DIXIE

COURT REPORTING, INC.

Deposition of:

Taken March 03, 2020

Cause No:
Town of Springdale Appeal Hearing

TAKEN BY: Springdale Town

Reported By: Elizabeth Robison
Job #: 100844

PUBLIC HEARING

THE TOWN OF SPRINGDALE

Taken Tuesday, March 3, 2020

At Springdale Town Hall

118 Lion Boulevard

Springdale, Utah

10:00 A.M.

Reported by: J. Elizabeth Robison, CCR, RPR

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 1              A P P E A R A N C E S

 2   ADMINISTRATIVE HEARING OFFICER:

 3        Ken Sizemore

 4   FOR THE TOWN OF SPRINGDALE:

 5        Katy Brown, Deputy Clerk

 6        Tom Dansie, Director of Community Development

 7        Sophie Frankenburg, Associate Planner

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PROCEEDINGS

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ADMINISTRATIVE HEARING OFFICER: Well,

good morning, everyone. My name is Kenneth

Sizemore. I'm the administrative hearing officer

for the Town of Springdale. We have two items that

we are considering this morning on this agenda.

Let me give a little overview of how I

want to proceed with this hearing. First thing you

need to know is that I will not render a decision

this morning. The decision will come in writing

after I consider the input that I receive today.

And that written decision will be forwarded to the

town staff hopefully within three to five days

to -- to get that decision on record.

We have two items that we're discussing

today. The procedure that I would like to follow

is, I would like to have the staff review their

staff report for the app -- for the application,

and then I'll have the applicant review the

application that has been made. I will give an

opportunity for public in -- input and discussion.

However, it is not a hearing in the sense that I'm

required to take certain statements. It's more for

my information and clarification in answering

1   questions.

2   Are there any questions from the applicant

3   or any concerns from the staff before we get

4   started?

5   Okay. So our first item of business today

6   is a variance to reduce the front setback on parcel

7   S-KIN-815 in the FR zone and the applicant is here.

8   So which staff person would like to do

9   that review for me?

10   MS. FRANKENBURG: Yeah. I'll give -- I'll

11   give an overview.

12   ADMINISTRATIVE HEARING OFFICER: Okay.

13   Thank you.

14   MS. FRANKENBURG: So the subject

15   property -- just one point of clarification for the

16   record, the property is S-KIN-B-15. This property

17   is located off of Parunuweap Circle in the Kinesava

18   Subdivision. About a year ago the design

19   development review was approved for a single-family

20   residence on this property. Today the applicant is

21   proposing a detached single garage at the front of

22   the property to reduce the setback to that garage

23   from 20 feet to 10 feet.

24   Today the -- excuse me -- the lot is a bit

25   different than most lots in the sense that it is

1 located on a bridge with a lot of constraints due

2 to the special exceptions permit that was recorded

3 from the Kinesava Subdivision. We have received

4 two public comment letters, which was forwarded on

5 to you yesterday, Ken.

6   ADMINISTRATIVE HEARING OFFICER: Yes.

7   MS. FRANKENBURG: And I just want to make

8 a point that code section 10-23-4, which requires

9 single-family residences to have at least two

10 off-street parking spaces, one of these spaces may

11 be the garage space. However, the other space must

12 meet the setbacks regardless of where the setback

13 is decided. I just want to make this something

14 that the applicant should be aware of today.

15   ADMINISTRATIVE HEARING OFFICER: Okay.

16 Any other clarifications or reviews?

17   MS. FRANKENBURG: I -- I could go into the

18 front setback requirement is an average of all

19 yards on the lot to be a 30-foot, with no single

20 setback being less than 20 feet, hence the variance

21 request today, to reduce that front setback to 10

22 feet. The applicant has -- or is requesting this

23 variance due to a small hill that resides on the

24 property. She is requesting that we reduce the

25 setback today so then she does not have to

1   overexcavate that natural feature, including large

2   rock and multiple mature trees. She feels that,

3   in -- in granting this variance, the garage will be

4   less of a visual impact than if it were to be an

5   attached garage or if the garage were to be

6   excavated and meet the 20-foot setback.

7   ADMINISTRATIVE HEARING OFFICER: Okay. I

8   have a couple of questions for the staff. In my

9   research and preparation, I was unable to find

10   where the Kinesava Special Exception Permit is

11   digitally. Am I just not finding it or is it

12   available for me to look at somewhere --

13   MS. FRANKENBURG: Yeah, absolutely.

14   ADMINISTRATIVE HEARING OFFICER: --

15   digitally?

