



Planning & Development Services Division

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Land Use Hearing Officer

Public Meeting Agenda

Tuesday, March 4, 2014

1:00 P.M.

**THE MEETING WILL BE HELD AT SALT LAKE COUNTY GOVERNMENT CENTER
2001 SOUTH STATE STREET, NORTH BUILDING
PLANNING DIVISION CONFERENCE ROOM, SUITE N3600
ANY QUESTIONS, CALL (385) 468-6700**

REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED UPON RECEIPT OF A REQUEST WITH 5 WORKING DAYS NOTICE. PLEASE CONTACT WENDY GURR AT 385-468-6707. TTY USERS SHOULD CALL 711.

The purpose of the Land Use Hearing Officer's Meeting is to allow the Land Use Hearing Officer to hear applicant and public comment, as well as agency and staff recommendations, prior to making a decision on applications filed with Salt Lake County.

The Land Use Hearing Officer shall: act as an appeal authority for zoning decisions applying this title as provided in Section 19.92.050 and conditional use decisions by a planning commission; hear and decide the special exceptions to the terms of the zoning ordinance set forth in Section 19.92.060; hear and decide variances from the terms of the zoning ordinance; and, hear and decide applications for the expansion or modification of nonconforming uses.

BUSINESS ITEMS

1. Approval of minutes from the December 10, 2013 meeting.
2. Other Business Items (as needed)

PUBLIC HEARINGS

28736 – Jay and Adrienne Aldous are requesting a Variance from the required wetlands setback to allow for an addition to an existing Single Family Dwelling/Short Term Rental Cabin.
Location: 8314 South Brighton Loop Road. **Zone:** FR-0.5, Foothills and Canyons Overlay Zone.
Planner: Todd A. Draper

ADJOURN



**MEETING MINUTE SUMMARY
LAND USE HEARING OFFICER
Salt Lake County Government Center, N3600**

Tuesday, December 10, 2013 1:00 p.m.

Approximate meeting length: 19 minutes
Number of public in attendance: 4
Summary Prepared by: Wendy Gurr
Meeting Conducted by: Officer Harward

**NOTE: Staff Reports referenced in this document can be found on the State and County websites, or from Salt Lake County Planning & Development Services.*

ATTENDANCE

Officer and Staff:

Hearing Officer	Public Mtg	Business Mtg	Absent
James Harward - Officer	x	NA	

Planning Staff / DA	Public Mtg	Business Mtg
David Gellner	x	NA
Wendy Gurr	x	NA
Max Johnson	x	NA
(DA)		
Lyle Gibson	x	NA

BUSINESS MEETING

Meeting began at – 1:00 p.m.

- 1) Other Business Items (as needed)

There were no business items to discuss.

The Public Hearings will begin immediately following the Business Meeting.

PUBLIC HEARINGS

Hearings began at – 1:01 p.m.

28702 – Jared Larson, representing Prescott Muir Architects is requesting a Special Exception to rebuild and relocate a non-conforming structure on the subject property as allowed by sections 19.88.070 and 19.92.060 of the Salt Lake County Zoning Ordinance. **Location:** 2266 East 3300 South. **Zone:** C-2 (Community Commercial). **Community Council:** East Mill Creek. **Planner:** David J. Gellner, AICP

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Applicant – Prescott Muir Architects

Name: Jay Lems

Address: Not provided

Comments: **CORRECTION FROM THE AGENDA ANNOUNCEMENT:** This request is to reconstruct, not relocate, the existing building. When Zions Bank began to remodel the building, they discovered evidence of

several revisions that would complicate a further remodeling effort, and has since determined that a better solution is to raise the building and reconstruct in the same footprint.

Mr. Harward questioned traffic congestion. Will the change impede the fire or safety issue? Are they working with staff to meet all requirements? Will it be detrimental to persons working near the area? He asked for confirmation that the request is supported by the zoning ordinance.

David Gellner answered Mr. Harward's questions and discussed the proposal and requirements in greater detail.

Max Johnson, questioned anticipation of a drive-thru. The applicants described the proposal as a single lane drive thru and ATM at the terminal for one vehicle at a time, as permitted previously.

Lyle Gibson stated Transportation Engineer already took a look at original permit and would support the current design.

No public comment.

PUBLIC PORTION OF MEETING CLOSED

Motion: to approve application #28702 as presented.

