



HEARING OFFICER

AGENDA

April 26, 2023

10:00 a.m.

The Roy City Variance Hearing Officer meeting will be held in the Small Training Room in the basement of the Roy City Municipal Building located at 5051 South 1900 West

Agenda Items

- I. Consider a variance request, by Terry Wilson for property location at 3819 Foxglen Drive, Roy UT to reduce the side yard setback from eight (8) feet to zero (0) feet.

PUBLIC NOTE

At the hearing, the order of business for each case will be conducted as follows:

1. An overview of the case by the Hearing Officer.
2. Presentation by the Applicant.
3. Response from the City.
4. Testimony from interested parties and technical experts.
5. Response from the Appellant.
6. Questions from the Officer.
7. Determination from the Hearing Officer.

In Compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for these meetings should contact the Administration Department at (801) 774-1040 or by email: ced@royutah.org at least 48 hours in advance of the meeting.

Certificate of Posting

The undersigned, does hereby certify that the above notice and agenda was posted in a public place within the Roy City limits on this 24th day of April 2023. A copy was also provided to the Standard Examiner and posted on the Roy City Website on the same date.

Visit the Roy City Web Site @ www.royutah.org
Roy City Planning Commission Agenda Information – (801) 774-1027

Steve Parkinson, City Planner





STAFF REPORT

Hearing Officer

April 26, 2023

Agenda Item # 1

SYNOPSIS

Application Information

Applicant: Terry Wilson
Request: To grant a variance to reduce the required side yard setback from eight (8) feet to zero (0) feet
Address: 3819 South Foxglen Drive

Land Use Information

Current Zoning: R-1-8; Single-Family Residential
Use: Single-Family Dwelling

Staff

Report By: Steve Parkinson
Recommendation: Denial of the request for a variance to reduce the required side yard setback from eight (8) feet to zero (0) feet.

APPLICABLE REGULATIONS AND/OR ROY CITY ZONING ORDINANCES

- 1) Utah State Code – (Title 10 – Utah Municipal Code, Chapter 9a – LUDMA, Part 7 – Appeal Authority and Variances)
 - Section 702 - Variances
 - 1) 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 ordinance.
 - 2) There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
 - 3) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
 - 4) The granting of the variance will not substantially affect the General Plan and will not be contrary to the public interest; and
 - 5) The spirit of the land use ordinance is observed, and substantial justice done.
- 2) Roy City Zoning Code – Title 10 - Zoning
 - Chapter 10 – General Property Development Standards
 - 10-10-24 - Table 10-1 – Minimum Lot and Setback Requirements for Primary Buildings

Site Requirements	R-1-8
Minimum Lot Size	8,000 square feet
Minimum Lot Width	65 feet, except on corner lots it shall be 75 feet
Minimum Yard Setbacks Requirements:	
Front	25 feet
Side	8 feet
Rear	25 feet

- 10-10-28 – Accessory Buildings and Accessory Uses – General Requirements
 - 4) An accessory building that is attached to a primary building shall meet all requirements for the location of the primary building.
 - 5) A detached accessory building shall meet all requirements for the location of a detached



- accessory building, as provided herein.
- 8) All accessory buildings shall comply with the requirements of the Building Code, as adopted, and as applicable.
 - 12) No portion of any accessory building shall be allowed to extend over any property line.
 - 13) No storm water runoff from accessory buildings shall be allowed to run onto adjacent property.
- 10-10-29 – Limitations on the Size and Location of Accessory Buildings in Residential Zones:
 - 2) Location of Accessory Buildings.
 - a) All garages and other accessory buildings located less than ten (10) feet from the primary building shall be considered attached, and part of the primary building and the setback requirements applicable to the primary building shall apply to the accessory building.
 - b) All garages and other accessory buildings located ten (10) feet or more away from the primary building may be located no less than three (3) feet from the side or rear property line(s), provided garage or accessory buildings may not be located in the required front yard or within an area containing a recorded easement.
 - 10-10-30 – Smaller Accessory Buildings – Exemption from Building Permit Requirements: All accessory buildings with a maximum height of ten (10) feet and a maximum size less two hundred (200) square feet shall not require a building permit, provided all setback requirements for the zone in which the accessory building is located are met, no portion of the accessory building extends over any property line, and no storm water runoff from the accessory building allowed to run onto adjacent property.