16   MS. FRANKENBURG: Yeah. I -- I included

17   the section that was specific to Lot 15 in the

18   packet.

19   ADMINISTRATIVE HEARING OFFICER: Right.

20   MS. FRANKENBURG: However, I -- I can send

21   you the full special exceptions permit. And it is

22   recorded with the County; correct, Tom?

23   MR. DANSIE: I don't know if it's a

24   recorded document or not, but we certainly can get

25   you a digital copy.

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 1              MS. FRANKENBURG:  Yes.

 2              ADMINISTRATIVE HEARING OFFICER:  I'd like

 3    to review that as I do my analysis here.  And the

 4    other question for the staff I have is, how many

 5    variances -- you mentioned one in your report.  How

 6    many variances have been allowed in this specific

 7    subdivision in past records, besides the one that

 8    is mentioned in your report?  Are there other

 9    variances that have been approved?

10              MS. FRANKENBURG:  According to our

11    research, this -- only one has been approved by the

12    Town or by a variance hearing officer.  The --

13    however, in the Kinesava Special Exceptions Permit,

14    which I will forward along to you, it outlines

15    multiple lots where a front setback may be reduced.

16    So I will -- I'll be sure that you can review all

17    that.

18              ADMINISTRATIVE HEARING OFFICER:  Thank

19    you.

20              MR. DANSIE:  Mr. Sizemore, would it be

21    okay if I just added a little bit?

22              ADMINISTRATIVE HEARING OFFICER:  Sure.

23              MR. DANSIE:  Based on what Sophie said,

24    just a little clarification.  The special exception

25    permit essentially is a vari -- variance for every
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1   single lot in the subdivision. It alters the

2   development standards for each lot in the

3   subdivision on a case-by-case basis. So the

4   variance that was included in the staff report was

5   actually issued prior to that special exception

6   permit being issued. So the answer to your

7   question, there's only been one formal variance.

8   But the special exception permit acts as like a

9   variance for every single lot in the subdivision.

10   ADMINISTRATIVE HEARING OFFICER: Okay. So

11   in the approximately year-long site development and

12   design development process, has -- has this need

13   for the setback variance been discussed and

14   reviewed? Just what -- what's been the history of

15   getting the plans I see here in the app -- in the

16   application to this point?

17   MS. FRANKENBURG: Yeah. So our

18   understanding is that, because of the unique

19   features of this lot, the single-family residence

20   has been ongoing and they're -- they're in the

21   process of framing right now. The contractor

22   decided, because of the limitations on the access

23   to the lot, that the single-family residence will

24   be built first and then the garage second.

25   In staging of the garage, there were some

1   issues with a large boulder, over ten feet in

2   diameter, which, per code, you may not remove that

3   on a site. So that was one instance. And then a

4   reduction in the size of the garage happened then.

5   And then ultimately looking further into

6   the project, which Ihnsouk may have a better

7   understanding of the details on that, the garage

8   was appearing to have to cut into, not just that

9   mound, but also take out mature trees as well.

10   ADMINISTRATIVE HEARING OFFICER: All

11   right. Okay. So could you review -- if -- if I

12   haven't already heard all of the relevant details,

13   anything else you want to add to your application

14   request or why you're making this request?

15   MS. IHNSOUK: Well, you know, not much. I

16   think Sophie summarized it very well. But

17   basically the -- that this -- the rock and the

18   layout was not detailed enough on the -- anyway,

19   some of the features on the land was not detailed

20   enough on the survey that we had done on.

21   So when we are laying out all the -- all

22   the sides on -- on the land itself, there were a

23   couple of issues that cropped up. So reviewing

24   that one of the rock was one of them. That was not

25   on the survey map that we didn't know. So that.

1   And then there is a tree right next to the

2   rock, same issue. That was not noted on the

3   survey, so -- so from there on. And then by the

4   time you cut into it, we are cutting into the mound

5   quite a bit, about ten foot deep more than, you

6   know, I thought it was being done initially.

7   The -- initially the garage was supposed

8   to be 35-feet deep, so we cut that down to 22 just

9   to make the disturbance as minimal as possible.

10 Even then we'll be cutting into the lot that -- I

11 don't know if I needed -- I attached a couple of

12 pictures in my application, if I may.

