



**Mayor**  
Nanette Billings

**City Manager**  
Kaden DeMille

**Appeal Board**

Robert Peterson  
Beth Lock  
Rick Wixom  
Karen Daniels, Alternate

**AGENDA**  
**OF A MEETING OF THE HURRICANE CITY APPEALS BOARD**  
4:00 p.m.

Monday February 12th, 2024

Notice is hereby given that the Hurricane City Appeals Board will hold a Meeting starting at 3:30 p.m. in the City Council Chambers located at 147 N 870 W, Hurricane, UT

1. Consideration and possible approval of a variance request to reduce the front setback for property H-L-7-5, address 1049 S 180 W.



**STAFF COMMENTS**

<b>Agenda Date:</b>	02/12/2024
<b>Type of Application:</b>	Variance
<b>Action Type:</b>	Quasi-Judicial
<b>Applicant:</b>	Matthew and Amy Heaton
<b>Request:</b>	Approve a Variance to allow a variance to decrease the front setback and allow an accessory building in front of the house
<b>Location:</b>	1049 S 180 W
<b>Zoning:</b>	R1-10

**Discussion**

The applicant is seeking a variance to allow them to build a detached accessory dwelling unit in front of their house within the front setback. The property is a flag lot in R1-10 zoning which has a 25' front yard setback.



### Applicable City Ordinances

- Hurricane City Code (HCC) 10-13-4 states the front yard setback in R1-10 zoning is 25’
- HCC 10-37-10 states: *“The front yard of a flag lot shall be on the side of the flag portion which connects to the staff. Yard setbacks shall conform to the setback requirements of the zone in which the flag lot is located.”* the west side of the property is where the front yard setback should be measured, from where the staff connects to the flag portion.
- HCC 10-37-5 states: *“No accessory building or structure nor group thereof shall be located in a front yard”*

### Variance Standard

Hurricane City code has the following Standards for considering a Variance:

#### Sec. 10-7-12. - Variance.

*E. Approval standards. The following standards shall apply to a variance:*

*1. The Appeals Board may grant a variance only if:*

- a. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;*
- b. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;*
- c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;*
- d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and*
- e. The spirit of this title is observed and substantial justice done.*

*2. The Appeals Board may find an unreasonable hardship exists only if the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances peculiar to the*

*property, not from conditions that are general to the neighborhood. The Appeals Board may not find an unreasonable hardship exists if the hardship is self-imposed or economic.*

*3. The Appeals Board may find that special circumstances are attached to the property and exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zoning district.*

*4. An applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.*

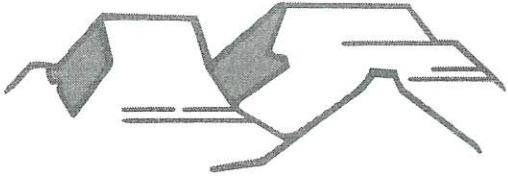
*5. A use variance may not be granted.*

*6. In granting a variance, Appeals Board may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified.*

*7. A variance more restrictive than that requested by an applicant may be authorized when the record supports the applicant's right to some relief but not to the extent requested.*

*8. A variance shall not be granted to a lot in a proposed subdivision that would reduce the lot area below the minimum lot area required in the zone in which the subdivision is located.*

Another resource that the appeal board may consider using at located on the Utah Property Ombudsman's Website: [Variances](#). This website helps outline some of the general standards for review of the conditions listed above.



# HURRICANE CITY UTAH

147 N 870 W HURRICANE UT 84737  
PHONE: 435.635.2811 FAX: 435.635.2184

## APPLICATION FOR A VARIANCE

### APPLICATION & SUBMITTAL CHECKLIST

*For Office Use Only: \$250 Fee*  
File No. AB24-01  
Receipt No. 8-175792

Owner(s) Name: Matthew & Amy Heaton Telephone: 435-275-5606

Address: 1049 S 180 W Fax No. —

Email address: amymatt7@gmail.com

Address of Subject Property: 1049 S 180 W

Tax ID of Subject Property: \_\_\_\_\_ Property zoning: \_\_\_\_\_

Specific Variance requested: (Describe, use extra sheet if necessary) \_\_\_\_\_

### This application shall be accompanied by the following:

- \_\_\_ 1) A vicinity map showing the general location of the application.
- \_\_\_ 2) A plot plan showing the existing conditions and the proposed changes if a variance is granted or other materials needed to explain the variance request.
- \_\_\_ 3) A statement providing the applicant's response to the following five criteria for granting a variance. See page 3 of this application form for explanation.
  - 1. Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the 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 zone.
  - 4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
  - 5. The spirit of the zoning ordinance is observed and substantial justice is done.
- \_\_\_ 8) Warranty deed, preliminary title report, or other document (see Affidavit of Property owner attached) showing evidence that the applicant has control of the property.

