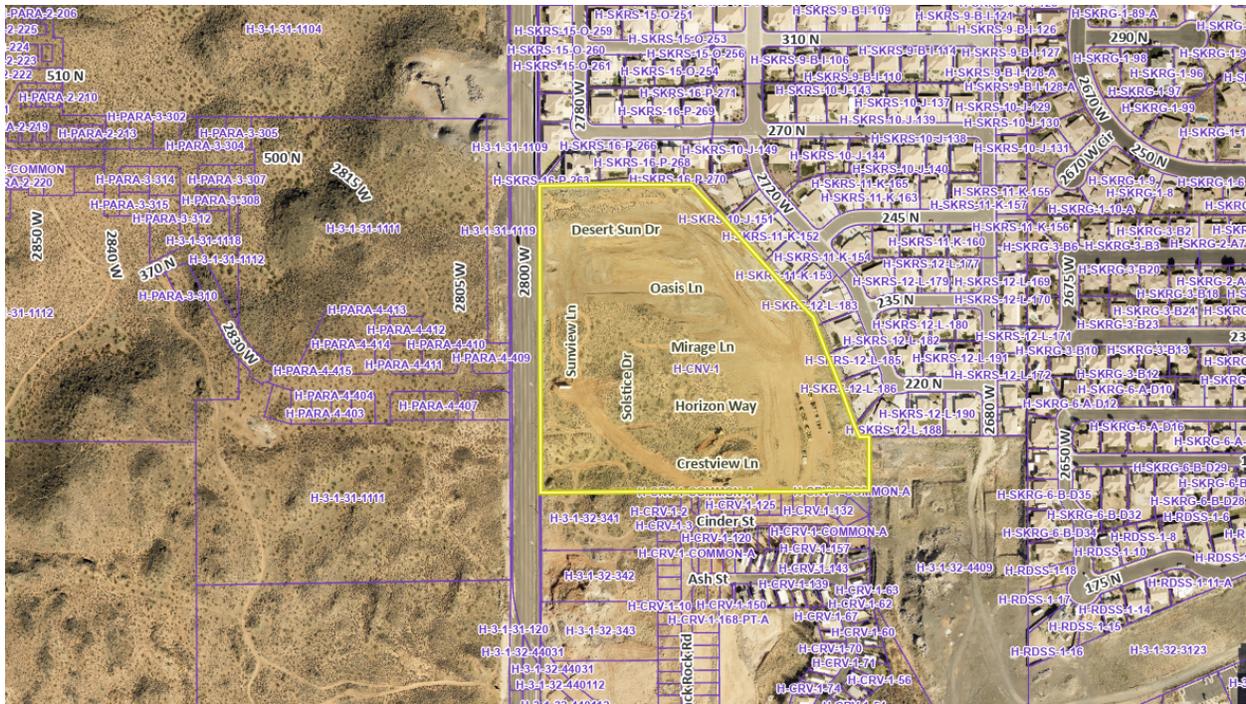
| | |
|-----------------------------|-----------------------------------------------------------------------------------|
| Agenda Date: | 10/27/2025 |
| Type of Application: | Variance |
| Action Type: | Quasi-Judicial |
| Applicant: | Canyon del Sol LLC |
| Request: | Approve a Variance to decrease the separation between structures in a development |
| Location: | 310 N Sunview Lane |
| Zoning: | MH/RV(PDO) |
| Report Prepared by: | Fred Resch III |

Discussion

The applicant is requesting a variance to allow the construction of carports that do not meet the required separation between structures within the Canyon Villas development. Canyon Villas is a park model development, which is not subdivided and consists of manufactured homes. The property is zoned Manufactured Home/Recreational Vehicle (MH/RV) with a Planned Development Overlay (PDO).

In 2023, the applicant requested and received approval for a variation from the typical development standards for a park model development, permitting the construction of park model units up to 1,200 square feet. Due to the size and configuration of these units, there is insufficient space to add carports while meeting the standard established in HCC 10-23-9, which requires a minimum distance of ten (10) feet between buildings.

This request would be for the entire development. The applicant has requested that Appeals Board members visit the site before the meeting.



Applicable City Ordinances

- Hurricane City Code (HCC) 10-23-9 states the distance between buildings shall be at least 10 feet.
- HCC 10-3-4 defines *Building* as “a permanently located structure having a roof supported by columns or walls for the shelter, housing, or enclosure of any person, animal, article, or chattel.” A carport would be considered part of the building as it has a roof and is used to store vehicles.

Variance Standard

Hurricane City Code has the following Standards for considering a Variance. These standards are adapted directly from state code which also governs variances:

Sec. 10-7-12. - Variance.

E. Approval standards. The following standards shall apply to a variance:

1. *The Appeals Board may grant a variance only if:*
 - a. *Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;*
 - b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;*
 - c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;*
 - d. *The variance will not substantially affect the general plan and will not be contrary to the public interest; and*
 - e. *The spirit of this title is observed and substantial justice done.*
2. *The Appeals Board may find an unreasonable hardship exists only if 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. The Appeals Board may not find an unreasonable hardship exists if the hardship is self-imposed or economic.

3. The Appeals Board may find that special circumstances are attached to the property and 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 zoning district.

4. An applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

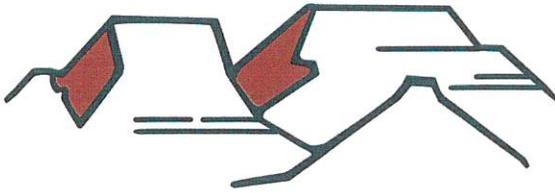
5. A use variance may not be granted.

6. In granting a variance, Appeals Board may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified.

7. A variance more restrictive than that requested by an applicant may be authorized when the record supports the applicant's right to some relief but not to the extent requested.

8. A variance shall not be granted to a lot in a proposed subdivision that would reduce the lot area below the minimum lot area required in the zone in which the subdivision is located.

Another resource the Appeal Board may consider is the [“Variances”](#) section on the Utah Property Rights Ombudsman’s website. This resource outlines the general standards for reviewing the conditions referenced above.



HURRICANE CITY UTAH

147 N 870 W Hurricane UT
PHONE: 435.635.2811 FAX: 435.635.2184

APPEALS BOARD APPLICATION FOR A VARIANCE

For Office Use Only: \$250.00 Fee

File No. AB25-01

Receipt No. 8.0006192832

Date Submitted: 10/7/25

Applicant Name: Canyon Del Sol, LLC

Applicant Address: 1791 E NuTeam Cir, Washington, UT 84780

Applicant Phone Number: James Jessop 435-705-0831 or Bret Howcroft 801-556-8386

Applicant email: James@mysunwoodhomes.com or Bret@mysunwoodhomes.com

Address or description of Property Subject to this Application:

Canyon Villas Subdivision; 310 N Sunview Lane, Hurricane, UT 84737

Names of owners of all property affected by this application: (attach additional sheet if necessary)

Canyon Del Sol, LLC (current owner). Each home is to be sold individually, so the impact of this variance will apply to all future homeowners in the 180-unit community.

Application must be accompanied with a map which shows property location and a site plan showing the nature of the requested variance. (Show buildings, specific distances, structures, driveways, etc. and all items relating to the request.) City staff can generally supply the property location map if the applicant does not have access to the County website or does not have a preferred location map.

1) Location Map Received

2) Site Plan Received

Application must also be accompanied with the names and addresses of any property owners whose properties about the property for which the variance is requested.

3) Names & Addresses Attached.

Canyon Del Sol, LLC (current owner). Each home is to be sold individually, so the impact of this variance will apply to all future homeowners in the 180-unit community.

From what specific ordinance are you seeking relief?

This variance request seeks relief from Hurricane City Land Use Code, Title 10, Section 10-23-9(A) — Development Standards for Planned Developments — specifically the "Distance between buildings" standard in the Table of Development Standards for Residential Uses, which requires a minimum separation of 10 feet between buildings within a planned development

The following are questions that the Board of Adjustment must ask as part of the process of considering a variance. Please respond briefly in writing to each and be prepared to discuss in greater length as part of the hearing. The Board must find the application meets all five criteria, set by State law, to grant a variance.

1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.

Literal enforcement of the 10-foot minimum distance between buildings set forth in Hurricane City Code § 10-23-9(A) would prohibit the installation of covered parking awnings within Canyon Villas. The community's lots are approximately 35 feet wide, and each manufactured home is 20 feet wide or less, leaving limited remaining space for functional covered parking.

