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Attorney for Timothy W. Anderson

PROVO CITY BOARD OF ADJUSTMENT

In the Matter of:

Variance Application PLVAR20230251

Property Owner:	Timothy W. Anderson
Parcel ID#:	52:028:0036
Current Zone:	R1.10
Acreage:	0.54

Hearing Date: February 26, 2024

APPLICANT'S ADDITIONAL SUBMISSION TO CITY AND RESPONSE TO STAFF REPORT

The Applicant, Timothy W. Anderson, by and through his attorney, Philip M. Ballif, hereby presents to Provo City, its Planning Department, and Board of Adjustment the following additional submission of facts and information and response to the Staff Report for consideration at the Board's February 26, 2024 hearing in this matter.

EXECUTIVE SUMMARY

The Staff Report, which recommends denial of the subject variance application, is based on an incomplete consideration and analysis of all relevant facts. When all relevant facts have been properly considered and analyzed the Provo City Board of Adjustment should conclude:

1. That the Roof Extension is code-compliant without a variance based on Allen and Zelaya's September 28, 2022 investigation, measurements, and photographs, which established that the distance from the Roof Extension post to the Patio edge measures 10'8 feet, which is sufficient to satisfy the 10-foot side yard setback requirement of Code 14.10.080; or alternatively,

2. That all relevant facts and information, including that which is provided here by Anderson, satisfy all of the criteria for granting a variance under Section 14.05.030(9) of the Provo Municipal Code; or alternatively,

3. That if there is any doubt as to the proper boundary line for analyzing and deciding Anderson's variance request, further action for or against Anderson's variance application should be suspended and held in abeyance and that Anderson and Bohannon be instructed to take their boundary dispute to the Fourth District Court for resolution in accordance with Utah law.

FACTUAL BACKGROUND

Mr. Anderson owns and occupies a home located at 3737 North Foothill Drive, Provo, Utah 84604, in the Sherwood Hills neighborhood, also identified as Parcel ID 52:028:0036 (the "Property" or "Anderson Property"). He has lived there since September 2013.

In September 2023, Anderson applied to Provo City for a variance of the 10 feet side-yard setback requirement on the recommendation of a city employee. He requested that the side-yard setback requirement be reduced by two feet to accommodate a small roof extension that he added to the north side of his home in 2018.

On October 5, 2023, Anderson was informed that his variance application would be heard and decided at a Board of Adjustment hearing on October 16, 2023. He was also provided a copy of the Board of Adjustment Appeal Staff Report (the "Staff Report") recommending that his variance application be denied.

The Staff Report recommendation relies in part on measurements taken by Doug Fallon during a September 7, 2023 site inspection that were different from measurements previously taken on September 28, 2022, by Robert Allen and Officer Zelaya when they conducted an investigation and concluded that there was enough space to satisfy the code requirement. The difference in these two measurements appears to be attributable to a boundary line dispute between Anderson and his neighbor to the North, Ronald Bohannon. Because of this boundary line dispute, Anderson requested (a) that the October 16, 2023 hearing be continued, (b) that he be provided a copy of Doug Fallon's report and documents and information upon which his "direct sight line" was established, how he "verify[ed] the actual property line, and how the "measurements were taken," and (c) that he be given at least 45 days in which to review the supplied documents and information, submit relevant evidence regarding the boundary line dispute between Anderson and Bohannon, and circumstances surrounding the drawing and measurements that were provided for the inspection.

The October 16, 2023 Board of Adjustment hearing was continued in response to Anderson's request. Anderson was informed that to obtain documents and information pertaining to his Property he would have to submit GRAMA requests. Mr. Anderson, through counsel, submitted GRAMA requests to Provo City on October 24, 2023, November 7, 2023, and November 15, 2023.

A new Board of Adjustment hearing date on Anderson's variance application was set for February 26, 2024.

