

**CASE# PLNZAD2018-00837
Administrative Interpretation
DECISION AND FINDINGS**



REQUEST:

This is a request for an administrative interpretation regarding whether the property located at approximately 675 E. 2nd Avenue (tax ID#09-32-353-020-0000) is a legal complying lot in accordance with the Salt Lake City zoning laws. The purpose of the request is to determine if a single-family dwelling can be constructed on the property.

DECISION:

The Zoning Administrator finds that the subject property located at approximately 675 E. 2nd Avenue (tax ID #09-32-353-020-0000) is not recognized by Salt Lake City as a legal complying lot and therefore a single-family detached dwelling could not be constructed.

FINDINGS:

The subject property is currently located in the SR-1A (Special Development Pattern Residential) zoning district, and has a total lot area of approximately 5,488 square feet and approximately 33.25 feet in width. The SR-1A zone requires a minimum lot area of 5,000 square feet and 50 feet of lot width. 675 E. 2nd Avenue does meet the underlying zoning requirement for lot area for a single-family dwelling; however, the lot area was used to satisfy the minimum lot area needed for the 8-plex at 679 E. 2nd Avenue.

The Salt Lake City Zoning Ordinance states the following regarding the definition of LOT:

Lot: A piece of land identified on a plat of record or in a deed of record of Salt Lake County and of sufficient area and dimensions to meet district requirements for width, area, use and coverage, and to provide such yards and open space as are required and has been approved as a lot through the subdivision process. A lot may consist of combinations of adjacent individual lots and/or portions of lots so recorded; except that no division or combination of any residual lot, portion of lot, or parcel shall be created which does not meet the requirements of this title and subdivision regulations of the city.

Based on the documents obtained, 675 E. 2nd Avenue has been associated with 679 E. 2nd Avenue since 1889. The 1889 Sanborn Fire Insurance Map illustrates the two properties as one, with the address of 675 E. 2nd Avenue. The structure illustrated was a tenement structure. Additionally, the 1911 Sanborn Fire Insurance Map illustrates the properties as one with the address of 679 E. 2nd Avenue. The structure on the property is a two story dwelling.

A Warranty Deed from 1930, which was provided by the applicant, describes 675 E. 2nd Avenue, and transfers ownership to the Fishlers. The legal is described as:

Commencing 41½ feet East of the Southwest corner of Lot 1, Block 32, Plat "D", Salt Lake City Survey, running thence West 33¼ feet; thence North 10 rods; thence East 33¼; thence South 10 rods to the place of beginning.

This Warranty Deed notes the Fishlers as the property owners. Additionally, a Quit Claim Deed from 1934, describes 679 E. 2nd Avenue, as:

Beginning at a point 88.75 feet West of the Southeast corner of lot 1, Block 32, Plat "D", Salt Lake City Survey, and running thence West 35 feet; thence North 99 feet; thence East 35 feet; thence South 99 feet to the place of beginning.

1935 is noted as the year that the single-family dwelling was converted to an 8 unit multi-family structure. The property owner, Alice Fishler, provided a verbal testimony during a Board of Adjustment Hearing in 1968, that the property was converted in 1935. The subject property located at 679 E. 2nd Avenue was zoned B-2 in 1935. The B-2 Zoning District had specific lot requirements for multi-family dwellings, which specified the following:

Residential "B-2" District: 3,000 sq. ft. for a one-family dwelling.
4,500 sq. ft. for a two-family dwelling.
5,000 sq. ft. for a three-family dwelling.
With an additional 500 sq. ft. required for each family added.

Based on the lot requirements in 1935, the subject property would have needed a minimum of 7,500 square feet for the multi-unit conversion. 679 E. 2nd Avenue would not have met the minimum lot size without 675 E. 2nd Avenue.

Additionally, the provided Polk Directories substantiate the verbal testimony, with each of the 8 units listed within 1937.

The Warranty Deed, issued in 1938, describes 679 E. 2nd Avenue with the rear subdivided. Per additional verbal testimony in 1968, the rear of 679 E. 2nd Avenue was sold to 119 N. K Street. This subdivision further decreased the lot size of 679 E. 2nd Avenue, furthering its dependency of 675 E. 2nd Avenue. This subdivision decreased 679 E. 2nd Avenue by approximately 2,310 square feet.