13   ADMINISTRATIVE HEARING OFFICER: I believe

14 I have those pictures if they were part of the

15 application.

16   MS. IHNSOUK: Right.

17   ADMINISTRATIVE HEARING OFFICER: May I

18 look at those?

19   MS. IHNSOUK: Sure.

20   ADMINISTRATIVE HEARING OFFICER: Yes, I

21 have these.

22   MS. IHNSOUK: Right. So looking into the

23 land plot in more in detail, we thought maybe we

24 could save some of the landscape, and if we could

25 move the garage by about ten feet, then we would be

1   just disturbing what had already been disturbed and

2   save what's there. And doing that we also thought

3   that maybe this way the garage will integrate to

4   the landscape better than, say, following the code

5   and cutting the hillside, then ramming the garage

6   into it.

7   ADMINISTRATIVE HEARING OFFICER: Okay. Do

8   you have any other items to clarify in your

9   application?

10   MS. IHNSOUK: I don't think so.

11   ADMINISTRATIVE HEARING OFFICER: Okay.

12   Then I'll give an opportunity for the public to

13   comment. Please state your name for the reporter

14   and please try to keep your comments concise and to

15   the point of the application for this variance of

16   ten feet. Anybody who'd like to comment? Yes,

17   sir.

18   MR. MAILLOUX: My name is Paul Mailloux.

19   I'm president of Kinesava Homeowners Association.

20   I've also built and -- designed and built five

21   custom homes up there, so I'm pretty aware of the

22   challenges associated with the topography, et

23   cetera.

24   I want to first address the special

25   exception. The special exception tried to put a

1 Band-Aid on a bad idea. The Kinesava Homeowners

2 Association is fully aware of how difficult it is

3 to build a home up there.

4   The root of the special exception was as

5 follows: The subdivision was approved in 1987

6 whereupon the city -- Town of Springdale put a

7 two-year moratorium on building while they built an

8 ordinance. There was no ordinance at the time that

9 this thing was approved. That ordinance rendered

10 every lot in Kinesava Ranch unbuildable due to

11 coverage considerations.

12   So I represented the developer at the

13 time. Bruce Jenkins, who you probably know,

14 represented the Town of Springdale. And we came up

15 with a special exception.

16   In that process we reviewed the topography

17 map as it related to the layout put -- I think

18 was -- I don't have the -- you know, I might have

19 the document with me. Was produced by a land

20 engineer and survey company that Chuck Warner, the

21 developer, hired. And in many cases, the

22 topography, which drifted off the actual location

23 of the topography, by as much as 30 feet. My guess

24 is that he tried to do it out of a Cessna airplane

25 by holding a camera out the damn window. It was

1   that primitive.

2   So it's -- things are not what they show

3   on either -- any document, amended plan, including

4   the special exception and the fire protection

5   standards for Kinesava Ranch. The biggest problem

6   was, is that he went ahead and put in all the

7   roads. The roads up there are 20 feet wide where

8   the Town requires 24. So part of the special

9   exception was that we clear, wherever possible, two

10   feet on either side, mow it, cut it, whatever, so

11   that at least people driving could see what -- what

12   they were traveling on instead of falling off down

13   one of those slopes.

14   That is the main crux of the problem, is

15   that the roads, especially in terms of fire

16   protection and ambulance and all the other things,

17   are critically bad. We've had several instances

18   where the ambulances have had to come up and they

19   had to crawl around a couple of the corners. The

20   one at Ihnsouk's is especially bad. I actually

21   tried to help the situation by pouring a concrete

22   section of that drive -- of that roadway in that

23   section, but it's still limited by a very sharp

24   corner and very narrow roadway.

25   The point is, is that in putting a

1   ten-foot setback there -- the typical scenario in

2   Springdale is you fill up your garage with a bunch

3   of junk. Mine's full of construction equipment. I

4   park outside. There's only two people, three

5   maybe, on the most, that park exclusively inside

6   the garage. So it's possible and probable to think

7   that somebody is going to always be parking out in

8   front of that garage. That is going to make

9   vehicular access by the fire department, which has

10   to crawl onto the lot to get out of the truck,

11   around the building, and back into the truck

12   exceeds no more than 300 feet, makes that highly

13   more difficult.

14   The main concern that we have is that --

15   well, anyway, is for that fire issue and the

16   ambulance issue, big trucks, emergency vehicles.