ADDITIONAL FACTS & INFORMATION

The Roof Extension

In July 2018, Anderson paid Lloyd Pope to build an extension of a portion of the roof on the north side of his home (the "Roof Extension"). Anderson did not apply for a building permit because, based on conversations he had with the Provo City building department, he understood that he did not need one. Anderson's neighbor to the North, Ronald Bohannon ("Bohannon"), was aware of and observed the Roof Extension when it was being built and did not object or complain to Anderson.¹

The Patio and Stairs

In July 2022, Anderson designed and framed-up a concrete patio slab underneath the Roof Extension from the exterior wall on the north edge of his home to what he understood to be the property line between his Property and Mr. Bohannon's property (the "Patio"). At that same time, Anderson also designed and framed up a set of exterior concrete steps running from the edge of the patio slab on the East down the sloping land to the West and South of what he understood to be the property line between his Property and Mr. Bohannon's property (the "Stairs"). When Anderson designed and constructed the Roof Extension and designed and framed up the Patio and Stairs, he believed that these improvements were on his side of the boundary line between the two properties.²

¹ See Declaration of Timothy W. Anderson, pars. 11-13 (attached hereto).

² *Id.*, pars. 14-15.

Anderson believed that the Roof Extension, Patio, and Stairs were on his side of the boundary line based on a series of interactions he had with Bohannon. The first of these interactions occurred around the time when Anderson was constructing the Roof Extension. On more than one occasion during that time, Bohannon observed the work Anderson was doing with the Roof Extension. Bohannon did not complain or claim that what Anderson was doing created any concerns relating to the boundary line between their properties. Bohannon did not say that the Roof Extension encroached upon any set-back requirements, nor did he object to the quality or aesthetics of the work being done.³

The next of these interactions occurred after Anderson had framed up the Patio and Stairs and asked Tom Nokes, a concrete subcontractor, to pour and finish the concrete Patio and Stairs. Tom Nokes came to Anderson's Property in late July 2022, to examine the frames Anderson had set up for the Patio and Stairs in preparation to do the pouring and finishing work. Prior to Tom Nokes' arrival, Bohannon had placed a string line from the east side to the west side of the adjoining properties. In the presence of Tom Nokes, Bohannon told Anderson that this string line was the boundary between their properties. Bohannon told Anderson in the presence of Tom Nokes that so long as the concrete Patio and Stairs were on Anderson's side of the string line, they were not on Bohannon's property. After Bohannon said this and before Tom Nokes began pouring the concrete, Anderson took photos and made a video recording of the string line showing that the frames for the Patio and Stairs were completely on Anderson's side of the string line. Tom Nokes began pouring concrete into the frames for the Patio

³ *Id.*, pars. 16-17.

and Stairs that day. It took him approximately three days to complete pouring and finishing the concrete Patio and Stairs. The concrete he poured into the frames Anderson made were on Anderson's side of Bohannon's string line. On the days that Tom Nokes was pouring and finishing the concrete Patio and Stairs, Bohannon came out to observe and commented to Anderson and Nokes that the work looked nice. He did not complain or express any concern to them about the placement of the concrete Patio and Stairs in relation to his string line. Throughout the time Tom Nokes did his work, the string line remained in place and the frames for the concrete Patio and Stairs were on Anderson's side of the line.⁴

Bohannon

Sometime after the concrete Patio and Stairs were completed, Anderson learned that Bohannon complained to Provo City. Anderson recalls speaking with someone from Provo City about Bohannon's complaint. Anderson understood from what he was told that Bohannon's concerns were investigated, measurements and photos were taken, and the matter was closed.⁵

In October 2022, Anderson received a letter from an attorney representing Bohannon. The letter claimed that Anderson's Roof Extension, Patio, and Stairs encroached on Bohannon's property. The attorney stated that if the encroachments were not removed Bohannon would sue. Anderson hired an attorney to investigate the matter, contact Bohannon's attorney, and try to work things out. Anderson understood that the attorneys exchanged letters and spoke by telephone.⁶

⁴ *Id.*, pars. 18-20 and referenced photos. See also Declaration of Thomas G. Nokes (attached hereto).

⁵ See Anderson Declaration, par. 21.

⁶ *Id.*, pars. 22-23.