Requiring a full 10-foot separation between every structure would make it physically impossible to provide covered parking on most homes, which would significantly reduce livability and diminish property value. Covered parking is a common feature in residential communities throughout southern Utah, offering necessary protection from sun and weather and improving neighborhood appearance and resident comfort.

The requested variance does not undermine the purpose of the spacing standard. That standard is intended primarily to ensure safety, access, and visual order between habitable buildings. The proposed 13-foot-wide, open-sided, non-combustible metal awnings do not create enclosed space, do not increase fire load, and have received verbal indications of no objection from Fire Marshal John Postert (Hurricane Valley Fire District) and Building Official Larry Palmer (Hurricane City Building Department). Maintaining a small open clearance—approximately two feet—between a home and the neighboring awning preserves adequate access for inspection and maintenance while meeting the life-safety intent of the spacing rule.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district

Canyon Villas is a manufactured home community with uniform 35-foot-wide lots and homes 20 feet or less in width, which inherently limits space for accessory structures. Because of these constraints, enforcing the full 10-foot separation standard for awnings (as if they were full-scale structures) unduly penalizes the residents of this community relative to other residential properties.

Beyond these dimensional limitations, there is a prevailing condition within similar manufactured home communities in the area: many individual homeowners independently install awnings or carports without formal permits or design oversight. These unregulated installations often:

- Use combustible materials or inadequate fire-resistant materials,
- Lack engineered design for wind, structural load, or fire safety.

This creates a situation where unregulated, inconsistent construction proliferates without ensuring compliance with fire safety standards. By contrast, the proposed variance for Canyon Villas seeks to standardize and regulate the installation of non-combustible, engineered, open-sided metal awnings under City review.

Granting this variance allows the City to ensure safe, uniform, and code-compliant construction while avoiding the ongoing challenges of unpermitted and potentially unsafe additions that arise elsewhere.

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

Granting this variance allows residents of Canyon Villas to enjoy a reasonable and customary residential amenity—covered parking—that is widely available to property owners throughout the city. In traditional single-family neighborhoods and other manufactured home communities, homeowners frequently construct carports or awnings to provide shade and weather protection for vehicles and entries.

Without this variance, the dimensional constraints of the Canyon Villas lots would effectively deny residents the ability to install such features, even though they are a standard expectation of residential living in southern Utah's climate. This would result in a disparate restriction on homeowners in this community compared to those in similar zoning districts.

By contrast, approval of this variance provides for consistent treatment under the Land Use Code. It allows residents to utilize their property in a manner that is both functionally equivalent to other neighborhoods and fully compliant with safety intent, as the proposed awnings are non-combustible, open-sided, and engineered to meet building code standards.

In summary, the variance ensures that Canyon Villas homeowners can exercise the same reasonable property rights and quality-of-life improvements available to other residents across the city, without compromising public safety or the purpose of the code.

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

The requested variance is consistent with the General Plan's vision for well-designed, compatible, and stable residential neighborhoods. The City's long-range plan emphasizes design quality, preserving existing neighborhoods, and balancing growth with neighborhood character.

By adopting standardized, permitted, safe awnings, the community enhances visual harmony and property quality in a way that aligns with that vision. Because the awnings are non-combustible, open-sided, and engineered to modern code, they support public safety and welfare, consistent with the City's stated goal to "protect the health, safety, and welfare of its citizens."

The variance does not increase density, traffic, utility demand, or introduce incompatible uses. Instead, it helps maintain the integrity, aesthetics, and function of the neighborhood. The public interest is served by replacing ad hoc, unpermitted homes with code-reviewed, quality construction compliant with the City's building code standards (2021 IBC/IRC).

In summary, approval of this variance advances the General Plan's goals while ensuring orderly development, safety, and design compatibility.

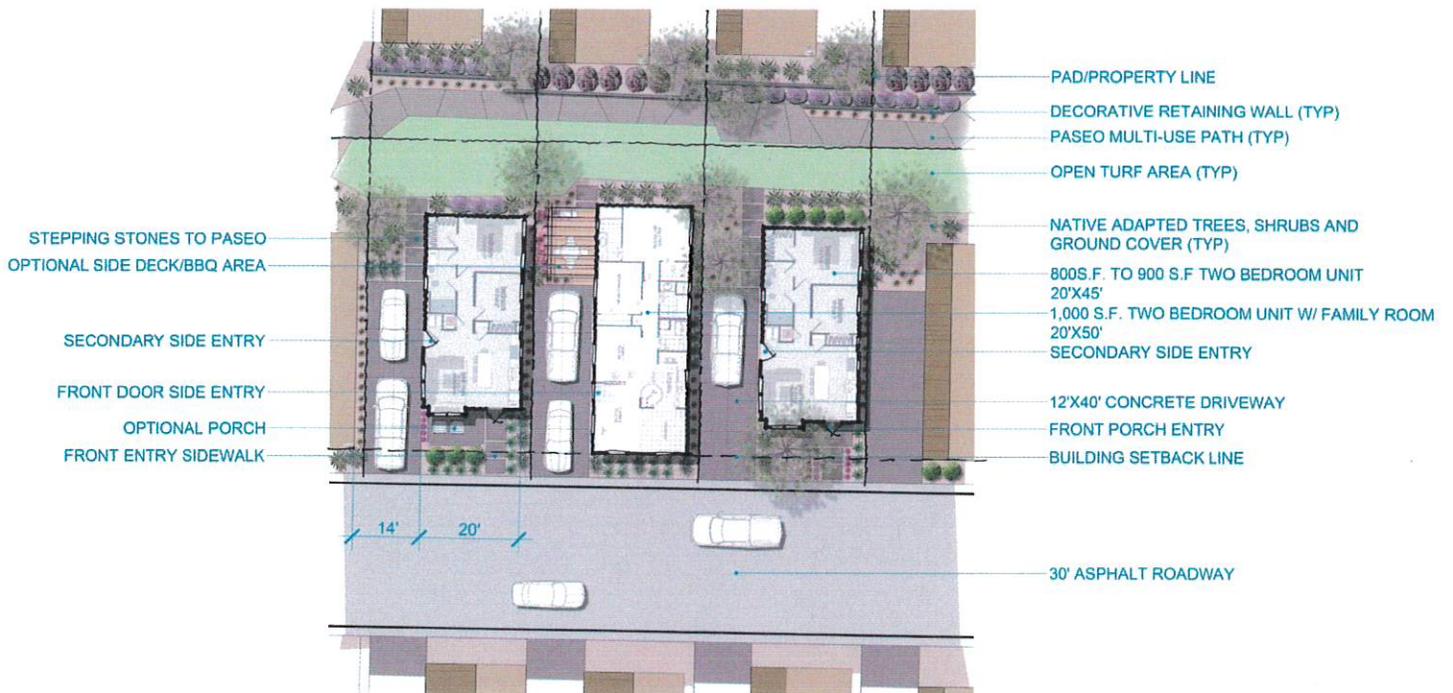
5. The spirit of this title is observed and substantial justice done *The spirit of the Land Use Code is to*

"...promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the city and its present and future inhabitants..."

The spirit and intent of Hurricane City's Land Use Code are to protect public health and safety, ensure orderly development, and promote comfort and aesthetic quality within the community. The requested variance fully upholds these purposes.

The proposed open-sided, non-combustible metal awnings will be engineered, permitted, and inspected under the City's building standards. This approach ensures consistent, code-compliant construction across the community—reducing the proliferation of unpermitted, inconsistent, or combustible additions seen in other manufactured home communities.

Granting the variance achieves substantial justice by balancing safety with reasonable property use. It allows residents of Canyon Villas to enjoy practical improvements and weather protection without compromising emergency access, fire safety, or neighborhood character.



