

**Provo City Board of Adjustment
Variance Staff Report
Hearing Date: July 16, 2009**

Agenda Item: 2

Applicant: Placido Valadez

Staff Coordinator: Carrie Walls

Property Owner: Placido Valadez

Parcel ID#: 21:005:0035

Acreeage: 0.11

Number of Properties: 1

Number of Lots: 1

REQUEST

Placido Valadez requests a variance to Section 14.32.100, Lot Coverage Requirements, in order to provide additional parking for the property generally located at 810 North 600 West. This property is located in the RC (Residential Conservation) zone. *North Park Neighborhood* 09-0003VB *Continued from the May 21, 2009 meeting.*

CURRENT LEGAL USE

The property currently contains a legal one-family dwelling.

RELEVANT HISTORY

- The property is a legal, one-family dwelling with a detached one-car carport/storage building in the rear yard.
- A Notice of Violation was issued in June 2008 for miscellaneous storage in the open areas of the lot and for parking on an unpaved surface.
- The Notice required that the storage be removed from the property or stored within an enclosed building and that a paving plan be submitted for approval prior to installing any additional paving.
- The applicant removed the miscellaneous outside storage but did not submit a paving plan prior to installing additional paving to the east of the existing carport/storage structure.

NEIGHBORHOOD ISSUES

The neighborhood chair contacted staff prior to the May 21, 2009 meeting to discuss the issues of the case. The neighborhood chair indicated that he would attend the meeting to offer his input.

STAFF REPORT SUMMARY OF KEY ISSUES

- The property has two existing legal, off-street parking spaces.
- The RC zone restricts lot coverage of a rear yard to 25%.
- The applicant paved an additional 338.96 square feet in the rear yard to the east of the existing parking without prior approval.
- The lot coverage in the rear yard is now at 41% with the new paving.
- At the May 21, 2009 BOA meeting, the Board continued the case to enable the applicant to obtain a survey to ensure that the paving does not encroach upon neighboring properties.

ALTERNATIVE ACTIONS

1. **Deny** the requested variance. *This action would be consistent with the recommendations of the Staff Report.*
2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is August 20, 2009, 6:00 P.M.*
3. **Approve** the requested variance. *This action would not be consistent with the recommendations of the Staff Report. The Board of Adjustment should state new findings.*

OVERVIEW

This case was continued from the May 21, 2009 meeting to enable the applicant to obtain a survey of his property to ensure that the new paving did not encroach upon neighboring properties.

This applicant is requesting a variance to Section 14.32.100, Lot Coverage Requirements, in order to provide additional off-street parking for the home located at 810 North 600 West. The new paving, which is located in the rear yard to the east of the existing carport/storage structure, measures 338.96 square feet. The paving has already been installed without prior review or approval by Provo City.

RELEVANT HISTORY

The RC zone restricts the amount of lot coverage in a rear yard to 25%. The lot coverage of the rear yard of this property, with the existing carport/storage structure, existing driveway and the new paving area is 41%.

FINDINGS OF FACT

1. Please refer to the Staff Report of May 21, 2009 for other Findings of Fact.
2. Marc Molling owns a 6 foot strip of land at the rear of the subject property. Mr. Molling contacted Staff prior to the May meeting to express his concern regarding whether the new paving encroached onto his property.
(Attachment 1 - Plat Map)
3. The Board voted to continue this case until the July 16, 2009 meeting in order to allow the applicant to obtain a land survey to ensure that the paving was not encroaching on any neighboring properties.
4. The applicant has not submitted a survey or any other new documentation to show that the paving is solely on his property.
5. The applicant did state to Staff that he was going to remove the majority of the paving. The applicant stated that he desired to leave a portion of paving measuring 6 feet by 10 feet to store his trash receptacles on. He was instructed to provide a letter and a new site plan reflecting his request. However, as of July 6, 2009, no documentation has been provided.
6. Section 14.05.030(9), Variances, paragraph (b) of the Provo Municipal Code states that the Board of Adjustment may grant variances if the following criteria are met:
 - (i) Literal enforcement of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;
 - (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;
 - (iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
 - (iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) The spirit of this Title is observed and substantial justice done.

APPLICABLE ZONING CODES

- 14.32.100

STAFF ANALYSIS

Please refer to the Staff Report of May 21, 2009 for Staff Analysis. The new Findings of Fact do not affect Staff's Analysis of the variance request.

CONCLUSIONS

Staff's conclusions regarding the granting of this variance have not changed from the Staff Report of May 21, 2009. The applicant has not provided a survey to verify whether the new paving is encroaching onto Mr. Marc Molling's property. Further, the applicant has stated that he wished to remove most of the paving, leaving only a small 6 foot by 10 foot area for the storage of trash receptacles. However, a letter and site plan has not been submitted documenting this information.

The fact that the applicant has not submitted the requested survey nor any documentation regarding the change in their request for a variance only serves to support Staff's conclusion that the denial of this variance request would be the appropriate action. Staff requests that the applicant remove the new paving within 60 days from the date of this meeting.

JUDICIAL APPEAL OF BOARD OF ADJUSTMENT ACTION

Chapter 14.05 provides a process for appeal of a determination by the Board of Adjustment (quoted in part):

04.05.050. Judicial Appeal.

- (i) Any person aggrieved by or affected by any decision of the Board of Adjustment may have and maintain a plenary action for relief from the District Court of competent jurisdiction, provided petition for such relief is presented to the court within thirty (30) days after the filing of such decision in the office of the Board of Adjustment or with the City Recorder.

ATTACHMENTS

- 1. Plat Map

