



**MINUTES OF THE SPRINGDALE APPEAL AUTHORITY MEETING ON
TUESDAY, FEBRUARY 6, 2018 AT 11:00AM
AT TOWN HALL, 118 LION BOULEVARD, SPRINGDALE, UTAH**

Meeting convened at 11:00AM

PRESENT: Director of Community Development Tom Dansie, and Town Clerk Darci Carlson recording.
ALSO PRESENT: See attached sheet for attendees signed into the meeting.

Mr. Dansie opened the meeting. The intent of the meeting was to announce the issuance of written decisions related to two recent variance applications. Ken Sizemore, the Administrative Hearing Officer, was absent from the meeting but authorized Mr. Dansie to read the decisions into the record.

There was an appeal process for anyone aggrieved by the decisions. Mr. Dansie could be contacted for additional information concerning an appeal.

A. Issuance of Written Decision:

1. Kevin Bowers, agent for Yorgason Properties, requests a side yard setback variance to allow parking in the side yard on parcel S-100-B (694 Zion Park Boulevard) in the Central Commercial zone: Mr. Dansie said the Administrative Hearing Officer made a number of findings based on the specific criteria in code. The conclusions, in respect to the findings, were read into the record (Attachment #1).

In summary, the variance request was denied.

2. Luke Wilson, representing Zion West Properties, requests front and side yard setbacks to allow parking in the front and side yards on parcel S-102-B-4-A (corner of Zion Park Boulevard and Balanced Rock Road) in the Village Commercial zone: Mr. Dansie said the Administrative Hearing Officer made a number of findings based on the specific criteria in code. The conclusions, in respect to the findings, were read into the record (Attachment #2).

In summary, the variance request was granted.

Mr. Dansie said the effective date of the decisions was February 6, 2018; therefore, the timeline for anyone wishing to appeal starts today.

Meeting adjourned at 11:08AM.

Darci Carlson

Attest: _____ Date: 02/06/18

Darci Carlson, Town Clerk

**BEFORE THE ADMINISTRATIVE HEARING OFFICER
FOR THE TOWN OF SPRINGDALE, UTAH**

IN THE MATTER OF THE APPLICATION OF
YORGASON PROPERTIES FOR A VARIANCE FROM
THE SIDE YARD SETBACK REQUIREMENT OF THE
CENTRAL COMMERCIAL ZONE IN THE TOWN OF
SPRINGDALE, UTAH

**FINDINGS AND DECISION DENYING
REQUEST FOR VARIANCE**

PUBLIC MEETING DATE: January 24, 2018

1. The subject property is located inside the Central Commercial (CC) zone, on the west side of the street, at the intersection of Elm Street and Zion Park Boulevard (SR9). Elm Street is not a dedicated Town right-of-way, nor a Town-maintained street. It is classified as a “historical access” and provides access from SR9 to several properties located to the side and rear of the subject property.
2. The Town of Springdale owns a public utility easement on Elm Street. This easement allows public utilities, but not public access. Staff reported (but did not confirm) there are private access easements on Elm Street which allow ingress and egress to the properties to the side and rear of the property.
3. The Community Commercial zone requires a 10-foot side setback. The applicant is requesting a zero-foot setback for the southwest side to allow parking in the setback area.
4. The property is currently developed as a retail business with an apartment located in the rear. The property was originally developed prior to the adoption of the Town’s zoning ordinance and exhibits numerous legal non-conforming aspects including:
 - The building does not meet the required front setback.
 - The property does not have the requisite amount of landscape.
 - Parking does not meet the required front setback and is located between the front of the property and SR9.
5. Due to on-going SR9 reconstruction existing parking on the property must be relocated. Currently there are nine parking stalls located partially on the property and partially in the UDOT right-of-way. There is no curb and gutter in front of the property, allowing free access into and out of the parking on the property. With the SR9 project construction, curb and gutter will be placed along the right-of-way line and the access into the property will be officially designated. This requires relocation of the existing parking on the property.

