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

IN THE MATTER OF THE APPLICATION OF IHNSOUK
GUIM FOR A VARIANCE FROM THE FRONT SET
BACK REQUIREMENT OF THE FOOTHILL
RESIDENTIAL ZONE IN THE TOWN OF SPRINGDALE,
UTAH

**FINDINGS AND DECISION DENYING
REQUEST FOR VARIANCE**

PUBLIC MEETING DATE: March 3,2020

1. The subject property is located on the west side of SR-9, on lot 15 of the Kinesava Ranch Subdivision in the Foothill Residential zone. The lot is approximately 1.02 acres in size. However, most of the property is steep sloping topography (slopes in excess of 30% grade). Only a small portion of the property (approximately 3,000 SF) is not located on steep slopes.
2. All lots in the Kinesava Ranch Subdivision are regulated by a Special Exception Permit in addition to the underlying zoning regulations. The Kinesava Ranch Subdivision was platted in 1987 and was based on the zoning regulations in place at that time. The Town adopted a new Zoning Ordinance in 1992. The new ordinance made the construction of residential homes on prior created lots in Kinesava difficult or impossible, given the size, configuration, and location of the lots in the subdivision. The Special Exception Permit made lot by lot modifications to the FR zone development standards for the subdivision. It is to be used as the guiding standards for development on Kinesava subdivision lots, and when silent the underlying current FR zone regulations for development are to be complied with.
3. The Special Exception Permit requires the building pad on Lot 15 to be limited on the southeast by 18 feet measured due northwest from a yellow cap survey pin existing on the ridge. The pad is also limited to the northwest by both a boulder residing on the southwest slope and by a large rock adjacent to and southeast of prominent juniper trees. The driveway access is to extend further northwest. These limitations on the building pad are to reduce the visual impacts of development on this lot.
4. Due to this lot's high visibility the applicant decided to detach the garage from the house to reduce building mass, ultimately reducing the view obstruction from surrounding properties. Detaching the garage also preserves the natural slope of the terrain and limits the amount of excavation that would be necessary if the garage were attached to the house. In doing this, the applicant discovered the front setback pushes the garage into a natural mound with large boulders and mature trees that will have to be removed in order to accommodate this setback. The garage is measured at approximately 260 SF and situated eight (8) feet lower than the residence, with a 40-foot walkway to the home.

5. The applicant has made many alterations throughout the design process to comply with the Kinesava Special Exception Permit and current zoning ordinances. The detached garage has been reduced in size since the original design and modified to try to accommodate the mound at the front of the property. Due to the many regulations on this lot the applicant feels she has exhausted all options to come into compliance with the 20-foot setback leading her to request a reduction in the front setback from 20 feet to 10 feet.
6. A property located north of the subject property (Lot 25) is developed with a single-family residence and is located in the Foothill Residential Zone. This property does not contain as many constraints as lot 15, however the residence was granted a variance to the rear yard setback to allow preservation of two mature Juniper trees on the property. The variance to reduce the rear setback was granted in 1994.
7. A public meeting was scheduled and conducted by the Administrative Hearing Officer on March 3, 2020 at 10:00 a.m. in the Springdale Town Offices. Four individuals made comments. The comments centered on the narrow road widths in the subdivision and the potential for “stacking” vehicles in front of the proposed garage, which would limit sight distances at a very sharp curve on Parunuweap Circle.
8. At the public meeting the applicant summarized the points listed in the application for a variance, including:
 - a. Extensive efforts made to meet the conditions of the zoning code and special exception permit.
 - b. The desire to preserve landforms and vegetation that would be lost if the 20-foot setback is imposed.
 - c. Minimal impacts to nearby property owners.
9. 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:

Kinesava Rach Subdivision presents numerous challenges in accommodating residential uses allowed by the Foothill Residential zone and an overlaying special exception permit. This application demonstrates conflicting objectives: 1) preserve indigenous vegetation and contours called for in the Foothill Residential zone, while 2) also providing for adequate resident and visitor parking, as well as safe access on a sharp curve.

The Foothill Residential Zone provides for flexible yard setbacks but cites a minimum 20-foot set back. The applicant did not provide sufficient evidence to warrant a departure from that minimum standard.

The sharp curve in front of the proposed garage, combined with the lack of two parking spaces required by the Town Code outweigh the loss of vegetation and contours needed to accommodate a 20-foot setback.

10-9A-12: PARKING, LOADING AND ACCESS: *Each lot or parcel of land in the FR zone shall have on the same lot or parcel of land, off street parking and driveway access sufficient to comply with chapter 23 of this title. Required parking spaces shall not be provided within a required yard.*

10-23-4: PARKING SPACES REQUIRED

Residential, single-family	2 spaces for each single-family dwelling
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- b. There are special circumstances attached to the property that do not generally apply to other properties in the same district;**

FINDING:
 The application did not demonstrate special circumstances that do not also apply to essentially all lots in the Kinesava Ranch Subdivision. The special exception permit specifically addressed lot 15 with eight conditions and restrictions. None of the conditions calls for a reduced setback. In fact, Section 2(f) of the findings and conclusions of the special exception permit states that: *Parking will be provided for pursuant to the parking requirements of the new Zoning ordinance.* The proposed variance does not conform to that condition.

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

FINDING:
 The applicant has invested significant effort to provide plans that provide for a well-designed residence that fits the extensive constraints of the lot. Constriction is underway. Installing a detached garage that meets the 20-foot setback is still possible.

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

FINDING:
 Comments by interested public and investigation of the site confirmed a pressing need for safe access to the subject property. Conforming to the 20-foot setback allows for additional space to accommodate inevitable delivery and visitor parking needs that will arise when the residence is occupied.

