

Millcreek Council
Jeff Silvestrini, Mayor
Silvia Catten, District 1
F. Dwight Marchant, District 2
Cheri Jackson, District 3
Bev Uipi, District 4



Millcreek Offices
3330 South 1300 East
Millcreek, Utah 84106
801-214-2700
www.millcreek.us

File # LUHO -19-017

Land Use Hearing Officer Summary and Recommendation

Request Type: Variance (Reductions in the Setback Requirements for a flag lot)

Parcel ID: 16-27-205-055

Current Zone: R-1-8

Property Address: 2383 Fisher Lane

Community Council: Canyon Rim

Planner: Erin O'Kelley

Applicant Name: Tiffany Brady

Tiffany Brady is requesting a variance for a reduction in her side yard setbacks on the East side of their Flag Lot to accommodate for a driveway on the West side. Millcreek has an adopted Flag Lot policy that requires all Flag Lots to have a 20 feet setback around the entire main structure on the property. The applicant is requesting a 2 foot reduction in the setback to accommodate for trees, and driveway access to the west of the property.

CONCEPT PLAN

Jon and Tiffany Brady platted this flag lot in 2005 with the intention of building a new single-family residence on the property to be owner occupied. They have now begun the planning process for the house and are preparing the engineering and building plans.

RECORDER'S PLAT

BRADY ACRES

A SUBDIVISION LOCATED IN THE
NE 1/4 OF SECTION 27, TOWNSHIP 1 SOUTH, RANGE 1 EAST
SALT LAKE BASE & MERIDIAN
SALT LAKE CITY, UTAH 84109-2001

SYMBOL LEGEND

- 1 FENCE
- 2 UTILITY POLE
- 3 PLANNING PERMIT
- 4 FIRE TRAIL

SURVEYOR'S CERTIFICATE

I, Stephen Kenneth Meese, do hereby certify that I am a Licensed Surveyor, and that I have surveyed the above described land, and that the same has been correctly surveyed and shown on the ground as shown on this plat. I further certify that the plat meets the area, boundary, and width requirements of the applicable zoning ordinance.

BRADY ACRES

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BOUNDARY DESCRIPTION

BEGINNING AT A POINT NORTH 89°51'15" WEST 731.08 FEET FROM THE CENTER OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 1 SOUTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN; thence South 00°15'15" East 50.24 feet; thence South 89°51'15" East 24.00 feet; thence South 00°15'15" East 192.00 feet; thence North 89°51'15" West 131.00 feet; thence North 00°15'15" West 154.87 feet; thence North 14°30'00" West 78.68 feet; thence North 89°51'15" East 48.48 feet; thence South 89°51'15" East 86.15 feet; thence South 89°51'15" East 19.68 feet to the point of beginning. Contains 24.25 square feet of 0.0008 acres.

OWNER'S DEDICATION

ATTEST
Know all men by these presents that I, the undersigned owner(s) of the above described tract of land, having caused same to be subdivided into lots to be hereafter known as the

BRADY ACRES

In witness whereof, we have hereunto set our hands this 24th day of June, 2005.

By Jon Brady
By Tiffany Brady

STATE OF UTAH)
COUNTY OF SALT LAKE)
I, the undersigned, do hereby certify that I am a Licensed Surveyor, and that I have surveyed the above described land, and that the same has been correctly surveyed and shown on the ground as shown on this plat. I further certify that the plat meets the area, boundary, and width requirements of the applicable zoning ordinance.

BRADY ACRES

A SUBDIVISION LOCATED IN THE
NE 1/4 OF SECTION 27, TOWNSHIP 1 SOUTH, RANGE 1 EAST
SALT LAKE BASE & MERIDIAN
SALT LAKE CITY, UTAH 84109-2001

RECORDED # 9512537

DATE OF UTAH COUNTY SALT LAKE RECORDED AND FILED AT THE REQUEST OF
DATE 06/24/05 TIME 2:58 PM BOOK 2005 PAGE 303
FILE # 20158
SALT LAKE COUNTY RECORDER

APPROVED

PLANNING AND DEVELOPMENT SERVICES CHECKED FOR ZONING COMPLIANCE

SALT LAKE COUNTY ATTORNEY

SALT LAKE COUNTY MAYOR

SALT LAKE COUNTY CLERK

SALT LAKE COUNTY ENGINEER

SALT LAKE COUNTY PLANNING

SALT LAKE COUNTY RECORDING

BRADY ACRES

A SUBDIVISION LOCATED IN THE
NE 1/4 OF SECTION 27, TOWNSHIP 1 SOUTH, RANGE 1 EAST
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As per the adopted Flag Lot Policy, a flag lot must have a minimum of 20 foot setbacks around the entire perimeter of the property for a main structure. As stated at the bottom of the recorded plat under planning and zoning approval. (See attached documents for higher resolution plat)

PLANNING STAFF ANALYSIS

Utah Code states five things that the Land Use Authority must find in order to grant a variance:

UCA 10-9a-702. Variances.

