

## **MINUTES**

### **BOARD OF ADJUSTMENT**

REGULAR MEETING  
THURSDAY, JANUARY 25, 2018  
COUNCIL CHAMBERS  
SUMMIT COUNTY COURTHOUSE  
60 NORTH MAIN  
COALVILLE, UTAH

#### **BOARD MEMBERS PRESENT:**

Bentley Peay, *Chair*  
Shawn Wiest  
Brendon Longley

Doug Matheson  
Charlotte Rehfield

#### **STAFF PRESENT:**

Ray Milliner – *Principal Planner*  
Helen Strachan – *Attorney*  
Steven Taylor – *Engineering Department*

Katy Staley – *Secretary*  
Jennifer Strader – *Senior Planner*  
Amir Caus – *County Planner*

#### **REGULAR SESSION**

Chair Peay called the meeting of the Board of Adjustment to order at 6:30 PM. Theron Miller was thanked for his service and Charlotte Rehfield was introduced as the new Board Member.

#### **1. Public input for items not on the agenda or pending applications.**

*The public input session was opened. There were no comments made and the public input session was closed.*

#### **2. Election of Chair and Vice Chair.**

This Item was moved to the end of the meeting.

#### **3. Public Hearing and possible action on a driveway setback variance; Parcel FM-C-71; Carey Lutheran, applicant. – Steve Taylor, Engineering Department**

**Engineer Taylor** shared the background for the application. The property is in the Tollgate Canyon area. The variance request is from the fifty-foot minimum setback requirement to

have a twenty-foot setback from the intersection. An existing non-compliant driveway is currently in use for access to the home. There is no garage currently on this property and the owner would like to build a garage. The site plan for the garage has been drawn to fit within the vegetation and other factors of this parcel. The chosen placement of the garage will require a new driveway. Except for the intersection setback, all other driveway requirements can be met with this plan. Engineering Staff has proposed moving the new driveway south and making modifications to the garage plan to meet the driveway Ordinances and not require the setback variance. The Planning Department has determined that the proposed structure will require a low impact permit due to the steep slopes, and the road setback requirements for the structure are not met and would require another variance request.

The applicant's basis for the variance is the steep slopes on the majority of the parcel and the owner has a need to build a garage and more living space. The owner has determined the flattest area that meets the needs for a driveway and garage and will have less impact on the native landscape. The site has existing utilities, water meter and drain fields that will inhibit placement of the garage in other locations.

Engineering Staff recommends the Board deny this variance. The Development Code has been written and approved by those in authority to consider the safety and well-being of all residents and visitors to the county. There are other options that are apparent to create a compliant driveway and can be constructed for its purpose. The Planning Department will need to specify additional permitting or variances for building this proposed garage. A

different driveway route may be possible by crossing areas with more than a 30% slope, which would also need approval from the Planning Department.

The location of the parcel was shown, with pictures of the property and the site plan. Other driveway options were shown, including an option that would meet all Ordinance requirements, with modification of the garage plans. The existing driveway could also be made to be compliant with all Ordinances. The platted road was shown. There are some vision impediments of the road from the property. There is a requirement of 150-foot clear view of the road from a driveway.

The recommended denial is for safety reasons. There is a stopping and slowing down concern on the dirt road, which has an impeded view. Fifty feet is not enough space to stop, and twenty feet is even worse.

**Board Member Wiest** asked if the alternate driveway would satisfy the 150-foot clear view. **Engineer Taylor** answered that with some of the trees cut out, the view would be approximately 123 feet and could be increased. The existing driveway satisfies the 150-foot view requirement. The existing non-compliant driveway was created before the Ordinance was in existence and can still be used and will not be abandoned. The owner could reclaim that area if they wanted. The proposed driveway would require a cut, while the Engineering's proposed driveway would also require a cut and some fill. 30% is being disturbed with any driveway option.

