

**Providence City  
Appeal Authority Meeting Agenda  
January 21, 2021**

Providence City Office Building  
164 N. Gateway Drive, Providence UT 84332

**Members of the Appeal Authority may be attending this meeting electronically.**

**This meeting will live stream on Providence City's YouTube Channel**

**Person wishing to comment on agenda items may email their comments to**

**[Providencecityutah@gmail.com](mailto:Providencecityutah@gmail.com) or text comments to 435-752-7441**

**Item No. 1:** The Providence City Appeal Authority will consider a request by Deven Pettit, who is seeking a variance to PCC 10-8-3 be granted to allow for a 3' egress window well encroachment into the side setback at the home located at 511 N. 400 E., Providence UT 84332.

**Item No. 2:** The Providence City Appeal Authority will consider a request by Tyler Healey, who is seeking a variance to PCC 10-8-1 be granted to allow a 5' setback from the property line to the rear of the home located at 710 S. 150 E., Providence UT 84332.

This is a public meeting, but only the applicants and/or their representatives, the Appeal Authority member, and city staff will have the opportunity to speak.

Agenda posted on January 20, 2021.

Diane Campbell

If you have a disability and/or need assistance while attending the Appeal Authority Meeting, please call 435-752-9441 before 3:00 on the day of the meeting.



Providence City  
Application for Variance

<b>FOR OFFICE USE ONLY</b>	
Date	<u>12/14/2020</u>
Payment Form	<u>check</u>
Amount	<u>\$100.00</u>
Receipt #	<u>185237</u>
Clerk	<u>[Signature]</u>

Please Note: City Staff will NOT accept the application and fee payment if they are incomplete. Incomplete applications will NOT be processed or scheduled for review by the City.

Initial DP Name Deven Pettit

Date 12/14/2020

**SUBMITTAL REQUIREMENTS**

- A complete application, including a written statement as outlined below
- \$100 application fee
- A site plan detailing the request
- Cache County Plat Map, current; and a copy of the official recorded final plat that includes any notes.
- An electronic copy of ALL submittals (flash drive or emailed is acceptable)

Staff Check

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**Applicant Information** (all information MUST be provided)

Name Deven Pettit

Address 2206 Summerwood Dr, Layton UT, 84040

Phone 801-682-9694 Email devenbp@gmail.com

**Party Responsible for Payment** (if different than applicant): the individual/firm to whom any and all professional services invoices (attorney/engineer/etc.) will be sent and who will be responsible for payment of such invoices.

Name Same as above

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Property Information** (if Owner of Record is different than applicant, the application must include a written statement from the Owner of Record consenting to the applicant's pursuit of a variance)

Owner of record Deven Pettit

Address 2206 Summerwood Dr, Layton UT, 84040

Phone 801-682-9694 Email devenbp@gmail.com

Parcel address 511 N 400 E, Providence UT, 84332

Parcel Tax I.D. 02-298-0014 Total acreage 0.31 Zone Residential

**VARIANCE INFORMATION** (per Providence City Code §2-5-4 and Utah Code Annotated §10-9a-702)

This Application must be accompanied by a statement outlining the following:

- From what Providence City code title/chapter/section are you requesting a variance (include the title/chapter/section number AND the language of the regulation)
- Explain how the variance request meets each of the provisions of Utah Code Annotated 10-9a-702, which states:
  1. Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
  2.
    - a. The appeal authority may grant a variance only if:

- i. literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
      - ii. there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
      - iii. granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
      - iv. the variance will not substantially affect the general plan and will not be contrary to the public interest; and
      - v. the spirit of the land use ordinance is observed and substantial justice done.
    - b.
      - i. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
        - 1. is located on or associated with the property for which the variance is sought; and
        - 2. comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
      - ii. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
    - c. In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
      - i. relate to the hardship complained of; and
      - ii. deprive the property of privileges granted to other properties in the same zone.
  - 3. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
  - 4. Variances run with the land.
  - 5. The appeal authority may not grant a use variance.
  - 6. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
    - a. mitigate any harmful affects of the variance; or
    - b. serve the purpose of the standard or requirement that is waived or modified.
- Once the application has been received and reviewed for completeness, City Staff will schedule a meeting with the Providence City Appeal Authority, which shall be not more than thirty (30) days from the time the application is determined to be complete.

