

Item:

4

Applicant:

Juli Erikson

Location:

745 East Maple Street

Prepared By:

Brian Tucker, Planner

Public Hearing:

No

Zone:

RA-2

Attachments:

1. Application information.
2. Applicable law.
3. Neighbor correspondence.

REQUEST

Consideration of a request for a Variance to decrease the Side Corner Yard setback requirement from 30 feet to approximately 10 feet for a lot located at 745 East Maple Street.

FINDINGS OF FACT

1. Zacary and Juli Erikson are the owners of the home and property located at 745 East Maple Street.
2. Mapleton City Code (MCC) section 18.36.060 requires all buildings to be setback at least 30' from any property line abutting a street.
3. Juli Erikson has applied for a variance to the setback requirement of 30' from 800 East street for an accessory structure.
4. Juli Erikson was the applicant for a building permit request for an addition to the existing home in September 2020. The application did not include contractor information and was approved with Juli Erikson as the owner/builder.
5. The September 2020 permit did not include any accessory buildings. At some point after the building permit was issued, the applicant began construction of a detached structure east of the existing home measuring 24' east to west and 21' north to south. The applicant did not apply for, or obtain approval for, the detached structure.
6. On July 21, 2021, Juli Erikson applied for a variance to the setback requirement to allow the unpermitted accessory structure to encroach into the required 30' setback. Based on aerial images and parcel data from the Utah County Recorder's Office, it appears the detached structure is approximately nine to ten feet from the east property line.
7. Variances are governed by Utah Code Section 10-9a-702 and Mapleton City Code (MCC) 18.84.360 (see attachment "2").
8. Mapleton City Code, Section 16.06.050.M., designates and empowers the Mapleton City Planning Commission as the review authority to hear and decide applications for variance from the terms of the land use regulations.
9. Both Utah Code and Mapleton City Code contain five conditions that must each be met before a variance may be issued.

FINDINGS FOR DECISION

1. The appeal authority may only grant a variance if the 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. 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 constructed, or caused to be constructed, an accessory structure to the east of her home without a building permit and in violation of the 30' setback requirement. Since there is adequate space on the lot to build an accessory building and still comply with the setback requirements, the City finds that the hardship is clearly self-imposed and therefore would not be eligible for a variance. The difficulties and expense the applicant will encounter in bringing the property into compliance are economic in nature and do not qualify as unreasonable hardships under the applicable law.

2. The appeal authority may grant a variance only if there are special circumstances attached to the property that do not generally apply to other properties in the same zone. The subject property is 80% larger than the minimum lot size in the RA-2 zone and 60% wider than the required lot width on Maple Street. The lot does taper beginning approximately 95' north of Maple Street, reducing the width to accommodate Sierra Bonita Court, but this narrowing is not related to the hardship complained of as it occurs 30 or more feet north of the unpermitted accessory structure. Every corner lot in the neighborhood and in the RA-2 zone is subject to the same setback requirement from a side street. The City finds that no deprivation of privileges granted to other properties in the same zone exists and any special circumstances inherent to the lot are unrelated to the hardship complained of.
3. The appeal authority may grant a variance only if granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. The property in question includes a significant residential structure that is currently undergoing an addition. The owners of the property have the opportunity to construct accessory structures within the setbacks and other standards applicable to other property in the same zone. The City finds that no property right enjoyed by other properties in the same zone has been denied. The City finds that granting the requested variance would grant the applicant a property right in excess of those rights possessed by other property in the same zone.
4. The appeal authority may grant a variance only if the variance will not substantially affect the general plan and will not be contrary to the public interest. The purpose of setbacks is to provide a neighborhood with a consistent streetscape, to prevent houses and structures from crowding each other and streets, to provide homeowners with expectations of what they can do with their property and expectations on what their neighbors can do with their property. The City finds that granting a variance is contrary to the legitimate public interests of consistent streetscapes and reasonable development expectations provided by setback requirements.
5. The appeal authority may grant a variance only if the spirit of the land use ordinance is observed and substantial justice done. The City finds that granting a variance to the setback requirements in this case is contrary to the spirit of the zoning ordinance because it would grant the property owner property rights in excess of those enjoyed by other property in the same zone, for reasons not related to the circumstances of the lot or a hardship that meets the legal standard for an unreasonable hardship.

