



# BOARD OF ADJUSTMENTS AGENDA

NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE BOARD OF ADJUSTMENTS WILL HOLD A REGULAR MEETING AT 5:30 PM ON SEPTEMBER 15, 2025 AT CENTERVILLE CITY HALL, 250 NORTH MAIN STREET, CENTERVILLE, UTAH.

*Centerville City Board of Adjustment meetings are open to the public, unless otherwise closed for reasons allowed by law. Centerville City Board of Adjustment meetings may be conducted via electronic means pursuant to Utah Code § 52-4-207. In compliance with the Americans with Disabilities Act, individuals needing special accommodations due to a disability may contact the City Recorder at (801) 295-3477, at least 24 hours in advance of the meeting. The Board reserves the right to modify the sequence of agenda items in order to facilitate special needs or provide greater efficiency.*

*The full agenda packet and backup materials can be found on the Centerville City website at:*

<https://centervilleutah.gov/129/Agendas-Minutes>

**A. ROLL CALL**

**B. BUSINESS ITEMS**

Business action or discussion items to be considered.

1. Property Variance Request - 808 South 600 East - Minimum Lot Width Acceptance for Legal Building Lot Variance in Residential Low (R-L) Zone Area - Earl Tingey  
Consider a variance request for minimum lot width acceptance of 56.54' at the narrowest point in order to establish a legal building lot in the Residential Low (R-L) Zone of this property at 808 South 600 East.

**C. ADJOURNMENT**

## CERTIFICATE OF POSTING

*I hereby certify that this notice and agenda was posted at Centerville City Hall, published on the Utah Public Notice Website, and provided to a newspaper or media correspondent in accordance with the requirements of the Utah Open and Public Meetings Act, including, but not limited to, provisions of Utah Code § 52-4-202.*

**Jennifer Robison  
Centerville City Recorder**



**CENTERVILLE**  
**BOARD OF**  
**ADJUSTMENTS**

**Staff Report**  
**9/15/2025**

**Item No. 1.**

**Title:** Property Variance Request - 808 South 600 East - Minimum Lot Width Acceptance for Legal Building Lot Variance in Residential Low (R-L) Zone Area - Earl Tingey

**Initiated By:** Earl Tingey, Applicant

**Staff Representative:** Sydney DeWees, Assistant Planner, Mike Eggett, Community Development Director

**SUBJECT:**

Consider a variance request for minimum lot width acceptance of 56.54' at the narrowest point in order to establish a legal building lot in the Residential Low (R-L) Zone of this property at 808 South 600 East.

**RECOMMENDATION:**

Approve the request for a variance from the minimum sixty (60) feet width requirement for the property, to be established at a minimum width of 56.54 feet instead for the property located at 808 South 600 East, known as parcel 02-133-0313, within the Residential-Low (R-L) Zone, with the following reasons for action (findings): (see attached staff report for findings a-g)

**BACKGROUND:**

The property is located at 808 South 600 East, part of the Centerville Orchard Subdivision Plat C, and is lot number 308. This internal property has no buildings, is 0.2 acres or 8,712 sq ft in size, is in the Residential Low (R-L) zone, and is currently operating as a family fruit orchard. The property owner, Mr. Earl Tingey, has been maintaining this lot for years and is desiring to establish the property as acceptable for future development. Mr. and Mrs. Tingey met with the city planner in July to discuss the property and to explain the situation regarding how this property came to be. Following this visit, the city planner brought the property to the City's Development Review Committee, where the city attorney, city engineer, the Community Development Director, and the Public Works Director discussed the possibilities of developing this lot. After much discussion, as outlined in more details below, the City team has concluded that this property would qualify as a variance request, and the City team seems to be in support of the applicant's request.

The applicant's application has been provided, a statement of variance request has been provided, as seen on Exhibit A, and the supporting documentation for the request has also been provided in the packet.

**ATTACHMENTS:**

1. 9.15.25 BOA Staff Report (Final) - 808 S 600 E - Frontage Variance - Tingey
2. CZC 12.32.300 Table of Development Standards in Residential Zones
3. CZC 12.21.130 Variances
4. Exhibit A - Application
5. Exhibit A- Fees

6. Exhibit B - Affidavit - Deed
7. Exhibit C - Survey
8. Exhibit D - Google Earth Photos



# CENTERVILLE

COMMUNITY DEVELOPMENT DEPARTMENT  
655 North 1250 West, Centerville, Utah 84014  
(801) 292-8232

STAFF REPORT  
AGENDA ITEM: 1  
Tingey Variance

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**APPLICANT:** EARL TINGEY  
713 SOUTH EAGLE PASS  
NORTH SALT LAKE UT, 84054  
(801) 631-6744

**PROPERTY OWNER:** EARL TINGEY  
713 SOUTH EAGLE PASS  
NORTH SALT LAKE UT, 84054  
(801) 631-6744

**PROJECT ADDRESS:** 808 S 600 EAST  
CENTERVILLE UTAH, 84014

**PARCEL:** 02-133-0313

**PARCEL SIZE:** 0.20 ACREAGE, 8,712. SQ. FT.

**ZONING:** RESIDENTIAL LOW (R-L)

**APPLICATION:** VARIANCE – REQUESTING LOT WIDTH VARIANCE  
OF 3.46 FT (3 FEET 5 INCH)

**RECOMMENDATION:** APPROVAL OF VARIANCE

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**BACKGROUND**

The property is located at 808 South 600 East, part of the Centerville Orchard Subdivision Plat C, and is lot number 308. This internal property has no buildings, is 0.2 acres or 8,712 sq ft in size, is in the Residential Low (R-L) zone, and is currently operating as a family fruit orchard. The Property owner, Mr. Earl Tingey, has been maintaining this lot for years and is desiring to establish the property as sellable for future development. Mr. and Mrs. Tingey met with the city planner in July to discuss the property and to explain the situation regarding how this property came to be. Following this visit, the city planner brought the property to the City’s Development Review Committee, where the city attorney, city engineer, the Community Development Director, and the Public Works Director discussed the possibilities of developing this lot. After much discussion, as outlined in more details below, the City team has concluded that this property would qualify as a variance request, and the City team seems to be in support of the applicant’s request.

