



STAFF REPORT

To: Board of Adjustment
From: Sean Lewis, County Planner
Date of Meeting: June 28, 2018
Type of Item: Variance - Public Hearing, Possible Action
Process: Judicial Review

RECOMMENDATION: Staff recommends that the Board of Adjustment review the proposed variance to allow for decreased setbacks for the construction of a retaining wall and an accessory building, conduct a public hearing and make a determination as to whether a variance is warranted in this instance.

Project Description

Project Name: Miller Pole Barn Variance
Applicant(s): Joseph Cross
Property Owner(s): Art Miller
Location: 3440 S Echo Road
Zone District: Agriculture 10 (AG-10)
Parcel Number and Size: NS-924-926, 1.51 Acres
Type of Process: Variance
Final Land Use Authority: Board of Adjustment

Proposal

The applicant requests that the Board of Adjustment grant a variance from Eastern Summit County Development Code Section 11-3-4.C, that establishes a 25 foot front setback for all structures in the Agriculture 10 (AG-10) zone. The Definition of Front Setback in the Eastern Summit County Development Code requires that the 25 foot standard be applied to all sides of a property that “borders a public road, private road, or other right-of-way”. In this instance parcel NS-924-926 borders both Echo road and the Interstate 84 right-of-way. There is also a Union Pacific Rail line that limits access to the property.

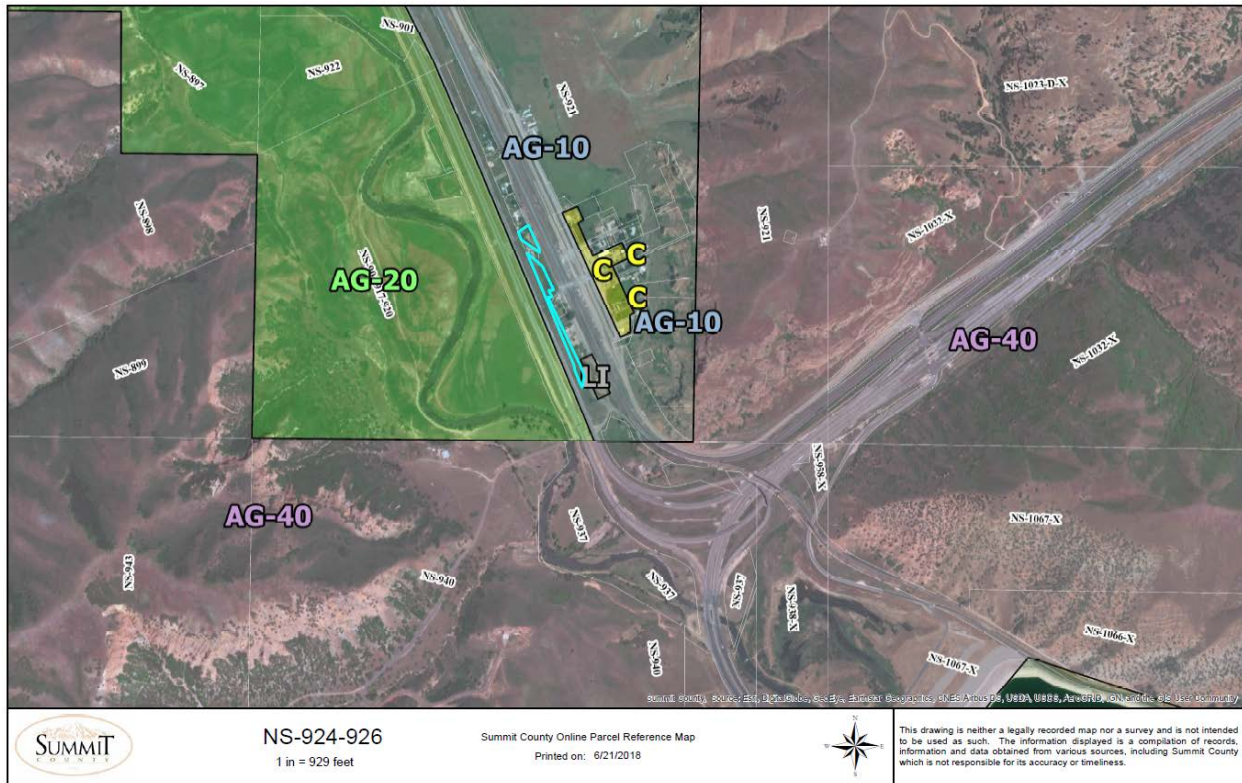
The applicant proposed to build an accessory building with a footprint of 1,800 square feet, within 13’ of the west property line which also serves as the I-84 right-of-way boundary.

