

ORDINANCE NO. 2001 - 20

**AN ORDINANCE ENACTING THE UTAH COUNTY ZONING
ORDINANCE AS TO SECTION 1-2-O AND AMENDING THE
UTAH COUNTY ZONING ORDINANCE AS TO SECTIONS 7-
15, 7-20 AND 7-22.**

**THE COUNTY LEGISLATIVE BODY OF THE COUNTY OF UTAH ORDAINS AS
FOLLOWS:**

PART I:

Section 1-2-O of the Utah County Zoning Ordinance is hereby enacted to read as follows:

- O. To enforce the provisions of this ordinance and to minimize the exceptions or variances hereto.

PART II:

Section 7-15 of the Utah County Zoning Ordinance is hereby amended to read as follows:

7-15: REQUESTS TO APPEAR BEFORE THE BOARD OF ADJUSTMENT

Any person or entity wishing to appeal a decision made in applying the zoning ordinance, or to appeal for a variance, or to request a special exception, or some other purpose, may commence such action by completing the standard forms adopted by the Board of Adjustment and filing the forms in the office of the Board. The Secretary of the Board of Adjustment, or other person designated by the Board to receive and process appeals forms, shall accept and process such forms only if they are properly completed and accompanied by the filing fee in the current amount set by the County Commission. To be heard at any meeting of the Board of Adjustment, such forms must be received in proper form with the filing fee before 5:00 P.M. of the thirtieth (30th) day prior to the date of the meeting. Moreover, any appeal of a decision made in applying the zoning ordinance must be properly filed within forty-five (45) days of the date of the contested decision, or it shall be time-barred and not heard.

PART III:

Section 7-20 of the Utah County Zoning Ordinance is hereby amended to read as follows:

7-20: RULES FOR HEARING AND DECIDING VARIANCES

Any person or entity desiring a waiver or modification of the requirements of the zoning 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 Board of Adjustment for a variance from the terms of the zoning ordinance. The Board of Adjustment shall not grant approval unless it finds that all of the following standards have been met:

- A. The substance of the variance must be a request to vary the requirements for height, bulk, width, setback, or other numerical or quantitative requirement, as distinguished from approval to have a land use that is not listed as permitted in a zone (e.g. no "use variance" shall be granted).

- B. The appellant has filed a properly completed application which states the normal or standard amount of area, distance, size or volume required by the zoning ordinance, the specific amount of variance being requested, and all other information required by the application form.

- C. The Board of Adjustment may grant a variance only if:
 - 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 zoning ordinance;
 - 2. there are special circumstances attached to the property that do not generally apply to other properties in the same district;
 - 3. granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
 - 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 zoning ordinance is observed and substantial justice done.

- D. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection C-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.

- E. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection C-1, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.

- F. In determining whether or not there are special circumstances attached to the property under subsection C-2, 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.
- G. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- H. Variances run with the land.
- I. Neither the Board of Adjustment nor any other body may grant use variances.
- J. Any variance granted shall be no greater than the minimum amount necessary to afford relief.
- K. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:
 - 1. mitigate any harmful affects of the variance; or
 - 2. serve the purpose of the standard or requirement that is waived or modified.

PART IV:

Section 7-22 of the Utah County Zoning Ordinance is hereby amended to read as follows:

7-22: NOTIFICATION AND DURATION OF APPROVAL

- A. Within fifteen (15) days after a decision has been made, the secretary shall file a written notice of the decision of the Board of Adjustment in its offices and mail a copy of the notice to the applicant at the address supplied in the application form. The decision of the Board shall be deemed final at the time it is filed in its offices.
- B. After each decision of the Board of Adjustment has been filed in its offices and become final, as provided in subsection A above, said Board shall record the decision with the Utah County Recorder.

- C. Except as provided in subsection D below, if a request for a variance or special exception is approved, the notice shall also contain the date such approval terminates if a building permit (or other permit or license, if applicable) is not obtained pursuant thereto. Such termination shall automatically be one year from the date of the decision of the Board of Adjustment.

- D. The Board of Adjustment may, as a condition of approval, set a different termination date for a variance or special exception on a finding that a different date is necessary for substantial justice to be done. After the hearing, the Board of Adjustment may order the termination date for a variance or special exception enlarged if the request was made in writing, made before the expiration of the period originally prescribed, and a different date is necessary for substantial justice to be done. Any request for an enlargement of time shall comply with the applicable notice requirements for a variance or special exception. This request for an enlargement of time shall not be considered a rehearing under section 7-23 of this ordinance.

PART V:

Insert pages reflecting the above amendments are hereby ordered to be filed in the three (3) file copies of the Official Utah County Zoning Ordinance on file with the Utah County Clerk/Auditor.

PART VI:

This ordinance shall take effect 1. sixteen (16) days after it is passed, or 2. after it has been published, whichever date is later.

PASSED and ordered published this 20th day of September, 2001.

