

# **CITY OF WEST HAVEN**

## **DECISION OF APPEAL AUTHORITY**

**In the Matter of:** Ron Olson Variance Request

**Subject Property:** 1583 South Williams Drive

**Request:** Fence Height Variance

**Date of Decision:** July 20, 2026

### **Procedural Background**

The Appeal Authority convened a hearing on July 20, 2026 to consider the applicant's request for a side yard setback variance. Attending and participating were Ron Olson, property owner; Amy Hugie, West Haven City Attorney; and Emily Green, West Haven City Recorder. Others attended but did not participate. Evidence, testimony, and exhibits were submitted and a full record of the comments made by all participating was made.

The record of this matter includes the following documents:

1. The Application for a Variance, dated July 8, 2026.
2. A variance statement prepared by the applicant and provided with the application.
3. A graphic illustration of the property involved in the application, with the proposed fence location highlighted in colored pen.
4. An email exchange initiated by the hearing officer on July 9, 2026 and concluding with the transmission of this decision on July 20, 2026.
5. A video recording of the hearing held on July 20, 2026.

The Appeal Authority has considered the application, the evidence presented, and applicable law, including the Utah Land Use, Development, and Management Act (LUDMA), and local zoning ordinances.

### **Findings of Fact:**

1. The subject property is improved with a single-family residence.
2. The owners of the property wish to erect a six-foot fence within the front yard setback of the property where the code limits the height of the fence to 42 inches.
3. The lot involved is unique and not typical of the configuration of other lots in the area.
4. The minimum front yard setback for structures in the zoning district where the property is located is 25 feet.
5. To limit a fence along the front property line to 42 inches in height, in light of the unique characteristics of the property, dramatically reduces the are of the lot which can be enclosed within a six-foot tall privacy fence.

### **Conclusions of Law:**

1. Under Utah Code §10-20-1102, a variance may be granted only if all five statutory criteria are satisfied, including that the variance is:
  1. Necessary to relieve an unreasonable hardship;

2. Due to special circumstances attached to the property that do not generally apply to other properties in the same zone;
  3. Essential to the enjoyment of a substantial property right possessed by other property in the same zone;
  4. Not contrary to the public interest or general plan; and
  5. In accordance with the spirit of the ordinance and justice.
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2. The applicant bears the burden of proving each element by substantial evidence. Utah case law consistently emphasizes that variances are extraordinary relief, granted only in rare circumstances where the property itself creates a hardship.
  3. Variances are intended to address property-specific hardships, not general neighborhood conditions or personal preference. *Xanthos v. Board of Adjustment of Salt Lake City*, 685 P.2d 1032 (Utah 1984): “A variance is an extraordinary remedy, available only in rare circumstances when the property itself presents a hardship not generally applicable to other properties in the zone.”
  4. A hardship cannot be generalized or self-created. *Chambers v. Smithfield City*, 714 P.2d 1133 (Utah 1986): “Where the claimed hardship is common to many parcels in the zone, or arises from the owner’s own choices, the proper remedy is a petition for amendment of the zoning ordinance, not a variance.”
  5. While it is easy to understand the owner’s concerns and preferences with regard to the area of the property which can be used by the occupants within an area enclosed by a privacy fence, the applicant has not demonstrated that denial of a permit to erect a six-foot-tall fence deprives the property of a substantial property right as the courts have defined the term.
  6. Indeed, the concept of minimum front yard setback distances is one of the most common and well-accepted components of a land use code. State and local courts across the nation have upheld such regulations which are deemed to serve the interests of the public health, safety and welfare.
  7. The statutory element of substantial property right has not been satisfied.
  8. A variance request may not be approved if any of the required findings listed above cannot be made.

## **Decision**

The request for a six-foot-tall fence within the defined front yard area of the property at 1583 South Williams Drive is denied.

Dated: July 20, 2026

Signed: /s/ Craig M Call

Craig M Call, Hearing Officer  
Appeal Authority