Property owner and contractor shall have responsibility to determine grades, and final placement and elevations of footings/foundations. Property owner and contractor shall be responsible for compliance with all state, national and local building codes and ordinances. Initial DR Name Deven Pettit

Approval by the city of any application submittal or paperwork does not alleviate the owners from their responsibility to understand and conform to local, state and federal laws. Providence City's approval is not intended to and cannot be construed to allow any laws to be violated. Initial DR Name Deven Pettit

**By signing this document, you agree that Providence City will bill you for any and all professional firm fees as they arise throughout the approval process. This is in addition to application fees. All subdivisions require engineering review throughout the approval process, such as but not limited to reviews of development agreements, construction drawings, preliminary and final plats, and inspections. These services are billed by our city engineer at an hourly rate. Some subdivision applications may also require legal review. Other applications, such as but not limited to conditional uses, may also require engineering and/or legal review at the City's discretion. You agree to reimburse the City for all such costs, whether or not**

you were forewarned about such costs, and that the City cannot predict all situations in which professional services may be required in order to process your application. Initial DP

I declare under penalty of perjury that I am the owner or authorized agent for the property which is the subject of application, and that the statements, answers, and documents submitted in connection with this application are true and correct to the best of my knowledge.

  
Signature of Applicant

Devon Pettit  
Printed Name

12/14/2020  
Date

The following is a general summary of which body reviews each land use application in Providence City. Public hearings may be required by the Planning Commission and City Council, as shown below. This matrix does not include zoning clearance/permits for new single-home construction or for business licenses, both of which are reviewed and approved by city staff.

Application	Executive Staff	Land Use Authority	Planning Commission	Public Hearing	City Council	Public Hearing	Appeal Authority	Filing Fee <sup>1</sup>
Code Amendment	✓	----	✓	✓ <sup>2</sup>	✓	----	----	\$100
Annexation	✓	----		----	✓	✓	----	\$150
Rezone	✓	----	✓	✓	✓	----	----	\$100
Conditional Use	✓	✓		----	----	----	----	\$100
Subdivision	✓	----	----	----	----	----	----	\$300
Concept Plan								
Preliminary Subdivision Plat	✓	----	✓	----	----	----	----	\$400
Final/Amended Subdivision Plat <sup>3</sup>	✓	----	✓	----	✓ <sup>4</sup>	----	----	\$600
Site Plan	✓	✓	----	----	----	----	----	\$50
Lot Consolidation <sup>5</sup>	✓	----	✓	----	----	----	----	\$50
Exception to Title <sup>6</sup>	✓	----	✓	----	✓	----	----	\$100
General Plan Amendment	✓	----	✓	✓	✓	----	----	\$100
Right-of-Way Vacation	✓	----	✓	----	✓	✓	----	\$100
Variance/ Appeal	----	----	----	----	----	----	✓	\$100

<sup>1</sup> Filing Fees do **not** include professional firm review fees. Those will be billed to the applicant separately.

<sup>2</sup> Public Hearing required at Planning Commission only when the proposed code amendment is related to land use.

<sup>3</sup> Construction drawings are reviewed/approved by the City Engineer and Public Works Director.

<sup>4</sup> The City Council does not review the final plat itself, but rather reviews and approves the development agreement associated with the final plat.

<sup>5</sup> Lot consolidations are only required to have City approval when they are in a platted/recorded subdivision.

<sup>6</sup> Developers may ask for an exception from the requirements of the Providence City Subdivision Code (Title 11) through this process. All other variance/exception requests shall be handled by the Appeal Authority.