UTAH COUNTY COMMISSION

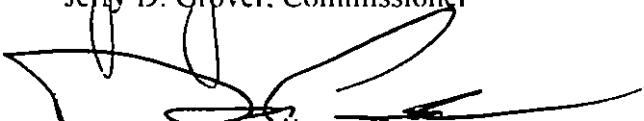
VOTE



 Gary R. Herbert, Chairman



 Jerry D. Grover, Commissioner



 David J. Gardner, Commissioner

ATTEST:

Arlin V. Kuhni
Utah County Clerk/Auditor

By: Linda Strickland
Deputy

APPROVED AS TO FORM:

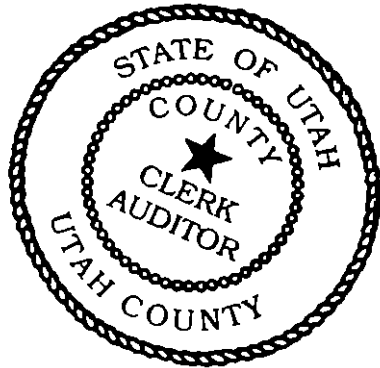
C. Kay Bryson
Utah County Attorney

Approved Disapproved

By: [Signature]
Deputy

Date of Publication: _____ [one time, as soon as possible]

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PROOF OF PUBLICATION

from

The Daily Herald

STATE OF UTAH

Utah County

SS.

Legal Notices

ORDINANCE NO. 2001 - 20
AN ORDINANCE ENACTING THE UTAH COUNTY ZONING ORDINANCE AS TO SECTION 1-2-0 AND AMENDING THE UTAH COUNTY ZONING ORDINANCE AS TO SECTIONS 7-15, 7-20 AND 7-22.

THE COUNTY LEGISLATIVE BODY OF THE COUNTY OF UTAH ORDAINS AS FOLLOWS:
PART I:

Section 1-2-0 of the Utah County Zoning Ordinance is hereby enacted to read as follows:

O. To enforce the provisions of this ordinance and to minimize the exceptions or variances hereto.

PART II:
Section 7-15 of the Utah County Zoning Ordinance is hereby amended to read as follows:

7-15: REQUESTS TO APPEAR BEFORE THE BOARD OF ADJUSTMENT
Any person or entity wishing to appeal a decision made in applying the zoning ordinance, or to appeal for a variance, or to request a special exception, or some other purpose, may commence such action by completing the standard forms adopted by the Board of Adjustment and filing the forms in the office of the Board. The Secretary of the Board of Adjustment, or other person, designated by the Board to receive and process appeals forms, shall accept and process such forms only if they are properly completed and accompanied by the filing fee in the current amount set by the County Commission. To be heard at any meeting of the Board of Adjustment, such forms must be received in proper form with the filing fee before 5:00 P.M. of the thirtieth (30th) day prior to the date of the meeting. Moreover, any appeal of a decision made in applying the zoning ordinance must be properly filed within forty-five (45) days of the date of the contested decision, or it shall be time-barred and not heard.

PART III:

Section 7-20 of the Utah County Zoning Ordinance is hereby amended to read as follows:

7-20: RULES FOR HEARING AND DECIDING VARIANCES

Any person or entity desiring a waiver, or modification of the requirements of the zoning 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 Board of Adjustment for a variance from the terms of the zoning ordinance. The Board of Adjustment shall not grant approval unless it finds that all of the following standards have been met:

A. The substance of the variance must be a request to vary the requirements for height, bulk, width, setback, or other numerical or quantitative requirement, as distinguished from approval to have a land use that is not listed as permitted in a zone (e.g. no "use variance" shall be granted).

B. The appellant has filed a properly completed application which states the normal or standard amount of area, distance, size or volume required by the zoning ordinance, the specific amount of variance being requested, and all other information required by the application form.

C. The Board of Adjustment may grant a variance only if:

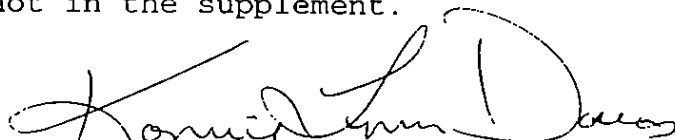
1. literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;

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

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

4. the variance will not substantially affect the public interest and will not be contrary to the public interest.

I, Konnie Lynn Davis, being first duly sworn depose and say that I am the Legal Billing Clerk of the Daily Herald, a newspaper of general circulation, published seven times each week at Provo, Utah, County of Utah; that the notice attached hereto, #506705-PO#P00594-ORDINANCE NO, and which is a copy, was published in said newspaper, the first publication having been made on the 27th day of September, 2001, and the last on the 27th day of September, 2001; that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and the same was published in the newspaper proper and not in the supplement.

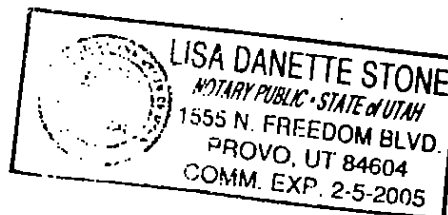


Subscribed and sworn before me this 27th day of September, 2001


Notary Public

Residence: Eagle Mountain, Utah

My commission expires February 5, 2005



variance being requested, required by the application form.