In order to establish more context, the applicant originally came to meet with the city planner in late June 2025. During this meeting, he explained that he wanted to develop the property but was aware that his property did not meet an important zoning standard for this lot, which is regarding the minimum width of an interior lot. Residential Low zones require a 60-foot minimum width (see Exhibit E for City Zoning Code 12.32.300 Table of Development Standards in Residential Zones for more). The city planner gave directions to Mr. Tingey to complete a property survey of

his lot to verify whether he met this minimum width requirement. Mr. Tingey noted that he had already done so, and he explained he had additional maps and documents for historic reference and further clarification of the situation with his neighbor. The planner requested that they meet again before they move forward with any application, and to bring these additional documents for review during that meeting.

Mr. and Mrs. Tingey met with the city planner in the middle of July, where they explained even further details about how this lot became unbuildable (see the application, Exhibit A, where the applicant goes into greater detail). The Tingey family further explained that shortly after Mr. Tingey's father's passing, the neighbor to the South built an eight-foot cinder block wall, constructed a swimming pool, and built other buildings on their property, making this specific land area now a disputed ownership area. The encroachment of the property and buildout of the property can be seen in Exhibit D. Google Earth satellite images of the property over the years verify that the wall has been in place on the property since at least 2008. City staff has looked at the property file for the neighboring lot to see if the concrete wall was legally established; however, no record indicates such. There were 2 building permits for the neighboring property area, one in 2003 for the pool and one in 2004 for the accessory building. Both of which received approval from the planning and zoning department referencing the setbacks from the concrete wall, ergo what the city interpreted as the property line. The city staff has also looked at the subdivision applications that would involve these three parcels, 02-133-0313 (Tingey), 02-133-0314 (Trump), and 02-073-0065 (Trump)—no records of subdivision were found. How the building and pool were approved over lot lines is unclear, but it does indicate that by 2003, the wall was up and the Tingey family did not have control of these disputed areas of property. Mr. Tingey remembers the year the wall went up, which he can clarify further for the Board, if requested.

During the Development Review Committee discussion, the city staff, along with the South Davis Fire Marshal, reviewed the application, plat, and survey that was provided. The staff was undecided at the beginning of the discussion as to whether this was truly a lot that would be considered a valid variance request. The discussion revolved around whether or not the hardship was self-imposed and whether the property would still be usable without the variance.

The ordinance requires that an “unreasonable hardship” must not be self-imposed. The lot originally complied with minimum width standards until the owner (Mr. Tingey's father) failed to defend or resolve the boundary dispute when the neighbor built a wall and swimming pool. By choosing not to seek legal relief, the family allowed adverse possession and potentially divided the parcel, without the City's awareness, in favor of the Trumps. Because the width deficiency arose from private inaction, not from unique conditions inherent to the land itself, the hardship could be seen as self-created. The Utah courts and Boards of Adjustment are strict: voluntary actions or inactions that lead to noncompliance cannot be remedied with a variance. The Board of Adjustment will need to determine whether the width hardship arose from any voluntary action or inaction of the current property owner. Staff discussed how the boundary dispute and adverse possession were the result of long-standing fence lines that were established without property owner approval by the owner of parcel 02-133-0313, and, according to Mr. Tingey, the father's decision not to litigate was rooted in community relationships and historical practices, not neglect. If we look at what Utah courts recognize as self-imposed, we see it generally means the owner deliberately created the nonconformity (e.g., illegally subdividing, moving a fence, or

building without a permit). That's may not be the case here, where the current lot width being under 60 feet is actually due to the adverse possession of some of the original property (from parcel 02-133-0313), and this is an inherent condition of the land in that it seems that the hardship is tied to the property itself, and not a voluntary act of the current property owner (Mr. Tingey).

The second point of discussion was not discussed in great length but is important enough to note. A factor of the variance ordinance consideration requires that the property won't be able to be enjoyed similarly to the same properties in the zone. One staff member noted that variances are intended to be granted only when strict enforcement deprives the landowner of reasonable use of the property. Parcel 02-133-0313 can already function productively as an orchard or other permitted use of land in its R-L zone area. While not currently buildable for as a single-family housing unit on this lot, the land still is can be used in other ways within the R-L zone, just not how the property owner wants if they desired for this lot to be buildable for the construction of a single-family housing lot. Because reasonable use may remain to be available, the request does not fully seem to meet the unnecessary hardship standard. But staff agreed that the general nature of residential zones, such as the R-L zone, is not to only allow for agriculture uses, but rather to allow for property owners to have the opportunity to develop dwelling units. And based on the current lot configuration: 1) the lot meets or exceeds the minimum square footage requirement of this zone, and 2) the width deficiency for this lot is minor (a little over 3 feet in this case). Denying the variance over such a narrow technicality likely produces unreasonable hardship and inequitable results for this property owner as compared to other similar lots in this R-L zoned area.

Staff acknowledges that there are differing views regarding whether the hardship is self-imposed, but concluded that, based on the facts that have been presented by Mr. Tingey, the hardship does not seem to be self-imposed in this case, as historical decisions were made many years prior and out of his control. Staff also agrees that without a variance this subject property cannot be reasonably used for its intended residential dwelling use purpose, and denial would effectively deprive the lot of one of its primary use rights.

## **APPLICANT'S SPECIFIED REQUEST**

The applicant's application has been provided, a statement of variance request has been provided, as seen on Exhibit A, and the supporting documentation for the request has also been provided in the packet.