NOTE: It is important that all applicable information noted above is submitted with the application. An incomplete application will not be scheduled for the Appeal Boards consideration.

\*\*\*\*\*

(Office Use Only)

Date Received: \_\_\_\_\_ Received by: \_\_\_\_\_

Date application deemed to be complete: \_\_\_\_\_ Completion determination made by: \_\_\_\_\_

## **APPLICATION FOR A VARIANCE**

### **Specific Variance requested: Describe**

We, Matthew and Amy Heaton, live on a flag lot, totalling  $\frac{1}{3}$  acre. There is property in front of our house 42 feet from the front of our house to the wall that separates our property from our neighbor's property, which is their backyard. This space is not seen from the road. We have a long driveway on the north side of our neighbor's property. The only part of our property seen from the road is the north side of our garage and the space between the garage and the wall, the north border of our property.

We would like to build a 30 ft x 30 ft dwelling in the space between the front of our house and the wall that is 42 feet in front of our house. My adult son with his wife and two children would live in this dwelling indefinitely. They are currently living in our home but need more space and they cannot afford to live anywhere else.

### **This application shall be accompanied by the following:**

- 1. A vicinity map showing the general location of the application.**  
(See attached)
- 2. A plot showing the existing conditions and the proposed changes if a variance is granted or other materials needed to explain the variance request.**  
(See attached)
- 3. A Statement providing the applicant's response to the following five criteria for granting a variance.**
  - a. Literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the ordinance.**

We live on a flag lot. Our house and front property is not near the road and we would like to be able to use our property as others have done to have a ADU. Front yard setbacks are such because they border a street. Ours does not.

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

We live on a flag lot. The front of our house is not seen from the road or any other property around us. Therefore, it is not unreasonable to build in front of our house as though it were the side of our house.

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

Other properties in our same zone are generally facing a road. Our property is hidden from the road. We want to utilize the property to its fullest, just as they are allowed to do.

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

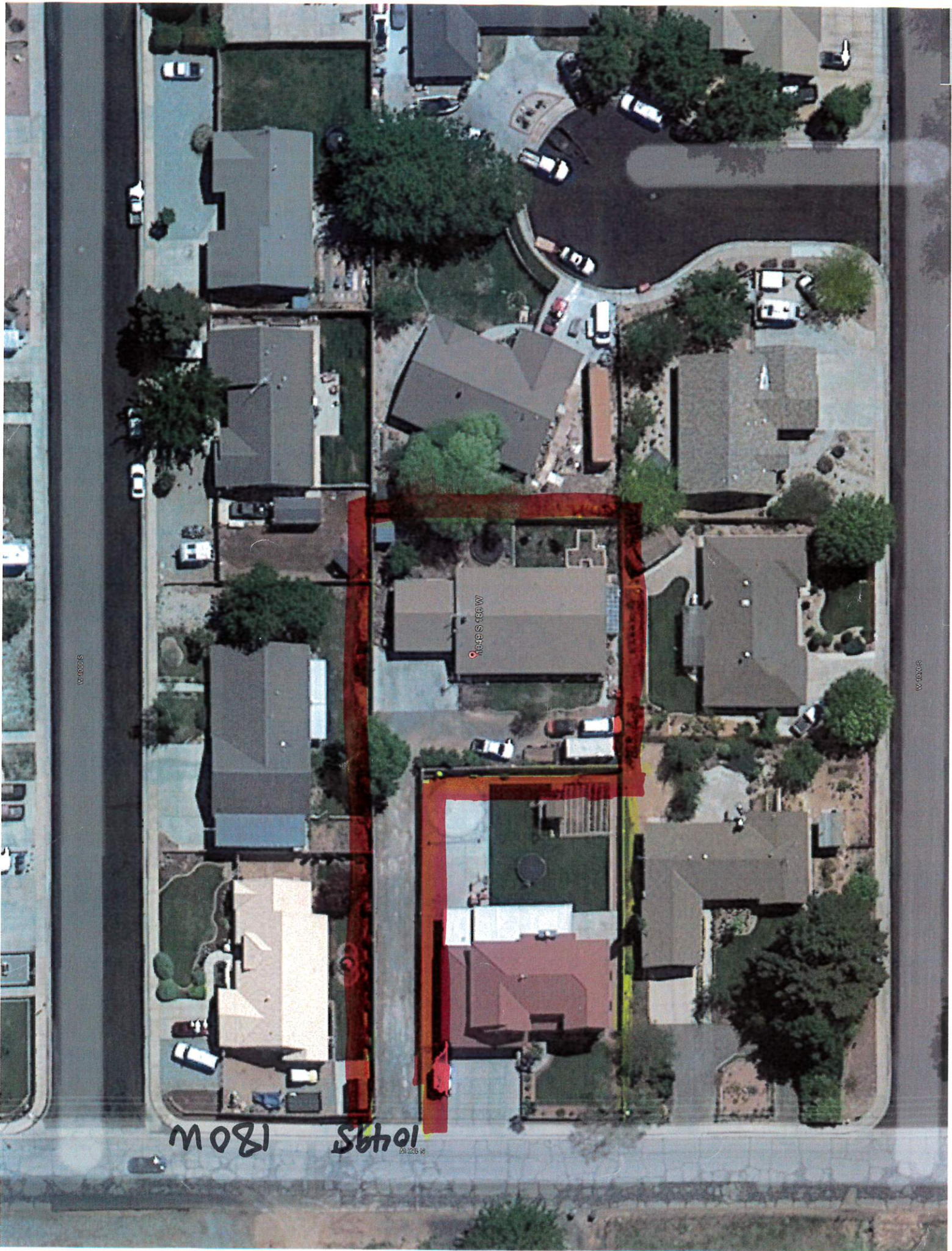
The variance will not be seen nor affect our neighborhood. Our neighbors have been contacted and have given their permission. This will help solve the affordable housing crisis, at least for our family.