Anderson began receiving text messages from Bohannon, the tone and substance of which were disturbing. Bohannon went so far as to send someone to Anderson's home with instructions to sawcut portions of the Patio and Stairs. Anderson's attorney sent a December 13, 2022 letter to Bohannon's attorney, asking Bohannon to stop the text messages. Bohannon's attorney did not respond. Bohannon continued to behave in an unreasonable and aggressive manner to annoy and intimidate Anderson and his wife. For example, beginning in May 2023, Bohannon tore down a portion of Anderson's decorative block wall along the northeast portion of Anderson's Property. Bohannon later sprayed orange paint on portions of the concrete Patio and Stairs. Bohannon later cut down a tall Aspen tree that was inside and surrounded by the concrete Patio and Stairs, leaving an unsightly stump. Bohannon threatened several times to hire a contractor to sawcut a portion of the cement Patio and Stairs, and later threatened to hire a contractor to build a fence over a portion of the Patio and Stairs he was now claiming to be on his property. On January 29, 2024, Bohannon again tore down a portion of Anderson's decorative block wall along the northeast portion of his property.⁷

Anderson's attorney sent Bohannon a letter on September 15, 2023, asking him to stop his behavior and instead discuss fair and reasonable alternatives for resolving his boundary and encroachment concerns. Bohannon responded, sending Anderson's attorney a letter dated September 20, 2023, declining the invitation to discuss and resolve his concerns and instead warned that he had involved City officials in the matter.⁸

⁷ *Id.*, pars. 24-26 and referenced photos.

⁸ *Id.*, pars. 27-28.

GRAMA Records

The GRAMA Records obtained from Provo City reveal the following additional relevant facts pertaining to this matter.

1. On September 8, 2022, Provo City commenced an investigation into a “non-permitted use” on the Anderson Property reported by a neighbor. Robert Allen of the City was assigned to conduct the investigation.⁹

2. On September 13, 2022, Robert Allen and Javin Weaver inspected the Anderson Property for complaints of “junk in the yard” and took photos.¹⁰ Allen and Weaver learned that Anderson and Bohannon “are feuding over property boundaries” and told them “that it would be a civil matter between two owners.” Weaver “checked the set backs on the property and did not find any issues.” The case was closed as “unfounded.” However, Allen “re-opened the case after learning that it has a non-permitted deck under code: 14.10.090.”¹¹

3. On September 22, 2022, Allen told Anderson that “he had to remove the roof from his side patio as it extends 3 feet out too far.” Anderson responded that he needed a week or so to determine what to do.¹²

4. On September 28, 2022, Robert Allen and Officer Zelaya returned to the Anderson Property to take measurements of the set backs and concluded that “it measured at 10’8 feet back from the roof, which was enough space according to the code.”¹³ They took photographs and closed the case.¹⁴ The photographs indicate that

⁹ See Exhibit 1 – Provo City Memorandum.

¹⁰ *Id.* See also Exhibit 2 – Photos taken by Allen and Weaver on Sept. 13, 2022.

¹¹ See Exhibit 1 – Provo City Memorandum.

¹² *Id.*

¹³ *Id.* See also Exhibit 3 – Photos taken by Allen and Zelaya on Sept. 28, 2022.

¹⁴ See Exhibit 1 – Provo City Memorandum.

the distance from Roof Extension post to the Patio edge measured 10'8 feet – sufficient to satisfy the 10-foot side yard set back requirement of Code 14.10.080.

5. On June 20, 2023, five years after the Roof Extension was completed and nine months after Allen and Zelaya concluded that 10'8 feet was enough space according to the Code for the Roof Extension, Anderson applied after-the-fact for a building permit for a covered patio addition. The permit issued on July 25, 2023.¹⁵

6. The July 27, 2023 Final Inspection Report on the Roof Extension permit, which failed for other reasons, stated: “Inspection with Rob Allen in zoning – Set backs are in compliance based on string set by owner.”¹⁶

7. On August 3, 2023, the Roof Extension permit passed final inspection.¹⁷

8. On September 7, 2023, a “Re-Final” inspection was re-done by Doug Fallon at Bohannon’s insistence to verify the setbacks. The report states:

A direct sight line was established from the two property corners to verify the actual property line and then measurements were taken. The support post for the attached roof extension measured 7'-8" from the property line and 22' of eave encroaching further. The approved set indicate the entire roof is 16'-6" from the property line. This is clearly different.

The Re-Final Inspection failed.¹⁸ Unlike the investigation performed by Allen and Zelaya on September 28, 2022, no photographs of the measurements were taken.

Set Back Considerations in Sherwood Hills Neighborhood

There are four current examples in the Sherwood Hills Neighborhood of property owners who are in the process of constructing improvements on their land that are

¹⁵ See **Exhibit 4** – Building Permit PRAD202301150.

¹⁶ See **Exhibit 5** – Final Inspection Report on Permit No. PRAD202301150 (7-27-2023).