## **VARIANCE REQUEST REVIEW AND ANALYSIS**

### **Code Application and Analysis:**

#### *CZC 12.21.130(e) Variance: Approval Standards*

- *Literal enforcement of the Zoning Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Code;*

- *There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;*
- *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;*
- *The variance will not affect the General Plan and will not be contrary to the public interest; and*
- *The spirit of the Zoning Code is observed, and substantial justice done.*

Staff Comments: The hardship in this case arises from the lot having only 56.5 feet of width where 60 feet is required, creating a dimensional hardship that prevents the lot from being buildable. This condition stems in part from an unresolved boundary dispute and the subsequent loss of width through adverse possession. The key question is whether this hardship should be considered “self-imposed.” Since the neighbor occupied the property and acquired ownership through adverse possession, the Board could determine that the hardship was not voluntarily created by Mr. Tingey, but rather imposed by circumstances outside his control. The property also presents special circumstances. The property was originally subdivided to meet the current Code standards. But, due to the historic fence line and deed line discrepancy and then the subdivision of the property establishing parcel 02-133-0314 (Trump), there has been created a unique situation that now may qualify as a special circumstance under the variance criteria. With respect to substantial property rights, other lots in the subdivision are buildable, while this lot is not, despite having equal or greater square footage. Denying the variance would arguably deprive the owner of the same substantial property right enjoyed by neighboring property owners. Granting the variance would not disrupt the general plan or adversely affect the public interest, as the relief requested is minor, a width reduction of approximately 3.5 feet, and the lot otherwise meets or exceeds area requirements. The intent of the ordinance would still be observed. The purpose of width standards is to ensure adequate access, separation, and neighborhood character. Since the lot maintains appropriate access and size, granting a small variance in width would remain consistent with these purposes.

*CZC 12.21.130(g) Effect of Approval*

*A variance shall not authorize the establishment of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this Title and other applicable provisions of the Centerville Municipal Code.*

**Staff Comments:** According to the City’s General Plan, Section 12-420-2.2 (Residential Development Policies) provides “Residential development in Centerville is primarily low density single-family. This character of development should continue as far as is feasible and practical...” Additionally, in reviewing CZC 12.30.020 (Zone Purposes), the purpose of the R-L Zone is to permit development of detached single-family homes on individual lots or parcels at densities of one to four units per acre. There is not any additional guidance found within the General Plan regarding this variance request specifically.

Through the variance application process, the applicant has submitted a statement and supporting information reflecting their perspective and explanation of unreasonable hardship and special circumstances associated with their property. The applicant has submitted documentation that shows how their property boundaries have decreased in past years, as a result of the actions taken by the neighboring property owner to the south. Please see the applicant's submitted application, statement, and supporting documentation for more on their position in this matter.

**Staff Position regarding the Variance request.** Based on the above commentary and in compliance with CZC 12.32.300 standards, city staff is of the position that the request for a variance does appear to meet the requisite approval standards to qualify for granting by the Board of Adjustment, as described in CZC 12.21.130(e) and (g), based on the facts that: (1) the hardship was highly likely to not be self-imposed; (2) special circumstances are occurring for this parcel; (3) making this lot buildable is essential to the residential zoning intent; (4) the variance would not substantially affect the general plan or be contrary to public interest; (5) the lot otherwise meets area and access requirements and allowing a slight width deficiency still meets the overall reasoning of the ordinance.

## **POTENTIAL MOTIONS**

Based on the information provided by the applicant and Planning Staff and following discussion among the Board of Adjustment, the Board may make a motion to approve this variance request, approve with modifications per the discussion, table the matter to a later date, or recommend denial of the proposed variance request. The Board should provide appropriate findings of facts and grounds for any decision. Additionally, conditions may be applied to any motions made, where appropriate and applicable. Sample motions for the Board of Adjustment are located below.

## **PLANNING STAFF RECOMMENDATION**

### **#1 – APPROVE**

*“I hereby make a motion to APPROVE the request for a variance from the minimum sixty (60) feet width requirement for the property, to be established at a minimum width of 56.54 feet instead for the property located at 808 South 600 East, known as parcel 02-133-0313, within the Residential-Low (R-L) Zone, with the following reasons for action (findings):*

- a. The Board of Adjustment finds that there is a clear showing of evidence that the conditions justifying the variance request have been substantially met by the applicant;*
- b. The Board of Adjustment finds that the literal enforcement of the Zoning Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purposes of the Zoning Code;*
- c. The Board of Adjustment finds there are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;*
- d. The Board of Adjustment finds that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property owners in the same zoning district;*

- e. *The Board of Adjustment finds the variance will not substantially affect the General Plan and will not be contrary to the public interest; and*
- f. *The Board of Adjustment finds the spirit of Title 12.21.130 is observed and substantial justice provided; and*
- g. *Therefore, the Board of Adjustment finds that the variance request is hereby approved.”*

*(Any additional findings discussed and agreed upon by the Board of Adjustment may be added hereafter)*

**#2 – APPROVE WITH MODIFICATIONS**

*“I hereby make a motion to APPROVE the request for a variance from the minimum sixty (60) feet width requirement for the property, to be established at a minimum width of 56.54 feet instead for the property located at 808 South 600 East, known as parcel 02-133-0313, within the Residential-Low (R-L) Zone, with the language amendment to the request (as provided by the Board) as follows \_\_\_\_\_, based on the following reasons for action (findings):”*

*(Any additional findings discussed and agreed upon by the Board of Adjustment may be added hereafter)*

**#3 – DENY**

*“I hereby make a motion to DENY the request for a variance from the minimum sixty (60) feet width requirement for the property, to be established at a minimum width of 56.54 feet instead for the property located at 808 South 600 East, known as parcel 02-133-0313, within the Residential-Low (R-L) Zone, with the following reasons for action (findings):*