Accessory buildings less than 2,000 square feet in size are an allowed use in the AG-10 zoning district.

The applicant also proposes to build a retaining wall measuring 15' 6" in height and approximately 200' in length less than 1 foot from the west and south property lines to establish a building pad on the property for the proposed accessory building.

The Board of Adjustment has final decision authority for variances.

Vicinity Map



Background

The applicant is the owner of a grandfathered parcel located at 3440 S Echo Road.

The Summit County Council recently adopted a new zoning ordinance that changed the setback requirements in this area. Previously, the AP zone required a 30' front setback and a separate 100' setback from the I-84 right of way. The amended setback requirements are 25' for both the traditional front setback and the I-84 right-of-way.

Analysis and Findings

The standards required for granting a variance are set forth in Utah Code 17-27a-7-702 and the Eastern Summit County Development Code Section 11-4-10, which standards are provided below. If the Board of Adjustment finds that the standards are met, then a variance to reduce the required setback may be granted.

Standard 1: 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 land use ordinance. **DISCUSSION REQUESTED**

Analysis: It is staff's finding that the dimensions of the property combined with the setback requirements in the Zoning Ordinance may create a hardship that is peculiar to the property and not from a condition that is general to the neighborhood. However, Staff has concerns regarding the need for such a large retaining wall to establish a level pad to build an accessory structure.

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

Analysis: Staff finds that the special circumstances related to the property are:

- The dimensions of the lot are such that some sort of variance is likely required to build any structure that is allowed by right.

Staff finds that this circumstance attached to the property are not general to other properties in the zone.

Standard 3: Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same district. **DISCUSSION REQUESTED**

Analysis: Accessory buildings less than 2,000 square feet in size are an allowed use in the AG-10 zoning district.

The applicant also proposes a retaining wall approximately 200' in length with a maximum height of 15'6". Staff requests that the BOA determine if a retaining wall of this length and height is considered a substantial property right.

Standard 4: The variance will not substantially affect the general plan or be contrary to the public interest. **COMPLIES**

Analysis: accessory buildings of this type and size are an allowed use and are commonly found in Eastern Summit County and will not be contrary to the policies and goals of the general plan.

Standard 5: The spirit of the Zoning Ordinance is observed and substantial justice done?
COMPLIES

Analysis: Section 11-1-1 of the Eastern Summit County Development Code states that one of the purposes of the Code is to “Allow appropriate flexibility with regard to the location of land uses and other zoning matters, so long as the resulting use of the land is compatible with its surroundings and generally consistent with the general plan”

Recommendation

Staff recommends that the Board of Adjustment review the proposed variance to allow for decreased setbacks for the construction of a retaining wall and an accessory building, conduct a public hearing and make a determination as to whether a variance is warranted in this instance. Should the Board find that a variance is warranted, Staff has drafted the following Findings of Fact to assist the Board in their decision making.

Findings of Fact:

1. The applicant is a partial owner of parcel #NS-924-926.
2. Parcel # NS-924-926 is 1.51 acres in size.
3. The newly adopted setback requirements in the AG-10 Zoning District are 25’ for both the traditional front setback and the I-84 right-of-way.
4. The dimensions of the lot are such that some sort of variance is likely required to build any structure that is allowed by right.
5. The dimensions of the property combined with the setback requirements in the Zoning Ordinance may create a hardship that is peculiar to the property and not from a condition that is general to the neighborhood.
6. The applicant proposed to build an accessory building with a footprint of 1,800 square feet, which is an allowed use in the AG-10 zoning district. The applicant also proposes to build a retaining wall measuring 15’ 6” in height within the setback area to establish a building pad on the property for the proposed accessory building.
7. Accessory buildings of this type and size are an allowed use and are commonly found in Eastern Summit County and will not be contrary to the policies and goals of the general plan.

Public Notice, Meetings and Comments

This item was publicly noticed as a public hearing with possible action by the Board of Adjustment. Notice of the public hearing was published in the June 15, 2018 issue of *The Summit County News*. Courtesy postcards were mailed to all property owners within 1,000 feet of the subject Parcel.

Attachments

- Exhibit A – Proposed Site Plan(s)
- Exhibit B – Applicant Letter