



Legislation Text

File #: BOA-05-19-5660, **Version:** 1

Agenda Item Title:

Schneider - Variance Requests
3381 East 9980 South
[Community #29 - The Dell]

Presenter:

Mike Wilcox

Description/Background:

The applicants, Jared and Jessica Schneider ("Applicants"), have filed a request with the Sandy City Board of Adjustment for two (2) variances from the Land Development Code. Specifically, they are requesting variances from the following sections of the Code:

- 1) Reduced setback from the required distance of the existing home to the native sensitive area slopes of the lot (see Section 15A-15-04(A)(2)(a)).
- 2) Keep various walls that encroach into the restricted sensitive area lands of the lot (see Section 15A-15-04(B)(6)(f)).

These requested variances are related to a building permit issued for a single family home within an existing one lot subdivision, Schneiderville Subdivision. The property is located at 3381 East 9980 South, which is within the R-1-40 Residential Single-Family Zone and the Sensitive Area Overlay (SAO) Zone.

A full staff report is attached.

Recommended Action and/or Suggested Motion:

The Board should carefully consider the conditions listed above before rendering a decision on each of the requested variances (individually or collectively) and should follow the law as outlined above. As stated above, the Applicants bear the burden of proof in showing that all of the conditions justifying a variance have been met. Based upon our analysis of the letter requesting the variances and the standards and conditions required to grant a variance, we recommend that the Board deny the requests as presented or table them until the Applicants are able to present evidence and argument that the requirements for the variances are met.

If the Board is presented satisfactory evidence that these requirements have been met, staff recommend the following actions:

Staff would recommend approval of the variance request #1 of reduced setback from the designated hillside area of the property as shown in Exhibit "E" of the Applicants' Letter for the property located at 3381 East 9980 South, based upon the following findings and conditions to mitigate the negative impacts of said variance:

Findings:

1. The Applicants have met the conditions required by statute for said variance.
2. The requested variance does not create any unmitigated impacts to the property or to the area if certain conditions are met.
3. The requested variance does not result in the violation of any other City ordinances.

Conditions:

1. That the disturbed hillside shall be restored to its pre-construction state, which shall include the following:
 - a. The encroaching walls shown in the staff report as Encroachment #3a and #3b be removed or modified such that they are no longer visible after the original hillside contours are restored.
 - b. The slope is to be re-graded to match the pre-existing contours and natural slope.
 - c. A certification by a licensed land surveyor shall be presented to staff to ensure this slope restoration has been properly executed prior to any revegetation of the hillside.
 - d. Restoration of the natural vegetation is required. A landscape plan produced by a licensed landscape architect should also be prepared and approved by the Community Development Director to meet all requirements of the Land Development Code (see Section 15A-15-04(B)(3)).
 - e. No further improvements to the site shall be performed until a revised site plan, grading plan, and revegetation plan of the disturbed hillside area be reviewed and approved by the City Engineer and Community Development Director.
2. Removal of the Notice of Non-compliance and issuance of the Certificate of Occupancy shall not occur until the above requirements have satisfactorily been completed as determined by the Community Development Director.
Staff would recommend denial of the variance request #2 to keep all walls that encroach into the restricted sensitive areas of the lot (as described in the Applicants' Letter and further described as Encroachments #3a and #3b of this staff report) for the property located at 3381 East 9980 South, based upon the following findings:

Findings:

1. The Applicants have not met the conditions required by statute for said variance.
2. This does not constitute an unreasonable hardship by applying a literal enforcement of the ordinance nor would it carry out the general purpose of the ordinance.
3. This variance request is not essential to the enjoyment of a substantial property right.
4. This requested variance is contrary to the public interest as stated in the purpose statement for the Sensitive Area Overlay Zone (see Section 15A-15-01) and would not observe the spirit of said ordinance.
5. The need for this variance is self-imposed and is economic in nature.