



APPEAL AUTHORITY PUBLIC MEETING MINUTES

Tuesday, June 9, 2026, at 3:00 PM MDT

The following are the minutes of the Herriman Appeal Authority Public meeting held on **Tuesday, June 09, 2026, at 3:00 p.m.** in the Herriman City Hall Courtrooms, 5355 West Herriman Main Street, Herriman, Utah. Adequate notice of this meeting, as required by law, was posted in the City Hall, on the City's website, and delivered to members of the Commission, media, and interested citizens.

Presiding: Appeal Authority Officer David Church

Staff Present: Planning Director Michael Maloy, Assistant City Attorney Matt Brooks, Deputy Recorder Angela Hansen

Note: The Appeal Authority Officer did not make a decision on the following matter during the public meeting; however, a written decision on the request will be published at a later date.

3:00 PM:

1. Call to Order

Appeal Authority Officer David Church called the meeting to order at 3:00 p.m.

Officer Church identified the matter before the Authority as application file number V2026-080, a variance request submitted by Dallin Burningham of Fairbanks Homes for property located at 14171 S Summit Top Lane, Herriman City. Officer Church confirmed that the applicant Dallin Burningham was present along with Paul Burningham, and that the City was represented by Planning Director Michael Maloy. Officer Church noted that he had reviewed the application and the City staff report, including the summary, photographs, and maps contained therein. No additional documents were identified by either party as necessary for consideration.

Officer Church outlined the hearing procedure: the applicant would present first, the City would respond, and the applicant would have the opportunity to offer a final rebuttal, given that the applicant bears the burden of proof. Officer Church noted that a written decision would typically follow the hearing rather than being issued from the bench, and he reminded both parties that variances are technical determinations governed by specific legal standards, neither automatic entitlements nor discretionary favors.

2. Review and consider a variance request (City File No. V2026-080) submitted by Dallin Burningham, Fairbanks Homes, property owner, to reduce the minimum rear yard (i.e., building setback) from 20'-0" to 7'-9" to facilitate the construction of a new single-family home at 14171 S Summit Top Lane in the A-1-10 Agricultural Single Family Zone.

Dallin Burningham presented the background and basis for the variance request. He explained that Fairbanks Homes had platted the Rosehill Properties subdivision and that, during the initial subdivision design process, the City Engineer at the time required the dedication of a portion of the property (identified as Parcel A of the original master plan) to accommodate a future road connection at 7300 South. This dedication was made with the understanding that the road would be constructed in the near term, in part due to fire access concerns stemming from recent wildfires in the area.

Mr. Burningham stated that the road had not been constructed as of the date of the hearing and that no near-term construction plans were in place. He described how, beginning around September 2024, he had engaged with City Engineer Blake Thomas to discuss the anomalous lot geometry created by the required right-of-way dedication, particularly an abrupt angular jog in the rear property line of the subject lot. He noted that subsequent discussions with City staff member Bryce Terry had led to the conclusion that an actual encroachment into the future right-of-way would not be feasible, and that the most practical path forward would be to seek a rear yard setback variance for the subject lot.

Paul Burningham, owner and manager of Fairbanks Homes, elaborated on the physical circumstances underlying the request. He explained that the required right-of-way dedication had been shaped by the need to accommodate fire engine access and significant grade changes, resulting in a triangular geometric anomaly at the north end of the subject lot's rear property line. He described how this configuration, combined with the lot's narrow and curved street frontage resulting from its position near a half-cul-de-sac, severely constrained the buildable area. He noted that, when the standard 20-foot front setback and 20-foot rear setback were applied simultaneously, the usable building pad was reduced to an area approximately 15 to 20 feet in certain sections as to make practical construction of a garage or primary living spaces effectively impossible.

Dallin Burningham further noted that the lot also presented a significant topographic challenge, with an approximate 35-foot elevation drop from the street to the rear of the property. This grade change precluded adding building height as an alternative to expanding the footprint, as doing so would trigger height restrictions given how far the structure would extend above grade. The applicant indicated that the proposed home design, which spans three levels and encompasses approximately 6,300 square feet in total, carries a main-floor footprint slightly above the subdivision's CC&R minimum of 2,700 square feet for single-story construction. He acknowledged that a smaller home could theoretically be constructed within the existing setbacks but maintained that doing so would result in an impractical and atypical building configuration inconsistent with the character of the neighborhood.