- a. *The Board of Adjustment finds that there is not a clear showing of evidence that the conditions justifying the variance request have been substantially met by the applicant;*
- b. *The Board of Adjustment finds that the literal enforcement of the Zoning Code would not cause an unreasonable hardship for the applicant necessary to carry out the general purposes of the Zoning Code;*
- c. *The Board of Adjustment finds there are not special circumstances attached to the property that generally apply to other properties in the same zoning district;*
- d. *The Board of Adjustment finds that granting the variance is not essential to the enjoyment of a substantial property right possessed by other property owners in the same zoning district;*
- e. *The Board of Adjustment finds the variance may substantially affect the General Plan and may be contrary to the public interest;*
- f. *The Board of Adjustment finds the spirit of Title 12.21.130 is not observed and substantial justice is not necessary for this request; and*
- g. *Therefore, the Board of Adjustment finds that the variance request is hereby denied.”*

*(Any additional findings discussed and agreed upon by the Board of Adjustment may be added hereafter)*

**#4 – TABLE**

*I hereby make a motion to TABLE the request for a variance from the minimum sixty (60) feet width requirement for the property, to be established at a minimum width of 56.54 feet instead for the property located at 808 South 600 East, known as parcel 02-133-0313, within the Residential-Low (R-L) Zone, until such a time as \_\_\_\_\_.”*

*(Any further direction to Staff as agreed upon by the Board of Adjustment)*

(a) **Waivers Authorized.** Notwithstanding the hard surfacing limitations set forth in Section 12.32.300, the Planning Commission may approve a greater amount of hard surfacing on a lot or parcel that does not contain a dwelling use, in conjunction with a landscaping waiver as outlined in CZC 12.51.050, if required.

(1) A waiver may be allowed, provided that a minimum 15-foot landscaped buffer, as outlined in CZC 12.51.070(b), shall be maintained along all interior and rear lot lines.

(b) **Application.** A person desiring a waiver from requirements of this Chapter, with regards to hard surfacing requirements, shall, in conjunction with an applicable development application, submit a written request which describes the proposed waiver, provides grounds justifying the waiver, and shows how the intent of this Chapter will be met by the proposed waiver.

(c) **Findings Required.** The Planning Commission may authorize a waiver from the requirements of hard surfacing limitation set forth in Section 12.32.300, to the extent authorized herein, only if it finds the waiver:

(1) Preserves the intent of this Chapter and the provisions for which a waiver is authorized.

(2) The granting of a waiver will not result in an adverse impact on the surrounding properties; and

(3) (A) The strict application of the provision in question is unreasonable or unnecessary for the specific use, design or site proposal given the nature of the proposal or alternate measures proposed by the applicant; or

(B) The property has extraordinary or exceptional physical conditions that do not generally exist on nearby property in the same zone and such conditions will not allow strict compliance with the provisions of this Chapter.

**HISTORY**

Adopted by Ord. [2016-20](#) on 7/15/2016

**12.32.300 Table Of Development Standards In Residential Zones**

The Development Standards for Residential Zones is set forth in the following Table.

| Development Standard                       | Zones   |              |          |
|--|---------|--------------|----------|
|  | R-L     | R-M          | R-H      |
| <b>Building Standards</b>                  |         |              |          |
| Distance between buildings                 | 6 feet  | 6 feet       | 6 feet   |
| Maximum height, main building <sup>1</sup> | 35 feet | 35 feet      | 35 feet  |
| Maximum height, accessory building         | 20 feet | 20 feet      | 20 feet  |
| <b>Lot and Parcel Standards</b>            |         |              |          |
| Minimum area                               | None    | 10,000 sq ft | 1 acre   |
| Minimum frontage                           | 40 feet | 60 feet      | 60 feet  |
| Minimum width, interior lot                | 60 feet | 60 feet      | 100 feet |
| Minimum width, corner lot                  | 70 feet | 70 feet      | 110 feet |

| <b>Setback Standards - Front Yard</b>   |   |   |                      |
|---|---|---|----------------------|
| Any building <sup>2</sup>   | 25 feet   | 25 feet   | 25 feet              |
| <b>Setback Standards - Rear Yard</b>  |   |   |                      |
| Main building <sup>3</sup>  | 20 feet   | 20 feet   | 20 feet              |
| Accessory building (one-story) - 400 square feet or less <sup>4, 5</sup>  | 3 feet  | 3 feet  | 3 feet               |
| Accessory building - Greater than 400 square feet and up to the maximum height allowed by the applicable zone <sup>4, 5</sup> | 5 feet  | 5 feet  | 5 feet               |
| <b>Setback Standards - Interior Side Yard</b>   |   |   |                      |
| Main building <sup>5</sup>  | 8 feet<br>Minimum total width of both sides yards:<br>18 feet | 8 feet<br>Minimum total width of both sides yards:<br>18 feet | 12 feet              |
| Accessory building  | Not permitted   | Not permitted   |                      |
| <b>Setback Standards - Street Side Yard <sup>6</sup></b>  |   |   |                      |
| Main building   | 20 feet   | 18 feet   | 20 feet              |
| Main building on corner lot abutting side yard of another lot or parcel   | 20 feet   | 18 feet   | 20 feet              |
| Accessory building  | Not permitted   | Not permitted   | Not permitted        |
| <b>Site Standards</b>   |   |   |                      |
| Animal units permitted  | None  | None  | None                 |
| Buffer landscaping requirements   | See CZC 12.51.070(b)  | See CZC 12.51.070(b)  | See CZC 12.51.070(b) |
| Buildable area, minimum   | 2,000 square feet   | 2,000 square feet   | 3,000 square feet    |
| Buildable area minimum, range of length/width ratio   | Between 2:1 and 1:2   | Between 2:1 and 1:2   | Between 2:1 and 1:2  |
| Gross density, maximum, permitted use   | 4 units per acre  | 6 units per acre  | 8 units per acre     |
| Gross density, maximum, conditional use   | Not applicable  | Not applicable  | 12 units per acre    |
| Hard surfacing, maximum total of lot or parcel  | 60%   | 60%   | 60%                  |
| Hard surfacing, maximum total of front, rear, and side yards  | 50%   | 50%   | 50%                  |
| Outside storage   | Not permitted   | Not permitted   | Not permitted        |

1. Except as otherwise permitted by CZC 12.32.080(b) and CZC 12.55.120.
2. Except as modified by the provisions of CZC 12.55.130(h).
3. Flexibility for setbacks may be provided for multiple-family dwelling unit in R-M and R-H Zones in accordance with and subject to the provisions of CZC 12.55.130(l).
4. Setback is measured from any interior and/or rear lot line.
5. Subject to compliance with applicable Construction Codes.
6. Flexibility for setbacks may be provided for multiple-family dwelling unit in R-M and R-H Zones in accordance with and subject to the provisions of CZC 12.55.130(l).