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

FINDING:

Extensive efforts have been made over decades to accommodate residential development in a very sensitive area of Springdale Town. The subject lot was provided with a set of conditions and restrictions that are met without the need to vary the minimum setback called for in the Foothill Residential Zone. The applicant can enjoy residential use of the property while conforming to the spirit of the Zoning Code and Special Exception Permit in place to guide development of the lot.

10. 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 denied.

Dated this _____ day of March 2020

ADMINISTRATIVE HEARING OFFICER

Kenneth L. Sizemore

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

IN THE MATTER OF THE APPLICATION OF RYAN LEE FOR A VARIANCE FROM THE SIDE SET BACK REQUIREMENT OF THE VILLAGE COMMERCIAL ZONE IN THE TOWN OF SPRINGDALE, UTAH

**FINDINGS AND DECISION APPROVING
REQUEST FOR VARIANCE**

PUBLIC MEETING DATE: March 3, 2020

1. The subject property is located on the west side of State Route 9, just south of the Bit and Spur Restaurant (1214 Zion Park Boulevard). The property is in the Village Commercial zone. The properties to the north and across the street to the east are also in the VC zone. The properties to the south and west are undeveloped properties in the Foothill Residential (FR) zone.
2. Until recently the property was two separate parcels (S-BIT-1 and S-BIT-2). Parcel S-BIT-1 was used as a paid parking area. Parcel S-BIT-2 was used as a retail art gallery, with the later addition of two transient lodging units. The two parcels have now been combined into a single parcel, S-BIT-1-A. This parcel is being redeveloped with 16 additional transient lodging units, for a total of 18 on the newly combined property. The additional transient lodging units are being developed in the building previously used as a gallery as well as three new buildings on the property.
3. Mr. Lee has already been granted a series of entitlements for this development: design/development review, conditional use permit, subdivision plat amendment combining the two lots, and a building permit for the first of the three new buildings. All these entitlements were based on project drawings showing the proposed new development in compliance with all applicable land use standards, including setback requirements.
4. In the process of reviewing the construction plans for building permits for the next two new buildings it became evident the development as proposed did not meet the required side setback. The project designer was not aware roof overhangs could not project into the setback area. The previously approved site plans showed the outline of the foundations of the buildings in compliance with setback requirements, but the site plans did not show an indication of the roof overhangs. The overhangs as planned would encroach several feet into the side setback.
5. Further, a restroom building built several years ago in conjunction with the prior public parking use (and planned to remain on the property) was found to be closer to the proposed new buildings than the site plan for the project showed. In order to maintain the required distance between the proposed new transient lodging buildings and the existing restroom building, Mr. Lee is proposing to push one of the new lodging buildings back, making it further encroach in

the side setback. Mr. Lee is requesting a variance to reduce the side setback adjacent to a residential zone from 20 feet to 10 feet. This reduction would allow the proposed new buildings, with eave overhangs, to be in compliance with setback requirements. It would also allow the location of the proposed buildings to be adjusted slightly to meet the required 20-foot building separation distance from the existing restroom building.

6. Mr. Lee met with staff in the early stages of design on the project to discuss the possibility of a side setback variance based on what he identified as the unique characteristics of his lot. Although he felt a variance was justified based on the development difficulties and special circumstances of the property, Mr. Lee decided against applying for the variance at that time and attempted to design the project in compliance with the 20-foot side setback. The series of events described above has created additional difficulty for Mr. Lee in complying with the setback standards and he decided to proceed with the variance request.
7. A public meeting was scheduled and conducted by the Administrative Hearing Officer on March 3, 2020 at 10:00 a.m. in the Springdale Town Offices. No comments were received.
8. At the public meeting the applicant summarized the points listed in the application for a variance, including:
 - a. Limited access from Highway 9 constrains functional arrangement of structures on the property.
 - b. Setbacks and steep slopes result in a relatively small building footprint.
 - c. Terrain constraints will not allow development of the adjacent property, thus negating potential impacts to the neighboring lands.
9. 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:

Application materials and a site visit document a very constrained building footprint. Town staff confirmed that the adjacent property located in the Foothill Residential Zone has not been subdivided and contains slopes exceeding 30 percent, which makes future residential development adjacent to the subject property highly unlikely.

The proposed 10-foot setback conforms to setbacks in the Village Commercial zone for adjacent similarly zoned property.

Imposition of a 20-foot setback on the subject parcel imposes an unreasonable hardship, since terrain constraints will not accommodate residential uses near the parcel.

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

FINDING:

The configuration of the combined lots results in a parcel that juts into steep terrain zoned as Foothill Residential, unlike other commercially zoned parcels in the vicinity. The adjacent land is very constrained due to steep slopes. Residential development immediately adjacent to the subject property is very unlikely.

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

FINDING:

Village Commercial side setbacks of 10 feet apply to nearby commercial parcels. The unique configuration of the subject parcel unduly constrains effective design of uses that will conform to the expected village commercial setback.

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

FINDING:

A 10-foot setback, as proposed, will allow the applicant to overcome numerous design challenges to accommodate a viable commercial use without negatively impacting adjacent property uses.

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

FINDING:

As noted above, unique characteristics of the parcel and adjacent property lead to the conclusion that the proposed variance will not unduly impact potential residential uses and will facilitate the continuation of an important addition to the commercial base of the Town.

- 10. 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 approved.

Dated this _____ day of March 2020

ADMINISTRATIVE HEARING OFFICER

Kenneth L. Sizemore