17   I went up there yesterday and one of the

18   guys that were messing around with the framing up

19   there helped me scale out. Now, Ihnsouk mentioned

20   a rock with a tree whose roots project underneath

21   it. We figured a five-foot setback and realized

22   that we'd have to either snap a section of rock

23   about that big. I found where it crawled back

24   down. She -- you could expect without excavation

25   that it could continue down. It doesn't.

1   So what we're talking about, in order to

2   get that garage in there, is to break off this much

3   rock or shorten the actual length of the driveway,

4   of the garage, which I wouldn't recommend, by a

5   foot. And she -- and she could fit in a five-foot

6   setback.

7   So as far as speaking for Kinesava Ranch,

8   we would probably have a quorum that would approve

9   a five-foot setback, but a ten-foot one is asking

10 for trouble.

11   MR. CHILCOTT: You mean 15-foot, 15-foot

12 setback?

13   ADMINISTRATIVE HEARING OFFICER: Please

14 address -- can you address me, please?

15   MR. CHILCOTT: I'm sorry.

16   MR. MAILLOUX: A ten-foot setback from the

17 road. A five foot -- what am I saying? A

18 five-foot setback off of the existing setback. In

19 other words, stepping it out five feet instead of

20 ten --

21   ADMINISTRATIVE HEARING OFFICER: I

22 understand.

23   MR. MAILLOUX: -- would be preferred.

24   MS. IHNSOUK: May I address some of the

25 points that Paul made? Or am I -- am I allowed to

1	address some of the points?
2	ADMINISTRATIVE HEARING OFFICER: Yeah.
3	But let me ask for other comments first and then we
4	can come back to you.
5	MS. IHNSOUK: Sure.
6	ADMINISTRATIVE HEARING OFFICER: Any other
7	comments?
8	MR. CHILCOTT: Kurt Chilcott. Kurt
9	Chilcott. And we look forward to having
10	Ms. Ihnsouk as our neighbor. You know, this is a
11	difficult site because, as was mentioned by staff,
12	it's a high-visibility site and it's a
13	view-obstructing site as well, which means there's
14	a lot of restrictions, as has been noted.
15	You know, we live in the adjacent lot and
16	home to this development. And we certainly would
17	not promote anything that is going to damage large
18	boulders or mature trees in this process, but we
19	believe that there might be ability to move that
20	variance back a little bit more, tuck it in beside
21	that rock and tree, and I think visually still
22	achieve what we want to achieve. And that's --
23	that's really my testimony. Thank you.
24	ADMINISTRATIVE HEARING OFFICER: Anyone
25	else? Yes, ma'am.

1   MS. MABBUTT: Roxy Mabbutt. We live on

2   the hill opposite. We can see the whole house very

3   well. And I want to say I agree with Paul. And

4   I'm on the board of directors, so I would be voting

5   on this, but I think Paul's idea is the best.

6   MR. GALLIA: Can I?

7   ADMINISTRATIVE HEARING OFFICER: Okay.

8   State your name, please.

9   MR. GALLIA: Leo Gallia. And I live in

10   the house that's a bit higher, it's S-KIN-20. So

11   I'm a few houses up above where this present lot

12   is. And my concern is that that really is a tight

13   place. And should there be the necessity to have

14   your car outside in the driveway --

15   ADMINISTRATIVE HEARING OFFICER: Please

16   address me.

17   MR. GALLIA: Yes. I'm sorry. The owner's

18   car or a car in the driveway would then require a

19   visitor or a delivery truck or any sort of, you

20   know, temporary thing to really block --

21   essentially it's a very small roadway at that

22   point.

23   If there is any way -- and right now, you

24   know, there is a cleared area for construction

25   purposes. Right now there's a pretty good size

1   cleared area. And I put in a request through

2   Tom -- I'm sorry for misspelling your name in

3   there -- but I put in a request to the Town that if

4   there is any way to preserve at least a cleared

5   space for somehow to maintain even more parking on

6   that site, in other words, driveway, plus some

7   cleared area, because it does become a very serious

8   hazard if we have to, you know, have a temporary

9   vehicle sitting in the road.

10   ADMINISTRATIVE HEARING OFFICER: Thank

11   you. Anything else? All right. Then can you

12   address some of those?