#### HISTORY

*Adopted by Ord. [2016-20](#) on 7/15/2016*

*Amended by Ord. [2017-04](#) on 3/7/2017*

*Amended by Ord. [2017-28](#) on 11/21/2017*

*Amended by Ord. [2019-12](#) on 7/2/2019*

## **12.21.130 Variance**

- (a) Purpose. This Section sets forth procedures for considering and approving a variance to the provisions of this Title. Variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from particular unforeseen applications of the provisions of this Title that create unreasonable hardships. The provisions set forth herein regarding variance are intended to comply with applicable State law provisions as set forth in Utah Code § 10-9a-702.
- (b) Authority. The Board of Adjustment is authorized to hear and decide variances to the provisions of this Title as provided in this Section.
- (c) Initiation. A property owner or the owner's lessee may request a variance to the provisions of this Title as provided in this Section. An agent of a property owner shall provide an affidavit of authorization.
- (d) Procedure. An application for a variance shall be considered and processed as provided in this Subsection.
  - (1) A complete application shall be submitted to the Zoning Administrator in a form established by the Zoning Administrator along with any fees and deposits set forth in the City Fee Schedule. The application shall include at least the following information:
    - (A) The name, address, email and telephone number of the applicant and the applicant's agent, if any;
    - (B) The address and parcel identification of the subject property;
    - (C) The specific feature or features of the proposed use, construction or development that require a variance;
    - (D) The specific provision of this Title from which a variance is sought;
    - (E) A statement of the characteristics of the subject property that prevent compliance with the provisions of this Title and result in unnecessary hardship;
    - (F) A statement of the amount of variation needed to allow the proposed use, construction or development;
    - (G) An explanation of how the application satisfies the variance standards set forth in Subsection (e);
    - (H) A plot plan showing the following;
      - (i) Applicant's name;
      - (ii) Site address;
      - (iii) Property boundaries and dimensions;
      - (iv) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
      - (v) Adjoining property lines and uses within 100 feet of the subject property.
    - (I) An elevation plan drawn to scale showing elevations of existing and proposed structures;
    - (J) When the variance involves building height, a streetscape plan showing the height of all buildings within 150 feet of the subject property;

- (K) When a variance involves grade changes, a topographical drawing prepared by a licensed surveyor or civil engineer, showing existing topography in dashed lines at two foot intervals and showing the proposed grade in solid lines at two foot intervals;
- (L) When a variance involves retaining walls, a plan showing all retaining walls, including their height relative to proposed grades; and
- (M) Any other information reasonably determined by the Zoning Administrator or Board of Adjustment to be pertinent to a requested variance.

- (2) After the application is determined to be complete in accordance with CZC 12.21.040(e), the Zoning Administrator shall prepare a staff report evaluating the application.
- (3) The Board of Adjustment shall schedule and hold a public meeting. Notice of the public meeting shall be provided in accordance with CZC 12.21.050. After due consideration the Board of Adjustment shall approve, approve with conditions or deny the application pursuant to the standards set forth in Subsection (e). Any conditions of approval shall be limited to conditions needed to conform the variance to approval standards.
- (4) After the Board of Adjustment makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.
- (5) A record of all variances shall be maintained in the office of the Zoning Administrator.

(e) Approval Standards. The following standards shall apply to a variance.

- (1) The Board of Adjustment may grant a variance only if:
  - (A) Literal enforcement of any provision of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;
  - (B) There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
  - (C) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
  - (D) The variance will not substantially affect the General Plan and will not be contrary to the public interest; and
  - (E) The spirit of this Title is observed and substantial justice done.
- (2) In determining whether or not enforcement of any provision of this Title would cause unreasonable hardship, the Board of Adjustment may not find unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The Board of Adjustment may not find an unreasonable hardship exists if the hardship is self imposed or economic.
- (3) In determining whether or not there are special circumstances attached to the property, the Board of Adjustment may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zone.
- (4) An applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (5) A use variance may not be granted.

- (6) In granting a variance, the Board of Adjustment may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified.
  - (7) A variance more restrictive than that requested by an applicant may be authorized when the record supports the applicant's right to some relief but not to the extent requested.
- (f) Appeal. Any person adversely affected by a final decision of the Board of Adjustment regarding a variance may appeal that decision to the district court as provided in Utah Code § 10-9a-801.
- (g) Effect of Approval. A variance shall not authorize the establishment of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this Title and other applicable provisions of the Centerville Municipal Code.
- (h) Amendment. The procedure for amending any variance decision shall be the same as the original procedure set forth in this Section.
- (i) Expiration. Variances shall not expire but shall run with the land.

