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July 16, 2021

Mr. Richard Miller, Hearing Officer  
Interlaken Board of Adjustments  
Town of Interlaken  
P.O. Box 1256  
Midway, UT

RE: Letter of Intent  
Lot 174, Interlaken Estates Subdivision  
332 Jungfrau Hill Road

USE: RESIDENTIAL - Single dwelling - (No Use variation requested)

CURRENTLY: EMPTY LOT

Dear Mr. Miller

We are writing this letter of intent seeking a variance on setbacks for Lot 174, Interlaken Estates Subdivision, which property we are under contract to purchase. As a part of our due diligence process, we have hired the services of an engineering firm to establish the present conditions of the property, and found that the current setbacks don't allow for a reasonable buildable area.

Our application, based on the engineering analysis, proposes a solution that does not affect our neighbors, the Interlaken Estates, nor the State Park situated some distance from the back of our intended lot. The solution we propose takes into consideration the spirit of the zoning ordinance of maintaining proper distance from the road to the house, and the privacy between adjoining properties.

The included drawings support our request, presenting the case in a graphic format for easy understanding. As we will be out of the country when you conduct our variance hearing, we have engaged as our spokesman, J Paul Brown (435-659-5288, [JPBnutec@gmail.com](mailto:JPBnutec@gmail.com)) who is our Real Estate Broker representing our interests and those of the seller. Please copy him in all communications.

Respectfully,

Melissa Andersson

**Andersson Lot 174 Variance Request  
332 Jungfrau Hill Rd**

Prepared for  
Interlaken Town Board of Adjustments

July 16, 2021

Melissa Andersson, Petitioner  
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Variance Request  
Represented By

J Paul Brown, Broker  
435-659-5288  
Land@JPB.US

## ANDERSSON LOT 174 VARIANCE REQUEST

332 Jungfrau Hill Road

The objective of the Lot 174 Variance Request is the creation of a building envelope, of reasonable size as is common in comparison to those throughout the community, balanced by physical constraints and reasonable neighbor and community interests.

### Variation Request:

#### 1. Adjustment of Building Envelope

- No Change Requested to Front Setback.
- Proposed Side Setbacks: Shift of 10' resulting in a 20' setback from each side.
- Proposed Rear Setback: Shift of 10' resulting in a zero-lot-line setback (still providing room for a walkway behind the structure).

#### 2. Allowance for Accessory Structures

- Amendment of Interlaken Ordinance Section 11.04.070 (B) as it applies to Lot 174 so as to require "Any accessory building constructed on Lot 174 shall be built within the building envelope boundary as determined by the Interlaken Board of Adjustments."

### Constraints:

The small size and irregular shape of Lot 174 constrict the building envelope making it impossible to build any desirable, normal size house common to the requirements and standards of the immediate neighborhood and community.

A multi-story container house could be constructed as an option, but would not be a proper addition to the neighborhood, and does not meet the normal expectations as future owners.

### Key Points Favoring Variance:

- The proposed variance adjustments will allow space for building a single level house, largely obscured by existing trees, to minimize its presence for the adjoining neighbors.
- The State Park will not be affected by the zero-lot-line setback as the existing Survey Gap will provide a buffer from the Park nearly twice that of the mandated 10' setback.
- Locating the house near the rear lot line (approximately 3' from the zero-lot-line) will allow the structure to sit further back from the Jungfrau Hill roadway which will allow room for a proper driveway to reduce parking on the narrow road, especially in winter.

- Construction of a single-story home enhances the adjoining neighbors 'sense of privacy' by maintaining a largely uninterrupted visual impact of their valley and mountain views as seen from their homes.
- The east side neighbor's visual separation of the new construction is further protected as their view toward Lot 174 is uphill and obscured by undisturbed existing brush.
- The variance does not affect Interlaken community or its boundaries.
- The variance provides adequate separation of structure from both adjacent neighbors and of the State Park boundary is maintained.

### Considerations of the Case

#### **1...A literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.**

Nearly all unreasonable hardships associated with Lot 174 were caused at its creation, being born a runt in a community of larger, better looking, square lots.

