

The City of  
Provo, Utah



ENT 12480:2012 PG 1 of 3  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2012 Feb 16 10:33 am FEE 0.00 BY SW  
RECORDED FOR PROVO CITY CORPORATION

## NOTICE OF VARIANCE

John R. Curtis  
Mayor

Property Serial Number: 34:440:0001

All prospective and current owners are hereby notified that the property located at 5132 North 300 West #150, Provo City, has been granted a variance to Sections 14.44.050, Required Open Space, 14.44.070, Parking, Loading & Access Requirements, Section 14.37.100, Parking Design Standards, and Chapter 15.20, Development Landscaping Requirements, of the Provo City Ordinance by the Board of Adjustment on January 19, 2012. The variances were granted in order to convert the previously approved sound stage and storage area to an indoor basketball court and gaming area.

All prospective and current owners are hereby notified that any conversions or remodeling of the basketball court and gaming area approved under the variance granted on January 19, 2012 will void this variance. The responsible party will be required to meet the current City ordinances or request a new variance.

Legal Description: Unit 1, Plat A, APEX Office Condos, Area .103 acre

COMMUNITY DEVELOPMENT DEPARTMENT

Carrie Walls  
Planner II

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STATE OF UTAH)  
COUNTY OF UTAH) SS.

Office of  
Community Development

provo.org/commdev.main.html

351 West Center Street

P.O. Box 1849

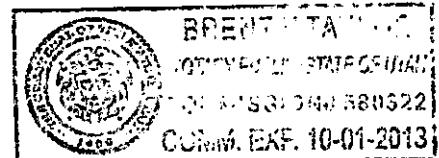
Provo, Utah 84603

(801) 852-6400

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NOTARY PUBLIC:

Residing in Utah County



**Provo City Board of Adjustment**  
**Report of Action**  
**January 19, 2012**

ITEM 2      Steven Eliason, agent for David Royce, requests a modification to a previously granted variance regarding Section 14.44.050, Required Open Space; Section 14.44.070, Parking, Loading & Access Requirements; Section 14.37.100, Parking Design Standards; and Chapter 15.20, Development Landscaping Requirements, which was approved on November 18, 2004, in order to convert the existing sound stage and storage areas to a basketball court and gaming area for employees at the property located at 5132 north 300 West in the RBP (Research and Business Park) zone. *Riverbottoms Neighborhood 11-0019VB*

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The following action was taken on the above described item by the Board of Adjustment at its regular meeting on January 19, 2012:

**APPROVED**

Motion by: Stacy Sommers

Second by: Tim Brough

Votes in Favor of Motion: Steve Sabins, Tim Brough, Kermit McKinney, Stacy Sommers, Leonard Mackay

Votes Opposed to Motion: None

*Kermit McKinney was present as chair.*

- Includes facts of the case, analysis, conclusions, and recommendations outlined in the Staff Report with any changes noted. The Board of Adjustment determination is generally consistent with the Staff analysis and determination.

The Board of Adjustment adopted the following Findings of Fact in reaching its decision:

**FINDINGS OF FACT**

1. The approval of the original variance included a stipulation that if the sound stage/storage area were converted or remodeled the responsible party would be required to either meet the current City ordinances or request a new variance.
2. The applicant is proposing to convert the existing sound stage/storage area into an indoor basketball court and gaming area for employees and is requesting to modify the existing variance. The applicant has submitted a statement, plans and a copy of the staff report and Report of Action for the original variance request.
3. Section 14.05.030(9), Variances, paragraph (b) of the Provo Municipal Code states that the Board of Adjustment may grant variances if the following criteria are met:
  - (I) Literal enforcement of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;
  - (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;
  - (iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other

Board of Adjustment Staff Report  
January 19, 2012

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property in the same district;

(iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) The spirit of this Title is observed and substantial justice done.

#### **DISCUSSION BY BOARD**

The Board members discussed the previously approved variance and how it applied to the current tenant. They asked Mr. Eliason about the purpose for the basketball court and the gaming rooms as they apply to the employees of the company. Mr. Eliason responded that the owner of the company wished to provide a fun area for employees to enjoy as a benefit of employment.

#### **DECISION**

The Board of Adjustment made a motion to approve the requested variance with the following conditions:

1. That any conversions or remodeling of the basketball court/gaming area to another use will void this variance, thus requiring the responsible party to meet the current City ordinances or request a new variance.
2. A notice must be recorded at the Utah County Recorder's office citing that this project has received a variance. However, any conversions or remodeling of the basketball court/gaming area to another use will void this variance, thus requiring the responsible party to meet the current City ordinances or request a new variance



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Board of Adjustment Chair

01/25/2012

Date Signed