¹⁷ See **Exhibit 6** – Final Inspection Report on Permit No. PRAD202301150 (8-3-2023).

¹⁸ See **Exhibit 7** – Re-Final Inspection Report on Permit No. PRAD202301150 (9-7-2023).

closer than permitted under the Provo Municipal Code. This indicates either an inconsistency in the enforcement of the Code or the unfortunate and unjust consequence of living next to a difficult and disagreeable neighbor. For example:

1. 3786 Foothill Drive. In this instance, the owner appears to be constructing a foundation or wall within very close proximity to the property line. See attached photo.¹⁹

2. 3866 Foothill Drive. In this instance, the owner appears to be constructing a free-standing structure within close proximity to the property line. See attached photo.²⁰

3. 4087 Foothill Drive. In this instance, the owner appears to be constructing what appears to be an addition to or free-standing structure adjacent to the existing structure within very close proximity to the property line. See attached photos.²¹

4. 4324 Foothill Drive. In this instance, the owner appears to be constructing an addition to the existing structure within very close proximity to the property line. See attached photos.²²

RESPONSE & OBJECTIONS TO STAFF REPORT

Based on the facts and information set forth above, Applicant responds and objects to the Staff Report as follows.

A. OBJECTIONS TO THE STAFF REPORT'S FACTUAL BASIS

The Staff Report contains an incomplete and inaccurate statement of the relevant facts.

¹⁹ See **Exhibit 8**.

²⁰ See **Exhibit 9**.

²¹ See **Exhibit 10**.

²² See **Exhibit 11**.

1. The Overview section of the Staff Report does not contain any reference to, discussion, or resolution of the boundary line dispute between Anderson and Bohannon. The Declarations of Timothy W. Anderson and Thomas G. Nokes establish that Bohannon's statements and actions, which were relied on by Anderson when the concrete Patio and Stairs were poured, created the northern boundary between their properties by the doctrine of boundary by estoppel. See *Bahr v. Imus*, 2011 UT 19, 250 P.3d 56. "Boundary by estoppel is an equitable doctrine designed to prevent fraud and injustice by protecting innocent landowners who reasonably rely on representations by their neighbors regarding their shared boundary lines." *Id.*, at 63. There are three requirements for invoking the doctrine of equitable estoppel: "(1) an admission, statement, or act inconsistent with the claim afterward asserted, (2) action by the other party on the faith of such admission, statement, or act, and (3) injury to such other party resulting from allowing the first party to contradict or repudiate such admission, statement, or act." *Id.* The Anderson and Nokes Declarations establish facts sufficient to support the application of the doctrine of boundary by estoppel to the property line dispute between Anderson and Bohannon. Since Bohannon unequivocally declared his string line to be the boundary between the properties, he is barred from now claiming otherwise. The measurements taken by Allen and Zelaya on September 28, 2022, appear to be based on the concrete Patio edge. According to their report and measurement of the setbacks ("10'8 feet back from the roof"), there "was enough space according to the Code."²³

²³ See Exhibits 1-3.

2. The Overview section of the Staff Report does not contain any reference to, discussion, or consideration of the investigation performed by Allen, Weaver, and Zelaya or the conclusion and supporting photographs, which concluded that the distance from the Roof Extension post to the Patio edge measured 10'8 feet – sufficient to satisfy the 10-foot side yard setback requirement of Code 14.10.080.

3. The Overview section of the Staff Report does not contain any reference to, discussion, or consideration of Bohannon's bias and animosity toward Anderson and the influence Bohannon exerted to cause the initial investigation by Allen and Weaver on September 8, 2022, the follow-up investigation by Allen and Zelaya on September 28, 2022, and the Re-Final inspection by Doug Fallon on September 7, 2023. It is highly probable that the information Bohannon provided to city officials regarding the boundary between the Anderson and Bohannon properties was different from what he told Anderson and Nokes when the concrete Patio and Stairs were framed and poured. The doctrine of boundary by estoppel precludes Bohannon from contradicting or repudiating what he told Anderson and Nokes and what they relied on.

4. The Overview section of the Staff Report does not contain any reference to, discussion, or consideration of the probability that the direct sight line Fallon used to take his measurements was based on Bohannon's influence and self-interest and did not consider the boundary line established by the doctrine of boundary by estoppel based on Bohannon's statements and actions that were relied on by Anderson when the concrete Patio and Stairs were poured.