- a) The Interlaken zoning ordinance (and Wasatch County zoning ordinance before it) was designed to serve one-half to one acre sized lots, that are square or rectangular in shape. The 2005 Wasatch County Board of Adjustment Staff Report, reviewing Lot 174 explains this impact stating, "Literal enforcement of the zoning ordinance would most likely deem the lot [lot 174] unbuildable."
- b) Lot 174 may hold the record for hardship. Since its creation 50 years ago, this lot has drained the pockets of each successive owner who paid (amounts equal to owners of truly "buildable lots"), paid full taxes, water and HOA fees (while applicable). Each eventually realized this lot failed its creation as this lot would not accommodate any meaningful structure, appropriate for their needs, or equal to the standard and character of the community and neighborhood.
- c) A variance makes Lot 174 both buildable and saleable. Failure to resolve the special circumstances (below) retain the extreme and unreasonable hardship on the current owner. They, now being the first owner to have identified the breadth of these issues, would likely be forced to sell at half value where the community is left with half the house. Otherwise, the alternative is likely liquidation through tax sale or other public auction.

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

There are no other Interlaken lots that exhibit ALL special circumstances that afflict Lot 174, as they are recognized today:

**a) Circumstance 1 - Road Not Built to Design**

- The 2005 Wasatch County Staff Report acknowledged that the road was not built as originally designed, “The road was built on parts of lot 174 and infringes on that lot by up to 10 feet in some locations.” (2005 Wasatch Staff Report available on request);
- The road right-of-way occupies 25.6% of Lot 174’s total acreage. No other lot claims this distinction.

**b) Circumstance 2 - Misrepresentation of Size**

For reference,

- Lot 174 contains 0.339 acres; and
- Excluding the road right-of-way, the owner controls 0.252 acres.

Historic Record

- The original developer designated Lot 174 as a 0.73 acre lot, or as we say, a three-quarter acre lot;
- Wasatch County recorded that measurement;
- Based on County records, several excellent Realtors listed it as a  $\frac{3}{4}$  acre lot, instructing buyers to “verify all measures” (Utah’s replacement for requiring a survey at the time of each purchase); and,
- Several Buyers, trusting our institutions and processes, bought the property.

Every purchaser, including the current owner, trusted this information with precisely the same outcome as referenced above #1(b). They paid taxes and fees, and learned they could not build.

Note: Wasatch County Online Tax Parcel Lookup still shows Lot 174 as having 0.73 acres despite the recording of a 1994 Survey (Wasatch County Survey #0300) declaring Lot 174 contains 0.38 acres, nearly half the size advertised.

**c) Circumstance 3 - Survey Overlap Impact**

Lot 174 shares a Survey Overlap with Lot 106 to the east.

The Buyer plans to resolve this at closing by yielding any claim of interest in the overlap area. Lot 106 will experience no change in their lot size. The reduction has already been accounted in the Lot 174 size of 0.339 acres quoted in this study. (See 2021 Topographical Survey).

Further exhibits related to the Survey Overlap are available upon request to interested parties.

**d) Circumstance 4 – Shape of Parcel Impact**

Nearly all Interlaken lots are square or rectangle, and ½ to 1 acre size lots, so the zoning ordinance, designed for that size and shape, produces a very nice building envelope where an owner can determine where their home will sit on the terrain, define their separation from the neighbors, and select only the best views.

That code does not create a usable building envelope for a lot shaped like Lot 174. The Wasatch Staff Report explains, “When Interlaken was created in the 1960’s the County did not have a zoning ordinance but as the County adopted setbacks in 1972 this lot faced the hardship of being a small triangular parcel that could not meet the new setback requirements.”

Squaring the Lot to include only portions that govern setback lines (excluding all portions deemed useless for setback reference or for daily living, like Lot 174’s tail) indicates the lot’s functional size (rectangular usable area) is equal to 0.21 acre, or 1/5 acre (while the functional size of nearly all Interlaken lots are 2 1/2 to 5 times larger than Lot 174.

**e) Circumstance 5 - State Park/Interlaken Survey GAP.**

Had Lot 174 been born on the east end of the subdivision, where the Town and State Park borders share the same line, its current rear 10’ setback line would also be 10’ from the State Park boundary line.

But in its actual location, where a Survey Gap separates the Town and Park boundaries, Lot 174’s current rear 10’ setback line is 28’ from the State Park border. With the rear zero-lot-line setback variance, the setback will still be 18’ from the State Park boundary, nearly double the setback protection required in Municipal Code Section 11.04.070 requires. (See attached 2021 Survey for actual Gap distances).

There has been no expressed interest, nor are there recognized logical benefits to the Park or to Interlaken to claim the Gap area anytime in the future.