PAD/PROPERTY LINE

DECORATIVE RETAINING WALL (TYP)

PASEO MULTI-USE PATH (TYP)

OPEN TURF AREA (TYP)

NATIVE ADAPTED TREES, SHRUBS AND GROUND COVER (TYP)

800 S.F. TO 900 S.F. TWO BEDROOM UNIT
20'x45'

1,000 S.F. TWO BEDROOM UNIT W/ FAMILY ROOM
20'x50'

SECONDARY SIDE ENTRY

12'x40' CONCRETE DRIVEWAY

FRONT PORCH ENTRY

BUILDING SETBACK LINE

30' ASPHALT ROADWAY

STEPPING STONES TO PASEO

OPTIONAL SIDE DECK/BBQ AREA

SECONDARY SIDE ENTRY

FRONT DOOR SIDE ENTRY

OPTIONAL PORCH

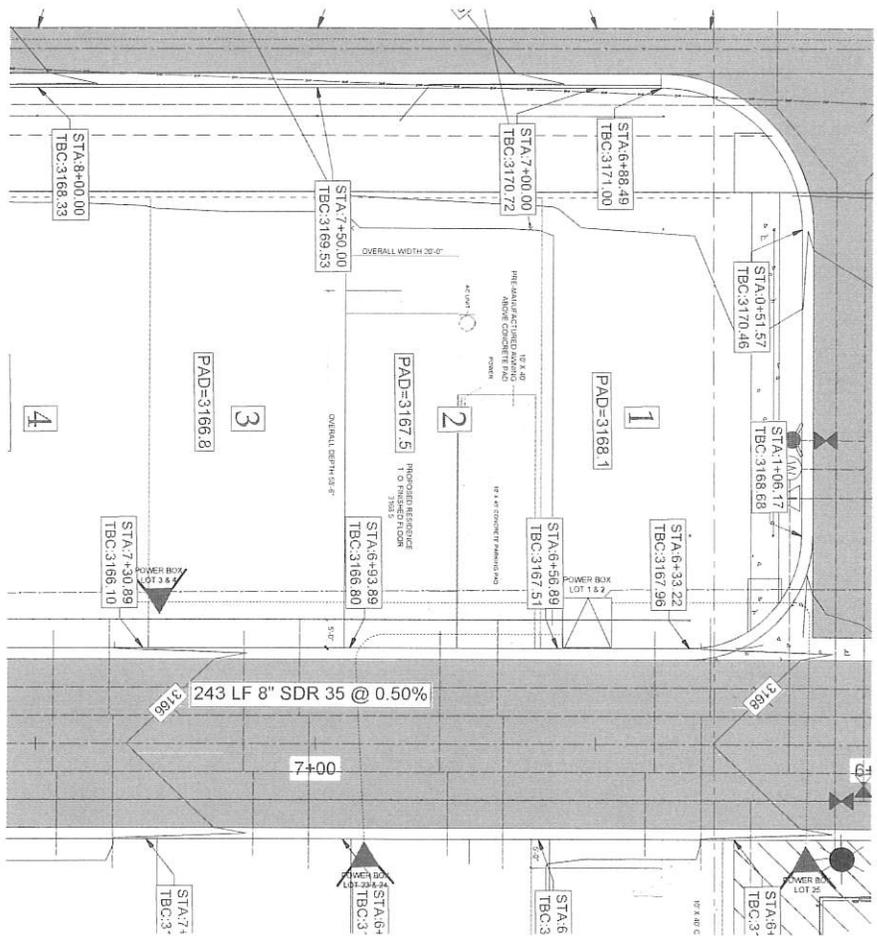
FRONT ENTRY SIDEWALK

14'

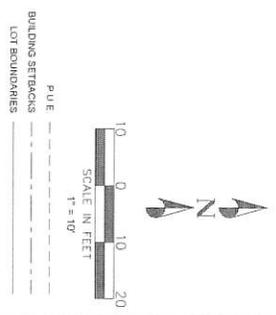
20'



Rendering Only NOT A PICTURE



SITE PLAN



BUILDING SETBACKS
 LOT BOUNDARIES

P.U.E.

SCALE IN FEET
1" = 10'

| | | | | | | | |
|------------------------|------------------------------------------|---------------------|--|---------------------------------------------------|--|-----------------------|------------------|
| SHEET # A0.1 | J. LONNIE FOX DRAFTING AND DESIGN | SITE PLAN 02 | | SUNWOOD HOMES_CANYON VILLAS 02 Hurricane, Utah | | DRAWING NO. 25-051 | DATE 7/7/2025 |
| | | PROJECT NO. 2025 | | SCALE 1/8" = 1'-0" | | | |

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- KEYED NOTES**
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SECTION A

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SECTION A-2

SECTION A-3

SECTION A-4

SECTION A-5

SECTION A-6

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SECTION A-100



STOP

SITE & SIGNAGE PLAN

CANYON VILLAS

LOCATED IN HURRICANE, UTAH

DATE: 11/11/2020

PROJECT: CANYON VILLAS

SCALE: 1" = 50'

SCALE: 1" = 100'

SCALE: 1" = 200'

SCALE: 1" = 400'

SCALE: 1" = 800'

SCALE: 1" = 1600'

SCALE: 1" = 3200'

SCALE: 1" = 6400'

SCALE: 1" = 12800'

SCALE: 1" = 25600'

SCALE: 1" = 51200'

SCALE: 1" = 102400'

SCALE: 1" = 204800'

SCALE: 1" = 409600'

SCALE: 1" = 819200'

SCALE: 1" = 1638400'

SCALE: 1" = 3276800'

SCALE: 1" = 6553600'

SCALE: 1" = 13107200'

SCALE: 1" = 26214400'

SCALE: 1" = 52428800'

SCALE: 1" = 104857600'

SCALE: 1" = 209715200'

SCALE: 1" = 419430400'

SCALE: 1" = 838860800'

SCALE: 1" = 1677721600'

SCALE: 1" = 3355443200'

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SCALE: 1" = 53687091200'

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**Minutes of a meeting of the Hurricane City APPEAL BOARD held at 8:30 a.m.
Tuesday, August 6, 2019 at 147 N. 870 West, Hurricane, Utah.**

Members present: Robert (Bob) Peterson, Beth Lock, and Rick Wixom

Also present were applicants Tanner Jones and Stephen Jones their attorney Ben Ruesch, Samantha Hinton, real estate agent for the property, and City Attorney Fay Reber.

A variance request to allow a building permit for a house on a lot that does not front a dedicated street for property located behind 1112 S. 920 West, Hurricane, Utah – Bobbette Green property owner, Tanner Jones applicant

Planning Director Toni Foran summarized the situation with the lot, explaining it was created without any approvals to pay off a debt. Several years later the owner sold the lot to the owner of the property to the east of it. The current owner, Bobbette Green, has been trying to sell this lot and the lot where her house is located as two separate parcels. The rear property was deeded an ingress and egress and utilities easement when it was created. Mr. Wixom asked if it was subdivided by a City process. Ms. Foran stated the City was not aware of the lot's existence until questions arose from interested buyers and so it was assumed the lot was created solely for agricultural purposes. Ms. Foran then left the meeting.

Fay Reber reminded the Board members of the five requirements to grant a variance, which are:
Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;

b. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;

c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;

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

e. The spirit of this title is observed and substantial justice done

Ben Ruesch provided copies of deeds relating to the sales of the lot in 2008 and 2013. He stated that he felt the lot was created legally because it was an agricultural lot split and has been in agricultural use. The deeds include a non-exclusive ingress and egress easement. Mr. Ruesch had printed the current land use map from the City website he brought with him and he pointed out the parcel does not show on this map though the master planned road does show on the map. Mr. Jones stated the intent of their use is to access the rear lot via the deeded easement shown on a provided map. Mr. Ruesch was asked if this easement encroaches on the southern property owner's property and he stated the easement is an encumbrance on the property but it is not an encroachment.

He then read to the Board members the criteria for a variance and clarified the Jones have a valid interest in the property because they have an offer to purchase the property. He referred to code section 10-7-13-E2 provided in the Board packets regarding the frontage on a street requirement for a building permit. Mr. Ruesch referred the Board members to a court decision (Spect vs Watertown) in which the court declared pre-existing conditions have no bearing on a decision. The letter from Mr. Goulding which was included in the meeting packet was declared by Mr. Ruesch as immaterial because it referred to pre-existing conditions. He stated he felt the special circumstances that apply to this lot is that it does not have any built access and no frontage on a

street. He stated it is an essential property right in the zone to have the ability to construct a home on a 1 acre lot, pointing out other one acre lots in the vicinity with homes on them. Mr. Ruesch had a letter from neighboring property owner Bruce Church supporting a variance to allow a building permit to be issued and asked that the letter be made part of the record of this meeting. He indicated this letter supports the idea that granting a variance would not substantially affect the General Plan.

A question was raised about the future road that bisects the property. Mr. Johnson explained if a building permit is allowed by granting this variance request they will situate the house so it meets setbacks for the future road and the easement could be abandoned and they could get access from the new road.