6. The Planning Commission approved a revised parking plan for the property. The plan shows six parking stalls (a three-stall reduction from existing) located entirely on the property and accessing from the approved UDOT access. Some of these parking spaces do not meet the required front setback and are located between the building and the street. However, because the existing parking spaces currently do not conform to these ordinance requirements, the Planning Commission allowed the reconfiguration of the parking with the findings that:
 - a. The existing parking spaces are legally non-conforming,
 - b. The relocated parking spaces do not create any new non-conformities, and
 - c. The relocated spaces do not expand any existing non-conformities.
7. The six relocated parking spaces fulfill the minimum amount of on-site parking required by the zoning code.
8. In addition to the six relocated spaces already approved, the applicant requested two additional parking spaces on the southwest side of the building. The two requested parking spaces will be located between the side of the building and the southwest property line immediately adjacent to the property line, and thus do not meet the required 10-foot side yard setback. The proposed parking spaces would encroach into the public utility easement and private access easement.
9. A public meeting was scheduled and conducted by the Administrative Hearing Officer on January 24, 2018 at 2:00 p.m. in the Springdale Town Council Chambers. No public comment was received.
10. At the public hearing Mr. Kevin Bowers, agent for the applicant, summarized the points listed in the application for a variance, including:
 - a. The six parking spaces approved by the planning commission result in the loss of four parking stalls on a very space-constrained parcel.
 - b. No changes are being made to the structure or retail uses on the parcel.
 - c. A new concrete pad will be installed to accommodate the two requested parking spaces, thus improving access to the Town easement.
11. Title 10-3-3(B) of the Springdale Town Code provides the following standards to the Appeal Authority when considering variance requests:

- a. **Literal enforcement of the provisions of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title**

FINDING:

The Town Planning Commission, recognizing the hardships faced by the property owner due to SR9 reconstruction, approved the location of six parking spaces located entirely on the property and accessing from the approved UDOT access. Some of these parking spaces do not meet the required front setback and are located between the building and the street. This authorization recognized that the existing parking spaces currently do not conform to these ordinance requirements; the existing parking spaces are legally

non-conforming; the relocated parking spaces do not create any new non-conformities; and the relocated spaces do not expand any existing non-conformities. The six relocated parking spaces fulfill the minimum amount of on-site parking required by the zoning code.

Adding the two additional parking spaces will unnecessarily expand non-conformities on the parcel.

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

FINDING:
Reconstruction of SR9 is impacting dozens of property owners throughout Springdale Town. The applicant did not provide evidence of special circumstances that do not also apply to many other property owners in the Central Commercial zone.

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

FINDING:
The existing use of the parcel will continue as approved by the Town planning commission. An additional two parking spaces are not essential to continued use of the property.

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

FINDING:
The applicant did not provide sufficient evidence to confirm no impacts will occur to the approved users of the Elm Street easements. Allowing the proposed parking spaces will increase conflicts with authorized users of Elm Street. The approved parking plan already notes that the parking spaces “do not have adequate maneuvering space.” Adding two parallel parking spaces will only add to maneuvering conflicts.

e. The spirit of this title is observed and substantial justice done.

FINDING:
Authorized parking approved by the Town planning commission has addressed the legal non-conforming aspects of the parcel. This approved plan provides for substantial justice and fulfills the required parking spaces for the use.

12. After consideration of the evidence provided by the applicants, and consideration of the request, the administrative hearing officer determines that the variance request should be denied.

Dated this _____ day of January 2018

ADMINISTRATIVE HEARING OFFICER

Kenneth L. Sizemore

**BEFORE THE ADMINISTRATIVE HEARING OFFICER
FOR THE TOWN OF SPRINGDALE, UTAH**

IN THE MATTER OF THE APPLICATION OF ZION WEST PROPERTIES, LLC FOR A VARIANCE FROM THE FRONT AND SIDE YARD SETBACK REQUIREMENTS OF THE VILLAGE COMMERCIAL ZONE IN THE TOWN OF SPRINGDALE, UTAH