The applicant, **Mr. Carey Lutheran**, stated the reason for preferring his proposed driveway is it is the recommendation of the construction team Mr. Lutheran hired. In using the current driveway, the utilities would need to be moved to accommodate the garage and

would require a lot of fill. This is not the preference of the HOA because there would be a lot of trucks bringing in a lot of dirt on privately maintained roads. Moving the drainage field is another obvious negative. For the Engineering recommended driveway, the intersection cannot be seen from that site. There is no recommended speed limit on that road and there could be a safety issue with ATVs and other vehicles on the road. The applicant proposed driveway would have the least disruption and has 360-degree visibility and is at a higher elevation and is more visible from the intersection. Mr. Lutheran was unaware of the need for a setback variance for the garage and appreciated Mr. Taylor mentioning that and has put in a variance request for that with the Planning Department. There are a lot of hilly parcels. This parcel is mostly hillside and Mr. Lutheran would like to disturb as little as possible. There will be an enclosed breezeway to attach the garage to the existing home to add more living space. Moving the driveway would require the garage to be built more off-grade. There would be more structural concerns when parking on an elevated platform. The applicant proposed driveway would have parking on the flat area, with a bedroom and bathroom built on the sloped area. The other flat area has a water tank partially underneath and is not large enough to accommodate larger vehicles. Some retention would be required for the Engineering proposed driveway because of the steep hillside. There is bedrock in the area of the Engineering proposed driveway that would be difficult to dig into, which is why the current home is on stilts.

*The public hearing was opened. There was no public comment and the public hearing was closed.*

**Mr. Lutheran** stated there are a lot of non-conforming driveway setbacks in the area, with no problems and there would be no precedence set by having the variance granted.

**Board Member Matheson** stated it is difficult to validate a variance when there is a compliant option available.

**Board Member Wiest** stated he is not sure if the preferred driveway has a better sight line or worse. There is probably not a lot of traffic up there.

**Board Member Rehfield** stated Engineering has provided a good alternate, even though it is not the preferred alternate.

**Chair Peay** stated the Board does not necessarily decide which one is better. By not granting a variance, the Board is not saying the applicant has to build in a certain location. The Board's decision is just on the variance. It is tricky when an applicant has a difference of opinion. The Board needs to go back to the Standards and judge the variance according to those Standards.

**Board Member Longley** asked what the distance is between the applicant preferred driveway and the Engineering proposed driveway. Engineer Taylor answered sixteen feet.

**Board Member Longley** stated that sixteen feet buys a little more stop time on the road.

**Chair Peay** stated the whole purpose of that Ordinance is a safety concern and tends to defer to the Ordinance.

**Board Member Matheson** stated that Standard 1 states, "Literal enforcement of the ordinance would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the land use ordinances." It is difficult to see the hardship

when there is a compliant alternative. **Chair Peay** stated that has been a pretty common precedent over the years when there is a reasonable alternative. The applicant's Standards Analysis and Engineer Taylor's Standards Analysis have been read by the Board.

***Board Member Matheson made a motion that the application for the driveway setback variance be denied, based on the application does not meet two or three of the necessary Standards for granting a variance. Board Member Wiest seconded the motion.***

- **MOTION CARRIED (5-0) Variance Denied.**

**4. Public Hearing and possible action** on a variance from the required 100' setback from the river to construct a detached garage; 1998 East Hwy 150; Parcel SK-48; Aaron Boyd, applicant. – *Jennifer Strader, Senior Planner*

**Planner Strader** shared the background of the application. The application is for a stream variance that would allow the applicant to build a detached garage on Lot 48 in the Samak Park subdivision, which has been in existence since 1956. The Beaver Creek runs along the southern boundary of the lot and requires a 100' setback. The existing house does not meet the 100' river setback. The variance request would allow the garage to be built with a 70' setback from the river.

The hardship associated with the property is the location of the septic tank. The proposed garage is 880 square feet, which is comparable with other garages in the area. There is enough room to move the garage forward and still maintain the thirty-foot (30') front setback, but the existing septic tank would be disturbed. With existing conditions, it would

be difficult to construct a structure of this size without a variance. Staff recommends the Board hold a Public Hearing and vote to approve the variance, based on the Findings of Fact and Conclusions of Law found in the Staff Report and this document.

Public Hearing notices were sent out and an email was received this afternoon (included with this document). It appears most of the concerns stated in the email are not related to the variance.

**Board Member Wiest** stated if the variance were not approved and the applicant still chose to build the garage, the septic tank would have to be moved, which would not allow for a leech field that would still be compliant. **Planner Strader** stated the leech field is located where the compliant driveway is located. **Board Member Wiest** stated it looks like the driveway is located over the septic tank. The Health Department will have to review and approve the location of the septic tank.