The authority shall have the following powers to authorize on appeal in specific cases a variance from the terms of this title. **The authority may grant a variance only if:**

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 this title.*

The statute further states that "in determining whether or not enforcement of the land use ordinance would cause unreasonable hardship...the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic." The applicant has not presented evidence to Staff of a hardship attached to the property. The applicant has explained to staff that the reason for this request is to accommodate a driveway and trees to the West of the property. Staff has seen renderings of the site plan that can meet the 20 foot setback requirements for a flag lot and therefore does not see a unreasonable hardship that they may be a result of the actual lot. A hardship created by owner through preference, economic reasons or otherwise is considered self-imposed and *not* considered for approval of a variance request.

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

The flag lot created by the applicant in 2005 is an unconventional shape and provides an interesting buildable area compared to neighboring properties. However, during the creation of this plat, it was recognized by Salt Lake County that the known setbacks for the flag lot would be 20 feet all the way around. Salt Lake County otherwise may not have approved the creation of a flag lot if was not able to meet their current flag lot policy. The unusual shape of the lot in this case, is not considered by staff to be a special circumstance for the property.

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

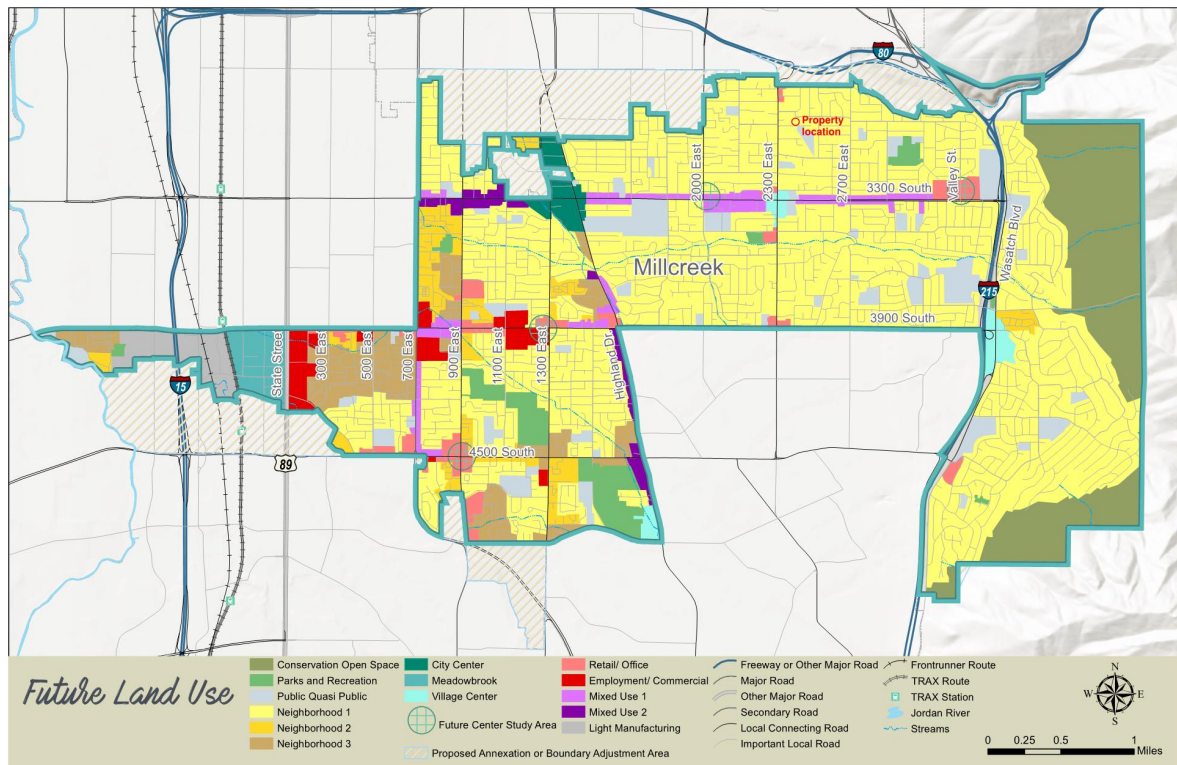
The request of the reduced setback for the applicant does not have an affect on the physical look, placement, or appearance of the single-family home they would like to build. All surrounding properties have the same rights to a private lot with a single-family home, driveway, and private open space. This small setback request would not grant the applicant a right that would otherwise not be able to enjoy.