Deven Pettit  
2206 Summerwood Drive  
Layton, UT 84040

12/14/2020

Appeal Authority Committee  
Providence City  
164 Gateway Drive  
Providence, UT 84332

Appeal Authority Committee,

I am writing in regard to Parcel 02-298-0014, a 0.31 acre residential lot located in the Providence Shire neighborhood at 511 North 400 East in Providence. I am requesting a variance from the Providence City Code section 10-8-3 : Setbacks, and specifically subsection A.7.a. which stipulates that "Window Wells may encroach up to a maximum three (3) feet into the required rear yard and may encroach up to a maximum of two (2) feet into a required side yard."

We built our house on the 10-foot setback line on the north side of our lot. The standard metal basement window wells on the two basement bedroom windows on that side are thirty-six inches deep, which means that they encroach 3 feet into the required side setback. Thus they extend into the setback one foot too far. They only come above the ground about 6 inches, the code minimum, so they are barely visible. As the two windows are bedroom windows the International Building Code requires the window wells to be 36" deep for egress and so we cannot simply put shallower wells around the windows to comply. It is cost prohibitive to move the entire side of the house one foot to the south. The only available remedy is to dig out the north side of the house and form a half-circle landscape rock wall which joins the house foundation near the front and back of the house. It will mean that the basement windows are above grade, as they are inside what is essentially one very big landscaped window well that runs the whole length of the side of the house, though it is technically landscaping, and not a window well. I have several concerns about doing this. I have also included a simple drawing to illustrate the issue.

1. The cost of putting in this rock or concrete retention is very burdensome to us - conservatively \$10,000 to \$15,000. To do concrete would be even more money.
2. The amount of water that a normal window well collects is minimal, partially because a good portion of that well is protected from rainfall by the home's eaves above it. To install this landscaping will create a basin several feet wide and about thirty feet long for

