



NOTICE OF A VINEYARD HEARING OFFICER PUBLIC MEETING

The Vineyard Hearing Officer will hold a public meeting on Tuesday, January 12, 2021 at 5:00 pm in the Vineyard City Council Chambers, 125 South Main Street, Vineyard, Utah.

This meeting will be held for the purpose of hearing a variance request by Amataga Tiafala (property owner). The request is for a variance to allow for a “continued substantial setback of approximately 6 feet from the boundary line”. The property is addressed 252 North 590 East, Vineyard, Utah and contains a parcel ID of 35:723:0080.

The public is invited to attend all hearing officer meetings. If you need special accommodations to participate in the meeting, please call Briam Amaya Perez, at the Community Development Department at 801.266.1929.

CERTIFICATION OF POSTING: I, the undersigned duly appointed city planner, do hereby certify that the above agenda notice was posted at the Vineyard City Offices, on the Vineyard City website, and on the Utah Public Meeting Notices website.

Date Posted: January 08, 2021

Certified: /s/ Briam Amaya Perez

BRIAM AMAYA PEREZ, PLANNER II



Community Development

Date: January 12, 2021
Memo by: Briam Amaya Perez, Planner II
Item: Variance Hearing
Applicant: Amataga Tiafala
Address: 252 N 590 E

OVERVIEW:

On September 29, 2020, the Community Development Department received a complaint about a covered porch being constructed at 252 N 590 E in such a way that extends from the home within a few feet of the property line. On October 15, 2020, a site inspection was conducted by Planning Technician, Briam Perez, and Building Official, George Reid, to confirm that a zoning code and building violation had taken place. After meeting with the property owner and inspecting the property, it was determined by both employees of the City that indeed the property in question was in violation. The property was in violation of the following zoning and building codes:

Vineyard Zoning Code 15.32.220(1) 'Required Yards To Be Unobstructed; Exceptions'

All required setback areas shall be open to the sky and unobstructed except for permitted and approved accessory buildings and structures and for projections of sills, unenclosed steps, unwallled stoops, bay-windows, unenclosed porches; and similar building features, provided that such features do not encroach more than three (3) feet into the required setback area.

The covered porch, designed as an extension of the house/primary building, had been constructed in a manner that encroached the rear property setback. This type of structure is not listed within the zoning code as one that is permitted or approved to do so.

The covered porch extension was also in violation of the 2015 International Residential Code (IRC):

R310.1 'Emergency Escape and Rescue Opening Required'

Basements, habitable attics, and every sleeping room shall have not less than one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, an emergency space and rescue opening shall be required in each sleeping room. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

After meeting with Mr. Tiafala, Mr. Reid attached a 'Stop Work Order' to the rear door of the covered porch. Mr. Tiafala was cooperative and ceased further construction activity on the premises. On the following Monday, October 20, 2020, Mr. Tiafala was served a Violation Letter by Mr. Perez, who at the time, was also in charge of Code Enforcement throughout the City. The Violation Notice provided him until December 21, 2020, to bring the property into compliance. Mr. Tiafala has been in regular communication with Mr. Perez since the violation letter was issued discussing all viable options to resolving the matter. On December 18, 2020, Mr. Reed Adams of Dexter Law, acting as Counsel for Mr. Tiafala, submitted a Variance application to the Community Development Department. Mr. Tiafala's Variance Application was received on time and processed by the Community Development Department. Thereafter, Community Development Director, Morgan Brim, scheduled a Variance Hearing for January 12, 2021 with Vaughn Pickell.

ATTACHMENTS:

Violation Letter

Variance Application

Variance Letter



Vineyard Building Permit

Application Date: 12/18/2020
 Type of Improvement: Variances
 Description: See Letter dated December 17, 2020. (Emailed to B
 Bldg. Address: 252 N. 590 E. Vineyard, UT 84059
 City: Vineyard State: UT Zip: 84059
 Subdivision: _____ Phase: _____
 Block: _____ Lot #: _____ Parcel #: _____
 Permit Contact: M. Reed Adams P: (801) 472-7684
 Email: reed@dexterlaw.com

CONTACT INFORMATION

APPLICATION DETAILS

of Units: 1

Valuation	\$	0.00
PERMIT FEES		
Total Fees:	\$	0.00



APPROVALS | **DATE** | **INFO**

Setbacks	Front:	Rear:	Left:	Right:
Min.				
Actual:				

APPLICATION NUMBER: **PREP20-001**

I agree to comply with all City, County, and State building laws and ordinances. I attest that all representations in this application for a building permit are true and accurate, and any misrepresentations of errors herein are the sole responsibility of the applicant, and shall in no way incur or accrue liability or obligation to enforcing officers or agents. This City does not accept any obligation or liability to have plans reviewed or approved by an Architectural Review Committee prior to the issuance of a building permit. It is the responsibility of the owner and builder to receive approval from the Architectural Review Committee. Failure to receive approval may result in civil action. This permit becomes null and void if work on construction authorized is not commenced within 180 days or if construction work is suspended or abandoned for a period of 180 days at any time after work is commenced. OCCUPANCY OF STRUCTURE IS PROHIBITED UNTIL AFTER FINAL INSPECTION AND ZONING/OCCUPANCY COMPLIANCE CERTIFICATE IS ISSUED. I HAVE CHECKED THE SEWER DEPTH OF ABOVE LOT AND WILL TAKE ALL RESPONSIBILITY FOR SETTING THE BUILDING ACCORDINGLY.