5. In reaching the conclusion that "If the board were to grant the variance the applicant would need 2'4" for the current placement of the posts," the

Findings of Fact section of the Staff Report does not explain on which claimed boundary line this conclusion is based and why that boundary line was used.

B. OBJECTION TO THE STAFF REPORT'S STAFF ANALYSIS

In discussing the criteria for a variance under code section 14.05.030(9) and recommending that the variance be denied, the Staff Report does not provide a complete and accurate analysis of all facts relevant to the code criteria.

1. **Unreasonable Hardship**. The Staff Report's reasons for concluding that literal enforcement of the 10 feet side-yard setback requirement would not cause unreasonable hardship to Anderson do not mention, consider, or discuss: (a) the boundary line dispute between Anderson and Bohannon; (b) the investigation performed by Allen, Weaver, and Zelaya or the conclusion and supporting photographs, which demonstrate that the distance from Roof Extension post to the Patio edge measured 10'8 feet – sufficient to satisfy the 10-foot side yard setback requirement of Code 14.10.080; (c) Bohannon's bias and animosity toward Anderson and the influence Bohannon exerted to cause the initial investigation by Allen and Weaver on September 8, 2022, the follow-up investigation by Allen and Zelaya on September 28, 2022, and the Re-Final inspection by Doug Fallon on September 7, 2023; (d) the probability that the direct sight line Fallon used to take his measurements was based on Bohannon's influence and self-interest and did not consider the boundary line established by the doctrine of boundary by estoppel based on Bohannon's statements and actions that were relied on by Anderson when the concrete Patio and Stairs were poured; and (e) that the Findings of Fact section of the Staff Report does not explain on which claimed boundary line its conclusion is based and why that boundary line was used.

Furthermore, the Staff Report's conclusion incorrectly assumes that Anderson caused the circumstances that led to his variance application. When all relevant facts are objectively considered, this is clearly not the case. When the concrete Patio and Stairs were poured, Anderson reasonably relied on the string line Bohannon placed and identified as the property line. That line became the new boundary based on the doctrine of boundary by estoppel. If anyone caused the unreasonable hardship Anderson now faces, it is Bohannon. He is the one that, in the words of the Utah Supreme Court in the *Bahr v. Imus* case, has created "fraud and injustice" by "contradict[ing] or repudiat[ing]" the boundary line he established.²⁴

Moreover, the Staff Report's conclusion incorrectly assumes that Anderson's hardship is purely economic. It is not. The boundary line dispute created by Bohannon and exacerbated by his relentless and aggressive behavior has interfered with and continues to threaten Anderson's peaceful use and enjoyment of his property.

2. **Special Circumstances**. The Staff Report's reasons for concluding that special circumstances do not exist do not mention, consider, or discuss: (a) the new facts showing that Anderson's Roof Extension complies with the code's side-yard setback requirements; (b) the hardship Anderson has demonstrated; and (c) the fact that Anderson's hardship does not adversely affect anyone else in the Sherwood Hills neighborhood.

Furthermore, the Staff Report's reasons for concluding that special circumstances do not exist do not mention, consider, or discuss the fact that several homeowners in the Sherwood Hills neighbor have constructed improvements that do

²⁴ 2011 UT 19, ¶¶ 22, 23.

not comply with similar code requirements and that are being disparately and unfairly enforced against Anderson simply because he lives next to an unreasonably difficult and disagreeable neighbor. The photographs attached hereto illustrate this situation.²⁵

3. **Substantial Property Right**. The Staff Report's reasons for concluding that a substantial property right is not involved do not mention, consider, or discuss: (a) the new facts showing that Anderson's Roof Extension complies with the code's side-yard setback requirements; (b) the hardship Anderson has demonstrated; and (c) Bohannon's relentless and aggressive behavior that has interfered with and continues to threaten Anderson's peaceful use and enjoyment of his property.

4. **General Plan**. The Staff Report's reasons for concluding that the requested variance will not substantially affect the general plan or be contrary to the public interest do not mention, consider, or discuss: (a) the new facts showing that Anderson's Roof Extension complies with the code's side-yard setback requirements; (b) the hardship Anderson has demonstrated; (c) the fact that Anderson's hardship does not adversely affect anyone else in the Sherwood Hills neighborhood; (d) the fact that several homeowners in the Sherwood Hills neighbor have constructed improvements that do not comply with similar code requirements and that are being disparately and unfairly enforced against Anderson simply because he lives next to an unreasonably difficult and disagreeable neighbor; and (e) Bohannon's relentless and aggressive behavior that has interfered with and continues to threaten Anderson's peaceful use and enjoyment of his property.