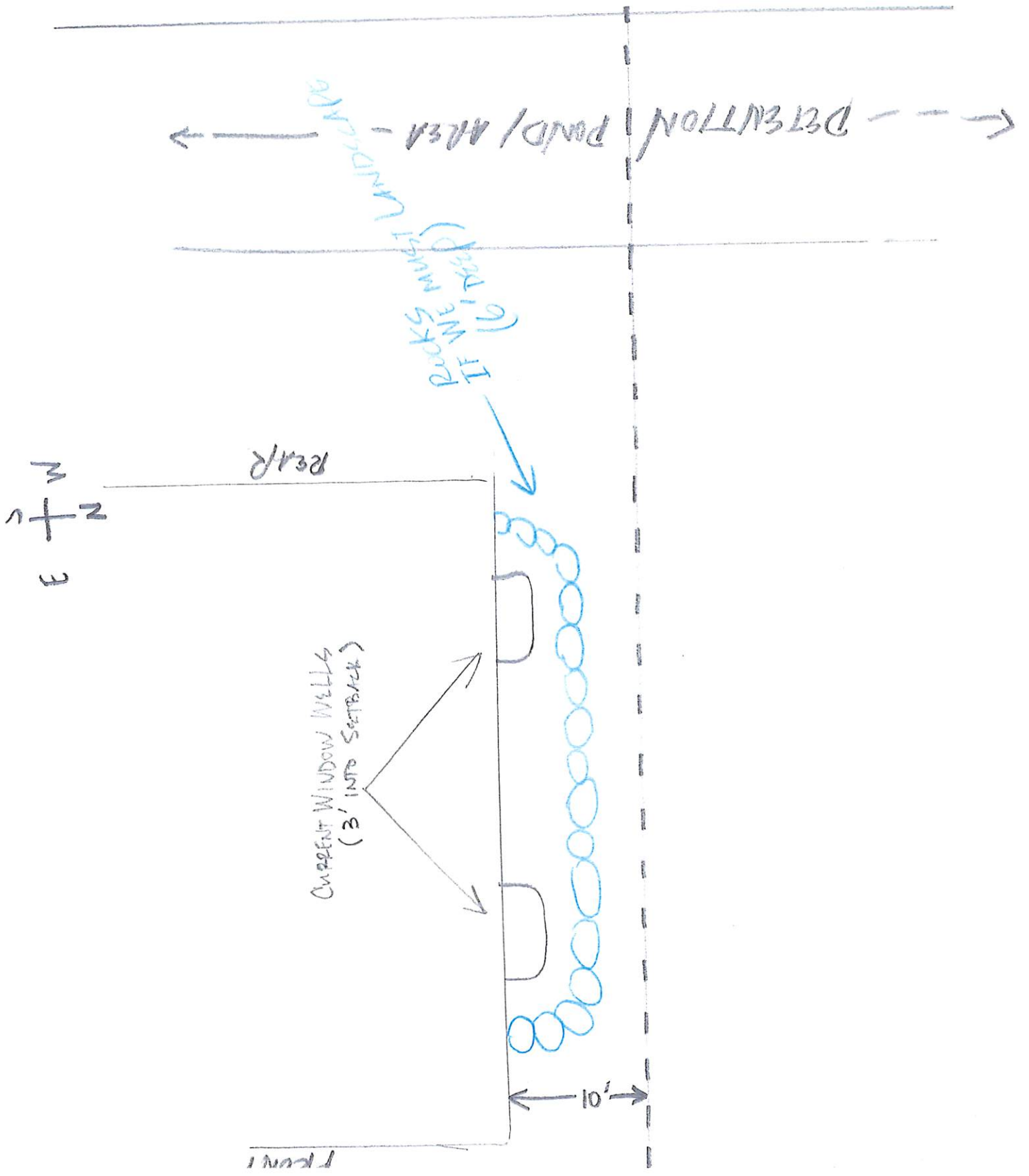
significant amounts of water to collect which creates serious flooding and foundation risk to my home. We will therefore also have to find a way to drain the water out of the area. Because we have a city-required detention pond as a big part of our back yard only about 15 yards from the back of the house structure, our ground will be more saturated than the ground on other lots without the pond, making draining of that landscaped area even more difficult. This is my biggest worry. In a major storm I fear we would likely have flooding or foundation issues immediately or soon thereafter.

3. Since the time we began construction our neighbors on the other side of the setback line have begun construction as well and have built their ground up a few feet. This means that our landscape "hole" is even deeper and a lower low-spot than it would be otherwise. Those neighbors, Brett and Heidi Parsons, have put in a retaining wall and are concerned that our landscaping may disturb their concrete work, and more importantly that digging a large hole next to their retaining wall, which is a curb along their driveway on their side, creates a falling hazard to their small children.
4. The 36" window wells on the house right now allow a 7-foot wide unobstructed access, or walkway, from the front of the house to the back. When we landscape around those windows we will be lucky to be left with a 3-foot wide path to the backyard. This is merely an inconvenience, but I wonder if it is exactly one of the things the current ordinance is trying to improve, and not to make worse. This situation is different than most.

In summary, this is a very unique situation and I hope I have done a satisfactory job explaining it. It seems to me that to replace the 3-foot metal window wells with a big rock landscaped basin on the side of the home in order to meet the ordinances will benefit nobody. In fact, it will make my side yard inaccessible and unusable. Due to the saturated detention area at the back of the property it will be very difficult to drain in a storm and I am very concerned about damage to the home. To have a variance to give me the one foot that I need would solve these unique problems. Please feel free to reach out to me by phone with any questions.

Sincerely,

Deven Pettit



FRONT

REAR

DETENTION POND/AREA

IT WOULD SKIRT THE MOST (9' DETENTION POND)

CURRENT WINDOW WELLS (3' INTO SETBACK)

10'

Compass Rose: N, S, E, W



### Providence City Application for Variance

FOR OFFICE USE ONLY	
Date	_____
Payment Form	_____
Amount	_____
Receipt #	_____
Clerk	_____

Please Note: City Staff will NOT accept the application and fee payment if they are incomplete. Incomplete applications will NOT be processed or scheduled for review by the City.