BACKGROUND INFORMATION OF REQUEST

On May 23, 2022, Code Enforcement received a complaint regarding a shed that was in the side yard of a dwelling that is one foot from the property line. Upon inspection (see exhibit “B”) the shed is in fact not only in the side yard but attached to the dwelling.

The shed is on the northern side of the residential dwelling. It is attached to the home and goes to the property line. Power was also installed to the structure. No building permits were applied for, and no inspections have been done. When it rains the rainwater flows onto the neighbor’s property.

REASON FOR ACTION

- 1) *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 ordinance.*

There is no “Hardship” due to the fact of the following:

As seen again in exhibit C (parcel outlined in Red), the parcel is 80’ in width and 100’ in depth, it is rectangle in shape, and the topography of the parcel is fairly flat, at most there might be a two foot drop over the 100 feet depth of the parcel, similar to others within the same subdivision.

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

There is no “Special Circumstances” due to the fact of the following:

The Zoning Ordinance requires an interior lot to be a minimum of 65 feet in width, Mr. Wilson’s parcel is 80 feet in width. Which is 15 feet wider than required.

- 3) *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.*

The property can still be enjoyed if the shed was built with the proper setbacks as allowed by Zoning Ordinance, with no need for a variance. In exhibit “A”, it is clear that there are multiple shed’s on

similar properties within the neighborhood.

- 4) *The granting of the variance will not substantially affect the General Plan and will not be contrary to the public interest; and*

The location of the shed is not compatible with the General Plan and is contrary to the public interest. Site and building standards were not considered and are not harmonious with the surrounding neighborhood. Further, stormwater flows onto the neighbors property.

- 5) *The spirit of the land use ordinance is observed, and substantial justice done.*

The spirit of the Zoning Ordinance could be observed is the structure was built within the guidelines of the Zoning Ordinance. Substantial justice would not be served if the variance was granted. Granting a variance would condone violation of the Zoning Ordinance then seek a wavier later.

EXHIBITS

- A. Location Aerial Map
- B. Pictures of Structure
- C. Subdivision Plat Map
- D. Notice of Violations
- E. Letter from the Mayor
- F. Application
- G. Applicant's Narrative