**Krista Stevens**, representing the applicant, stated it would be very costly to move the septic tank, and there is not enough room between this property and the neighboring property to move it. The adjacent property owners would prefer a garage be constructed for better visibility. The area of the driveway that the septic tank is located under cannot be parked on but can be driven over. The weight of the garage cannot be over the septic tank. The person that sent the email that was referred to earlier lives up the hill and has been harassing the applicant for several years. The other neighbors do not have any complaints. **Chair Peay** asked if the septic tank is subject to setback requirements. **Planner Strader** answered it is not. **Board Member Wiest** asked how often the creek reaches the high-

water mark. **Ms. Stevens** answered the creek has never overflowed and never reached the bank.

*The public hearing was opened.*

**Richard Laub**, with the Samak Park Homeowners' Association (HOA), stated this property should be included in the HOA and be subject to the bylaws. There is an existing garage on the property. **Planner Strader** stated the garage was turned into a living space. **Mr. Laub** stated the 100' setback was put in place to protect the river and fish. About five years ago, there were 409 fish in the river in this area and now there are less than 100. The forest is being overrun with people. The applicant rents this property out daily. **Board Member Wiest** stated there is a neighboring property that is pretty close to the creek, which was built about forty years ago. **Mr. Laub** stated the setback is 100' now so the problem does not get worse.

*The public hearing was closed.*

**Planner Strader** showed the high-water mark. It appears the garage would be about four feet above the high-water line.

**Board Member Wiest** stated the existing septic tank is problematic in trying to make the garage structure more compliant and is curious about what the Health Department will think about the placement of the septic tank. The size of the structure is consistent with others in the neighborhood.

**Chair Peay** stated it is a substantial property right to have a garage of some size on the property. The question is whether the septic tank location is unique to the property or a



man-made inhibition. Drain fields do not seem to be an issue in this case. Would moving the septic tank be more harmful compared to an additional five to ten feet?

**Board Member Longley** asked if there are additional approvals required if this variance is approved. **Planner Strader** answered a building permit would be required and the Health Department would review the building permit.

The leech field is paved over. **Ms. Stevens** stated the applicant has been talking to UDOT about breaking up and using the asphalt leading to the driveway.

**Chair Peay** stated that if the Board does not feel like they have the information they need to make a determination, then a request can be made to continue this item and ask the applicant to present the information about moving the septic tank from an impact perspective. **Ms. Stevens** stated that if the septic tank were moved, it would be right against the foundation of the house, and the adjacent house is lower. That would also move the septic tank closer to the river. **Board Member Matheson** stated the septic tank could be moved forward. **Board Member Wiest** stated if a decision is rendered tonight to reject the variance, then the applicant would have to wait a year to reapply for the same proposal. The septic tank is a human made condition. The information brought back to Board should include the feasibility of moving the septic tank versus the protection of the river.

***Board Member Wiest made a motion to continue this variance request to the next available meeting. Board Member Matheson seconded the motion.***

- **MOTION CARRIED (5-0) Variance Continued.**

**5. Public Hearing and possible action** on a variance to reduce the required 100-foot setback from a year-round stream; 329 Samak Hills; Parcel SH-329; Lamar Bangerter, applicant. – *Ray Milliner, Principal Planner*

**Planner Milliner** shared the background of the application. The applicants are proposing an addition to the existing single-family home. There is a 100-foot setback requirement from a stream and a thirty-foot setback from a right of way. On this property, those setbacks leave a corridor of about six feet on one side up to about forty feet on the other side. Staff has reviewed this application. Based on the fact this applicant has a legal lot of record approved by the county, and therefore is considered buildable, an accommodation needs to be made for the applicant to build on his property. The Health Department would prefer to have the addition in the rear of the home to keep the septic tank and leach field farther from the stream. Staff recommends approval of the variance based on Findings of Fact and Conclusions of Law in the Staff Report.