Initial T.H Name Tyler Healey

Date 01-03-2021

#### SUBMITTAL REQUIREMENTS

#### Staff Check

- A complete application, including a written statement as outlined below
- \$100 application fee
- A site plan detailing the request
- Cache County Plat Map, current; and a copy of the official recorded final plat that includes any notes.
- An electronic copy of ALL submittals (flash drive or emailed is acceptable)

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

#### Applicant Information (all information MUST be provided)

Name Tyler & Jessica Healey

Address 710 South 150 East Providence, UT 84332

Phone 801-471-5302 Email thealey01@yahoo.com

**Party Responsible for Payment** (if different than applicant): the individual/firm to whom any and all professional services invoices (attorney/engineer/etc.) will be sent and who will be responsible for payment of such invoices.

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Property Information** (if Owner of Record is different than applicant, the application **must** include a written statement from the Owner of Record consenting to the applicant's pursuit of a variance)

Owner of record Tyler & Jessica Healey

Address 710 South 150 East Providence, UT 84332

Phone 801-471-5302 Email thealey01@yahoo.com

Parcel address 710 South 150 east Providence, UT 84332

Parcel Tax I.D. \_\_\_\_\_ Total acreage \_\_\_\_\_ Zone \_\_\_\_\_

#### VARIANCE INFORMATION (per Providence City Code §2-5-4 and Utah Code Annotated §10-9a-702)

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    - a. The appeal authority may grant a variance only if:

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  - ii. there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
  - iii. granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
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- i. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
    1. is located on or associated with the property for which the variance is sought; and
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3. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
  4. Variances run with the land.
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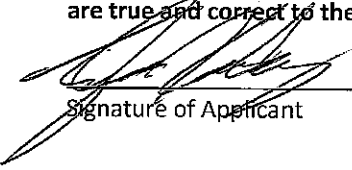
Property owner and contractor shall have responsibility to determine grades, and final placement and elevations of footings/foundations. Property owner and contractor shall be responsible for compliance with all state, national and local building codes and ordinances. Initial T.H. Name Tyler Healey

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you were forewarned about such costs, and that the City cannot predict all situations in which professional services may be required in order to process your application. Initial T.H.

I declare under penalty of perjury that I am the owner or authorized agent for the property which is the subject of application, and that the statements, answers, and documents submitted in connection with this application are true and correct to the best of my knowledge.

  
Signature of Applicant

Tucker Healey  
Printed Name

01-03-2021  
Date

The following is a general summary of which body reviews each land use application in Providence City. Public hearings may be required by the Planning Commission and City Council, as shown below. This matrix does not include zoning clearance/permits for new single-home construction or for business licenses, both of which are reviewed and approved by city staff.

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Annexation	✓	---	---	---	✓	✓	---	\$150
Rezone	✓	---	✓	✓	✓	---	---	\$100
Conditional Use	✓	✓	---	---	---	---	---	\$100
Subdivision Concept Plan	✓	---	---	---	---	---	---	\$300
Preliminary Subdivision Plat	✓	---	✓	---	---	---	---	\$400
Final/Amended Subdivision Plat <sup>3</sup>	✓	---	✓	---	✓ <sup>4</sup>	---	---	\$600
Site Plan	✓	✓	---	---	---	---	---	\$50
Lot Consolidation <sup>5</sup>	✓	---	✓	---	---	---	---	\$50
Exception to Title <sup>6</sup>	✓	---	✓	---	✓	---	---	\$100
General Plan Amendment	✓	---	✓	✓	✓	---	---	\$100
Right-of-Way Vacation	✓	---	✓	---	✓	✓	---	\$100
Variance/Appeal	---	---	---	---	---	---	✓	\$100

<sup>1</sup> Filing Fees do not include professional firm review fees. Those will be billed to the applicant separately.