The Mortgage Abstract, issued in 1943, describes both properties:

(675 E. 2nd Avenue)

Commencing at the Southwest corner of Lot 2, Block 31, Plat "D", Salt Lake City Survey, and running thence East 43¼ feet; thence North 7½ rods; thence West 43¼ feet; then South 7½ rods to the place of beginning. Together with a right of way over: Commencing 7½ rods North of the Southwest corner of said Lot 2, and running thence East 7½ rods; then North 8¼ feet; thence West 7¼ rods; thence South 8¼ feet to the place of beginning.

(679 E. 2nd Avenue)

Also, beginning at a point 88.75 feet West of the Southeast corner of Lot 1, Block 32, Plat "D", Salt Lake City Survey and running thence West 35 feet; thence North 99 feet; thence East 35 feet; thence South 99 feet; to the place of beginning.

The 1950 Sanborn Fire Insurance Map illustrates one property, addressed as 679 E. 2nd Avenue. The structure located on the subject property is noted to be 6 units and 2 stories.

The previous owners, the Fishlers, had requested two Board of Adjustment approvals. The first variance request, which was granted, was reviewed at the Board of Adjustment in 1951. At this hearing, Mrs. Fishler provided the following description in support of her reduced rear yard setback:

Case No. 2371, at 679 Second Avenue, in re application of Alice M. Fishler for a permit to add a room to the existing dwelling at 679 Second Avenue without the required side and rear yard space in a Residential "B-2" District...

Mrs. Fishler appeared in her own behalf. She explained that she wished to erect a 15' by 15 ft. addition on the rear of her existing home at 679 Second Avenue maintaining a 2-ft. side yard to her east property line instead of the required 4 ft. This would be on the same line as the rest of her dwelling. There would be a 15-ft. rear yard behind this proposed addition; however, to the west the rear yard would be far in excess of the required 25 ft.

An additional variance was requested and reviewed in 1968. At this hearing, in which the Board of Adjustment denied the requested variance, Mrs. Fishler provided the following testimony in support of her requested variance:

Case No. 5658 at 679 Second Avenue in application of Alice M. Fishler for a variance to legalize and enclose an existing attached covered patio which does not maintain the required yard areas in a Residential "R-6" District.

Mrs. Fishler was present together with Mr. Celeste Bott, contractor. Mr. Barney explained at the present time the apartment is existing with a roofed patio from the apartment proper right to the rear property line. There has been considerable research on this to find out how it has developed as it now has. The Board at one time granted an addition to the rear, within 15' of the property line, on the northeast corner of the dwelling but an addition to the west of that to square out the building has also been built, apparently without a permit. In constructing both what the Board granted and did not grant, they are closer than the 15' that was permitted. Mr. Barney went on to explain the home existed within 2' of the east property line and in 1951 the Board granted a variance to reduce the required 4' side yard to 2' so they could maintain the same 2' side yard. A 15' rear yard instead of the required 25' was also granted but there is only 12'6". They also squared it out across the entire property line at only 12'6" and then that was covered. Mrs. Fishler explained the south wall of the garages on the property to the east is used for the support of an aluminum cover over the patio' also she said they didn't do anything without a permit. When the Board asked where her tenants park, she said they park on the street. She has garages on her property but they are too small for present day cars and she has a very narrow driveway. Her purpose in enclosing the patio area is to keep out the dirt and she proposed to just glass in each end. She assured the Board it would not be for another apartment. She noted if she had any idea she would be stirring up such a hornet's nest, she would have never asked for it. Mrs. Fishler's explanation of the rear yard less than the 15' granted was that the wall of the garages (large 17" cement blocks) belonging to the property to the east was actually on this property and they took the owner into court and won the case, but through an appeal to them by the owner's wife, they decided to deed them the ground on which the garage was located. That would account for 14' but not 15'. A suggestion was made that the garden to the west be replaced with parking to get some of the cars off the street but the applicant said it would be impossible to get up over the ramp from the street...