Paul Burningham further contextualized the hardship by noting that Fairbanks Homes had relinquished four lots (valued at approximately \$250,000 to \$300,000 each) to the City without compensation as part of the right-of-way dedication, based on the City's representation that the road would be constructed promptly. He expressed frustration that the road had not been built and that the resulting lot geometry continued to impose constraints on development. He noted that Dallin Burningham personally resides in the adjacent lot, giving the family a direct stake in the quality and character of development in the subdivision.

Planning Director Michael Maloy stated that the staff report before the Authority was the first he had written in 25 years of practice that affirmatively supported a variance request. He acknowledged that the City's initial instinct when reviewing such requests is typically to suggest that a smaller structure be built within the applicable setbacks. However, upon reviewing the broader objectives and purposes of the zoning ordinance and recognizing that the unusual rear lot geometry was directly caused by the City's own required right-of-way dedication, he concluded that a denial of the variance would not serve the general purposes of the zone.

Director Maloy noted several factors supporting the City's recommendation of approval. First, there are no rear-yard neighbors, as the subject lot abuts a second right-of-way running parallel to the subdivision's internal road system, creating a substantial buffer between the property and any adjacent residential development to the east. Second, the encroachment would affect only a portion of the rear yard, approximately 35 percent of the lot's width, while the standard 20-foot setback would be maintained along the remaining 65 percent. Third, the City had considered whether the right-of-way could be vacated and returned to the applicant but concluded that the area would likely be needed for slope retention if and when the road is eventually constructed. Director Maloy emphasized that the City concurred with the applicant's position that the hardship was not self-imposed, as the irregular lot shape was a direct result of the City-required dedication.

Director Maloy acknowledged that he shared Officer Church's concern regarding the first standard for granting a variance namely, whether literal enforcement of the code creates an unreasonable hardship not necessary to carry out the general purposes of the ordinance and indicated that this was the element he found most difficult to address in drafting the staff report.

Officer Church engaged both parties in a substantive discussion of the applicable legal standards. He noted that variances are not available merely because a property owner desires to build a larger home; rather, the variance must be essential to the enjoyment of a substantial property right possessed by other properties in the same zone. He observed that all properties in the zone are subject to setback requirements that constrain building size and that the right to build a house does not automatically entail the right to build a house of any particular size or configuration.

Officer Church acknowledged that the odd lot shape was created by the City's required dedication and that the circumstances appeared to satisfy several of the variance criteria including the existence of special circumstances related to the hardship, the absence of harm to the neighborhood or general plan, and the non-self-imposed nature of the hardship. He identified the remaining legal question as whether the variance was essential to a property right enjoyed by similarly situated properties, noting that this was the element requiring the most careful analysis before a written decision could be issued.

Officer Church noted that the CC&R minimum of 2,700 square feet of single-story living area was established by the applicant and that hardships resulting from self-imposed restrictions carry less legal weight. He stated this observation not to deny the request but to flag it as a consideration distinguishable from the lot geometry issue itself.

Officer Church indicated that, given the City's supportive recommendation and the absence of any opposition, he was inclined to grant the variance but committed to a thorough review of the applicable state statute and city code before issuing a written decision. He remarked that he would endeavor to determine whether the circumstances could satisfy the legal requirement that the variance be essential to the enjoyment

of a substantial property right.

Paul Burningham noted for the record that the subject lot is under contract with a buyer currently in a due diligence period, and that the closing is contingent upon approval of the variance. He requested that a decision be issued as expeditiously as possible. Officer Church acknowledged the urgency and confirmed that a written decision would be issued promptly following the hearing.

3. Adjournment

Officer David Church closed the meeting to order at 3:34 p.m. A written decision on Variance Request No. V2026-080 was to be issued at a subsequent date. No decision was rendered from the bench.