RECOMMENDATION

Deny the variance request, adopt the findings contained in this report and require that the applicant remove or modify the accessory structure to comply with all setbacks of the RA-2 zone within 120 days. If the applicant determines to relocate or modify the accessory structure a building permit shall also be required.

MAPLETON
UTAH
VARIANCE APPLICATION

Applicant Information

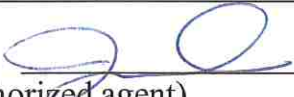
Applicant: Juli Erekson Phone #: _____

Address: 745 E Maple St City, State, Zip: Mapleton, UT 84664

Email: _____ Project Parcel#: _____

Project Location: 745 E Maple St, Mapleton, UT 84664

Describe requested variance: We respectfully request a variance of the requirement of
the need of 30 feet from our auxillary storage building on our property from the side
street. Our storage building is inside our fence and is mostly hidden behind the trees
that run along the east side of our property. It does not impead on any vision that may
be needed along the road, and meets both setback requirements in the front and back.

Applicant's Signature:  Date: 1/25/2021
(property owner or authorized agent)

Submittal Requirements

Submit application.

Pay \$175.00 application fee.

Submit applicable plans (site plan for setbacks, elevations for height, etc.)

Brian Tucker

From: Juli Erikson
Sent: Thursday, July 22, 2021 8:42 AM
To: Brian Tucker
Subject: Erikson Variance Request

Follow Up Flag: Follow up
Flag Status: Flagged

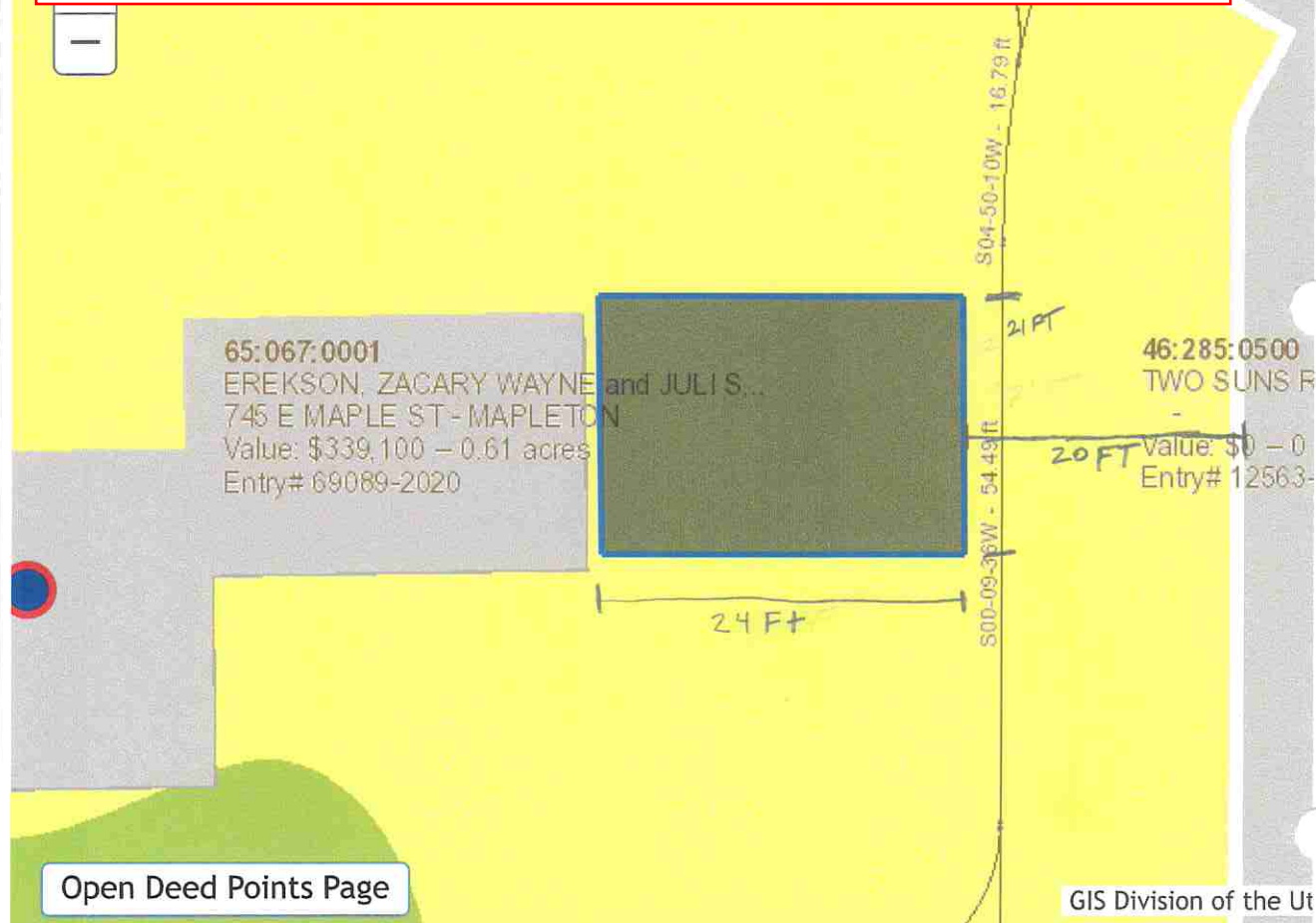
Morning Brian,
Thank you again for your patience and help in working through this variance request.