**FINDINGS AND DECISION APPROVING
REQUEST FOR VARIANCE**

PUBLIC MEETING DATE: January 24, 2018

1. The subject property is located on the west side of State Route 9 at the intersection with Balanced Rock Road and is currently undeveloped. The applicant proposes a 95-space surface parking lot on the property. The property contains a small developable area, surrounded by landslide slopes that exceed 30% grade. The applicant is requesting the variance to maximize the available parking area on the property while avoiding disturbance on the steep and potentially unstable landslide slopes. The property is located inside the Village Commercial (VC) zone.
2. The hillsides that extend onto the subject property are part of the massive Springdale Landslide, triggered in 1992. The property measures approximately 1.5 acres in size. Roughly half of that area is steep landslide slopes. The applicant's geotechnical engineer and the Town's engineer have both cautioned against any development that would disturb the toe of these landslide slopes.
3. The property has been approved for the Parking Structure Overlay Zone (PSOZ) which would allow the construction of a 220-space parking structure. The PSOZ process has not yet been finalized, leaving the property in the standard Village Commercial zone. The applicant intends to construct a surface lot on the property while completing the process of the PSOZ zone change.
4. The Town Council is authorized to alter setback requirements through the PSOZ process. As part of the PSOZ zone change approval, the Town Council approved reduced front and side setbacks for the parking structure. The Council approved a five-foot side setback adjacent to Balanced Rock Road, and a 30-foot front setback measured from the back of curb of the SR-9 roadway improvements currently under construction. Because the back of curb will be placed a considerable distance from the edge of the right-of-way, the parking structure's effective front setback from the front property line will be approximately five feet.
5. The applicant is asking for the same setback allowance for the surface parking area as has been approved for the parking structure. Because the PSOZ zone change process is not yet complete,

and because the setback reduction allowed by the PSOZ applies only to a parking structure and not a surface parking lot, the applicant is requesting the reduced setbacks for the surface lot through the variance process.

6. A Public meeting was scheduled and conducted by the Administrative Hearing Officer on January 24, 2018 at 2:00 p.m. in the Springdale Town Council Chambers.
7. At the public meeting Mr. Luke Wilson, agent for the applicant, summarized the points listed in the application for a variance, including:
 - a. Adjacent slopes and drainage channels severely constrain the amount of usable space.
 - b. Adequate circulation cannot be accomplished without the proposed setbacks.
 - c. The wide SR9 right of way creates a de facto 30-foot setback from the pavement.
 - d. No adjacent property owners will be affected due to terrain at the site.
 - e. Many parcels in the immediate vicinity have been granted reduced setbacks.
 - f. An additional 95 parking spaces will be available during 2018.
8. Title 10-3-3(B) of the Springdale Town Code provides the following standards to the Appeal Authority when considering variance requests:

- a. **Literal enforcement of the provisions of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title**

FINDING:

Evidence presented documents the extreme limitations presented by the terrain on the site. Geotechnical constraints, steep slopes, and drainage patterns do not allow for parking uses that conform to Village Commercial zone standards. These constraints present an unreasonable hardship, particularly with the inability to disturb toes of slopes on the site.

- b. **There are special circumstances attached to the property that do not generally apply to other properties in the same district;**

FINDING:

The site contains slopes disturbed during a 1992 landslide event. Professional engineers have cautioned against any disturbance of the slopes. This severely constrains the ability to adjust or contour slopes, as is typically done to accommodate proposed uses.

- c. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;**

FINDING:

Three setback variances have been approved for properties within 1,100 feet of the subject parcel. These variances have recognized the terrain features that inhibit the ability to conform to set back standards imposed by the zoning code.

- d. **The variance will not substantially affect the general plan and will not be contrary to the public interest;**

FINDING:

The Town Council has authorized the development of a parking structure on the site with the same setbacks as the proposed parking lot. The General Plan specifically calls for the development of additional off-street parking resources in the community. The parcel an optimal location near the entrance to Zion National Park where off street parking is in great demand.

- e. **The spirit of this title is observed and substantial justice done.**

FINDING: Title 10.1.2(e) of the Springdale Town Code states: "To promote the most efficient relationship between land uses and buildings and the circulation of vehicular and pedestrian traffic to minimize congestion, accidents and noise." The proposed use furthers an efficient relationship between the entrance to Zion National Park and needed vehicular and pedestrian circulation.

- 9. After consideration of the evidence provided by the applicant, and consideration of the request, the administrative hearing officer determines that the variance request should be granted.
- 10. The variance request is approved.

Dated this _____ day of January 2018

ADMINISTRATIVE HEARING OFFICER

Kenneth L. Sizemore