Toni Foran returned to the meeting at the request of the Board members. She explained there is a road shown on the road master plan that bisects the property. There is currently no pressing need to develop the road though development of property on either side might necessitate building the road. The location of the road was determined by finding the best location for a sewer alignment. The City policy is that the City pays for the spine of a master planned road and the frontage improvements – curb, gutter, and sidewalk – are built by frontage property owners. She then left the meeting again.

Bob Peterson read the letter from Dusky and Nicole Goulding regarding keeping the area for agricultural uses and providing their history of the creation of the lot. A copy of the letter is included in the record of this meeting.

Mr. Jones objected to a statement in the letter that they wanted to use the property only for agriculture because both Dusky and Dace Goulding and Bobbette Green have tried to develop the property as a flag lot. He explained that the lot with road frontage and the house is a separate parcel from the parcel on which they are seeking a variance and they can't get a loan on both parcels. Mr. Ruesch provided a copy of a title commitment from Eagle Gate Title showing the intent of Tanner Jones to purchase the property.

Beth Locke speculated that the property owner, Bobbette Green, could sell the parcels separately since they are two separate parcels. Stephen Jones pointed out this would result her losing a considerable amount of money. Rick Wixom stated that may be the case but that is financial hardship which is not material to this discussion.

Tanner Jones pointed out where an engineer he has consulted helped him plan culverts that can be used to handle the irrigation water runoff. He estimated his proposed house would use about 1/3 of the acre lot for residential use, leaving the other 2/3rds for continued agricultural use. The deeded easement was shown and the property it encumbers pointed out on a map.

Bob Peterson said he does not feel convenience is a factor in determining hardship and said he is struggling with this application meeting that criterion. Rick Wixom agreed, stating the property is appropriately created for agricultural purposes but not for a building permit. He said the special circumstance claimed that being landlocked is the special circumstance is also giving him difficulty. It is an agricultural piece in the midst of other agricultural pieces. The applicants

stated the hardship is the limited access. Rick mused on the situation, stating the owners did this property division for agricultural uses and until somebody wants to build on it, there is no hardship. Is it a self-imposed hardship when an applicant now wants to build a house on the property? At some point there will be a road through the property. Maybe wait until then? Mr. Ruesch pointed out the applicant did not create the hardship. Fay Reber explained the hardship is self-imposed because the applicants elected to purchase the property knowing it couldn't be built on. He stated the argument that they didn't create the lot so it's not self-imposed is not valid because then anyone could split off the lot, sell it to someone else, and then the buyer can apply for a variance because "they didn't create the hardship."

Beth Locke stated she feels the unique situation here is the master planned road. She stated she is bothered by the letter from the Gouldings as that will mean there is going to be a hostile neighbor. Tanner Jones stated he has had long conversations with Dusky and does not feel that will be an issue. The Board members asked if access to this lot would create an interference with Goulding's use of their property. Beth stated she had visited the property and the group discussed the gravel access road and the location of a fire hydrant. Mr. Jones clarified the shaded area on his plan where a gravel road would access the new house if a variance is granted.

Mr. Wixom asked the Board members to go through each of the five criteria:

Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title –Beth stated the hardship appears to be Mrs. Green not being able to sell both parcels together. Mr. Ruesch stated the hardship is the inability of Mr. Jones to obtain a building permit on a lot without road frontage. Mr. Wixom stated he is struggling with that hardship. The parcel was legally created for agriculture and the only hardship is the Jones' desire to get a building permit on agricultural property. Mr. Ruesch again stated his contention that is a pre-existing condition and the Board can't analyze what was done previously.

There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district. The Board discussed the landlocked nature of the property.

Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district. The substantial property right claimed is the right to build a house, as other RA-1 lots have.

The variance will not substantially affect the general plan and will not be contrary to the public interest Board members saw that the general plan map does show this area for residential development.

The spirit of this title is observed and substantial justice done. Rich questioned if the Board is doing something contrary to the ordinance or supporting the ordinance. Beth suggested caution because she felt granting this variance could set a precedent and she did not necessarily believe that is a good thing. There is a purpose for the ordinance. Bob pointed out that the ordinance does support use of RA-1 property for residential use.

Fay Reber commented it is always difficult to apply the five criteria to specific circumstances when considering a variance.

Mr. Ruesch queried the Appeal Board members and asked them to state their professional status for the record. Beth Locke said she is head of FX Lighting, a fixture and powder coating firm located in the old Hurricane Industrial Park. She is the business owner member of the Board. Bob Peterson stated he is a resident who is a retired citizen with many years of Planning Commission experience. Rick Wixom said he is the non-resident member and he serves as the Town of Springdale City Manager.

Stephen Jones expressed concern for the long delay in getting a board appointed so this application could be heard. He detailed conversations he has had with various City Council members on a one-on-one basis. He reported they all supported this application. Fay Reber commented it is the nature of people to agree when you meet individually and in private. They have now appointed a Board and the Board is meeting today. Ben Ruesch asked if a decision of this Board is appealed to the City Council. Mr. Reber said such an appeal would go to District Court. It would have to be filed within 30 days of a written decision. Mr. Ruesch offered to write the decision.

The Board went back to discussion the matter at hand. For clarity, Beth Locke asked for an explanation of the staff or stem of a flag lot. Bob Peterson explained that is the narrow portion of the lot that reaches a street, like the flagpole of a flag. The group again discussed the hardship issue. Mr. Wixom stated the parcel was properly created as an agricultural division of property based on State law so no City review was required. It has an easement to provide access for the agricultural use it was created for and there has been no problem until now, when the applicants want a building permit. Once a permit is requested, it doesn't comply with an agricultural use. Tanner Jones contended every property in the area was once agricultural and was then divided. Mr. Wixom said the requirement is that building lots get created with roads and utilities. Using an agricultural piece for a building lot is a way to subvert all the codes for creating building lots.

Fay Reber asked the Board members if they wanted to adjourn the meeting and meet again in a week after they have had time to consider this matter. They declined. A motion to either approve or deny based on the five criteria was requested.

Bob Peterson stated the application is weak on meeting the first criterion but he would still motion to approve the variance request because it does meet all five criteria with the condition that the applicants get plans approved by the JUC to ensure construction of facilities to serve the building lot are properly constructed. Rick Wixom seconded the motion. Mr. Ruesch questioned the imposition of conditions. Mr. Reber stated the code does state that the "Appeal Board may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified." The Board members then discussed an additional requirement that if and when 990 West Street is constructed, the easement is abandoned and access comes from 990 West Street. Mr. Peterson amended his motion to include that additional requirement and Mr. Wixom seconded it.

Bob Peterson and Rick Wixom voted aye and Beth Lock voted nay, stating she still does not feel the application meets the hardship criteria. The variance was granted. A written decision will be provided to the applicants.

Meeting adjourned at 9:50 a.m.

Minutes of a meeting of the Hurricane City Appeal Board held on September 3, 2019 at 4:30 p.m. in the East Conference Room located at 147 N 870 W, Hurricane, Utah.

Members present: Rick Wixom, Beth Lock, and Karen Daniels. Also present were City Manager Clark Fawcett and Planning Director Toni Foran.

Review and possible decision on an appeal of administrative and Council decisions regarding an accessory building constructed within the front yard at 3972 W Riverview Drive

Applicant Jeff Madsen was present. Rick Wixom stated his understanding that this appeal is based on State code allowing appeals of decisions and City Code 10-9-6. Jeff Madsen explained he believes his appeal is from a decision made by City Manager Clark Fawcett to refer this matter to the City Council and their decision to require him to remove the building and a decision by City Attorney Fay Reber that Clark Fawcett does not qualify to negotiate this matter because no building permit was ever issued. Rick Wixom said he does not feel the City Council should have heard this matter and because they didn't have authority to negotiate anything on a building without a permit this appeal must be from the written decision issued by the City Attorney who decided code section 10-9-6b does not apply if a permit was never issued.

Mr. Madsen stated the Council treated this item more as a discussion. It was clarified they did make a decision. Mr. Wixom again said the Appeal Board can't hear an appeal of the Council decision because they do not have Land Use code authority in this section of the code. He summarized his understanding that the Board is deciding if Fay Reber's decision was correct.

Mr. Madsen thanked the Board for this opportunity to discuss this issue. He said he wishes he could go back and ensure the accessory building was permitted. He said he knows there is some blame on his part for not getting a permit and understanding a separate permit is required. But he expressed his belief that the City building inspectors share some blame because they inspected the building while it was under construction. Now he has an \$18,000 building that must be torn down which he believes doesn't look bad and doesn't harm anyone. He did emphasize that he appreciates the City inspectors and works with them a lot but still believes there was some wrong on their part.