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

The variance is essential to enjoy THE SINGLE MOST SUBSTANTIAL Property Right, possessed by all others in Interlaken, which is the right to build a reasonably designed home on one’s property.

Granting the variation requested will allow construction of a moderate 1,600 square foot three bedroom, with living-dining and kitchen in a single open area, a two car garage and a storage room. These are the fundamental family areas similar to other moderate size houses existing in Interlaken community.

- a) Utah Land Use Code now mandates that all plots within a Recorded Platted Subdivision be "Buildable".
- b) The general plan (Section 11.04.060 Width and Frontage Requirements, and Section 11.04.050 Area Requirements) seem to declare that all "existing legal lots" of their [current] size and shape are deemed "buildable". But this right is not true for Lot 174 in absence of the variance.
- c) For fifty years no owner has discovered a way to build a reasonable structure for their enjoyment.
- d) The petitioning Buyer, married to an architect, can see no alternative means of building on this property without the variance. Without a variance, they cannot make reasonable use of this property.

**4. The variance will not substantially affect the general plan and will not be contrary to the public interest.**

The requested variance supports the intent of the general plan, while finally and forever integrating Lot 174 into the general plans' intent, use, function and definition. The variance does not affect the adjacent neighbors, the State Park, the general plan or public interest.

- a) The public interest and general ordinance are served by complying with and maintaining the high standards of the community in accordance with the Environmental Assessment requirements (Section 11.07.010 B.6) of the ordinance, particularly to "Preserve and enhance visual and environmental quality by the use of natural vegetation and prohibition of excessive excavation and terracing..."
- b) The public interest is served by the Buyer's determination to protect and enhance the environment, maintain the neighbors' quality of living, their views and the community at large. Examples of Buyer's intent are:
  - The Buyer's Determination to Build further from the Jungfrau Hill Road right-of-way setback though little traffic passes this lot; and
  - Determination to design and construct a single level residence (with garage under east end) so as to appear hidden by existing vegetation and preserving the current views of the two adjacent neighbors.

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

Justice shall have been served in the full spirit of the land use code with the enactment of this variance.

- a) The Land Use Ordinance (Section 11.04.010 paraphrased) states “the objective of the R-1 Residential Zone is to encourage the creation of medium to large size lots on which single-family dwellings are situated...”

There is not a way to enlarge Lot 174 however, the variance will remove the burdens and constraints of this lot, match the freedoms all residents enjoy, and equal the very definition of Variance, assuring that this property not “be deprived of privileges commonly enjoyed by other properties in the same zone.” (Title 11 Land Use, CHAPTER 11.02 DEFINITIONS, Item 52).

The Interlaken Planning Committee, seeking the same intent, has zoning requirements particularly with Lot 174 in mind, and offered repeated encouragements that the Lot be referred to the Board of Adjustments for Variance considerations.

Substantial justice shall have been served, when Lot 174 enjoys substantial freedoms similar to those of medium size lots. Opening its building envelope will allow construction of a respectable medium sized dwelling and will return this property to the intent and purpose of its creation, rendering it viable and buildable, that it may become part of the community of owners of “buildable” lots of similar use and value.



N89°31'09"W 2628.51'

S 38° 02' W  
21.51'

19.32'

GAP BETWEEN  
PROPERTY LINES  
(SEE NARRATIVE)

(EAST 150')  
N89° 57' 51" E  
159.91'

17.87'

S0° 11' E  
17.87'

FOUND  
EBAR/ALUM CAP

FOUND  
REBAR/AL

### SUBJECT PROPERTY

0.339 ACRES  
14,761 SQ. FT.

332 JUNGFRAU HILL ROAD

49.88°  
N25° 38' 02" W 70.28'

20' SIDE  
SETBACK

S87° 02' 37" W  
20.95'

RIM=6159.44'  
IE=6153.30'

30' FRONT  
SETBACK

FOUND  
REBAR/ALUM CAP

C1

C8

S87° 02' 37" W  
20.95'

DRIVEWAY

20' SIDE  
SETBACK

167.75'

S0° 11' 44" E 213.36'  
(S1°28'E 213.00')

S6° 09' 52" E 218.41'  
(S1°28'E 213.00')

30.71'  
N11° 47' 48" W

30.71'  
N11° 47' 48" W

FOUND  
REBA

FOUND  
REBAR/CA

14.91'

9.98'

20.72'

C4

C5

C6

C7

C9