²⁵ See **Exhibits 8-11**.

5. **Substantial Justice**. The Staff Report's reasons for concluding that substantial justice would not be served by the requested variance do not mention, consider, or discuss: (a) the new facts showing that Anderson's Roof Extension complies with the code's side-yard setback requirements; (b) the hardship Anderson has demonstrated; (c) the fact that Anderson's hardship does not adversely affect anyone else in the Sherwood Hills neighborhood; (d) the fact that several homeowners in the Sherwood Hills neighborhood have constructed improvements that do not comply with similar code requirements and that are being disparately and unfairly enforced against Anderson simply because his lives next to an unreasonably difficult and disagreeable neighbor; and (e) Bohannon's relentless and aggressive behavior that has interfered with and continues to threaten Anderson's peaceful use and enjoyment of his property.

C. OBJECTION TO THE STAFF REPORT'S CONCLUSIONS

The Staff Report's conclusions do not mention, consider, or discuss any of the additional facts and information provided by Anderson. Not only do the additional facts and information provided by Anderson make his case more compelling and sympathetic, but they also demonstrate that according to Allen and Zelaya's September 28, 2022 investigation, measurements, and photographs, which were most likely based on the property line established by the doctrine of boundary by estoppel, the distance from Roof Extension post to the Patio edge measured 10'8 feet – sufficient to satisfy the 10-foot side yard setback requirement of Code 14.10.080 – meaning that the Roof Extension is code-compliant even without a variance.

APPLICANT'S REQUEST

Based on his additional submission and response to the Staff Report, Anderson requests that the Board conclude:

1. That the Roof Extension is code-compliant without a variance based on Allen and Zelaya's September 28, 2022 investigation, measurements, and photographs, which established that the distance from the Roof Extension post to the Patio edge measures 10'8 feet, which is sufficient to satisfy the 10-foot side yard setback requirement of Code 14.10.080; or alternatively,
2. That all relevant facts and information, including that which is provided here by Anderson, satisfy all of the criteria for granting a variance under Section 14.05.030(9) of the Provo Municipal Code; or alternatively,
3. That if there is any doubt as to the proper boundary line for analyzing and deciding Anderson's variance request, further action for or against Anderson's variance application should be suspended and held in abeyance, and that Anderson and Bohannon be instructed to take their boundary dispute to the Fourth District Court for resolution in accordance with Utah law.

Respectfully submitted,

This 5th day of February 2024.

/s/ Philip M. Ballif

PHILIP M. BALLIF
GODFREY LAW, P.C.
Attorneys for Applicant, Timothy W. Anderson

Attachments

Declaration of Timothy W. Anderson

Exhibit A – Photos of String Line and Framed Patio and Stairs

Exhibit B – Photos of Torn Down Brick Wall, Orange Paint, and Cut Down Aspen

Exhibit C – Bohannon Emails to City (Sept. 2, 9, 2023)

Declaration of Thomas G. Nokes

Exhibits to Applicant's Additional Submission

Exhibit 1 – Provo City Memorandum

Exhibit 2 – Photos by Allen and Weaver on Sept. 13, 2022

Exhibit 3 – Photos by Allen and Zelaya on Sept. 28, 2022

Exhibit 4 – Building Permit PRAD202301150

Exhibit 5 – Final Inspection Report (July 7, 2023)

Exhibit 6 – Final Inspection Report (Aug. 3, 2023)

Exhibit 7 – Re-Final Inspection Report (Sept. 7, 2023)

Exhibit 7 – Photo (3786 Foothill Drive)

Exhibit 9 – Photo (3866 Foothill Drive)

Exhibit 10 – Photos (4087 Foothill Drive)

Exhibit 11 – Photos (4324 Foothill Drive)



Memorandum

To: CENPU202200747
From: CityView Software Permitting Module
Print Date: 11/07/2023
RE: Case Report on Non-Permitted Use: Routine priority - (Origin)

The side deck is three feet too long and the owner needs to apply for a variance or fix the deck.