Karen said she does not think deciding whether the building can stay or go is in the Board's power. They can simply decide whether or not the City Attorney's decision that the code section does not apply is correct. Rick summarized the situation with the building being located in the front yard setback rather than a rear or side yard. It was clarified that staff would not have signed off on a building permit if the original application had shown a building rather than a concrete pad in the front setback.

Mr. Madsen then asked the Board to consider an appeal to the Council decision. Board members stated they could not look at 10-9-6b for a way to make the building "more nearly" conform because no permit was issued and their decision is to decide if that code applies to this situation, not decide how to apply the code. Rick stated the key point in this code section is that it applies when a building permit has been revoked and read the code section aloud. The City Attorney's point in his decision was that section of the code does not apply because no permit was issued for the accessory building. Karen clarified that

Mr. Madsen never had a permit for the accessory building. Rick stated he is okay with reviewing the City Attorney decision, not the Council decision. Clark Fawcett stated he did ask the Council to look at this matter per City policy to allow input from the elected officials. Mr. Wixom said he did not see how the Council can decide if there is a way to make the building “more nearly” compliant with code if there was never a letter revoking a building permit.

Mr. Madsen explained he has a secretary who submits the packet, including plans for building permits. The plans for the accessory building were not included with the set submitted for this site. He said he did have the plans on the site. He argued that there were inspections of the shed. The concrete that showed as a slab on the plans had rebar coming up which would not be needed if walls were not intended to be added. Additionally, inspections for footing, underground plumbing, framing, and electrical were done and it was only at lathe a red tag was issued on the construction. Mr. Madsen said he felt the inspectors should have some responsibility in allowing this building to be built without the permit, stating he was not trying to get something by, especially since he builds many houses in the City.

Mr. Wixom asked Mr. Madsen if he could provide something that shows this is a permitted structure. He agreed that it was inspected but asked if Mr. Madsen could produce a permit for the accessory building. Toni Foran explained it is the policy of the building department to require a separate permit for separate buildings and to ensure on-site plans are stamped. If the plans for the building were included in the permit packet application a permit would have been created for that building in addition to the main structure, if it was not shown in the required setbacks. She was not sure if each sheet of the plan set is stamped.

While the Board members were sympathetic with the applicant over the issue of the inspections appearing to imply permission to build, they still could not see that there was an actual permit issued for this structure. Mr. Madsen argued that the building didn’t look bad in the current location in the front setback and asked if there are any options to make this right without removing it. Board members stated their job is to decide if the attorney’s decision that the code section does not apply because there was no permit to be revoked or if the decision was an error, not to figure out how to make it work. It is clear the structure is located in the front yard setback. Mr. Madsen suggested changing the address to call the other side of the building the front, even though the front door is clearly on the same side as the structure.

Beth Locke suggested a variance but it became clear the situation could not qualify for a variance because any hardship claimed would be self-imposed and economic. When Mr. Madsen mentioned a retaining wall in the front yard setback, it was clarified the construction of a building pad is not the same as a building. Karen said the information is clear and there was no permit issued for this building because the plans on which the only building permit was based showed just a concrete pad. While she felt the situation was unfortunate, she did not agree with Mr. Madsen’s assertion that inspections of the structure are implicit permission to continue building and therefore the building was “permitted.” Toni again verified the policy that accessory buildings are issued a separate permit to better track inspections. There is no record that shows two buildings were inspected though Toni said she did not doubt Mr. Madsen’s word that there were inspections done. A contractor can always call in inspections

but the policy is that they will not be done if there is not permit. An inspection for an address that has a permit will be done.

The Board went over again the concept that negotiation with the City Manager applies only if there was a permit issued in error and it was then revoked. It does not apply if there was never a permit. They agreed there may be some level of liability by the City for proceeding with inspections without a permit but that they are not the body to take any action or make any recommendations on that matter. Beth stated the only reference she finds regarding this no permit issue in the code is that it is a violation of the code to build without one. Mr. Madsen made a final plea, stating the neighbors have no objection and the shed doesn't really look like it's in the front yard. Toni Foran stated as the Zoning Administrator she does not want to see sheds 2' from a front property line and showed how this shed will look in its current location to a homeowner with a house on the next lot up.

Board members again went over the facts that the plans showed a slab only, inspections were done, the policy that a separate building requires a separate permit, and the building is in a front yard setback. They explained they must use a plain language interpretation of the code and the only way the negotiation section of the code applies is if a building permit or other permit is revoked. No permit equals no error in the City Attorney interpretation.

They unanimously agreed the City Attorney made the correct decision based on the facts that there were no plans or approvals for the structure so the revocation provisions do not apply.

Meeting adjourned at 5:30 p.m.

ON OCTOBER 29, 2020 AT 4:30 P.M., THE HURRICANE CITY APPEAL BOARD MET IN THE CITY COUNCIL CHAMBERS LOCATED AT 147 N 870 WEST HURRICANE, UT.

Members Present: Robert Peterson, Beth Lock, and Karen Daniels

Staff Present: Planning Director Stephen Nelson, Planning Technician Brienna Spencer, City Manager Clark Fawcett (electronically), and Council Representative Nanette Billings (electronically)

Consideration and possible approval of an enlargement and expansion of a noncomplying structure as listed in Hurricane City Code 10-8-5, located at 332 985 W. Chance Holliday Applicant.

Representative Chris Wilcox and property owner Becky Brittingham were present.

Stephen Nelson went over what the applicant was requesting. The applicants had gone to the planning commission but did not meet the required setbacks which would require a variance. He referenced code 10-8-5, which talks about a non-compliant structure. He believes the application meets the requirements to qualify for the variance. He does not think the enlargement of the building will have a detrimental impact on the community, it won't have any impact on traffic, or affect the value of adjacent properties. When seen at the Planning Commission, there were a lot of neighbors present and in support of the expansion. Robert Peterson asked why the owner was expanding to make the existing structure bigger. Becky Brittingham stated that she sold her airport hangar to the Hurricane City Police Department and she needs a place to store all her belongings that have been stored there. She also has been thinking about resell and if someone wants to use the garage to put a car in, they will need the extra width to get out otherwise they will need to climb out of the windows because the doors won't open. Mr. Peterson stated that the only one he can see it effecting is the property to the west. Ms. Brittingham shared that she contacted that neighbor first and told him what she was needing to do and he told her that she has to do what she has to do but he will not sell her a portion to accommodate the expansion. Beth Lock asked how many square feet the property owner will lose if they conform to the ordinance. Chris Wilcox replied that they will lose about 2 feet. Mr. Nelson stated that part of the issue has to do with the roof alignment and the ability to have a garage door. It changes the structural design of the building and makes it more difficult to do what they are wanting to do. Karen Daniels stated she was worried about setting a precedence for the area, however, the size of the building and design fits with the neighborhood so it would only set a precedence for the setbacks. Ms. Lock asked if this ordinance supersede the five conditions that need to be met in order to receive a variance? Mr. Nelson stated that this wouldn't be a variance. According to this ordinance, you wouldn't have to meet the criteria for a variance. This is a different process and it allows the appeals board to grant an exception without going through a full variance process.

Robert Peterson motioned approval of 2020-CUP-07 for the enlargement of a non-compliant structure. Karen Daniels seconded the motion. Unanimous.

ON APRIL 13, 2021 AT 5:00 P.M., THE HURRICANE CITY APPEAL BOARD MET IN THE CITY COUNCIL CHAMBERS LOCATED AT 147 N 870 WEST HURRICANE, UT.

Members Present: Beth Lock, Rick Wixom. And Karen Daniels.

Staff Present: Planning Director Stephen Nelson, Planning Technician Brienna Spencer, and Council Representative Nanette Billings

Consideration and possible approval of a variance request in order to create a flag lot, located at 1691 W State Street. Jack Andrew and Danna Blad Applicants.