#### HISTORY

Adopted by Ord. [2016-20](#) on 7/15/2016

# Tingey Nonconforming Lot

3818302

07/22/2025 - 07/21/2125

## Board of Adjustment Hearing - Variance

9a415570-6746-11f0-b013-e97afb7b4a91

Board of Adjustment Application Fee

Active

Awaiting Payment

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## Application Review Status

|                     |              |            |
|---------------------|--------------|------------|
| Planning & Zoning   | Not Reviewed |            |
| Legal               | Not Reviewed | 07/22/2025 |
| Board of Adjustment | Not Reviewed |            |
| Final-Review        | Not Reviewed |            |

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## Fees

|                               |                 |
|-------------------------------|-----------------|
| BOA Application Fee           | \$250.00        |
| Professional Services Deposit | \$250.00        |
| <b>Subtotal</b>               | <b>\$500.00</b> |
| <b>Amount Paid</b>            | <b>\$0.00</b>   |

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## Payments

There are no payments

## Application Form Data

(Empty fields are not included)

Reasoning for Board of Adjustments Hearing  
**Variance**

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First Name  
**Earl**

---

Last Name  
**Tingey**

---

Email  
**chachahouse@gmail.com**

---

Phone

(801) 631-6744

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| Property Owner First Name | Property Owner Last Name | Phone     | Email                 | Property Owner Mailing Address                  |
|---------------------------|--------------------------|-----------|-----------------------|---|
| Earl                      | Tingey                   | No Answer | chachahouse@gmail.com | 713 SOUTH EAGLE PASS, North Salt Lake UT, 84054 |

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Upload Owner Affidavit

 Affidavit & Deed.pdf

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Property Address

808 S 600 E

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Zoning of Property

R-L

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Parcel Number(s)

02-133-0313

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Acreage

.20

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Name of Request

Tingey Nonconforming Lot

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Statement of Purpose

About a hundred years ago, my maternal grandparents, Willard and Annie Carr (Carr Printing) acquired approximately 10 acres of land in Centerville and developed a farm and orchard. The orchard consisted of about 800 fruit trees to include Apricots, Cherries, Peaches, Italian Prunes, Santa Rosa Plums and Apples. The farm consisted of Tomatoes and a large barn and corral for animals. Twenty years later, in the 1940's, my parents, William and Sylvia Tingey, purchased the farm from my mother's parents, and continued the operation for the next forty years. My nine siblings and I worked on the farm and in the orchard as long as we lived in Centerville. Eventually my parents placed the property in a Limited Partnership, they being the General Partners. In the late 1980's my father's health began to deteriorate and the entire property was sold to a developer. I believe his name was Leon Peterson. I had known him at the University of Utah. With the professional help of Scott Balling of the Centerville located Balling Engineering, the property was subdivided into 32 lots for home construction and sale to individual purchasers. The financial arrangement was that the developer would pay my parents as each lot was sold plus interest from the date of the sale to the developer. The development was known as the Centerville Orchards Subdivision and all approvals were received from Centerville City and Davis County. Over the next several years, every lot was sold except Lot 308, which is the Lot in question. This lot did not sell because of a boundary dispute with the neighbor who owned the property to the South of this lot and had built a home on his property, which property was not a part of the Centerville Orchards Subdivision. The boundary dispute was the difference between a "deed" boundary and a "fence line" boundary. The neighbor claimed that since he had been paying taxes on the basis of the deed

boundary he was entitled to that boundary. My father claimed that he and his predecessors had farmed the property, including planting trees, cultivating, building a reservoir and irrigating the property on the basis of the fence line he was entitled to the property to the fence line. This problem has been a very common problem in Centerville since pioneer days. Years ago our family owned most of the property where the Centerville ball fields are located and all of the property where the soccer field is located. When we sold these properties to the City this boundary issue was present, but was resolved. We also owned most of the property on Chase Lane and on Second West and Chase Lane. These properties were developed into residential lots and the boundary disputes were severe. My father was very patient and worked with individual property owners and every boundary dispute was resolved. I distinctly remember these meetings with property owners. However, back to Lot 308, the dispute was not resolved. My father tried every possibility to resolve the issue. the difference between the deed line and the fence was 25 feet on the west and 20 feet on the east. My father offered to split the difference between the deed and fence line, make any financial adjustments and other offers. My father was not inclined to seek legal relief since he had known the neighbor and his family all his life. My father passed away in 1997. Shortly after his passing, the neighbor built an eight foot cinder block wall and constructed a swimming pool with other pool related buildings on the property in dispute. That is the current status of the property. Several years ago I paid Entellus of Woods Cross two thousand dollars to do a complete survey on Lot 308 and the boundary dispute. They concluded, and I concur, that since the neighbor has occupied the disputed property by statutory definition of adverse possession he is the legal owner of the property. At the time the neighbor took the property and built the cinder block wall, Lot 308 was completely abandoned. The Developer could not pay us for either the lot or the interest, so we agreed that he would simply reconvey the lot to Tingey Real Estate. The lot had been a dumping ground for all of the construction, and was covered with rocks, cement and debris. The Lot had had about 50 fruit trees on it but because the reservoir was destroyed and there was no irrigation all but two of the trees were dead. Because Tingey Real Estate now owned the lot we felt we should clean up the lot. Since I have tractors and equipment, I cleaned up the lot and hauled many truck loads of debris to the Bountiful Dump. However, even today when I cultivate the lot I uncover buried cement and rocks. I then planted 35 fruit trees on the lot and care for it today as a peach orchard. In 2013 I purchased my siblings interest in the Lot (all of us were Limited Partners in Tingey Real Estate). I own the Lot today. The problem with the Lot is that the frontage is 56 feet 54 inches and needs to be 60 feet to conform to Centerville requirements. Despite the taking of the property the Lot has more square footage than other lots because it is deeper. But the frontage lacks a little over 3 feet. This is my challenge. I own the Lot and it is in my Trust. My first wife died over 3 years with Alzheimers. I have remarried. I can manage the peach orchard. I have a tractor and can cultivate and irrigate. The trees need to be pruned each year and the limbs hauled to the dump, the fruit needs to be sprayed each year and the growing peaches need to be thinned each spring. And of course, the peaches need to be sold each year. I need to provide a way that when I pass, or can no longer care for the orchard (I'm currently 91 years of age), my wife can sell the property. She would not be able to care for it. Therefore, I would like to present the problem to the Board of Adjustment for counsel and assistance. Earl C. Tingey

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## Signature

I agree that the facts stated in this application are true, and upon changes I will provide notification as needed.