Applicant Name: M. Reed Adams

Signature of Contractor or Authorized Agent: _____ Date: _____

Signature of Owner (If Owner/Applicant): _____ Date: _____

Application Approved By: _____ Date: _____

Receipt #: _____ Date: _____



Chris A. Dexter
Phone: (801) 225-9900 Ext. 502
Fax: (801) 224-6500
CDexter@DexterLaw.com

December 17, 2020

Vineyard City
125 South Main Street
Vineyard, UT 84059

*Re: My Client: Amataga Tiafala
Address: 252 N. 590 E. Vineyard, UT 84059*

To Whom it May Concern;

This office has been retained by Amataga Tiafala for the purpose of seeking a variance relating to a patio/porch which he constructed at the above-stated address. Mr. Tiafala has been notified that the addition is not in conformance with the codes of Vineyard City relating to setback as well as egress relating to the added patio/porch. Mr. Tiafala now seeks a variance for such construction in accordance with the Vineyard Municipal Code, section 15.46.010 et seq.

Mr. Tiafala, a 65-year-old resident of Vineyard, recognized that his home, and his useable space in his backyard would be enhanced by adding an enclosed patio/porch onto the home. The addition was designed with his grandchildren in mind as the patio/porch would provide a safe extension to the home for them to play in an enclosed space. The home is small, and the additional space is necessary for Mr. Tiafala to fully enjoy the limited space available. He designed the addition and saved up \$20,000.00 over the course of several years, which sum represents nearly his entire savings, to create the patio. Having acquired the funds, Mr. Tiafala began construction of the porch, excitedly anticipating the enhancement of the home and the increased enjoyment of

the property. The patio/porch would have allowed him to better utilize the backyard space for his purposes, as it would provide a relaxing, but enclosed space. The construction continued without objection until the construction was nearly completed.

A few months after construction had commenced, and apparently based upon a complaint of a resident, Lehi City officials inspected the construction and issued a notice of the Zoning Code violation and ordered Mr. Tiafala to stop construction. Because the construction was nearing completion, such an order was understandably distressing to Mr. Tiafala. By this variance, Mr. Tiafala seeks to preserve his addition and the enjoyment of its use, by obtaining the variance without harming the City's interest in the setback. Mr. Tiafala is additionally willing to work with the City to provide the safety features necessary to continue the construction.

Based upon representations of the city, it is understood that the HOA relating to this property requires a 10' setback from the rear property line. The purpose of the setback is ostensibly for aesthetics, to avoid having construction encroach too closely on the property lines, and to allow for the placement of utilities which may be necessary. While Vineyard City and the HOA have an interest in the setback, no purpose is served in the present circumstance by its literal enforcement. The setback is a generous one and exceeds the extent that a setback is necessary to accomplish its purpose. Under Section 15.32.220 of the Vineyard Municipal Code, additions may be allowed when they encroach three feet into the setback. The additional footage required by the HOA is for aesthetic purposes only. While the encroachment of the present construction extends beyond the allowable three feet under the ordinance, it does so by a nominal 2-3 feet. Such a limited encroachment does not harm the interest of either the city or the HOA. Furthermore, the encroachment is not significantly different from other setbacks encroachments in the area, such as detached outbuildings, storage units and other construction in the setback area. The burden imposed on the setback does not significantly differ from such other encroachments. See photos provided by Mr. Tiafala of other homes in the area.

The spirit of the Ordinance relating to a setback, as set forth above, protects the aesthetics of the property, avoids construction too near a property line, and provides access to utilities. The HOA and the City have an interest in avoiding setback area from becoming built out and encroaching on the boundary lines. However, the nominal variance sought herein allows for a continuing substantial setback of approximately 6 feet from the boundary line and extends only two to three feet beyond the City's allowed encroachment under Section 15.32.220.

The property does not encroach too closely on the neighbors' property. A substantial and sufficient setback remains between the patio/porch and the fenceline. The porch, with its sloping roof does not interfere with any adjacent owner's right to avoid building on the property line. Additionally, the aesthetics of the property are not diminished by the new addition, as there is sufficient room for trees and grass.