When the applicant was asked how many units there are presently in this structure, she stated there have been eight since 1935 and there was a building permit there.

A subsequent Deed of Trust, issued in 1977, describes 675 E. 2nd Avenue. This Deed of Trust, provides the following description:

(675 E. 2nd Avenue)

Commencing 41¼ feet East of the Southwest corner of Lot 1, Block 32, Plat "D", Salt Lake City Survey, and running thence West 33¼ feet; thence North 10 rods; thence East 33¼ feet; thence South 10 rods to the place of beginning.

1980 Deed of Re Conveyance provides the following legal descriptions:

(679 E. 2nd Avenue)

Commencing 2.5 rods East from the Southwest corner Lot 1 Block 32 Plat "D", Salt Lake City Survey, East 35 feet North 6 rods, Southwesterly to a point 98.79 feet North from beginning, South 98.79 feet to the point of beginning.

ALSO:

(675 E. 2nd Avenue)

Commencing 41¼ feet East of the Southwest corner of Lot 1, Block 32, Plat "D", Salt Lake City, Survey, and running thence West 33¼ feet; thence North 10 rods; thence East 33¼ feet; thence South 10 rods to the place of beginning.

1981 Deed of Re Conveyance provides the following legal descriptions:

(679 E. 2nd Avenue)

Commencing 2.5 rods East from the Southwest corner Lot 1 Block 32 Plat "D", Salt Lake Survey, East 35 feet North 6 rods, Southwesterly to a point 98.79 feet North from beginning, South 98.79 feet to the point of beginning.

ALSO:

(675 E. 2nd Avenue)

Commencing 41¼ feet East of the Southwest corner of Lot 1, Block 32, Plat "D", Salt Lake City, Survey, and running thence West 33¼ feet; thence North 10 rods; thence East 33¼ feet; thence South 10 rods to the place of beginning.

In 1989, an additional variance was requested. The variance requested to legalize an attached, covered and enclosed patio without the required side and rear yard in a Residential "R-2" District. This variance was a request to legalize the already constructed and denied rear patio. For this Board of Adjustment Case, a site plan illustrating one property (675 and 679 E. 2nd Avenue) was provided, please reference Attachment C. The site plan provided does not demonstrate two separate properties, but rather one property with a multi-unit structure and an accessory structure. The Abstract of the Findings and Order from the approved variance was recorded against 675 E. 2nd Avenue to provide a record of the approval.

All of the discussed information is included in the provided attachments. In summary, 675 E. 2nd Avenue has supported 679 E. 2nd Avenue in regards to square footage, accessory structure and to gain variance approvals. Additionally, this decision is consistent with the definition of "Lot" on page 1, which states that *"A lot may consist of combinations of adjacent individual lots and/or portions of lots so recorded."*

APPEAL PROCESS:

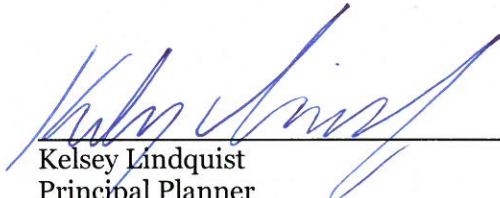
An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <http://www.slcgov.com/planning/planning-applications> along with information about the

applicable fee. Appeals may be filed in person at the Planning Counter, 451 South State Street, Room 215 or by mail at Planning Counter PO BOX 145471, Salt Lake City, UT 84114-5471.

NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.

Dated this 3rd day of December, 2018 in Salt Lake City, Utah.