We at 745 E Maple St. request a grant for a variance of 6 ft from the east side yard to build a detached accessory building. As shown in the provided drawings, the building will be covered by the natural barrier of trees that have matured with the property and not impede on sight lines. We were originally informed we have met the 10 foot setback requirements for accessory buildings and then learned of the 30 foot requirements as a corner property. We believe this addition of accessory building will complement the property, increase the property value and neighborhood value, and not be contrary to the public interest. The location for this accessory building allows for it to be hidden on property and not create any other visual disturbance on the property if placed elsewhere.

Thank you

Juli Erikson
8014203753

Site plan submitted by applicant



▼ Measurement



| Fe

Measurement Result

36.4 Feet

Location of accessory building.
Home is located approx. 36'
from the property line,
accessory building is located
approximately 9-10' from the
property line

Permitted addition



unpermitted
accessory building



Unpermitted
accessory building



Attachment “2” STATEMENT OF LAW

Applicable Lots and Setback Standards:

Mapleton City Code, Section 18.36.060: LOTS, BUILDINGS, YARDS, AND OPEN SPACES:

Each lot or parcel of property in the RA-2 zone shall meet all of the following requirements:

- A. Lot Size And Area Per Dwelling: The minimum lot size in the RA-2 zone shall be not less than fourteen thousand five hundred (14,500) square feet. Not more than one single-family dwelling may be placed upon a legally created lot or parcel of land in the RA-2 zone.*
- B. Lot Width: Each lot or parcel of land in the RA-2 zone shall have an average width of at least one hundred feet (100').*
- C. Front Yard/Garage Requirements: No home shall have a front yard setback of less than thirty feet (30') measured from the front property line or the right of way edge to the foundation of the home. For homes that have garage doors that face the street, the garage shall be set back a minimum of twenty feet (20') from the back of sidewalk.*
- D. Side Yard/Rear Yard: Each lot or parcel of land in the RA-2 zone shall have a side yard of not less than ten feet (10'). No home shall have a rear yard setback of less than twenty five feet (25') from the rear property line.*
- E. Side Yard; Corner Lots: When a side yard on a corner lot faces a street, the same setbacks as described in subsection C, "Front Yard/Garage Requirements", of this section shall apply.*