Beth Lock asked for clarification on the properties. There is currently a flag lot in the middle of this parcel that was once sold. The back piece of the property is needing access through the front piece. Jesse (potential buyer) is wanting to purchase the back piece but he wants the piece that has the easement while still granting access to the existing flag lot. He shared that there will be the 200 South master planned road through the other side of the property. Jesse is trying to get the city to not put 200 south through the middle of that property but have 150 south go straight through along the North property line. Rick Wixom stated that there are five criteria that the applicant has to meet in order for the board to grant a variance. He went over what those criteria items are. He stated that the hardship has to be unique to the requested property. He asked the applicant what they think makes this unique and what hardship qualifies this property. Jesse stated that the hardship with this piece of land is the master planned road isn't there yet. He just wants to purchase the driveway from the back lot. It meets the all the standards of the flag lot except for the staff is too long. Dana Blad stated that the hardship for her is that it's not usable and although it doesn't count, they need the money. Mr. Wixom asked how this property is different form the surrounding properties that also cannot develop unless the master planned road goes through. Jesse stated that what makes this different is that it's not land locked, there is no access anywhere for them. Mr. Wixom is trying to find the special circumstances that make this qualify. He's struggling with is yes, they want to see it but it seems like we are creating the need for ourselves which is a self-imposed hardship. Mr. Jesse asked what it's not meeting to have the variance approved. Mr. Wixom went over the state code again. They have to make sure they don't go against state code and the city's general plan. The road that is proposed to be there but there is no plan of when that will be put in because it's based on demand of development. Mrs. Lock asked if the only thing that doesn't meet the standards for a flag lot is the length of the driveway. Stephen Nelson went over the flag lot code and explained it. Before building, the applicant will have to go to JUC and meet with the different departments prior to being issued a building permit. 200 feet is all that is disqualifying this as a flag lot. The board members discussed a previous variance application amongst themselves before coming to a decision.

Karen Daniels motioned to approve the variance as presented. Beth Lock seconded the motion. Unanimous.

ON JUNE 04, 2021 AT 2:00 P.M., THE HURRICANE CITY APPEAL BOARD MET IN THE CITY COUNCIL CHAMBERS LOCATED AT 147 N 870 WEST HURRICANE, UT.

Members Present: Beth Lock, Bob Peterson, and Karen Daniels.

Staff Present: Planning Director Stephen Nelson and Planning Technician Brienna Spencer

Consideration and possible approval of a variance request to reduce the front setback for a residential lot located at 2712 S 3340 W Hurricane Utah. Scott Barry Applicant.

Scott Barry explained that when the home was built behind him, the builder excavated and placed the dirt on his lot without installing a retaining wall. If he removes the dirt, the wall will fall down. He plans to install a wall four feet forward to retain it but would need four feet in the front to accommodate that loss. He intends to use pea gravel in between the walls so there is no additional weight on the existing wall and noted there are only three homes on the street and the adjoining lot will be on the cul-de-sac, so the setback would not affect them. Bob Peterson stated that the house to the south has the garage on the north side of the property, and Scott's garage will also be on the north side of his property. He acknowledged they had received the responses to the staff comments. Beth Lock read what could be considered a hardship and stated that the builder had encroached on Scott's property, so the remedy would be to fix the wall, which does not constitute a hardship. Mr. Barry clarified that the issue is the wall is not retaining; the wall on the south side of the property is retaining, but the wall on the back adjoining his lot is not. He explained that under state law, the lower lot is responsible to retain the dirt. He also stated the City does not want to get involved. Stephen Nelson confirmed the City does not get involved in such matters, as they are between neighbors, and added the slope is not steep enough to require retention. Mr. Barry emphasized he is putting retaining walls on the north and south sides of his property and cannot lose four feet of his lot since his house was designed for it. Mr. Peterson commented that granting the variance would not affect the City or neighbors and is the best solution when considering costs and relationships. Mrs. Lock mentioned that the request does not meet the definition of allowing a variance and could set a precedent for others to make similar requests. She added this issue could be solved with money. Mr. Barry responded that the hardship will ultimately fall to the neighbor, as he would put the dirt back where it belongs. Mr. Peterson stated again that he believes this is a good solution to the problem and noted the code allows consideration of all points. Karen Daniels stated the previous builder caused the hardship. While she acknowledged not all the variance questions could be answered affirmatively, she felt the lot's position lessened the impact and did not see a significant problem. She appreciated Scott's effort to be a good neighbor. Mr. Nelson reminded the group that they must follow the rules of state code, and any vote must include specific findings.

Beth Lock motioned to deny the variance to change the setbacks based on the rules set forth by the state.. Karen Daniels seconded the motion. Karen Daniels and Beth Lock – aye, Bob Peterson – nay. Motion carries.

ON JANUARY 7, 2022 AT 10:30A.M., THE HURRICANE CITY APPEAL BOARD MET IN THE CITY COUNCIL CHAMBERS LOCATED AT 147 N 870 WEST HURRICANE, UT.

Members Present: Beth Lock, Bob Peterson, and Rick Wixom

Staff Present: Planning Director Stephen Nelson, Assistant Planner Fred Resch, and Planning Technician Brienna Spencer

Consideration and possible approval of a variance request to reduce the front setback for property H-SEEV-1A, address 916 W 325 S.

Harmony Vanderhorst shared that they are looking for a variance for their garage to be 5 feet into the 25-foot required set back due to the flood plain in the rear so they can build. They have been working with FEMA, their engineer, and the city to make these lots buildable. They feel like asking for this little variance is still complies with the spirit of the regulations but would allow them to build their home. This will be their forever home. They asked for a variance for the lot across the street and they were granted it due to the shape of the lot and it kept the integrity of the neighborhood. Stephen Nelson stated that he reviewed the site plan with our floodplain admin to make sure he didn't have any concerns about the location of the house and he doesn't have any issues based off this site plan. Bob Peterson asked if they were planning to build two houses. Tyler Vanderhorst shared that it will be an attached garage with a basketball court on the back and casita on top. Beth Lock went over the unreasonable hardship section of state code and asked the applicants if they had read through it. Mrs. Vanderhorst shared that she feels like the hardship comes from the floodplain line. When the city approved this lot, they approved it with normal setbacks but then FEMA came in and said if certain insurance rates want to be granted, they have to abide by their regulations. This building restriction isn't the only restriction, they have a lot of others as well. She feels like abiding by FEMA's rules is a hardship that others don't have to go through. Ms. Lock asked if they owned the lots in before FEMA came in. Mr. Vanderhorst stated that they purchased 7 lots after FEMA came in and added the floodplain but how the lot was originally designed is not how FEMA is trying to design it and that is what they are saying the hardship is. They are trying to use the lot as it was originally intended to be used, as a 125-acre lot. Rick Wixom shared that when the state code talks about granting a variance it asks what the substantial property right is that they are not getting that other properties have in the area. Meaning, what property right are they losing out on if this variance isn't granted? Mr. Vanderhorst stated that they can't build as deep of a house because they are being restricted. The lot is half it's normal size from what it was designed to do. In this this neighborhood, that same hardship variance has been granted. Mr. Wixom stated that the state code says, "conditions peculiar to that property not the conditions that are general to the neighborhood." Mrs. Vanderhorst stated that the floodplain line is not for the entire neighborhood, it only affects a few lots. She asked Mr. Nelson if the lot was smaller, would the front setbacks be less than 25 feet? Mr. Nelson shared that every zone, aside from a planned development overlay, has a minimum of 25 feet. The minimum set back in the PDO zone is 20 feet which is approved through a zoning ordinance. Mr. Wixom asked what the lot size is from the floodplain line to the front property line and what the minimum size for the current zone. Mr. Nelson calculated approx. 33,272 square feet is buildable which is twice the minimum lot size for the zone. Mr. Wixom went over the five criteria the board has to look