**Chair Peay** clarified that there is no buildable pad that complies with all the setbacks.

*The public hearing was opened. There was no public comment and the public hearing was closed.*

**Board Member Wiest** stated there is not enough buildable area left after complying with all the setbacks.

**Chair Peay** asked how this structure compares in size to other homes in the area. **Planner Milliner** answered he does not have information on the square-footage in the area. The addition is relatively small and the home will not be out of proportion to other homes in

the area. The square-footage of the addition is about 720 square feet, for a total of about 1400 square feet for the home. **Chair Peay** stated this does not seem out of line.

**Board Member Rehfield** asked if the house is being doubled in size, how will that impact the septic tank. **Planner Milliner** stated that as part of the building permit review, the Health Department will make sure the septic tank will be compatible with the structure.

**Findings of Fact:**

1. The applicant is the owner of a platted lot of record located lot 329 of the Samak Hills Subdivision.
2. The lot is approximately .44 acres in size.
3. There is an existing stream running along the rear property line.
4. Eastern Summit County Development Code Section 11-3-3 states that the minimum setback from a naturally occurring year-round stream is 100 feet.
5. The required front setback for the lot is 50 feet.
6. The lot is approximately 156 feet deep measured on the east side.
7. When the 100-foot setback requirement is applied to the stream and the front yard setback, it creates a corridor that is approximately 6 feet wide where a compliant structure can be built.
8. The existing lot is typical of those found in the Samak Hills Subdivision, the homes built on these lots were constructed prior to the creation of the stream setback requirements, which allowed for reasonably sized homes on smaller lots near the streams.
9. Because there is a stream in the rear of the lot, the area available to build the home would be restricted to a narrow section measuring 6 feet on the east side.
10. The Eastern Summit County General plan identifies the goal of creating land use regulations that incorporate the diversity of desires of residents with private property rights.
11. The proposed cabin would be located and built in a similar fashion to other homes within the subdivision and would not exceed any other ordinance requirements.

**Conclusions of Law:**

1. Literal enforcement of the AG-100 District requirements for this property causes an unreasonable hardship 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 substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to Section 11-4- 14 of the Eastern Summit County Development Code have been met.

**Conditions of Approval:**

1. The minimum setback from naturally occurring year-round stream near the rear of the property shall be 37 feet.
2. All necessary permits must be obtained and fees shall be paid prior to the commencement of any construction activity, including but not limited to the Summit County Engineering and the Summit County Building Departments.

***Board Member Longley made a motion to grant the 63' setback variance from the stream according to the Five Standards, Findings of Fact, Conclusions of Law and Conditions of Approval included in the Staff Report. Board Member Wiest seconded the motion.***

- **MOTION CARRIED (5-0).**

**6. Public Hearing and possible action** on a variance to reduce the front yard setback from 50 feet to 30 feet; 953 South Hoytsville Road; Parcel NS-574; Michael Brown, representing the owner, applicant. – Ray Milliner, Principal Planner

**Planner Milliner** presented the background. This lot has a fifty-foot front yard setback and the rear of the property has an access road that cuts across the property line. This limits the building pad to twenty feet at the narrowest up to forty feet at the widest. The applicant has asked for the front setback to be reduced to thirty feet, which is similar to the other homes in the area. Granting the variance would allow a home to be built far enough from the access road as well as far enough from the front road. There is not a setback or an easement from the access road. A prescriptive right of way could be obtained if necessary. There is not a plan for the home of the site. The applicant wanted to wait until the Board made their decision on the variance before they designed a home for the property. Staff

recommends the variance be granted according to the Findings of Fact, Conclusions of Law and conditions of Approval in the Staff Report.

**Michael Brown** stated when this lot was created, it was based on the notion that the front setback would be thirty feet. There is a 100 foot right of way on the road, which is wide for a county right of way. The parcel has a grandfathered right that the applicant is trying to utilize by building a home on the property.

**Chair Peay** asked if the variance needs to angle with the access road to allow a large enough building pad. **Planner Milliner** stated the thirty-foot setback along the front should allow enough room for a house and yard. The house will be designed specific to the lot.

*The public hearing was opened. There was no public comment and the public hearing was closed.*

**Board Member Wiest** verified that part of this variance request is based on the access road cutting through the property. **Planner Milliner** stated the unique circumstance is the road in the back and the hardship is the shape of the lot, which combined reduces the buildable area.

**Chair Peay** stated that holding to the standard of the setback and causing a hardship is not in line with the spirit of the General Plan.