Duties and Powers of the Planning Commission:

Mapleton City Code, Section 16.03.050: DUTIES AND POWERS:

The city planning commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning as follows:

- M. Variances: To hear and decide applications for variances from the terms of land use regulations in accordance with section [18.84.360](#) of this code.*

Variances:

Mapleton City Code, Section 18.84.360: GRANTING OF SPECIAL EXCEPTIONS, VARIANCES, NONCONFORMING USES, AND INTERPRETATION OF THE ZONING ORDINANCES:

The Planning Commission shall hear and decide requests for special exceptions, variances, nonconforming uses and interpretation of the zoning ordinances as specifically set forth in this section as follows:

F. Conditions Of Granting A Variance: The Planning Commission may only grant a variance to waive or modify the requirements of a land use ordinance as applied to a parcel of property if:

- 1. Literal enforcement of the ordinance would cause an unreasonable hardship, as defined in Utah Code section 10-9a-702, for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*
- 2. There are special circumstances, as defined in Utah Code section 10-9a-702, attached to the property that do not generally apply to other properties in the same zone;*
- 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*
- 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and*
- 5. The spirit of the land use ordinance is observed and substantial justice done.*

Utah Code, Section 10-9a-702. Variances.

- (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:*
 - (A) is located on or associated with the property for which the variance is sought; and*
 - (B) 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.*

Brian Tucker

From: Kaylie and Garrett Faucette
Sent: Monday, August 2, 2021 1:09 PM
To: Brian Tucker
Subject: Setback Requirement 745 E Maple

Follow Up Flag: Flag for follow up
Flag Status: Completed

Hello,

We received a letter regarding a Variance to the Side Corner Yard setback at 745 E Maple Street. We just wanted to express our concern about the structure being placed on this corner at a 6-foot setback. It is aesthetically displeasing to the corner of that street. It is so close to the property line. I hope the Variance does not get approved, because it is not even close to the 30-foot requirement. The lot is large enough that they could have found another location for the shed-type of structure that they are building. The structure is too big and too tall for that location. I don't even know if you care about our opinion or if it means anything, but I hope you take it into consideration.

-Garrett and Kaylie Faucette

Brian Tucker

From: Ruth +
Sent: Monday, August 2, 2021 6:28 PM
To: Brian Tucker
Subject: Letter dated July 28, 2021 variance on 745 E Maple St.

Follow Up Flag: Follow up
Flag Status: Completed

David Fuller
732 E Maple Street
Mapleton Utah 84664

2 August 2021

Mapleton City Planner
Brian Tucker
125 W 400 N
Mapleton Utah 84664
Btucker@mapleton.org

Brian

In response to the letter dated 28 July 2021 requesting for a Variance to decrease the side corner yard setback requirement from 30 feet to 6 feet for 745 E Maple Street Mapleton Utah 84664

I object to the variance for the following reason.

1. If the law or ordinance requires a 30' feet setback, there must be a reason. My reasons would be:
 - a. Blocking the view for traffic on the road.
 - b. Blocking Utility easement.
 - c. Blocking if the city needs to widen the road.
2. Question on a non-attached garage there should be a requirement to be so many feet away from the resident dwelling. If not at least some requirement in case of a fire. Do they meet these requirements?

These are my neighbors and I want to welcome them in our neighborhood. But I believe the right thing would be to change the law or ordinance on the requirements, If the planning commission and the city council sees no reason to change the law from 30' to 6' then I don't have a problem with it. But as owners they need to understand that the 30' requirements are in-place for a reason and if you change it for them then the city needs to change it for everyone. The setbacks have been there for a long time and should stay in place the way they currently are.

If you have any questions give me a call at 801-489-6623

Sincerely,

/s/

David Fuller