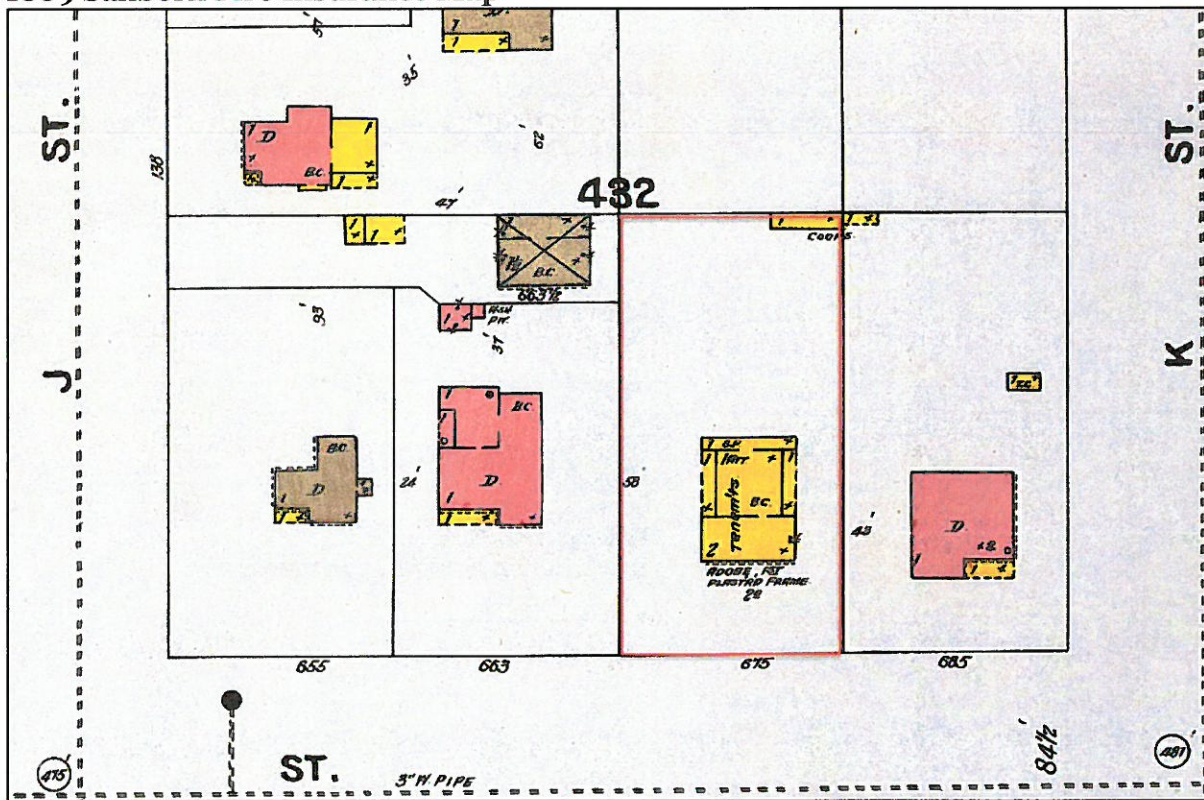


Kelsey Lindquist
Principal Planner
Salt Lake City Planning Division

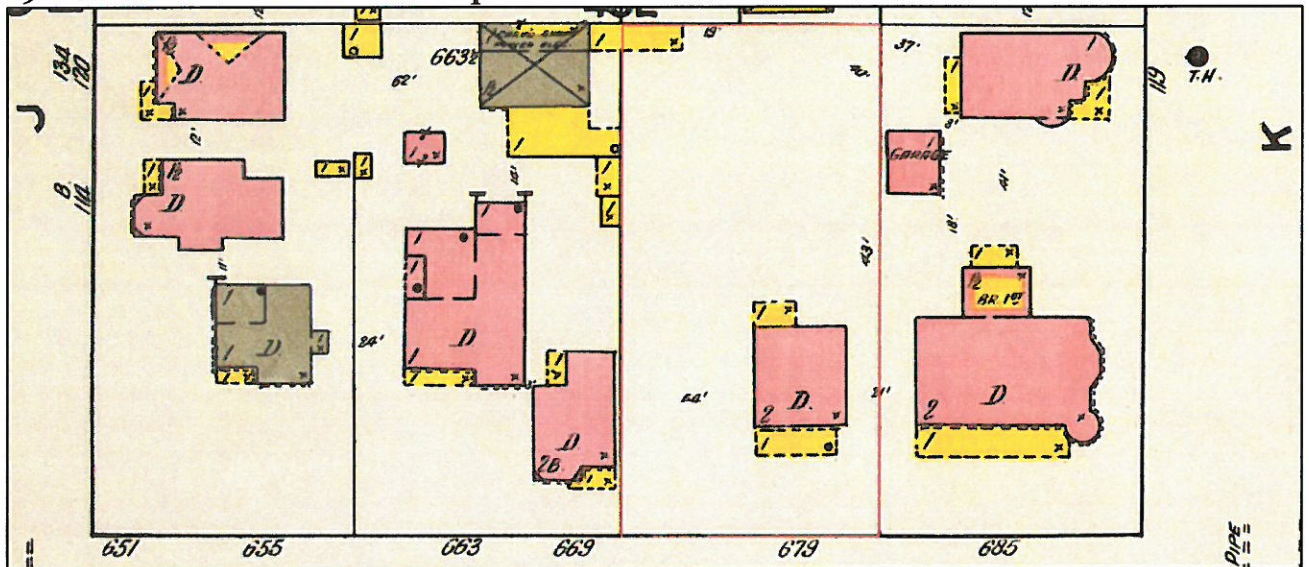
CC: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Molly Robinson, Planning Manager
Greg Mikolash, Development Review Supervisor
Posted to Web
Applicable Recognized Organization
File

