

Elk Ridge City
80 E. Park Drive
Elk Ridge, Utah 84651
Phone 801-423-2300

APPEAL TO THE HEARING EXAMINER

Applicant's Name: _____
Address: _____
Phone: (Home) _____ (cell) _____

- 1) The applicant must be legal or equitable owner of the real property for which the variance is requested.
- 2) A \$500 non-refundable fee must accompany this application.
- 3) A building permit for construction in accordance with any variance must be obtained within six (6) months of approval. Any variance granted lapses if a building permit is not obtained within six months or if a building permit obtained lapses by its terms.
- 4) Applications must be filed before the second Thursday of any month to be considered for that month.
- 5) Variances are granted or denied pursuant to Utah Code Annotated Section 10-9a-702, which reads as follows:

(See attached)

- 6) The following must be submitted with this application:
 - a. A complete, scaled plot plan which must be based on a Warranty Deed showing any rights-of-way or easement that are also attached to the property and the Warranty Deed must be included as part of the evidence to the application. (A Warranty Deed can be obtained at the Utah County Recorder's Office for a nominal fee.)
 - b. A list of all property owners whose property abut or faces the property involved, indicating each owner's name, address, and phone number.
 - c. (If applicable) A brief statement of any known previous applications for the variance, and whether the variance was granted or denied.
- 7) I (We) do hereby apply to the Hearing Examiner of Elk Ridge City, Utah for a determination of the following matter:
 - a. _____ An interpretation of the Zoning Ordinance or zone boundary line.
 - b. _____ A variance in required front, side, or rear yards, or size of lot or _____ building.
 - c. _____ A special exception to the ordinance or a Special Use Permit.
 - d. _____ Business License.

Please check which of the provisions describes your request. The city may wish to consult with the planning administrator. State the facts fully. Use additional sheets if necessary and attach a plot plan showing the location of existing and proposed buildings on the lot and buildings on adjoining lots.

- 8) The property covered by this appeal is located at _____ and situated within the _____ zone.

Date Received by
Planning Administrator _____
Fee Paid _____

(Recorder)

APPLICANT

HEARING EXAMINER STATEMENT OF FACTS

State the facts in response to the questions below, which support your request for a variance (the following questions are written in Laymen terms for your assistance. If you have any questions or desire additional help or counsel, the city should obtain an attorney of your choice, who may also accompany the city to the hearing.)

- 1. Describe the hardship that you will incur if the variance is not granted. Economic hardship is not sufficient to obtain a variance under the law.

- 2. Describe how this property is different from other property in the vicinity.

- 3. Describe what benefit other properties in the vicinity have, that this property will not have, without a variance.

- 4. Describe how a variance will not deviate from the general scheme of the zoning laws.

- 5. Describe how a variance conforms to the overall intent of the zoning laws and why it is fair that the variance be granted.

Title 10 Utah Municipal Code
Chapter 9a Municipal Land Use, Development, and Management Act
Section 702 Variances.

10-9a-702. Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

(2) (a) The appeal authority may grant a variance only if:

(i) 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;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

December 20, 2012