Comments

- 09/08/2022 - Robert Allen
 - Contacted the CO via telephone and told [REDACTED] I would be taking the case
- 09/13/2022 - Robert Allen
 - Javin Weaver and I inspected the property the property and did not observe any junk in the yard. There was a little bit of chicken wire in the backyard, but the property owner does have a few chickens. [REDACTED] and the property owner are feuding over property boundaries and we told [REDACTED] that it would be a civil matter between the two owners. Javin checked the set backs on the property and did not find any issues. Closing the case as unfounded.
- 09/13/2022 - Robert Allen
 - Re-opened the case after learning that it has a non-permitted deck under code: 14.10.090 Projections into Yards. sub section #4
- 09/13/2022 - Robert Allen
 - I will take the code to the property owner and an application for a variance if they choose.
- 09/22/2022 - Robert Allen
 - Tim Anderson the owner came to the office. Anderson's number is [REDACTED]. He was told that he had to remove the roof from his side patio as it extends 3 feet out to far. Mr. Anderson stated that he would need a week or so to determine what he was going to do, either take it down or file for a variance.
- 09/28/2022 - Robert Allen
 - Officers Zelaya and I took measurements of the set backs and it was measured at 10'8 feet back from the roof, which was enough space according to the code. Took photographs and will close the case.

Activities

- 09/08/2022 - Robert Allen: Additional Investigation Required?
 - Outcome: Yes
 - Notes:
- 09/08/2022 - Robert Allen: Case Investigation
 - Outcome: Complete
 - Notes:
- 09/13/2022 - Robert Allen: Initial Inspection/Record Violations
 - Outcome: Unfounded
 - Notes:



- 09/13/2022 - Robert Allen: Notify Complainant/Close Case
 - Outcome: Complete
 - Notes:
- 09/13/2022 - Robert Allen: Transfer Docs to OnBase (CE) - Copy
 - Outcome: Complete
 - Notes:
- 09/28/2022 - Robert Allen: Additional Investigation Required?
 - Outcome: Yes
 - Notes:
- 09/28/2022 - Robert Allen: Case Investigation
 - Outcome: Complete
 - Notes:
- 09/28/2022 - Robert Allen: Initial Contact/Occupant
 - Outcome: Proceed with Case
 - Notes:
- 09/28/2022 - Robert Allen: Initial Inspection/Record Violations
 - Outcome: Verbal Warning Only
 - Notes:
- 09/28/2022 - Robert Allen: Transfer Docs to OnBase (CE)
 - Outcome: Complete
 - Notes:









Sep 28, 2022 at 8:56:55 AM
3737 Foothill Dr
Provo UT 84604
United States
Uinta-Wasatch-Cache National Forest



Sep 28 2022 at 8:56:50 AM
3761 Foothill Dr
Provo UT 84604
United States
Uinta-Wasatch-Cache National Forest





Building Permit

Date Submitted: 06/20/2023

Address: 3737 N Foothill Dr, Provo, UT 84604

Applicant:	Barbara M Mapes
Phone:	--
Email:	barbimapes2@yahoo.com
Owner:	ANDERSON, TIMOTHY W (ET AL)
Owner Builder	
Name:	ANDERSON, TIMOTHY W (ET AL)
Work Phone:	--
Cell Phone:	--
Subdivision:	
Building Use:	
Valuation:	\$1,136.76

**Permit
PRAD202301150**

Issued: July 25, 2023
 Lot #: --
 Plat #: --
 Subdiv.: --
 Zone #: R110
 Parcel #: 52:028:0036

SQFT Per Floor			
1	0	2	0
3	0	B	0

Bedrooms: 0
 Basement Finished:

Permit Fees

State Surcharge:	\$1.00
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Total Fees: \$0.00

Description:

Covered patio addition

Department Approvals

Planning Planning Review	Date
	07/10/2023
Planning Planning Review	Date
	07/12/2023
Building Inspection Building Review	Date
	07/20/2023

PLEASE READ THE FOLLOWING INFORMATION, IT IS IMPORTANT!

TOILET FACILITIES - Are to be provided at the time of foundation inspection.

INSPECTIONS - Must be requested 24 hours in advance by calling Provo City Building Inspection at 852-6450 or on the website at: <https://cvportal.provo.org/cityviewportal>

SITE ADDRESS - Must be posted on a sign legible from the road with house number first, street name/number second.