**Board Member Wiest** stated the road in the back is a man-made condition. **Chair Peay** stated that is a good comment, but the difference is that the road was not a condition made by the owner of the parcel. This is a legal right, not a man-made condition. It is surprising

there is not a setback for that access road. **Planner Milliner** stated it is a prescriptive easement, so it is technically not a road.

**Mr. Brown** stated the fifty-foot setback is a hardship for any person building in the area because the front of the house will be behind the houses next to them which were built with a thirty-foot setback.

**Board Member Matheson** stated there is a combination of the road, the angle and the diminishing side yard that causes a hardship.

**Findings of Fact:**

1. The applicant is the owner of the property at 953 South Hoytsville Road.
2. The property is approximately .50 acres in size.
3. Eastern Summit County Development Code Section 11-3-3 states that the minimum setback from the front shall be at least fifty feet (50') from any county designated roadway right of way.
4. Eastern Summit County Development Code Section 11-3-3 states that the minimum setback from the rear property line shall be 12 feet.
5. The lot is triangular shaped measuring 118 feet at its widest and 10 feet at its narrowest.
6. There is a farm road and fence line running along the rear property line.
7. The road and fence line encroach approximately 20 feet into the lot.
8. When the 50-foot front setback requirement is applied along with the rear farm road and fence encroachment, it creates a corridor that is approximately 20 feet wide on the south end and 40 feet wide on the north end where a compliant structure can be built.
9. Staff research indicates that most of the surrounding homes in the immediate area are setback approximately 30 feet from the edge of the right-of-way.
10. Because of the front yard setback, the farm road and fence line in the rear and the unusual shape of the lot, the buildable area on the lot is 40 feet wide at its widest spot and 20 feet at its most narrow.
11. The Eastern Summit County General plan identifies the goal of creating land use regulations that incorporate the diversity of desires of residents with private property rights.
12. The proposed single-family home would be located and built in a similar fashion to other homes within the subdivision and would not exceed any other ordinance requirements.

**Conclusions of Law:**

1. Literal enforcement of the HC District requirements for this property causes an unreasonable hardship 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 substantial property right possessed by other property owners in the same district.

4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to Section 11-4- 14 of the Eastern Summit County Development Code have been met.

**Conditions of Approval:**

1. The minimum setback from the front shall be at least thirty feet (30') from any county designated roadway right of way.
2. All necessary permits must be obtained and fees shall be paid prior to the commencement of any construction activity, including but not limited to the Summit County Engineering and the Summit County Building Departments.

***Board Member Rehfield made a motion to grant the front setback variance based upon the hardships in the area, according to the Findings of Fact, Conclusions of Law and Conditions of Approval included in the Staff Report. Board Member Wiest seconded the motion.***

- **MOTION CARRIED (5-0).**

**7. Public Hearing and possible action** on a setback variance to reduce the S.R. 224 setback to 66 feet for Dominion Energy to build a natural gas regulator station; 4400 N S.R. 224; Parcel PP-105-A-X; Joseph D. Kesler, representing Dominion Energy, applicant. – *Amir Caus, County Planner*

**Planner Caus** shared the background of the application. Dominion Energy is proposing to build a new gas regulator station. The front setback requirement from SR-224, according to Snyderville Basin Development Code is 100 feet from the designated right of way. The request is for a 66-foot setback, which would be a 34-foot variance. The hardship is that the parcel is 116 feet and with the rear setback, the buildable area would be about five feet. A rendering of what the regulator station would look like was shown. Staff recommends approval due to the hardship of the lack of buildable area as outlined in the Staff Report.

**Board Member Wiest** asked if the applicant could meet the rear setback if the variance was granted. **Planner Caus** answered that the Development Code has a specific requirement for the fence on the front. If the fence is more than four feet then it must meet the setback. In this case, the variance is for the fence along the front and the enclosure within the fence. There is a subdivision with homes on the back side of the proposed regulator station. There were two comments received in opposition to the project, which were more of a land use issue, as far as Staff is concerned. The public will have another chance to talk about the land use issue with the Snyderville Basin Planning Commission because this project will require a Conditional Use Permit (CUP). This type of use is allowed, but the CUP is required.