Importantly, the patio/porch does not encroach on any utilities nor does it interfere with their access.

The patio/porch provides Mr. Tiafala with the enjoyment of his backyard without significant infringement of the interests of the city or the HOA. While the patio/porch is covered, an uncovered patio/porch of the same dimension would likely not even have come to the attention

of the city even though it would result in substantially the same impact on the land. Mr. Tiafala seeks the present variance to put his back yard to the best possible use and enjoyment, consistent with the substantial needs of the city.

Finally, the violations relating to egress or other health and safety issues have been substantially complied with or may be complied with by modifying the current construction rather than the more drastic remedy of destruction of the newly constructed addition. R310.1, the section of the 2015 International Residential Code (IRC) cited by the City for the violation, relates “Basements, habitable attics and every sleeping room.” The addition as constructed is a covered porch and not a sleeping area, and therefore such regulations may not apply to the construction, or at the least, the requirements need not be strictly enforced to allow for the safety of the home’s inhabitants. But even if it were considered a sleeping area, Mr. Tiafala has substantially complied with the requirements and could modify the construction to the extent necessary to comply with safety regulations. Mr. Tiafala would be better served by being given the opportunity to work with the city to create a safe and enjoyable patio/porch.

For the above reasons, Mr. Tiafala seeks the present variance in the hope of fully utilizing the home and back yard, while preserving Vineyard City’s right to avoid interference with easements, encroachment or aesthetics.

Please do not hesitate to contact us with any questions or if you need additional information.

We look forward to hearing from you.

Sincerely,

/s/ Signature

Chris A. Dexter

Attorney for Amataga Tiafala



NOTICE OF VIOLATION

Vineyard City Code Enforcement has conducted a site visit at 252 N 590 E, Vineyard, UT 84059 and found the subject property to be in violation of the Vineyard Zoning Code, which requires all property setback areas to be maintains free of obstructions and open to the sky.

PERSON(S) RESPONSIBLE	Amataga and Faagalo Tiafala
TODAY'S DATE	10/19/2020
DATE OF VIOLATION:	10/15/2020
STREET ADDRESS:	252 N 590 E, Vineyard, UT 84059
ORDINANCE(S) VIOLATED:	<p>Vineyard Zoning Code 15.32.220(1) 'Required Yards To Be Unobstructed; Exceptions' <i>All required setback areas shall be open to the sky and unobstructed except for permitted and approved accessory buildings and structures and for projections of sills, unenclosed steps, unwallled stoops, bay-windows, unenclosed porches; and similar building features, provided that such features do not encroach more than three (3) feet into the required setback area.</i></p> <p>Vineyard Zone Code 15.12.060(1) 'Dimensional Standards Table' <i>Maximum encroachment of Architectural Features Encroaching into required setback: 3'</i></p>
HOW YOUR PROPERTY VIOLATES THE CODE	<p>A covered porch, designed as an extension of the house/primary building, has been constructed in a manner that encroaches the rear property setback. This type of structure is not listed above as one that is permitted or approved to do so.</p>
REMEDIAL ACTION REQUIRED:	<p>The covered porch must be reconstructed to not encroach into the ten-foot rear property setback. If this is not feasible, the extension of the home must be removed.</p>
COMPLIANCE DEADLINE:	12/21/2020
ADMINISTRATIVE FEE:	\$100.00 shall be charged on Compliance Deadline (in addition to any Civil Penalty Fees)
CIVIL PENALTY FEE:	\$25.00 per day (with a cap of \$1,000) beginning on Compliance Deadline accruing until the violation is brought into compliance. Once the cap has been reached, a property lien will be filed by the City Attorney's Office

NOTES/COMMENTS:

The covered porch extension is also in violation of the 2015 International Residential Code (IRC):

R310.1 'Emergency Escape and Rescue Opening Required'

Basements, habitable attics and every sleeping room shall have not less than one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, an emergency space and rescue opening shall be required in each sleeping room. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way

If the responsible person(s) fail to comply with the terms and deadlines as prescribe in the Notice of Violation consequences may include criminal prosecution, civil penalties, administrative citations, revocation of permits, recordation of the notice of violation on the property, withholding of future municipal permits, abatement of the violation, costs, administrative fees, and any other legal remedies [VMC 2.26.040(B)(2)(g)]. Please note that only one notice of violation is required for any 12-month period, and that civil penalties or fines will begin or be imposed immediately upon any subsequent violations of the notice.

In addition, pursuant to Municipal Code 2.26.060(D), you have the right to file a written petition of appeal to the City within ten (10) days of the Notice. Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action. In order to appeal the violation, please call 801-226-1929 ext. 2, or visit Vineyard City Offices.

Sincerely,

Briam Amaya Perez
Code Enforcement

Attachment: Site Photos