IMPROVEMENT BONDS - Side walk must be without cracks or breaks. Curb, gutter and strip paving must be in line and functional to the satisfaction of the Engineering Department at the time of bond release. Contact the Provo City Engineering Office for improvement inspections and bond release at 852-6740.

SENSITIVE LANDS - Prior to connection of permanent power for those structures in the "SENSITIVE LANDS", the geotechnical engineer who signed the geological report must certify in writing that the requirements of the report have been met and that the structure, grading and improvements conform to the requirements of that report. Provo City Code Section 15.05.100.

PROPERTY LINE - Prior to submittal of plans and construction, property lines and/or property corners need to be identified on the site plans and at the construction site.

**NO FRAMING ALLOWED ON FAST TRACK PERMIT!!!
DOUBLE FEE PENALTY IMPOSED.**

This plan has been reviewed by Provo City.

Notes:

I will personally confirm that all contractors and workers read and comply with the plan for that portion of the work they are doing.

By signing below I agree this structure will not be occupied prior to receiving a CERTIFICATE of OCCUPANCY or CERTIFICATE of COMPLETION, I also agree to assume responsibility for all improvements to be unbroken and uncracked at the time of the improvement bond release.

07/25/2023

Owner/Contractor/Agent Electronic Signature

Date



COMMUNITY
DEVELOPMENT
TEL 801 852 6400
330 W 100 S
PROVO, UT, 84601

Final Inspection Report

Report Issued: Jul 27, 2023

Inspection Result: Failed

PERMIT NO: PRAD202301150

PERMIT ISSUE DATE: Jul 25, 2023

PROPERTY ADDRESS: 3737 N Foothill Dr, Provo, UT 84604

Applicant: Barbara M Mapes
3737 Foothill Dr
Provo, UT 84604

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Comments: Inspection with Rob Allen in zoning
Set backs are in compliance based off string set by owner

Corrections:

Deficiency # 1: **Outstanding**

Soffit material is required to be installed for insect mitigation

Date of Inspection: July 27, 2023

If the inspection result above is not "passed", it is the contractor's responsibility to schedule a re-inspection of correction items.

INSPECTED BY:

Quentin Dally
Building Inspector
(385) 224-1657
QDally@provo.utah.gov



COMMUNITY
DEVELOPMENT
TEL 801 852 6400
330 W 100 S
PROVO, UT, 84601

Final Inspection Report

Report Issued: Aug 03, 2023

Inspection Result: Passed

PERMIT NO: PRAD202301150

PERMIT ISSUE DATE: Jul 25, 2023

PROPERTY ADDRESS: 3737 N Foothill Dr, Provo, UT 84604

Applicant: Barbara M Mapes
3737 Foothill Dr
Provo, UT 84604

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Comments: Tim
801-373-3333

Corrections:
Deficiency # 1: **Resolved**
Soffit material is required to be installed for insect mitigation

Date of Inspection: August 03, 2023

If the inspection result above is not "passed", it is the contractor's responsibility to schedule a re-inspection of correction items.

INSPECTED BY:

Quentin Dally
Building Inspector
(385) 224-1657
QDally@provo.utah.gov



COMMUNITY
DEVELOPMENT
TEL 801 852 6400
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Final Inspection Report

Report Issued: Sep 07, 2023

Inspection Result: Failed

PERMIT NO: PRAD202301150

PERMIT ISSUE DATE: Jul 25, 2023

PROPERTY ADDRESS: 3737 N Foothill Dr, Provo, UT 84604

Applicant: Barbara M Mapes
3737 Foothill Dr
Provo, UT 84604

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Comments: Re-Final from being contested by neighbor.

Corrections:

Deficiency # 1: **Outstanding**

Per request by the concerned neighbor, this inspection was re-done to verify the set backs of the construction. A direct sight line was established from the two property corners to verify the actual property line and then measurements were taken. The support post for the attached roof extension measured 7'-8" from the property line and 22" of eave encroaching further. The approved set indicate the entire roof is 16'-6" from the property line. This is clearly different.

Date of Inspection: September 07, 2023

If the inspection result above is not "passed", it is the contractor's responsibility to schedule a re-inspection of correction items.

INSPECTED BY:

A handwritten signature in black ink, appearing to read "Doug Fallon".

Doug Fallon
Chief Building Official
(801) 852-6454
DougF@provo.utah.gov