at with state code when granting a variance. Ms. Lock doesn't see where the hardship is being proven in this case. Mr. Wixom stated that there is an overly large lot in a zone that is a 15,000 square foot minimum lot size. There is still twice the minimum lot size between the floodplain line and front property line. This is a new home being designed to fit the property. He's having a real trouble with the self-imposed part of the code that says if you're designing something for the property. Mrs. Vanderhorst stated that this is the type of home to be built there. If the floodplain wasn't there, they wouldn't need to ask for the variance. Nobody who is going to build a 2000 square foot home is going to build in this neighborhood. Mr. Vanderhorst stated that the lot was designed for one thing and now it's being hindered by a flood line. Mr. Wixom stated that it's a new home and knowing that the flood line is there, they are designing a home that doesn't fit. They could design and modify the home to make it fit. Mrs. Vanderhorst stated that if this line wasn't there, they would have no problem scooting the house back. Nobody would know that this variance was granted just by looking at it. The request is very minute. She would rather scoot it back. It is costing them a ton more money to have to do it this way versus if there was no line there, they could save a ton of money. Ms. Lock sympathizes with them but that's not what state code says. It says the hardship can't be self-imposed or economic. Mr. Vanderhorst stated that they aren't imposing this hardship, FEMA is. They cannot move the house back because of federal regulations. Mrs. Vanderhorst said that the city doesn't have to follow the FEMA line if they don't want to because city laws and ordinances overstep federal but because the city has chosen to be in compliance with this federal law because it effects the insurance rating they get, they choose to follow this ordinance. Not only is it a hardship caused from the city and what they are trying to do, it is now imposing a hardship on them. The city could technically give them a variance as well but they aren't going to which is why they are here. Mr. Wixom stated that they are designing a home to fit a circumstance knowing that flood line is in place and that hardship could be fixed if they designed their house. Mr. Vanderhorst stated that if it more of a hardship to not grant a 5-foot variance than it is for them to completely redesign a house, which they are already trying to do because of the flood line, then that's one argument. He doesn't see that as an argument. At the end of the day, the hardship is being imposed by a line that was not supposed to be there. It was imposed after the subdivision approval. Did they purchase the property after the fact? Absolutely, but it was originally designed for the entire lot to be used. At the end of the day, they are asking for a variance for what isn't normal because the line is not normal. They aren't asking for the moon or something that hasn't been granted in the past, they are asking what is typical for this neighborhood. Mrs. Vanderhorst stated that she understands where they are coming from but she does feel like they can put the emphasis on the hardship either way. It's really kind of a person opinion. Ms. Lock stated she doesn't think it's an opinion. She thinks it's following what is written out for them as an appeals board. They have a guideline and this is the guideline. Mr. Vanderhorst shared that when they went through this before, the opinion of the board was that they were facing a hardship so they approved it. To say there isn't an opinion involved, an opinion was involved in the exact same scenario when they went through this in the exact same neighborhood with exact same restriction. At that time, they thought it was a silly hardship and didn't think they should have to alter their entire plans so it was determined to be a hardship. It is an opinion. Just because they don't think in this case it may or may not be hardship doesn't mean someone else doesn't think that it is a hardship. Mrs. Vanderhorst referenced criteria 5 and shared that she thinks it leaves it open for individual cases and opinions and the whole circumstance to be looked at and not be nit picked apart.

They don't feel like in the spirit of the zoning ordinance that it is putting a burden on the city or this ordinance, or on the variance process to allow for the 5 feet to be granted. Mr. Peterson shared that being the third wheel, he agrees with the applicants. He thinks the variance should be granted based on the criteria they are going by. Ms. Lock asked where the garage attaches to the house. It was shown on the site plan displayed where the structures will be attached. The Vanderhorsts shared that the city said it would be easier for them to have the structures attached. Ms. Lock asked the applicants how big the basketball court was. Mr. Vanderhorst stated that it is smaller than a typical basketball court, probably slightly bigger than half a court. Ms. Lock asked if they could just remove 5 feet of the basketball court and Mr. Vanderhorst replied stating that if they did, they wouldn't have a three-point line. This is the smallest they can go to even have half a court.

Bob Peterson motioned to approve the variance contingent on the conjoining of the lots. Motion failed.

Ms. Lock can't find the hardship. Mr. Peterson stated the floodplain. They have the federal government telling them "Hey, you have a nice lot but we're going to tell you that you can't use it", that is the hardship in his opinion. Mr. Wixom agrees that the floodplain is a hardship but he can't get past the idea that this is a new house being designed to fit a space that is twice the size of the minimum lot size in the zone. He can't see that it's not self-imposed. A new house being designed to fit a space, that's saying they are choosing to do something that's making it so they can't meet the setback. He can't get past it. Ms. Lock agrees.

Rick Wixom motioned to deny the variance finding that this hardship is self-imposed based on state code 10-9A-702-2-B-2 that the hardship is self-imposed and that the appeal authority may not find that it does not meet state code. Beth Lock seconded the motion. Rick Wixom and Beth Lock – aye, Bob Peterson – nay. Motion passes.

Harmony Vanderhorst asked Stephen Nelson what their options are moving forward. Mr. Nelson shared they can accept it, appeal it to district court within 30 days, or petition the council to change the code. Mrs. Vanderhorst stated they won't accept it and will appeal it in court. She asked Mr. Nelson what that entails and he advised her to speak with her attorney. Mrs. Vanderhorst continued to plead a case to the board before leaving the meeting.

ON AUGUST 16, 2022 AT 5:00 P.M., THE HURRICANE CITY APPEALS BOARD MET IN THE CITY COUNCIL CHAMBERS LOCATED AT 147 N 870 WEST HURRICANE, UT.

Members Present: Beth Lock, Bob Peterson, and Rick Wixom

Staff Present: Assistant Planner Fred Resch and Planning Technician Brienna Spencer

1. Consideration and possible approval of a site plan for an enlargement of a noncomplying structure located at 490 W 100 N. Ted Dutton Applicant

Ted Dutton started that his house was built 36 years ago. The code at time of building was a total of 20 feet between buildings. He would like to add on a garage to the existing house that was up to standard when it was built. They are 8 feet off the property line. Fred Resch stated that per code, any enlargement of a nonconforming building needs to be approved by the appeals board. This request is not a typical variance request and meets the intent of the code. The addition will also be 8 feet off property line. This does not have to show a hardship because it's not a standard request.

Bob Peterson motioned to approve the variance. Beth Lock seconded the motion. Unanimous.

**Hurricane City Appeals Board
Meeting Minutes
October 3, 2022**

On October 3, 2022 at 10:30a.m., the Hurricane City Appeals Board met in the City Council chambers located at 147 N 870 West Hurricane, UT.

Members Present: Beth Lock, Bob Peterson, and Rick Wixom

Staff Present: Planning Director Stephen Nelson, Assistant Planner Fred Resch, and Planning Technician Brienna Spencer

1. Consideration and possible approval for a variance from building separation and setbacks request located at 1042 W 400 S. Travis Dickey Applicant

Travis Dickey stated that when the house was originally built in 1987, the entire slab was poured at the same time but this patio section was not framed in. He cannot tear it out because it'll ruin the dexterity of the house but it is overkill for a patio. If he doesn't build on it, it ruins the purpose of his backyard and he would like to build on it. Bob Peterson asked if this lot was originally an acre. Mr. Dickey shared that in the early 2000's when the house was sold, they sold of a section of the property to his current neighbor to the north. Mr. Peterson asked about the secondary structure that was up for request as well but it was explained that the site plan was done incorrectly for the original submittal but it has been updated and is no longer part of the request. Mr. Dickey shared that his neighbor encouraged him to file for the variance request and that he doesn't have any issues with him being 5' closer to the property line. Rick Wixom clarified that the slab he is wanting to build on already exists. Stephen Nelson stated that it is already there and pulled up the pictures submitted with the application. Mr. Peterson commented that the slab there is and it is pretty tall. Mr. Dickey expressed that the footing was put there for a purpose. Mr. Wixom asked Mr. Nelson what the setback requirement is. Mr. Nelson referenced the city code that states the rear setback is 30' and the biggest issue is that the request is within that required setback. Mr. Wixom asked if the code has been changed since the house was built. Mr. Nelson looked to find the history of the code and stated it was adopted in 2016. Mr. Peterson feels it fits the requirements for a variance. It does not affect the neighborhood or the city in any way. He does agree that it would increase the value of the property and make it more esthetically appealing as well.

Bob Peterson motioned to approve the variance.