**Board of Adjustment Hearing  
- Variance:**

Tingey  
Nonconforming Lot  
#3818302  
7/22/2025 -  
7/21/2125

**Bill To**

**Payment**

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Tingey Nonconforming Lot

**Order Details**

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|                     |          |
|---------------------|----------|
| BOA Application Fee | \$250.00 |
|---------------------|----------|

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|                               |          |
|-------------------------------|----------|
| Professional Services Deposit | \$250.00 |
|-------------------------------|----------|

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|              |          |
|--------------|----------|
| Total:       | \$500.00 |
| Amount Paid: | \$0.00   |
| Amount Due:  | \$500.00 |

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Centerville City, UT - Community Development

E 2712426 B 5681 P 1827-1828  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
01/07/2013 02:34 PM  
FEE \$13.00 Post: 2  
DEP RT REC'D FOR EARL C TINGEY

RETURNED  
JAN 07 2013

WARRANTY DEED

TINGEY REAL ESTATE, LTD., also known as TINGEY REAL ESTATE, a Utah limited partnership, Grantor, hereby COVEYS AND WARRANTS to EARL C. TINGEY and JOANNE W. TINGEY, as joint tenants with rights of survivorship, Grantees, of 1286 Sundance Circle, Bountiful, Utah 84101, for the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the following described real property in Davis County, State of Utah:

ALL OF LOT 308, CENTERVILLE ORCHARDS SUB PLAT C. EXCEPT: BEG AT A PT N 89°35'58" E 105.60 FT & N 0°15'47" E 571.25 FT ALG THE EAST LINE OF 400 EAST STR (A 66 FT WIDE RD) & S 88°28'06" E 527.37 FT FR THE W 1/4 COR OF SEC 17-T2N-R1E, SLM SD PT ALSO BEING THE SW COR OF LOT 308, CENTERVILLE ORCHARDS SUB PLAT C & RUN TH N 27°52'20" E ALG SD SUB 21.76 FT, TH E 166.14 FT TO THE W LINE OF 600 EAST STR, TH ALG SD STR S 0°38'05" E 23.96 FT, TH N 88°28'05" W ALG S'LY LINE OF SD SUB 176.66 FT TO THE POB. CONT. 0.20 ACRES. (WENT TO 02-133-0314)

Tax Parcel no. 02-133-0313.

This conveyance is made subject to 2013 real property taxes and all other easements, restrictions, rights-or-way and other encumbrances of record.

Witnesseth the hand of said Grantor as of the 7<sup>th</sup> day of January, 2013.

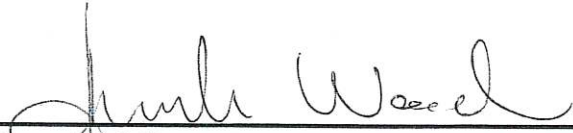
TINGEY REAL ESTATE, LTD.  
also known as TINGEY REAL ESTATE

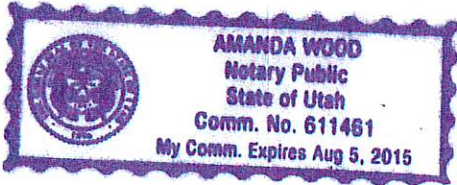
By Earl C. Tingey  
Earl C. Tingey, General Partner

By Mavis Green  
Mavis Green, General Partner

STATE OF UTAH                    )  
  ):  ss.  
COUNTY OF SALT LAKE        )

On the   7   day of January, 2013, personally appeared before me EARL C. TINGEY and MAVIS GREEN, the singers of the within instrument, who duly acknowledged to me that they executed the same as General Partners of Tingey Real Estate, Ltd., also known as Tingey Real Estate.

  
\_\_\_\_\_  
Notary Public



## REAL ESTATE PURCHASE AGREEMENT

This REAL PROPERTY PURCHASE AGREEMENT (this "Agreement") is made and entered into as of the 7<sup>th</sup> day of January, 2013 (the "Collective Date"), by and between TINGEY REAL ESTATE, LTD., also known as TINGEY REAL ESTATE, a Utah limited partnership ("Seller") and EARL C. TINGEY and JOANNE W. TINGEY, residents of Bountiful, Davis County, Utah (collectively "Buyer" or "Buyers").

### WITNESSETH:

Whereas, Seller is the owner of that certain parcel of real property located at approximately 808 South 600 East, Centerville, Utah, which property is more particularly described in Exhibit A hereto and incorporated herein by reference;

Whereas, by this Agreement, Buyers desire to purchase and Seller desires to sell to Buyers said property (the "Property"), in accordance with the terms and conditions set forth below.

Therefore, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Seller and Buyers agree as follows:

#### 1. PURCHASE, SALE AND OTHER AGREEMENTS.

1.1 Description of Property. Seller hereby sells to Buyers, and Buyers hereby agree to purchase from Sellers, on the terms, conditions and provisions herein contained, the Property as described in Exhibit A, together with all improvements, appurtenances and easements appurtenant thereto.

1.2 Purchase Price. The purchase price which Buyers shall pay for the Property is Seventy-Seven Thousand and No/100 Dollars (\$77,000.00), which amount shall be paid to Seller in full at closing.

#### 2. TITLE COMMITMENT.

2.1 Title Insurance/Approval Of Title. The parties have agreed to forgo a title commitment and title insurance. Buyers accept responsibility for any title defects and Seller shall have no obligation with respect thereto.

3. CLOSING AND POST-CLOSING. The term "Closing" is used in this Agreement to mean the time at which the Warranty Deed is recorded in the office of the Davis County Recorder. The Closing shall occur on or before the date which is fifteen (15) days following the Effective Date. At the Closing, the following shall occur:

- 3.1 Closing. The Warranty Deed is recorded on the date which is fifteen (15) days following the Effective Date. At the Closing, the following shall occur:
  - (a) Seller shall execute, acknowledge and deliver to Buyers a good and sufficient Warranty Deed on the form of Exhibit B attached hereto, and by reference made a part hereof (the "Warranty Deed"), conveying and warranting to Buyers in current and immediately available funds, the purchase price for the Property.
  - (b) Buyers shall pay to Sellers in current and immediately available funds, the purchase price for the Property.
  - (c) All reasonable and customary prorations shall be made as of the Closing Date and appreciate credit shall be given for 2013 real property taxes (based on current use), and other matters the nature of which properly requires such treatment. Buyers shall be responsible for all taxes, if any, resulting from a change in use of the Property.
  - (d) Seller shall pay all costs of recording the Warranty Deed and other instruments to be recorded at the Closing.
  - (e) Seller shall deliver to Buyers possession of the Property.