- e. **The spirit of the zoning ordinance is observed and substantial justice is done.**

We will be staying a safe distance away from the road, our neighbors, and our home to ensure the safety of all. This dwelling will not degrade the visual quality of our neighborhood.

- 4. **Warranty deed**, preliminary title report, or other document showing evidence that the applicant has control of the property.

(See attached)



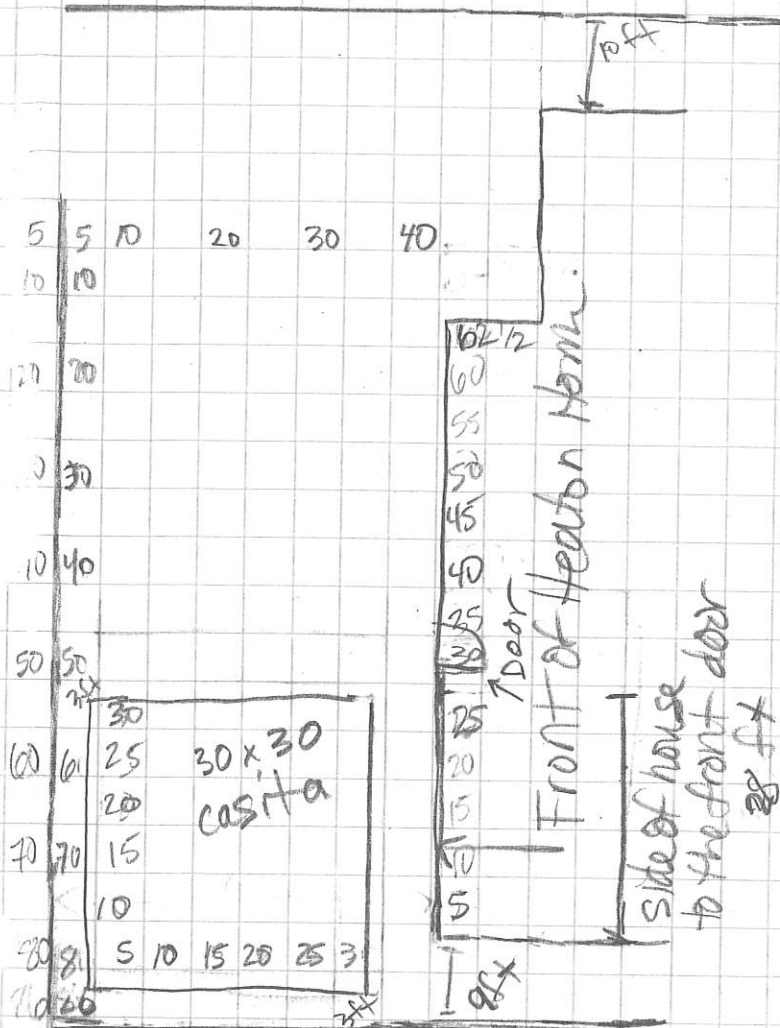
W 180th

W 104th

180th

1049 S 180W

1049 S 180W



Kitty Hirschi's home  
(Tom)

1000 S

N

Williams Home

Gundestrup Home

5 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 155

10

15

20

10495

80 W

side walk

1051 S

Jeff & Karen Harding

W

W

80 W

Rod Nelson

S

S

W

N

E