C. The Board of Adjustment may grant a variance only if:

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 zoning ordinance;
2. there are special circumstances attached to the property that do not generally apply to other properties in the same district;
3. granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
4. the variance will not substantially affect the general plan and will not be contrary to the public interest;
5. and the spirit of the zoning ordinance is observed and substantial justice done.

D. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection C-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.

E. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection C-1, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.

F. In determining whether or not there are special circumstances attached to the property under subsection C-2, the Board of Adjustment may find that special circumstances exist only if the special circumstances:

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

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

H. Variances run with the land.

I. Neither the Board of Adjustment nor any other body may grant use variances.

J. Any variance granted shall be no greater than the minimum amount necessary to afford relief.

K. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:

1. mitigate any harmful affects of the variance
2. serve the purpose of the standard or

requirement that is waived or modified.

PART IV:

Section 7-22 of the Utah County Zoning Ordinance is hereby amended to read as follows:

7-22: NOTIFICATION AND DURATION OF

APPROVAL

A. Within fifteen (15) days after a decision has been made, the secretary shall file a written notice of the decision of the Board of Adjustment in its offices and mail a copy of the notice to the applicant at the address supplied in the application form. The decision of the Board shall be deemed final at the time it is filed in its offices.

B. After each decision of the Board of Adjustment has been filed in its offices and become final, as provided in subsection A above, said Board shall record the decision with the Utah County Recorder.

C. Except as provided in subsection D below, if a request for a variance or special exception is approved, the notice shall also contain the date such approval terminates if a building permit (or other permit or license, if applicable) is not obtained pursuant thereto. Such termination shall automatically be one year from the date of the decision of the Board of Adjustment.

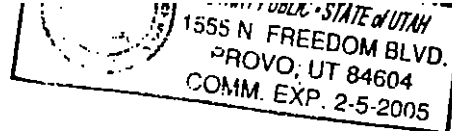
D. The Board of Adjustment may, as a condition of approval, set a different termination date for a variance or special exception on a finding that a different date is necessary for substantial justice to be done. After the hearing, the Board of Adjustment may order the termination date for a variance or special exception enlarged if the request was made in writing, made before the expiration of the period originally proscribed, and a different date is necessary for substantial justice to be done. Any request for an enlargement of time shall comply with the applicable notice requirements for a variance or special exception. This request for an enlargement of time shall not be considered a rehearing under section 7-23 of this ordinance.

PART V:

Insert pages reflecting the above amendments are hereby ordered to be filed in the three (3) file copies of the Official Utah County Zoning Ordinance on file with the Utah County Clerk/Auditor.

PART VI:

This ordinance shall take effect 1. sixteen (16) days after it is passed, or 2. after it has been published.



- 2. and deprive the property of privileges granted to other properties in the same district
- G. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- H. Variances run with the land.
- I. Neither the Board of Adjustment nor any other body may grant use variances.
- J. Any variance granted shall be no greater than the minimum amount necessary to afford relief.
- K. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:

- 1. mitigate any harmful effects of the variance
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PART IV:
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7-22: NOTIFICATION AND DURATION OF APPROVAL

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B. After each decision of the Board of Adjustment has been filed in its offices and become final, as provided in subsection A above, said Board shall record the decision with the Utah County Recorder.

C. Except as provided in subsection D below, if a request for a variance or special exception is approved, the notice shall also contain the date such approval terminates if a building permit (or other permit or license, if applicable) is not obtained pursuant thereto. Such termination shall automatically be one year from the date of the decision of the Board of Adjustment.

D. The Board of Adjustment may, as a condition of approval, set a different termination date for a variance or special exception on a finding that a different date is necessary for substantial justice to be done. After the hearing, the Board of Adjustment may order the termination date for a variance or special exception enlarged if the request was made in writing, made before the expiration of the period originally prescribed, and a different date is necessary for substantial justice to be done. Any request for an enlargement of time shall comply with the applicable notice requirements for a variance or special exception. This request for an enlargement of time shall not be considered a rehearing under section 7-23 of this ordinance.

PART V:
Insert pages reflecting the above amendments are hereby ordered to be filed in the three (3) file copies of the Official Utah County Zoning Ordinance on file with the Utah County Clerk/Auditor.

PART VI:
This ordinance shall take effect 1. sixteen (16) days after it is passed, or 2. after it has been published, whichever date is later.

PASSED and ordered published this 18th day off September, 2001.

UTAH COUNTY COMMISSION
Gary R. Herbert, Chairman
Jerry D. Grover, Commissioner
David J. Gardner, Commissioner

ATTEST: APPROVED AS TO FORM:
Arin V. Kuhn C. Kay Bryson
Utah County Clerk/Auditor Utah County Attorney
By: /s/ Linda Strickland Deputy By: /s/ Robert J. Moore Deputy

Legal No. 506705 Published in The Daily Herald
September 27, 2001