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

The Millcreek General Plan future land use map has labelled this area as Neighborhood 1 which facilitates and promotes single-family residential housing. Staff agrees that the applicants proposal maintains the

neighborhood 1 integrity and does not substantially affect the general plan and will not be contrary to the public interest.

Future Land Use Map



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

The State law states that "(t)he authority make grant a variance **only if**" all of the requirements listed are met. Staff asserts that this variance request does not meet the requirements, and therefore the spirit, set forth in State law for the Land Use Hearing Officer to grant the variance.

SUPPORTING DOCUMENTS

1. Applicant's Letter and Submitted Documents
2. City's Flag Lot Policy
3. Recorded Plat

Jonathan and Tiffany Brady
2391 Fisher Lane
Millcreek, UT. 84109
801-915-1660 and 801-897-2726
Tiffany.brady@aspen-roofing.com and jb@aspen-roofing.com
July 9, 2019

Land use hearing officer
Millcreek City
3330 S. 1300 E.
Millcreek, UT. 84106

Dear Land use hearing officer:

We come to you today as long-time residents of Millcreek City to request a 3 foot variance request on our lot located at 2383 E. Fisher Lane. Our lot was subdivided 15 years ago and we are now able to move forward with building a home on it for our family. After searching through many different plans online we were finally able to find a house plan that fits within the buildable area and met the height requirements. We staked out the proposed house plan and would like to request a variance to move the proposed house 3 feet east.

We are requesting this variance because literal enforcement would cause unreasonable hardship due to the following special circumstances that come with our existing property and are not typical of other properties located within the same general area:

- The lot is very oddly shaped. The front end of the lot is the wider portion, which leaves a much narrower buildable area for the proposed home on 2383 Fisher Lane.
- The Brigham Young Ditch runs south to north through our property. This is an existing easement that divides our property and buildable area even more.

Granting the variance is also essential to the enjoyment to us and our neighbors located just west of us, as well as the future residents at 2391 Fisher Lane for the following reasons:

- Large mature trees that were planted 15 years ago provide shade and privacy for the proposed home at 2383 Fisher Lane as well as the neighbors west of us. These trees may have to be cut down in order to accommodate for passage space in the proposed driveway for 2383 Fisher Lane.
- The additional passage space in the proposed driveway for 2383 Fisher Lane would prevent us from having to take up additional parking provided in the round about driveway located at 2391 Fisher Lane.

We do not believe that granting the variance would cause hardship to any of our neighbors, including those located north and east of us. We don't believe it will cause hardship because their homes are not located within close proximity to the property lines located east of 2383 Fisher Lane. We in fact have their support with our variance request.