**Board Member Rehfield** clarified that the hardship is the lack of buildable area. **Planner Caus** stated that this was one of the few property acquisitions that would be possible to use for the project, but only with the proper variance. The County holds the easement for the property, with a clause that states if the property is sold then Dominion must use the proceeds to purchase Open Space, which they will do. This property is not deed-restricted Open Space.

**Board Member Rehfield** asked if the Board can consider the hardships to neighbors being impacted and not just the applicant. **Chair Peay** answered that the Five Standards balance the two sides.

**Planner Caus** stated there will be a driveway access, which UDOT (Utah Department of Transportation) has already approved.



**Board Member Matheson** asked if there are any other parcels that would fit the needs for this project. **Joseph Kesler**, the applicant answered that Dominion was not able to find any based on the area. They have a mathematically defined area of low pressure in which they were looking. The further away from the low-pressure area, the less effective the regulator station. There are other regulator stations in the community, but they are not sufficient for the pressure of the growth in this area. Some stations will be decommissioned and removed entirely once the new station is implemented. The stations that will be decommissioned are post-type regulators used for small applications. There is no building structure and they do not have the capacity for the area. A contractor talked to the HOA and neighbors about the property. Dominion does try to accommodate the neighbors.

**Board Member Rehfield** asked why some stations will be abandoned and if the variance is granted, how long will the new station be viable. The applicant answered that they analyze twenty-five years out based on the growth that is coming to the area. The proposed station should be viable beyond twenty-five years. The reason Dominion likes to remove the old stations is that occasionally a driver will hit one of them and it can be problematic and cause gas leaks. Those abandoned stations will not be able to be used again. The new station has setbacks and fencing that will help prevent drivers hitting it. There is another station on Kilby Road that is almost identical. The wall on the back side of the structure will be eight feet tall. Some trees will be removed to put in the driveway, but those trees are already dead. There is a berm in the area that blocks the view of the station. The station could be moved closer to the road, but the calculations for that were not done because the applicant was trying to accommodate the variance.

**Board Member Rehfield** asked if the County was talking about widening the road in that area again. **Planner Caus** stated the County Council is adamantly opposed to expanding SR-224.

**Board Member Rehfield** asked what the applicant will do if the variance is denied. The applicant answered that the current system cannot handle more growth. The suggested modifications to improve low pressures were shown. There are specific geographic areas that need to be targeted. There are problems now on peak days. If the variance is denied then the applicant will have to evaluate if future connections will be allowed.

A noise study was done and found the road is producing more noise than what the regulator station would.

**Board Member Matheson** asked if there is any advantage to a greater reduction of the setback. **Planner Caus** stated there would be the loss of a mature tree that would screen the wall. There could be an issue of safety as well.

**Chair Peay** stated the Board could grant up to a certain variance to give flexibility.

*The public hearing was opened. There was no public comment and the public hearing was closed.*

**Planner Caus** asked Attorney Strachan if the Board could grant an additional ten feet of variance. **Attorney Strachan** stated this variance request was noticed as a specific variance and she is concerned with granting more unless there were specific findings made for the reason for the extra ten feet. **Chair Peay** stated when this concern was brought up in the past, granting more of a variance within a reasonable amount was sufficient, but the Board

will defer to what **Attorney Strachan** suggests. **Attorney Strachan** stated it would be difficult to make findings without knowing what the neighborhood impacts would be.

There is a chance that there will need to be more of a buffer when the CUP is considered, so there could be a benefit to adding more of a buffer at this level.

**Chair Peay** stated there could be a Condition of Approval that the extra ten feet of variance is only to be used if required by the Planning Commission in the Conditional Use Permit process. Dominion does not see that moving the structure forward an additional ten feet would be detrimental to them, as long as landscaping is not required in the yard. They would like to keep the mature trees there.