EXHIBIT "A" – AERIAL

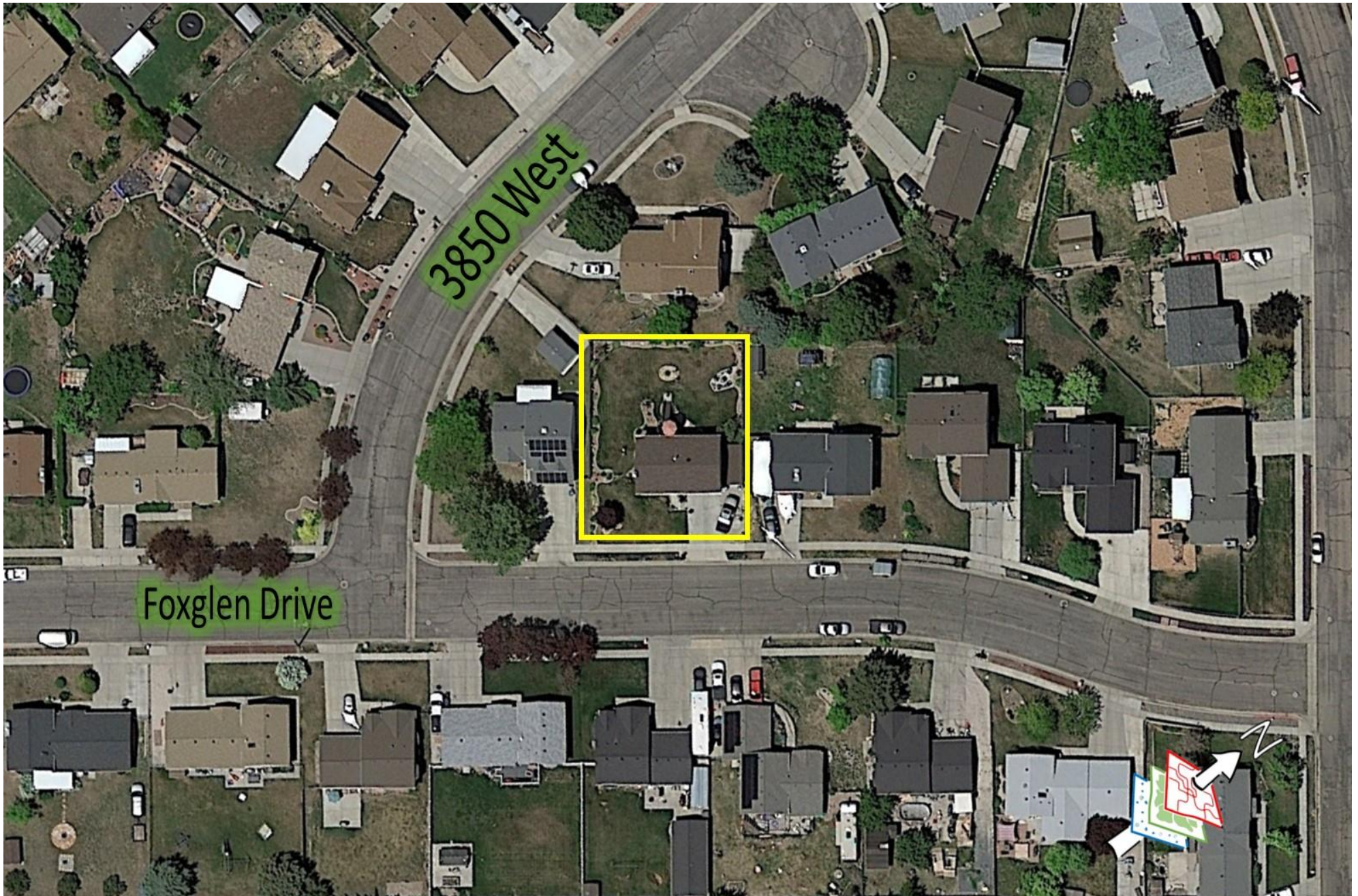


EXHIBIT “B” – PICTURES OF STRUCTURE

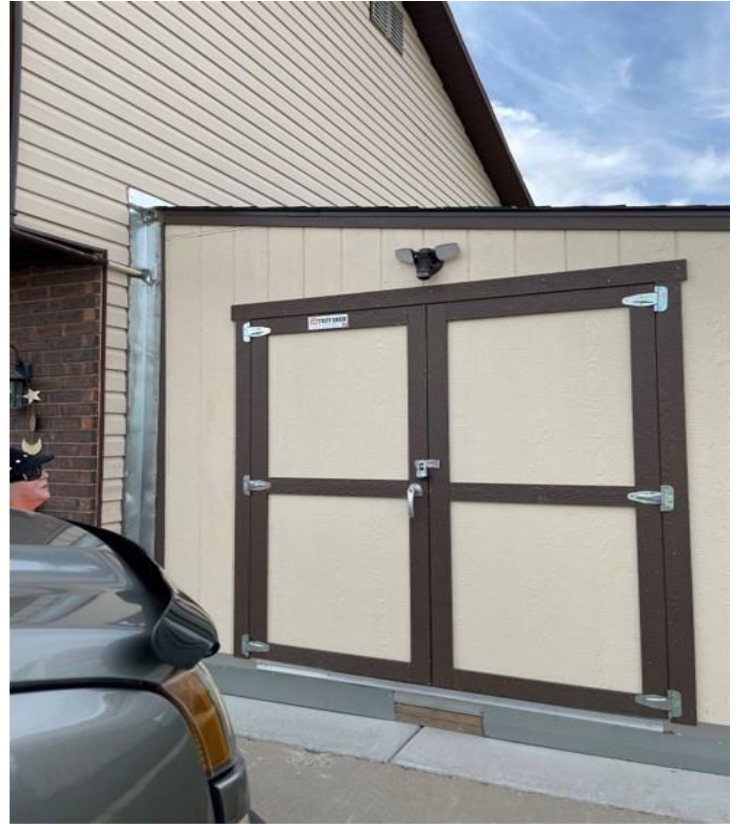


EXHIBIT "C" – COUNTY SUBDIVISION PLAT MAP

PART OF THE NE 1/4, SEC. 16, T.5N., R.2W., S.L.B. & M.
FOXGLEN SUBDIVISION NO. 21
 LOTS 427 – 449
 IN ROY CITY
 SCALE 1" = 50'