13   MS. IHNSOUK: Sure. Just you know, Paul

14   brought up the curve, the sharp curve right in

15   front of my property that may be an issue with

16   emergency vehicles. I just wanted to point out

17   that the easement between -- sorry. You know, you

18   can't really see this very well, but this one is

19   attached to the mail that I forwarded to everybody

20   here. It's in there. Here is the road. This is

21   the property and -- and this is the road line here

22   and this is the easement. The property line

23   doesn't start until quite a bit after. And the

24   setback, 20-foot setback, would be from here to

25   there.

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 1              So I think -- I think -- you know, it's
 2   not like -- like here on the other side where the
 3   property lines touch right at the road line that we
 4   have to worry about.  I guess what I'm saying is
 5   there is rather generous easement, especially in
 6   front of this Lot 15 that we are discussing.  The
 7   easement happened to be even a little bit wider
 8   than anybody else's.  So I think that is a bit less
 9   of a problem.  And about that --
10              ADMINISTRATIVE HEARING OFFICER:  Please
11   talk to me.
12              MS. IHNSOUK:  Sure.  What Leo was bringing
13   up, in case people come and park basically on the
14   road in the -- in the setback, as Sophie pointed
15   out, I am required to have extra parking, another
16   car, and we do have plenty of space to do that in
17   front of the lot.  There is plenty, clear the side,
18   away from the setback.  So I don't -- I don't think
19   that would be -- I mean, not necessarily be an
20   issue, unless there is a huge crowd coming to this
21   place and that is -- that would be the only case.
22   But we do have space for extra parking away from
23   behind the setback.  So that can be addressed.
24              ADMINISTRATIVE HEARING OFFICER:  Okay.
25   Sir.
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1   MR. MAILLOUX: On several of my trips up

2   there for inspecting, while there are two or three

3   trucks in that driveway, I noticed that none of

4   them could fully get in. When they came over to

5   where the garage is supposed to be, none of them

6   could really get off the road. And, in fact, there

7   were a couple times I was tempted to get them

8   because half the trucks were straddled on the road.

9   It's very tight in there. And you're welcome to

10   visit the site. I think --

11   ADMINISTRATIVE HEARING OFFICER: I've been

12   there this morning.

13   MR. MAILLOUX: Okay.

14   ADMINISTRATIVE HEARING OFFICER: Okay.

15   Any other comments?

16   All right, then. I will take under

17   advisement the comments I've received and the

18   applicant's statements as well as the staff's

19   report. And as I indicated earlier, I will render

20   a written decision within a week. Thank you all

21   for being here this morning.

22   (Off the record.)

23   ADMINISTRATIVE HEARING OFFICER: We do

24   have another application I need to consider, so if

25   you could move the discussions.

1   Hello, Mr. Lee?

2   MR. LEE: Yes. Hello.

3   ADMINISTRATIVE HEARING OFFICER: Hi. I'm

4   Ken Sizemore.

5   MR. LEE: Nice to meet you, Mr. Sizemore.

6   ADMINISTRATIVE HEARING OFFICER: Thank you

7   for coming.

8   MR. LEE: I guess it shows how popular I

9   am. Hopefully in opposition. So...

10   ADMINISTRATIVE HEARING OFFICER: All

11 right. We'll move on to our next application. Our

12 application here is the variance request to reduce

13 a side setback to a residential zone on parcel

14 S-BIT-1-A in the Village Commercial Zone. Mr. Lee

15 making that application.

16   MR. LEE: Correct.

17   ADMINISTRATIVE HEARING OFFICER: All

18 right. You probably watched how I proceeded with

19 the first application here, so I'm going to allow

20 the staff to review this application and then I'll

21 turn some time to you.

22   MR. DANSIE: Great. So, Mr. Sizemore,

23 I'll be making that presentation today. This is,

24 as you mentioned, a request for reduction of the

25 side setback adjacent to a residential zone in the

1 Village -- excuse me -- in the Village Commercial

2 Zone. This is for a piece of property that Ryan

3 Lee is developing and redeveloping with

4 transient-lodging units.

5   The property has historically been two

6 separate pieces of property, which recently has

7 been combined and the proposed development will be

8 a total of 18 transient-lodging units on the

9 property. Mr. Lee's already received a series of

10 entitlements for the development. He's been

11 through the design development review process, the

12 conditional use permit process. He's received a

13 subdivision plat amendment to combine the two lots

14 into a single parcel and is now in the process of

15 obtaining construction building permits for the

16 actual construction of the buildings. In fact, the

17 first of three planned new buildings is currently

18 under construction. There are two additional

19 buildings, which have not yet been permitted, but

20 which are planned to be placed on the property.