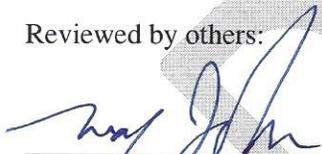
Motion by: Officer Harward

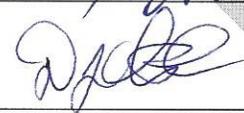
MEETING ADJOURNED

Time Adjourned – 1:19 p.m.

Minutes reviewed by:

Reviewed by others:

 1-31-14

 1/31/14



STAFF REPORT

Executive Summary									
Hearing Body:	Land Use Hearing Officer								
Meeting Date and Time:	Tuesday, March 04, 2014	01:00 PM	File No:	2	8	7	3	6	
Applicant Name:	Jay Aldous	Request:	Variance						
Description:	Variance from required Wetlands Setback								
Location:	8314 S Brighton Loop Road								
Zone:	FR-0.5 Forestry & Recreation	Any Zoning Conditions?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>					
Staff Recommendation:	Denial								
Planner:	Todd A. Draper								

1.0 BACKGROUND

1.1 Summary

(Continued from February 11, 2014 meeting agenda.) The property is located in Big Cottonwood Canyon and is subject to the FR.05 (Forestry and Recreation) and FCOZ (Foothill and Canyons Overlay) zones. The applicant was cited in July of 2012 for adding onto their cabin/short-term rental without prior land use approval or a building permit. Shortly thereafter the a representative of the owner made application for the exterior expansion of the structure under land use file #27943. The expansion consists of the addition of a stairway off of a second floor deck down to a concrete patio, and a covering built over the new patio that extends out away from the cabin towards the nearby wetlands. A number of approximate wetlands delineations have been submitted, however the required wetlands delineation approved by the Army Corps of Engineers has not been provided until recently in November of 2013. Based upon the approved wetlands delineation it appears that the entire addition is closer than 25 feet to the wetlands. The standard setback from wetlands in the Foothills and Canyons Overlay Zone is 50 feet. While the Director of Planning and Development is allowed under ordinance to approve limited encroachments into the setback, they are not able to approve any encroachment closer than 25 feet to the wetlands. The applicant is requesting approval of a variance from the setback in order to allow for the addition to remain.

1.3 Neighborhood Response

A number of neighboring property owners have called in response to the mailed notice of the initially scheduled hearing of February 11th. While many misunderstood the request or notice, all did express their concern about perceived potential impacts to the wetlands. Any responses that are received in writing prior to the hearing will be provided directly at the hearing.

2.0 ANALYSIS

2.1 Applicable Ordinances

Section 19.92.040.B.1. of the Zoning Ordinance establishes five criteria to be used in evaluating requests for variances. The Board of Adjustment must find that all five of these criteria have been met before granting approval of a variance. Staff suggests the following analysis based upon a review of the five criteria:

Criteria Met		Variance Criteria and Evaluation
YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	<p><i>a. Literal Enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.</i></p> <p>Discussion: The property already has been built upon to the fullest extent under the ordinance. The right to construct a dwelling on the property has already been utilized.</p> <p>With regards to the stairs and concrete patio (landing) staff could concede that a lack of a secondary exit or access out of the dwelling for emergency purposes may pose an minor hardship not necessary to carry out the general intent of the zoning ordinance. However, the dwelling met fire code and building code at the time of construction without this additional access.</p> <p>With regards to the additional patio covering however removing it would not cause an unreasonable hardship as defined in State and County ordinances. Staff believes that the addition of the roof covering was been self-imposed as it was initially intended to cover an outdoor hot tub (an appurtenance that is restricted in the watershed by Salt Lake County Health Department regulations).</p>
YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	<p><i>b. There are special circumstances attached to the property that do not generally apply to other properties in the same district.</i></p> <p>Discussion: Many properties in the immediate vicinity and elsewhere in the county in areas similarly zoned to this property have wetlands on or near them. Many of these properties also have existing homes or cabins that are non-conforming to the current setbacks from streams and wetlands. These circumstances are general to the area.</p> <p>The lack of a secondary emergency access from the second floor could be considered as a unique circumstance. Again, this access is not needed to meet fire or building code. A simple emergency ladder could be provided and located on the deck that would have the same effect without violating the ordinance.</p>

YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	<i>c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same district.</i>
		<p>Discussion: Denial of the variance would not restrict access or use of the property. Guests to the cabin could still access the rear of the dwelling by walking out the front door and traversing across either side yard to reach the rear yard. As discussed above in criterion b, there are other ways to provide additional emergency access without violating the ordinance.</p> <p>Denial of the Variance would not inhibit the enjoyment of any substantial property rights held by other similar properties in the same district. Denial would not decrease the amount of "usable" outside space on the property as suggested by the applicant.</p>
YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	<i>d. The variance will not substantially affect the general plan and will not be contrary to the public interest.</i>
		<p>Discussion: Approval of the full variance may be contrary to the larger public interest of watershed and wetlands protection. Staff is aware of the Army Corps of Engineers finding of no impact on their jurisdictional wetlands for the expansion as proposed. Staff believes that while the impact of the stairs and landing are minimal, the increased amount of water runoff and velocity created by the covered roof do have the potential for washing additional sediment, household chemicals, or other debris closer towards the wetland areas.</p>
YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	<i>e. The spirit of the zoning ordinance is observed and substantial justice done.</i>
		<p>Discussion: The spirit of the zoning ordinance is best accomplished with a denial of the variance. Staff has conceded however that approval of the stairs and concrete landing may have some merit as they would improve health and safety aspects of the property and could be viewed as meeting the spirit of the zoning ordinance.</p>

3.0 STAFF RECOMMENDATION

3.1 Staff recommends **DENIAL** of the proposed **Variance**.

3.2 Reasons for Recommendation

1) The request does not meet all 5 criteria for the granting of a variance.

3.3 Other Recommendations

Staff has conceded with regards to criteria a, b, d, and e that the consideration of a variance to allow for the stairs and concrete landing may have some limited merit. If the land use hearing officer determines that the merit is sufficient to satisfy those criteria as well as criterion c, staff would recommend that a variance for those two elements of the proposal be approved. Staff does not recommend approval of the additional roof structure or covering of the concrete patio in either instance.



Salt Lake County Public Works Department
Planning and Development Services Division
 2001 S. State Street #N-3600, Salt Lake City, UT 84190-4050
 Phone: 801-468-2000 FAX: 801-468-2169
 Visit our web site: <http://www.pwps.slc.org>

File # **27943**

Land Use & Development Application

- FCOZ RCOZ DWSP Watershed Over Pressure Magna Main
 Natural Hazards Other _____

Zone: _____ Community Council: _____ Planner: Todd Draper
 Parent File # _____ Date: _____

Property Address: 8314 Brighton Loop Rd Parcel #: _____

Name of Project: Concrete Pad (11'x12') + Shed Roof Property Acreage: .51 Acre

Please describe your request: Addition of a 11'x12' concrete pad + shed roof to cover pad. Stairs from existing 2nd level porch to ground level

<u>New Development:</u> <input type="checkbox"/> Use and / or Site Plan Approval <input type="checkbox"/> Subdivision # lots: _____ <input type="checkbox"/> PUD #lots: _____	<u>Modify an Existing Development:</u> <input type="checkbox"/> Change Conditions of Approval <input type="checkbox"/> Change the Site Plan <input type="checkbox"/> Change the Use <input type="checkbox"/> Condo Conversion <input type="checkbox"/> Lot Consolidation <input type="checkbox"/> Lot Line Adjustment <input type="checkbox"/> Mobile Store <input type="checkbox"/> Signs	<u>Other:</u> <input checked="" type="checkbox"/> Board of Adjustment Review <input type="checkbox"/> Exception Request <input type="checkbox"/> Non-Conforming <input type="checkbox"/> RCOZ Appeal (Option C) <input type="checkbox"/> Research Request <input type="checkbox"/> Re-zone <input type="checkbox"/> Vacate a Street
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Is a key or gate code required to access the property? Yes No If yes, code: _____ (or provide key)

Driving Directions to Property: On Brighton Loop Rd



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File #
 28736

Board of Adjustment Supplemental Form

What is your request?

Variance:

- Front Yard Setback from _____ to _____
- Side Yard Setback from _____ to _____
- Rear Yard Setback from _____ to _____
- Lot Area from _____ to _____
- Lot Width from _____ to _____
- Building Height from _____ to _____

Special Exception:

- Addition or Enlargement of a Non-Conforming Building or Structure
- Reconstruction of a Non-Conforming Building or Structure
- Relocation of a Non-Conforming Building or Structure
- Extension of a Use across Zone Boundary
- Appeal of a Staff Interpretation of the Zoning Ordinance

Variance

Other: See Below

Appeal

Explain the reason for your request:

Seeking Relief from 50' Setback as provided in
 SCUTD Regulation #14 4.5.4



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35C-1
 Spencer Hymas

AFFIDAVIT – Property Owner

STATE OF UTAH }
 } ss
 COUNTY OF SALT LAKE }

I (we) Jay & Adrienne Aldous being duly sworn, depose and say that

I (we) am (are) the owner(s) of the property(s) located at:

8314 Brighton Loop Rd, Brighton UT 84121

My (our) signature below attests that I (we) have reviewed the proposal by Kurt Slaughter
 requesting review and approval of all plans

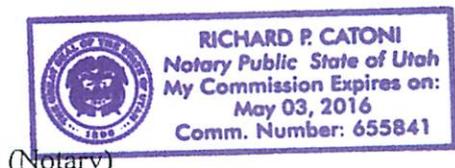
and that I (we) consent to the statements and information provided in the attached plans and exhibits and that
 all information presented is true and correct to the best of my (our) knowledge.

Property Owner [Signature]

Property Owner Adrienne Aldous

Subscribed and sworn to me this 11 day of July, 2012.

[Signature]



(Notary)

Residing in Salt Lake County, Utah

My commission expires: May 03, 2016

If you are requesting a Variance please explain how your request complies with each of the following criteria: (Attach additional sheets if necessary)

Criteria Met		VARIANCE CRITERIA
Yes	No	The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met. [19.92.040.C]
		1. The board of adjustment may grant a variance only if: [19.92.040.B.1]
		<p>a. Would literal enforcement of the zoning ordinance...cause an <i>unreasonable hardship</i> for the applicant that is not necessary to carry out the general purpose of the zoning ordinance? See Criteria for determining unreasonable hardship at the bottom of this form, also refer to 19.92.040.B.2.</p> <p>Please explain your position:</p> <p style="text-align: center;">see attached</p>
		<p>b. Are there special circumstances attached to the property that do not generally apply to other properties in the same district?</p> <p>Please explain:</p> <p style="text-align: center;">see attached</p>
		<p>c. Is granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same district?</p> <p>Please explain:</p> <p style="text-align: center;">see attached</p>
		<p>d. Granting this variance will not substantially affect the general plan and will not be contrary to the public interest.</p> <p>Please explain:</p> <p style="text-align: center;">see attached</p>

Criteria Met		VARIANCE CRITERIA
Yes	No	
		The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met. [19.92.040.C]
		e. In granting this variance the spirit of the zoning ordinance is observed and substantial justice is done. Please explain: <i>See Attached</i>

Criteria for Determining Unreasonable Hardship: 19.92.040.B.2

In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (B)(1), the board of adjustment 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.
3. The hardship cannot be self-imposed.
4. The hardship cannot be economic.

Criteria for Determining Special Circumstances: 19.92.04.C

In determining whether or not there are special circumstances attached to the property under subsection (B)(1), the board of adjustment may find that special circumstances exist only if the special circumstances:

1. Relate to the hardship complained of; and
2. Deprive the property of privileges granted to other properties in the same district.

Note: Fees for the Board Of Adjustment are doubled for post-construction of after-the-fact requests.

Request for Variance – Application #27943

#1 – Enforcement of the ordinance causes unreasonable hardship given most of the buildable portion of the lot is unusable due to the 50' right-of-way associated with State Highway SR-210 on the east side of the property. This right-of-way greatly restricts uses and privileges that other properties in the area enjoy. Approximately 25% of the parcel is affected by this right-of way.

#2 – Circumstances unique to this property relative to other properties in the area include; 1) the right-of-way for SR-210, 2) designation of wetlands subsequent to establishment of the lot when most of the lot would have been considerable buildable, 3) the location of an easement for the sewer that restricts use of the eastern portion of the property, and 4) the location of power lines that are outside of the recorded easement for such lines that also limit use. The ability to fully use and enjoy this property in a manner similar to other properties is significantly restricted by these circumstances.

#3 – Other property owners are able to access and use the outside of their property. The variance will allow access to and use of an outside 11*12 concrete pad + shed roof on the backside of the property away from SR-210. There is currently no useable outside space on this property. The ability to access and use outside space is common privilege granted to other properties in the area.

#4 – The Army Corp has stated that the proposed use will not impact the adjoining wetlands. The construction of the proposed patio has had zero impact on the wetlands as noted by the Army Corp. Both the existence of and use of the proposed patio and shed roof will in no material way affect the drainage or movement of water on the parcel. Additionally, there is no new or incremental potential for contamination of wetlands or the water supply.

28736- Aerial Map

(Property Boundaries are aproximate)



Tue Jan 28 2014 03:27:12 PM.

28736- Zoning Map