334

TAXING UNIT: 40

SEE PAGE 320

SEE PAGE 325

SEE PAGE 306

SEE PAGE 72

SEE PAGE 72



7' UTILITY & DRAINAGE EASEMENTS EACH SIDE OF PROPERTY LINES AS INDICATED BY DASHED LINES EXCEPT AS OTHERWISE SHOWN.

FOR COMPLETE ENG DATA SEE ORIGINAL DEDICATION PLAT IN BOOK 31, PAGE 82 OF RECORDS.

FOR TAX PURPOSES ONLY

JAB 9-89

EXHIBIT "D" – NOTICE OF VIOLATIONS

Date Called In: 05/23/22	Roy City 5051 S 1900 W Roy, UT 84067 PHONE # (801) 774-1040 chance.malay@royutah.org WORKORDER	
Date Inspect On: 05/23/22		
Workorder #: 22-05-242		
Department: Code Enforcement	Requested by:	Phone:
Owner name: Terry Wilson	Owner #: (385) 333-1751	DOB:
Location: 3819 Foxglen Dr		
Note for Inspector:		
Note for Workorder:		
An inspection by the Roy City Code Enforcement Division has revealed violation(s) as indicated below:		
NOTICE OF VIOLATION		
<input type="checkbox"/> Warning: No Fine <input type="checkbox"/> 1st Citation: \$100 Fine <input type="checkbox"/> 2nd Citation: \$200 Fine <input type="checkbox"/> All Subsequent Citations: \$500 Fine		
If the Violation(s) is (are) abated by July 5, 2022 ; the citation and fine will be dismissed.		
WORK / REQUEST TO BE COMPLETED:		
1. <input checked="" type="checkbox"/> Miscellaneous - Shed in side yard set back		
WORK ORDER COMMENTS:		
Mr. Wilson, Per Roy City zoning ordinance 10-10-24, the shed you have built on this side of your house in violation of the side yard zoning ordinances. Your property is in R-1-8 zone which requires you have eight (8) feet of clearance between your structure and the property line. Roy City requires to make the necessary correction with the placement of your shed to comply with city ordinances. Failure to comply with the requirements of city ordinance may result in a citation being issued to you. Please contact me any questions or concerns. Thank for your cooperation.		
05/31/22 08:49:59 AM DATE & TIME		Chans Malay COMPLETED BY

Date Called In: 05/23/22	Roy City 5051 S 1900 W Roy, UT 84067 PHONE # (801) 774-1040 chance.malay@royutah.org WORKORDER	
Date Inspect On: 07/05/22		
Workorder #: 22-05-242		
Department: Code Enforcement	Requested by:	Phone:
Owner name: Terry Wilson	Owner #: (385) 333-1751	DOB:
Location: 3819 Foxglen Dr		
Note for Inspector:		
Note for Workorder:		
An inspection by the Roy City Code Enforcement Division has revealed violation(s) as indicated below:		
NOTICE OF VIOLATION		
<input type="checkbox"/> Warning: No Fine <input type="checkbox"/> 1st Citation: \$100 Fine <input type="checkbox"/> 2nd Citation: \$200 Fine <input type="checkbox"/> All Subsequent Citations: \$500 Fine		
If the Violation(s) is (are) abated by ; the citation and fine will be dismissed.		
WORK / REQUEST TO BE COMPLETED:		
1. <input checked="" type="checkbox"/> Miscellaneous - Shed in side yard set back		
WORK ORDER COMMENTS:		
Mr. Wilson is planning to contest the zoning ordinances. By August 1, 2022, he will let us know what he is going to do about the shed.		
07/08/22 08:11:52 AM DATE & TIME		Chans Malay COMPLETED BY