4. GENERAL PROVISIONS. All notices shall be delivered to the parties hereto as follows:

4.1 Notices. All notices shall be delivered to the parties hereto as follows:  
Tingey Real Estate, Ltd.  
Green

4.2 Costs. Except as otherwise specifically provided in this Agreement, Seller and Buyers each shall pay their own costs and expenses incurred in preparation and execution of and performance under this Agreement.

4.3 Entire Agreement. This Agreement, including the Exhibits attached hereto, constitutes the entire agreement between the parties hereto.

IN WITNESS WHEREOF, Seller and Buyers have executed this Agreement as of the day and year first above written.

SELLER:

TINGEY REAL ESTATE, LTD.

By Earl C. Tingey  
Earl C. Tingey, General Partner

By Mavis Green  
Mavis Green, General Partner

BUYERS:

Earl C. Tingey  
Earl C. Tingey

Joanne W. Tingey  
Joanne W. Tingey

**EXHIBIT A**

**DESCRIPTION OF THE PROPERTY**

The following described property in Davis County, State of Utah:

ALL OF LOT 308, CENTERVILLE ORCHARDS SUB PLAT C. EXCEPT: BEG AT A PT N 89°35'58" E 105.60 FT & N 0°15'47" E 571.25 FT ALG THE EAST LINE OF 400 EAST STR (A 66 FT WIDE RD) & S 88°28'06" E 527.37 FT FR THE W 1/4 COR OF SEC 17-T2N-R1E, SLM SD PT ALSO BEING THE SW COR OF LOT 308, CENTERVILLE ORCHARDS SUB PLAT C & RUN TH N 27°52'20" E ALG SD SUB 21.76 FT, TH E 166.14 FT TO THE W LINE OF 600 EAST STR, TH ALG SD STR S 0°38'05" E 23.96 FT, TH N 88°28'05" W ALG S'LY LINE OF SD SUB 176.66 FT TO THE POB. CONT. 0.20 ACRES. (WENT TO 02-133-0314)

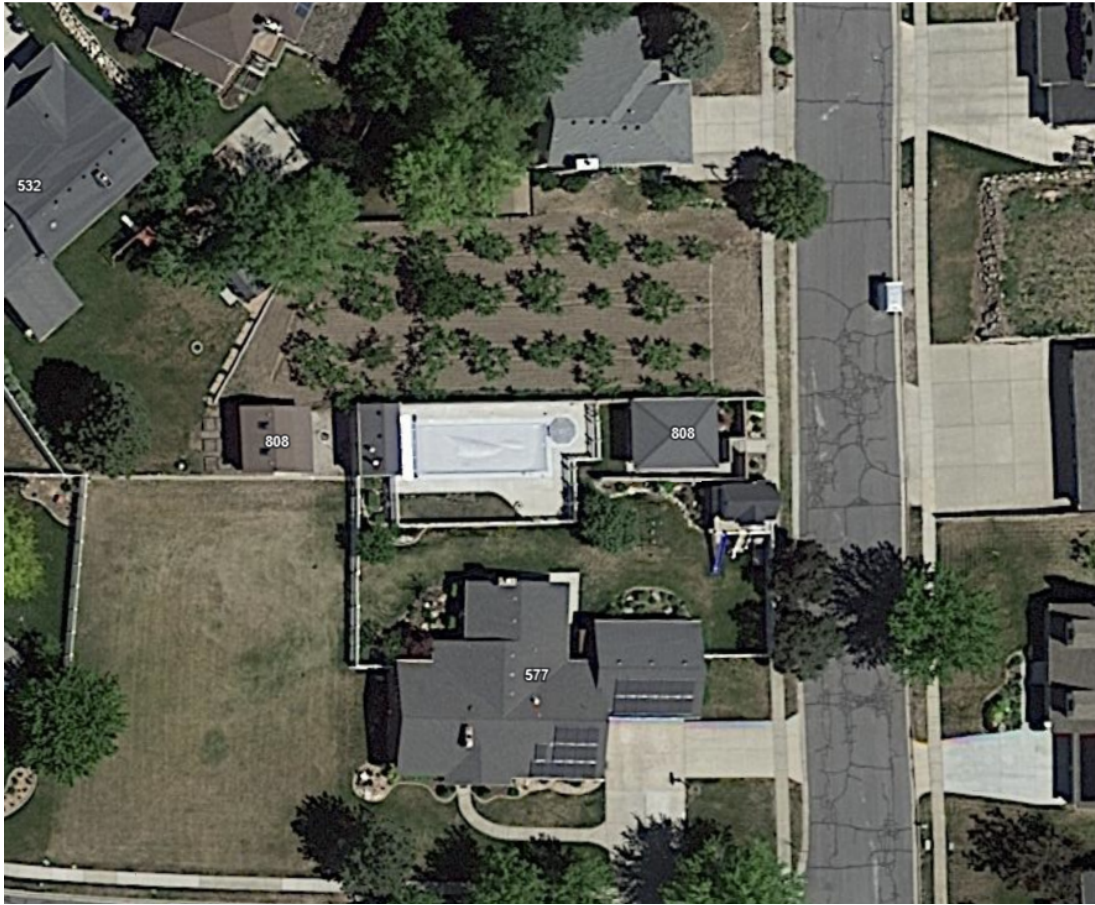
Tax Parcel No. 02-133-0313.



2025



2022



2017



2015



2008



2005



2004



1997