Beth Lock stated that because this is a variance, it does have to meet the 5 criteria for one and the first item on that is list is what always seems to be the hold up: unreasonable hardship. You have to explain the hardship. Mr. Dickey shared that the home is currently only 3 bedrooms and his wife is pregnant with their third child. They intend to add another bedroom which would allow them to stay in the home longer. They would be adding a bedroom and laundry room area. Right now their laundry is in the garage which is

inconvenient and garages are typically dirty, especially his. Mrs. Lock understands that expanding the home would allow them to stay in the house longer, but that is not what they are looking for when they talk about a variance and the hardship. It cannot be personal; it has to be a hardship to the property. Mr. Dickey asked for an example of a hardship but he doesn't understand the definition of it. Mrs. Lock asked Mr. Nelson for some help so he pulled up what the Utah Ombudsman defines a hardship as. Mr. Dickey asked if him having to deal with the slab is an unreasonable hardship? Because if he cannot build on it, he's stuck dealing with it because he can't pull it out due to it being poured in a single pour perimeter. Mrs. Lock stated that it was in compliance when it was poured because it was a one-acre property. Mr. Dickey asked because it is now out of compliance, wouldn't it be kind of forcing him to deal with the unreasonable hardship because he has to deal with it and not be able to utilize it? Mr. Peterson quoted the last criteria about altering plans and he does not see a way to alter them to bring it into compliance because that is the way it was designed. Mr. Wixom stated that they don't know what the setback was when the property was subdivided and what it comes back to is, does the foundation justify the hardship of the property to say he wants to build on it; the foundation is already there and already within the setback. What could you do with it if you say he can only go to 30 feet? Is that even possible? Building on the existing and losing 5 feet, would that make any sense at all? Any more sense than just allowing him to build to the 25 feet? In his mind, that is the question; does the existing slab that was not created by the applicant and was already on the property create an unreasonable hardship that is unique to the property? It seems to him that it does. Mrs. Lock shared that the thing they have to do as a board is insist that all five criteria be met in order to grant a variance and they don't just come in and rubber stamp everything. There is a process that has to be gone through and it is up to the applicant to say in your own words what the hardship. A gentleman in the audience asked if he could point out another perspective. He shared that the hardship could be a safety hazard. It's not a patio, it's actually a foundation. So, when you get your family out there playing, it could become a tripping hazard. It was never meant to be a patio, it was meant to have a structure, it just wasn't done, for whatever reason, at that time. Mrs. Lock thinks that if it was subdivided prior to the code being changed, if the code was change from something to a 30' setback, that would be the hardship. But we don't know when that code was changed. Mr. Wixom asked if this is currently being used as a patio. Mr. Dickey shared that he doesn't have any patio furniture on it, it's just an entry and exit into his back yard. Mr. Nelson shared that the subdivision adjacent to this property was recorded in October 2005. Mr. Wixom asked Mr. Nelson what the neighbor side yard set back would be. Mr. Nelson shared that the code requires 10' on one side and 20' on the other. Mr. Dickey stated that is what code says but he actually has 15' because they measured it when they were measuring his property.

Bob Peterson motioned to approve the variance based on the findings that the hazard that was prebuilt before he moved there, the fact that it was built with the intentions of adding onto the house at some point that would not generally apply to other properties and it does not cause harm to them either, the other 3 criteria are also fulfilled in his

opinion. Beth Lock seconded the motion finding that with the information provided to them by the City, that setback code was written after the property was subdivided and based on that, that would be the hardship. Motion carried unanimously.

2. Consideration and possible approval for a building permit for an enlargement of a noncomplying structure located at 199 N 200 W. Jesse Poll Applicant.

Jesse Poll shared that he wants to add a garage with a tandem second bay that'll have an apartment on top. The reason they are asking for a variance is because his house sits 6' from the front property line on one side and 8' on the other. The house was built in 1922 and they are trying to keep it as esthetically pleasing so it won't detract from the value because he'd have to chop it all up putting it to current house setback standards. It'll have a 10' side set back and all be the same height as well. Beth Lock asked if this is a variance as well. Stephen Nelson stated that it is not, it is a request to enlarge a nonconforming structure. Mrs. Lock asked if he was planning to rent the unit or keep it for himself. Mr. Poll shared it'll mostly be for his kids but he needs to look at the code to see what is allowed. This property is currently zoned for multifamily. Mr. Nelson stated that means that by law, he is entitled to a duplex on the property. Mr. Wixom asked if there will be a setback issue with the stairs. Mr. Poll stated that because there will not be a roof over the top of it, there will not be an issue.

Rick Wixom motioned to approve the enlargement of a nonconforming structure based on the findings that the enlargement is compatible with the adjoining property and it is not detrimental to the community. Beth Lock seconded the motion. Unanimous.

Hurricane City Appeals Board
Meeting Minutes
July 17, 2023

On July 17, 2023 at 3:30p.m., the Hurricane City Appeals Board met in the City Council chambers located at 147 N 870 West Hurricane, UT.

Members Present: Beth Lock, Bob Petersen, and Rick Wixom

Staff Present: Assistant Planner Fred Resch III and Planning Technician Brienna Spencer.

1. Consideration and possible approval of a variance request to reduce the front setback for property H-SURS-3-75, address 1184 N 50 W

Ian Allen presented his application, explaining that his property has a 45-foot power easement running through it along with slopes, which creates a very small buildable quadrant. Because of these restrictions, he requested a 4-foot variance to move his house forward so he can enjoy his property like the surrounding homeowners. He emphasized that the additional 4 feet would make a significant difference in allowing them to use their lot as others do. Bob Peterson asked if a basement was planned, and Mr. Allen confirmed that it was. Beth Lock mentioned that his lot was larger, but Mr. Allen clarified that the bulk of the easement is on the front of his lot, which limits the width of his buildable area. The group also discussed side yard setbacks.

Rick Wixom questioned how long Ian had owned the property, to which Ian responded a little over a year. Mr. Wixom explained that a variance is a modification of the law, specifically setbacks, and under both state and city code there are five criteria that must be met. He reviewed those five criteria for the applicant. Mr. Allen acknowledged that slope issues are present throughout the neighborhood but argued that no other lot bears as great a burden as his due to the size of the power easement and location of the power pole. Dayton Hall explained that, according to City code, no permanent structures can be built in an easement.

Ms. Lock stated that she did not see any special circumstances that would justify granting a variance, reiterating that a variance changes the law and his situation was not unique compared to other lots in the area. Mr. Wixom added that while the slope impacts many properties, no other applicants had sought variances for slope challenges. Mr. Allen referenced state code section 2 subsection iii and asked for clarification, expressing his view that all R1-10 zoning should allow homeowners to enjoy a backyard of the same size. Mr. Peterson pointed out that Ian still had a good-sized side yard. Mr. Wixom concluded by noting that the first requirement—showing an unreasonable hardship—is the most difficult to overcome in this case..

Rick Wixom moved that because the applicant was unable to provide an unreasonable hardship he motioned to deny the application. Beth Lock seconded the motion. Unanimous.

Hurricane City Appeals Board
Meeting Minutes
January 17, 2024

On January 17, 2024 at 3:30p.m., the Hurricane City Appeals Board met in the City Council chambers located at 147 N 870 West Hurricane, UT.

Members Present: Beth Lock, Bob Petersen, and Rick Wixom

Staff Present: Planning Director Gary Cupp, Assistant Planner Fred Resch III, and Planning Technician Brienna Spencer.

1. Consideration and possible approval for a building permit for an enlargement of a nonconforming structure located at 2520 W 100 S. Kerry Prince Applicant

Kerry Prince shared that this property is a triangle. There is a lot of space on the east side of the house, which is where he would like to add a garage. The house is currently 10' the back property line and he would like to keep the addition in line with the existing house. The addition would meet the other setbacks with 25' in the front and 10' on the side. Beth Lock asked what the zone of the property behind this property is. Fred Resch III stated that it is zoned commercial. Right now, there has been approval for a preliminary site plan and directly behind this house, there will be a private drive connecting all the commercial parking lots with more commercial development. Rick Wixom asked when the house was built. Mr. Resch stated that the county records indicate that it was completed in 1993. Mr. Wixom asked when the code was changed creating the current standards. Mr. Resch shared that the entire code went through a huge rewrite in 2003 so he would expect that the standards were changed at that time if there were any to begin with. Mr. Wixom asked about the standards for a detached structure. Mr. Resch stated that a detached structure would require to be 10' from the house and 2' from the back and side property lines. Mr. Wixom asked if this addition is in line with the existing home or will it go further back? How will it be looked at with the code when approving? Mr. Prince shared that it would go 6' past the existing structure but still only 10' from the rear property line. The closest part of the house is only 9' from the property line at the angle the house sits so this won't be any closer. One of the board members asked how the setbacks are measured. Gary Cupp stated that setbacks are measured from property line to the footings of the structure. Mr. Wixom shared that as he drove through the development, he noticed it was pretty built out and that a detached garage could go closer to the property line. Mrs. Lock asked if the empty lots in the development would have to comply with the current code. Mr. Resch stated that they would be held to current standards. Mrs. Lock shared that she has no problems with this because the code at the time the house was built was different. We have approved that were similar before.

Bob Petersen motioned to approve the enlargement of a nonconforming structure 10' from the rear property line. Rick Wixom seconded the motion. Unanimous.