Date Called In: 05/23/22	Roy City 5051 S 1900 W Roy, UT 84067 PHONE # (801) 774-1040 chance.malay@royutah.org WORKORDER	
Date Inspect On: 11/01/22		
Workorder #: 22-05-242		
Department: Code Enforcement	Requested by:	Phone:
Owner name: Terry Wilson	Owner #: (385) 333-1751	DOB:
Location: 3819 Foxglen Dr		
Note for Inspector:		
Note for Workorder:		
<p align="center">An inspection by the Roy City Code Enforcement Division has revealed violation(s) as indicated below:</p> <p align="center">NOTICE OF VIOLATION</p> <p> <input type="checkbox"/> Warning: No Fine <input type="checkbox"/> 1st Citation: \$100 Fine <input type="checkbox"/> 2nd Citation: \$200 Fine <input type="checkbox"/> All Subsequent Citations: \$500 Fine </p> <p align="center">If the Violation(s) is (are) abated by ; the citation and fine will be dismissed.</p>		
WORK / REQUEST TO BE COMPLETED:		
1. <input checked="" type="checkbox"/> Miscellaneous - Shed in side yard set back		
WORK ORDER COMMENTS:		
<div> <div> 11/01/22 07:59:22 AM DATE & TIME </div> <div> Chans Malay COMPLETED BY </div> </div>		
WORKORDER LOG:		
09/01/22 07:58:37 AM - Chans Malay He is working with the Mayor on the shed		
11/01/22 08:00:29 AM - Chans Malay Mr. Wilson is going to be given until June 1, 2023 to move the shed.		

EXHIBIT “E” – LETTER FROM THE MAYOR

Mayor

• Robert Dandoy

City Manager

• Matt Andrew



Council Members

• Randy Scadden
• Joe Paul
• Sophie Paul
• Ann Jackson
• Diane Wilson

October 30, 2022

Mr. Terry Wilson
3819 Floxglen Drive
Roy, Utah 84067

Dear Mr. Wilson,

In August 2022, you contacted me to help address an issue associated with the city's claim that your accessory building (shed) was improperly located on your lot in violation of city zoning ordinances. I asked the city attorney to assess the claim and provide me a recommendation if a possible solution could be found.

According to the City Attorney's assessment provided to me in Oct 2022, the accessory building is in violation of these Roy City Zoning Ordinances.

- Zoning Ordinance 10-10-28 Accessory Buildings and Accessory Uses – General Requirements
 - 4) An accessory building that is attached to a primary building shall meet all requirements for the location of the primary building.
 - 5) A detached accessory building shall meet all requirements for the location of a detached accessory building, as provided herein.
 - 8) All accessory buildings shall comply with the requirements of the Building Codes, as adopted, and as applicable.
 - 12) No portion of any accessory building shall be allowed to extend over any property line.
 - 13) No storm water runoff from accessory buildings shall be allowed to run onto adjacent property.
- Zoning Ordinance 10-10-29 Limitations on the Size and Location of Accessory Buildings in Residential Zones
 - 2) Location of Accessory Buildings.
 - a) All garages and other accessory buildings located less than ten (10) feet from the primary building shall be considered attached, and part of the primary building and the setback requirements applicable to the primary building shall apply to the accessory building.
 - b) All garages and other accessory buildings located ten (10) feet or more away from the primary building may be located no less than three (3) feet from the side or rear property line(s), provided garage or accessory buildings may not be located in the required front yard or within an area containing a recorded easement.