21   In the course of reviewing the

22 construction plans and in the course of reviewing

23 the construction of the current building that's

24 under construction, there was discovered that there

25 was a misunderstanding about the measurement of

setbacks. And, in fact, the buildings, as proposed

as a -- had progressed through the entitlement

process actually did not meet the required side

setback next to it in the commercial -- in the

Village Commercial Zone next to it, the residential

zone, which is 20 feet because the roof overhang is

projected into that side setback.

In discussing the issue with Mr. Lee and

with his contractor, we talked about a number of

things. And, ultimately, Mr. Lee decided to

explore a variance to allow the buildings to be

slightly relocated and also to allow the use of the

buildings as designed with the eaves to continue

through the construction process.

Now, it's important to note that the

variance request actually was something that

Mr. Lee contemplated early on in the -- in the

development of the property, even before this issue

of the eaves encroaching into the setbacks came up.

Mr. Lee felt there were some special circumstances

attached to his property which could justify a

variance.

After contemplating that and considering

it, ultimately, Mr. Lee decided to go ahead and

pursue development on the property without seeking

1   the variance. However, as these later issues have

2   arisen about the eaves projecting into the setback

3   and also some issues with the location of an

4   existing building on the property not being where

5   it was anticipated to be, the need for a setback

6   became more -- more clear, more critical.

7   So that's why Mr. Lee is before you today

8   asking for a setback reduction. And he's outlined

9   in his application what he believes the special

10   circumstances on the property are and how that

11   causes him a unique hardship.

12   ADMINISTRATIVE HEARING OFFICER: Okay.

13   One point of clarification, please. The current

14   construction that's happening now, the building

15   that's under construction, does not meet the

16   setback requirement. Is that what I understood?

17   MR. DANSIE: No, it does. It -- there was

18   an issue with the -- with the distance between that

19   building and the existing building on the property

20   that was discovered because of that eave overhang.

21   And to rectify that situation, Mr. Lee's actually

22   removed the eave overhang from that property where

23   it was in violation of the distance between

24   buildings requirement. And that led to a

25   discussion about, "Oh. Well, we need to look at

1   these other buildings and their eaves," because we

2   were -- there was a misunderstanding between the

3   engineer and the architect and the town staff about

4   how those eaves were configured.

5   ADMINISTRATIVE HEARING OFFICER: Okay.

6   All right. Any other staff comments?

7   MR. DANSIE: No, unless you have any other

8   questions.

9   ADMINISTRATIVE HEARING OFFICER: Okay.

10   Mr. Lee, could you kind of review for me? I've

11   looked over your application.

12   MR. LEE: You've read it and you visited

13   the site?

14   ADMINISTRATIVE HEARING OFFICER: I have.

15   MR. LEE: Then I'll keep it brief. Most

16   everything I want to say is in there. But in

17   short, many months ago, as Tom indicated, I learned

18   that there was a 20-foot setback on that south

19   property. I wanted to go to ten feet so we'd have

20   room from the parking lot front to put landscaping.

21   For various reasons, I decided against it. And now

22   with this new circumstance he talked about, with

23   the eaves and the other building not being built

24   where it was supposed to according to plan, it's

25   caused a pretty critical issue.

1   And so, you know, in short, I've tried

2   different options. I've tried to get a different

3   entrance so we could move the buildings. UDOT

4   denied that. I've got -- I think the number, if I

5   remember right, from the agenda was 46 percent of

6   the lot is unbuildable due to slope and setback,

7   which gives us pretty tight space to be able to

8   move things or, in this case, not move things.

9   But really my -- if you want to sum up my

10   argument into one thing would be this, the spirit

11   of the code for the 20-foot setback versus the ten

12   is to protect somebody that would be here in the

13   residential zone from site lines, noise, whatever

14   disturbance a commercial property could generate.

15   But as you've -- if you visited the property, you

16   can see that for several hundred yards nothing

17   could be built. In fact, you have to go all the

18   way up and over that hill and down a rise before

19   anything could be built. Therefore, there's no one

20   to disturb.