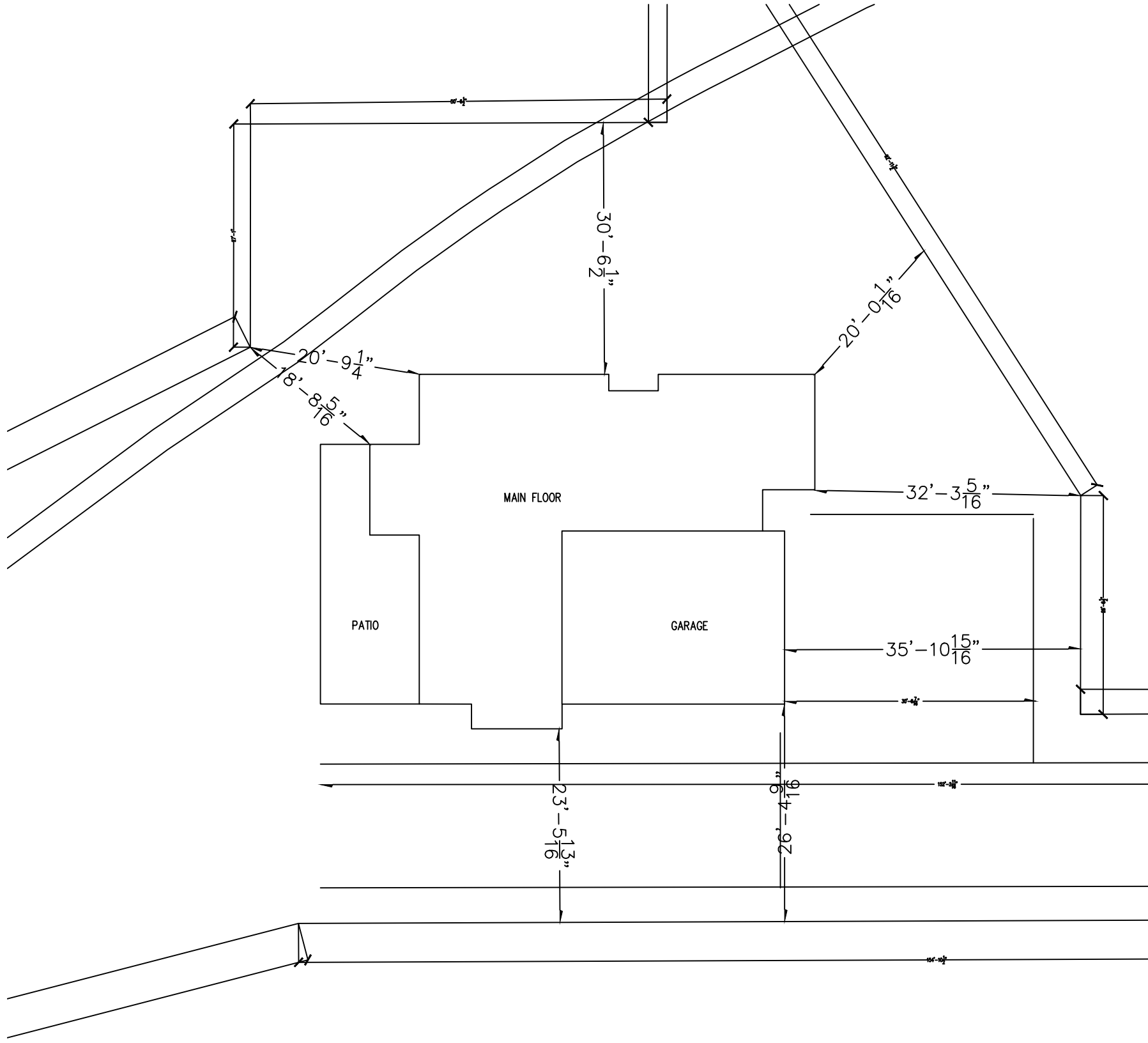
Supporting documents included with our request are as follows:

- Letter from the neighbors who would be impacted (directly east) of our lot that support the variance request.
- Site plan showing current location of proposed home and site plan showing variance request of proposed home.
- Pictures of property that outline the existing geographical items that will cause unreasonable hardship.
- Pictures of additional parcel located at 2393 Fisher Lane (parcel #16-27-205-604-0000) sits directly east of the proposed house plan. This parcel which we also own provides additional footage/set-backs to the east side of the lot. We just haven't incorporated this lot to be included in total square footage to the 2383 Fisher lot yet because we were advised by a zoning planner with Salt Lake County a couple years ago to wait until after we build. He said that the process to incorporate/merge them together would be less cumbersome after the home was already built. As soon as the home is built we are going to add the additional square footage of 2393 to 2383 lot them which will provide a better shaped lot for recording and taxing purposes.

We are happy to discuss any questions or concerns you may have. Thank you again for taking the time to review our request.

Sincerely,

Jonathan and Tiffany Brady



July 26, 2019

Millcreek City Planning Commission:

Dear commissioners, it is my understanding that our neighbors Jon and Tiffany Brady who reside at 2383 East Fisher just east of our property at 2395 East Fisher are requesting a land variance in order to build their new house.

I have reviewed their plans to move the proposed house three feet to the east and their reasoning for this variance in great detail.

As a former planning commissioner for Millcreek Township and next door neighbor of more than fifteen years, I absolutely have no objections to their plans or the proposed variance.

Please feel free to contact me if necessary to provide testimony in support of the variance.

Best regards,

Anthony Godfrey, Ph.D.
2395 Fisher Lane
Millcreek Township, Utah 84109
801-485-2526
uswestresearch@aol.com



Staked west side corners of proposed home in existing driveway.



Staked north west corners of proposed house plan bump out into the existing driveway.



Staked north east corners of proposed house plan that has additional 3-4 feet available.

Existing trees that we hope
to preserve for privacy and
shading.