**Findings of Fact:**

1. Summit County owns Parcel PP-105-A-X, located at 4400 N S.R. 224, Summit County, Utah.
2. The property is located in the Rural Residential (RR) zone.
3. The parcel is of a square shape and is 0.33 acres in size.
4. The depth of the parcel is 116 feet.
5. The parcel is relatively flat with S.R. 224 to the west.
6. The property has access from S.R. 224.
7. Parcel PP-105-A-X was acquired by Summit County as part of the Canyons SPA.
8. Parcel PP-105-A-X was designated as an open space parcel held by Summit County and a restrictive use covenant in favor of Summit County was placed upon it.
9. The subject open space covenant expressly allows Summit County to remove the covenant at its discretion.
10. Summit County was approached by Dominion Energy to place a regulator station on the subject property.
11. Summit County entered into an agreement to sell the subject property to Dominion Energy.
12. As part of the purchase, Summit County will release the restrictive use covenant.
13. Summit County must use the proceeds from the sale for the purchase of replacement open space.
14. Per Section 10-2-4(E.2) of the Snyderville Basin Development Code; The minimum setback from Highways 224, 40, 248 and Interstate 80 rights of way shall be one hundred feet (100').
15. A CMU fence with metal paneling is proposed to be 66 feet from the S.R. 224 right-of way while the equipment enclosure is proposed to be 75.5 feet from the right-of-way.
16. There are exceptions in the code for fence setbacks; however, they are required to be no more than 4 feet in height.
17. The applicant for security purposes requires an 8-foot-tall fence.

18. The side and rear portions of the fence would be up to the property line which is allowed, however a building permit would be required for a fence over 6 feet in height.

19. Within the fenced area, the applicant will build a 12 foot by 12-foot equipment enclosure that is 9 feet tall to house the majority of the equipment.

20. The equipment enclosure would be 78.5 feet from the S.R. 224 right-of-way, 26.5 feet from the rear property line, 12 feet from the south property line and 71 feet from the north property line. 21. With the 116-foot depth of the lot, it would not be possible to construct the regulator station that meets the required setbacks and would cause an unreasonable hardship.

22. Due to the lack of buildable area, the applicant is requesting that the Board of Adjustment grant a variance to the Snyderville Basin Development Code Section 10-2- 4(E.2) to decrease the required 100-foot setback up to 66 feet.

23. The 34-foot variance would allow for the construction of the subject Dominion Energy Gas Regulator Station.

24. Per the Snyderville Basin Development Code this use is considered Utility Facilities, Major and as such a Conditional Use Permit is required within the Rural Residential Zone.

25. Public health, safety, and welfare will further be reviewed during the Conditional Use Permit process.

26. Should the proposed Conditional Use Permit be approved; the applicant has stated that the three substations identified in Standard 3 above would be decommissioned.

**Conclusions of Law:**

1. Literal enforcement of this title does not cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.

2. There are no special circumstances attached to the property that do not generally apply to other properties in the same district.

3. Granting the variance is not essential to the enjoyment of substantial property right possessed by other property owners in the same district.

4. The proposal is inconsistent with the General Plan.

5. The spirit of the zoning ordinance is not observed by this application.

**Condition of Approval:**

1. The location and height of the regulator station and equipment shall be as per the drawings found in this Staff Report.

2. No modification to the approved variance is permitted without the prior approval of the Summit County Community Development Department.

3. A Conditional Use Permit shall be acquired for the proposed land use.

***Board Member Matheson made a motion to approve the requested setback variance***

***with an additional ten foot buffer (44 foot total variance) should the Snyderville Basin***

***Planning Commission find an additional buffer from the rear property line would***

***benefit the public interest to mitigate impacts (based on the suggested wording by***

***Planner Caus and Attorney Strachan) according to the Findings of Fact, Conclusions of***

*Law and Conditions of Approval found in the Staff Report. Board Member Longley seconded the motion.*

- MOTION CARRIED (4-1) Board Member Rehfield opposed.

8. Approval of minutes: August 24, 2017 and September 28, 2017

*Board Member Wiest made a motion to continue the review and approval of the minutes of August 24, 2017 and September 28, 2017 to the next meeting. Board Member Matheson seconded the motion.*

- MOTION CARRIED (5-0).

2. Election of Chair and Vice Chair.

*Board Member Wiest made a motion to elect Chair Peay to be the Board Chair for another term and Board Member Matheson to be Vice Chair. Board Member Rehfield seconded the motion.*

- MOTION CARRIED (5-0).

**ADJOURN**

*At 8:47 p.m. Board Members Rehfield and Wiest made a motion to adjourn.*

- MOTION CARRIED (5-0)



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Approval Signature