21   And so I would just simply ask for the

22   right and enjoyment to have full use of my property

23   would be the ten-foot setback instead of the 20

24   because there's no one to protect. So that's -- I

25   think that the crux of the argument for me is, you

```
 1   know, it's -- the code was built to protect people
 2   in a residential zone.  But because of the unique
 3   circumstance of this lot, it, in effect, creates
 4   its own setback much larger than 20 feet.  In fact,
 5   it's several hundred feet, if not several hundred
 6   yards, to where a new building could be.  So that's
 7   the -- summed up, that's it.  So...
 8             ADMINISTRATIVE HEARING OFFICER:  Thank
 9   you.  For the staff, I'm curious what the land
10   ownership pattern behind this subject lot is in the
11   residential zone.  As far as the lotting pattern up
12   there above, can you enlighten me on what that
13   configuration is, please?
14             MR. DANSIE:  Yeah.  So bordering Mr. Lee's
15   lot to the rear in the Foothill Residential Zone is
16   actually just one very large parcel under a single
17   owner.  I believe it's about ten acres.  And it's
18   all under a single ownership in the residential
19   zone.
20             ADMINISTRATIVE HEARING OFFICER:  Is it a
21   subdivided lot or a lot that existed prior to
22   subdivisions in the community?
23             MR. DANSIE:  Correct.  It's not a
24   subdivided lot.  It's an unimproved vacant piece
25   of -- piece of property.
```

         1   ADMINISTRATIVE HEARING OFFICER: Is -- has

         2   there been any overture from that property owner

         3   for potential development of the site?

         4   MR. DANSIE: There's been limited

         5   inquiries made over the years about the potential

         6   to subdivide that -- that parcel and to -- to

         7   develop the parcel. There's no imminent

         8   applications or -- staff are not aware of any

         9   eminent plans to make that happen.

        10   ADMINISTRATIVE HEARING OFFICER: And

        11   what's access for that property?

        12   MR. DANSIE: There's an existing informal

        13   dirt access, which is located about a hundred or

        14   maybe 150 yards south of Mr. Lee's property which

        15   goes up into the foothills to access that parcel.

        16   ADMINISTRATIVE HEARING OFFICER: Not a

        17   recorded easement? Not a city right -- town

        18   right-of-way?

        19   MR. DANSIE: Not a town right-of-way, no.

        20   I believe there may be an easement. Actually, that

        21   informal access serves not only this large

        22   tennish-acre parcel but two other smaller one-acre

        23   parcels that are also up in the foothills. So

        24   there may be some kind of recorded easement amongst

        25   the property owners, but certainly not a recorded

```
 1   town right-of-way.
 2             ADMINISTRATIVE HEARING OFFICER:  Okay.
 3   Thank you.
 4             Any other items that you can enlighten me
 5   on with your request?  I think it's very
 6   straightforward in your application.
 7             MR. LEE:  Yeah.  I think I set forth my
 8   arguments.  And I -- so I don't really have much to
 9   add.  I'd just be repeating myself.  So...
10             ADMINISTRATIVE HEARING OFFICER:  Okay.
11   Well, as you've heard, then, I don't render a
12   decision here at this moment.  I will take it under
13   advisement all that I've heard today and render a
14   written decision.  It should be forwarded to the
15   city staff within a week.
16             MR. LEE:  Thank you for your time.
17             ADMINISTRATIVE HEARING OFFICER:  Thank
18   you.  And that concludes this appeal hearing.
19   Thank you for being here this morning.
20             (The hearing concluded at 10:34 A.M.)
21
22
23
24
25
```

```
 1                 REPORTER'S CERTIFICATE
 2
 3   STATE OF UTAH          )
                            )  ss
 3   COUNTY OF WASHINGTON   )
 4
 5             I, J. ELIZABETH ROBISON, Registered
 6   Professional Reporter, do hereby certify that
 7   I took down in Stenotype all of the proceedings had
 8   in the before-entitled matter at the time and place
 9   indicated and that thereafter said shorthand notes
10   were transcribed into typewriting at and under my
11   direction and supervision and that the foregoing
12   transcript constitutes a full, true and accurate
13   record of the proceedings had.
14             IN WITNESS WHEREOF, I have hereunto set my
15   hand in my office in the County of Washington,
16   State of Utah, this _____, day of _____,
17   2020.
18
19
20             /s/J. Elizabeth Robison
21             J. Elizabeth Robison, RPR, CCR
22
23
```

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