<sup>2</sup> Public Hearing required at Planning Commission only when the proposed code amendment is related to land use.

<sup>3</sup> Construction drawings are reviewed/approved by the City Engineer and Public Works Director.

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<sup>5</sup> Lot consolidations are only required to have City approval when they are in a platted/recorded subdivision.

<sup>6</sup> Developers may ask for an exception from the requirements of the Providence City Subdivision Code (Title 11) through this process. All other variance/exception requests shall be handled by the Appeal Authority.



Front yard, ft.	25	30	30	30	30	25	25	20
Side yard, interior	10	5	5	5	5	5	5	5
Side yard, street	20	20	20	20	20	20	20	20
Rear yard	10	5	5	5	5	5	5	5

We are looking to construct a shed. As stated in the Municipal Code 10-8-1 Area Regulations, when building a shed (Detached Accessory Uses) the structure must be 30 ft from the front yard, 5 ft from a side yard (Interior), 5 ft from the rear yard, 20 from side yard (street). We have proposed a detached assessor building that will be placed in our back yard. As the Detached Accessory Building (shed) will be located in our back yard we are requesting a 5 ft offset from the property line. Due to the shape of the cul-de-sac our rear yard borders a street (Cul-de-sac). This is a unique case, and we are requesting a variance as this is not a typical side street.

- Explain how the variance request meets each of the provisions of Utah Code Annotated 10-9a-702, which states:
  1. Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

Response: As the land owner I meet the provisions of the Utah Code Annotated 10-9a-702. We are proposing a variance of our detached assessor building as it is in our back yard and is not a side yard (street). For this reason, we are requesting an off set of 5 ft from the property line.

2.

a. The appeal authority may grant a variance only if

i. literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

ii. there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

Response:

Due to the shape of the cul-de-sac this is a special circumstance where we are proposing a Detached Accessory Building in our back yard and an offset of 5 ft from the property line. Due to the shape of the cul-de-sac our rear yard borders a street (Cul-de-sac). This is a unique case, and we are requesting a variance as this is not a typical side street.

iii. granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

Response:

The proposed variance is essential to be able to build a Detached Accessory Building in our backyard like the zoning allows.

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

Response:

The placement of the detached Accessory building would not affect the general plan or any public interest as it would not block any sight plans from traffic or residence.

v. the spirit of the land use ordinance is observed and substantial justice done.

Response:

The shed is in our back yard and we are requesting it be treated as a back yard and not a side yard (street).

b.

i. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

1. is located on or associated with the property for which the variance is sought; and

2. comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

Response: Due to the shape of our lot and the shape of the cul-de-sac our circumstance is specific to our lot and not the general neighborhood.

ii. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

c. In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

i. relate to the hardship complained of; and

ii. deprive the property of privileges granted to other properties in the same zone.

Response: all other property owners are allowed to construct a detached accessory building in the back yard with a 5 ft off set. We are requesting the same standards.

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

4. Variances run with the land.

5. The appeal authority may not grant a use variance.

6. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

a. mitigate any harmful affects of the variance; or

b. serve the purpose of the standard or requirement that is waived or modified.

- Once the application has been received and reviewed for completeness, City Staff will schedule a meeting with the Providence City Appeal Authority, which shall be not more than thirty (30) days from the time the application is determined to be complete.

Parcel # 02-297-0011

Taken from the cache county parcel and zoning map.

s



Showing the shape of the cul-de-sac. We are proposing a detached accessory building in our back yard but due to the shape of the cul-de-sac, the detached accessory building will be with-in 20ft of the street.



Location of the proposed Detached Accessory Building.

The shed is 7 ft way from the garage. 8 ft away from the property line on the east side (cul-de-sac), and 45 ft from the north street (entrance to the culd-de-sac)



Size of the proposed detached accessory building will be 16 ft long by 15 ft wide. (240 sq ft).