Mayor
• Robert Dandoy

City Manager
• Matt Andrew



Council Members
• Randy Scadden
• Joe Paul
• Sophie Paul
• Ann Jackson
• Diane Wilson

• Table 10-3 Table of Requirements for Accessory Buildings in Residential Zones

Accessory Buildings Requirements	Development Standard
Accessory buildings located less than to (10) feet from the primary building	Setback requirements applicable to the primary building shall apply to the accessory building.
Accessory buildings located ten (10) feet or more away from the primary building	Located no less than three (3) feet from the side or rear property line(s)

The main concerns that the City has with the current condition are:

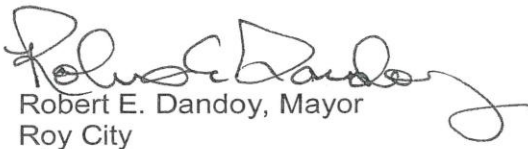
- The accessory building is attached to the primary building and is not in compliance with established building codes. Since the accessory building is attached or within 10 feet of the residential unit, the primary building no longer meets setback location requirements.
- The accessory building does not meet the location requirements of side yard setbacks. It is not greater than three (3) feet from the side property line, in fact, it is on the property line allowing storm water runoff to run onto the adjacent property.

Given these main concerns, it appears the accessory building cannot be made compliant with current zoning ordinances given its existing size and location. Unfortunately, the only reasonable solution would be to move the accessory building to another location on the property.

You do have the right to request a Variance as outlined in Roy City Municipal Code 10-25. This process would include a Hearing Officer who could find that an unreasonable hardship will result from the strict compliance of the zoning ordinance. If approved, the variance is only applicable to a specific application and not a total change in the zoning ordinance. Please review 10-25 Variance information found on the City's website under Municipal Code – Zoning. You need to understand what is necessary for the Hearing Officer to approve a Variance. There is a Variance Application form involved that is provided by the city.

Recognizing the challenge of relocating the accessory building, the city has agreed to give you until 1 June 2023 to address this issue and bring the building in compliance or get an approved variance. Sorry, that a better solution could not be found.

Respectfully!


Robert E. Dandoy, Mayor
Roy City



COMMUNITY DEVELOPMENT DEPARTMENT

VARIANCE APPLICATION

FOR CITY USE ONLY			
Date Received: MAR 20 2023	Date Determined Complete: By: MAR 21 2023	Fees Paid: 250-	HO Meeting: APR 26 2023
Fees: \$250			

OWNER or the AUTHORIZED REPRESENTATIVE: TERRY WilsonADDRESS: 3819 Foxglen Drive ROY UTAH 84067PHONE #: 801 985-8541 EMAIL ADDRESS: N/A

not a cell phone: ITS a land line

ADDRESS OF PROPOSED VARIANCE: 3819 Foxglen Dr. ROY UTAH 84067 CURRENT ZONE: R-1-8GENERAL DESCRIPTION OF PROPOSED VARIANCE REQUEST: Grant me A VARIANCE.
Because of The uniqueness of my
lot.ACES OR LOT SIZE: 80' X 100'

NAME OF PROPERTY OWNERS:

TERRY Wilson

I (WE) HAVE READ THE APPLICATION AND HEREBY CERTIFY THAT THE INFORMATION IS CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE.

Terry A Wilson

SIGNATURE OF APPLICANT(S):

SIGNATURE OF APPLICANT(S):

SIGNATURE OF APPLICANT(S):



EXHIBIT “G” – APPLICANT’S NARRATIVE

Standards for review and approval of a variance application

Question #1 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 ordinance.

Answer for# 1 Literal Enforcement would cause a unreasonable Hardship for me; where the shed is placed right now is the ONLY practical place for the shed. Over the years I have collected many items in which I need extra room.

Question# 2 There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.

Answer for# 2 The placement of my house is too far north. In my back yard there is a seven foot Easement the south side of my house is where the gas meter is along with the gas line; the power lines come in there also where my power boxes are; cable line and my chimney to my fire place.

Question #3 Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.

Answer for #3 I would like to have what 90% of my neighbors have. I would have easy access shed being where it is placed right next to my garage; A friend of mine Googled a map of my neighborhood (over head view), it shows several houses which have a shed/ garage in the same situation as mine; also several sheds which are right on the property line.

Question #4 The granting of the variance will not affect the General Plan and will not be contrary to the public interest.

Answer for #4 It is my belief the variance does not affect the General Plan. I know it is in violation of the zoning law but under my circumstances I hope you grant me this deviation variance,

Question #5 The spirit of the land use ordinance is observed and substantial justice done.

Answer for #5 The spirit is fine for everyone but ME; It does not compromise the spirit of the ordinance. (You are not compromising the spirit of the ordinance)