ATTACHMENT A

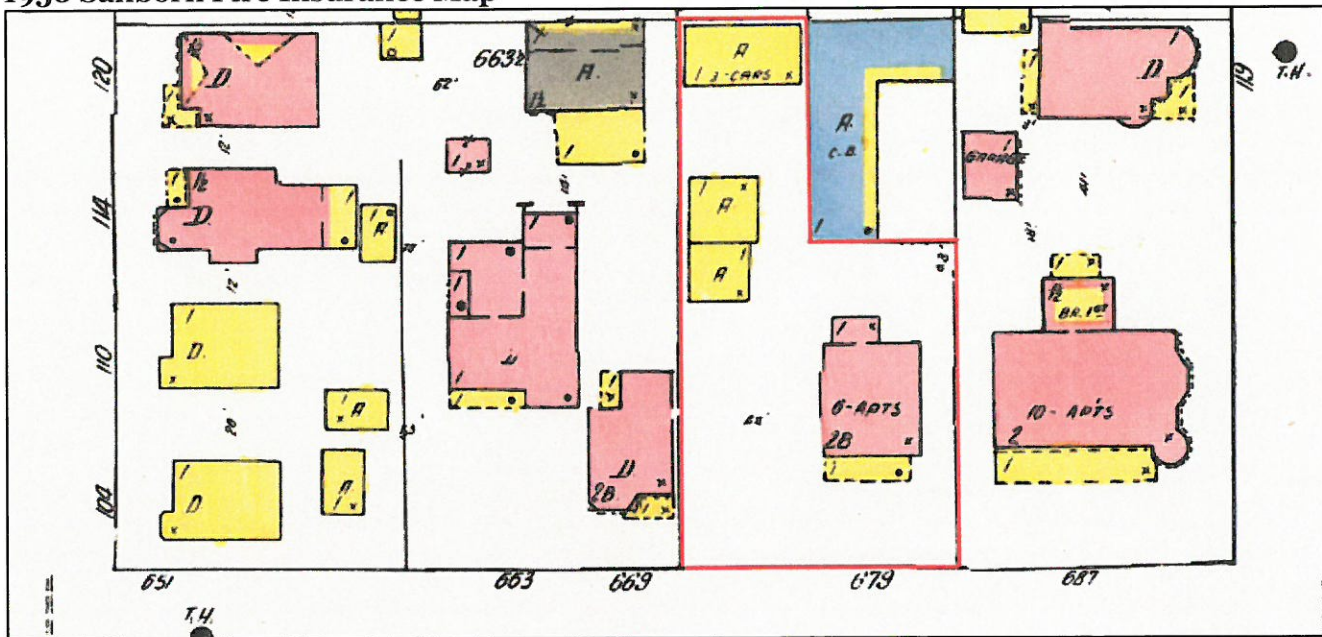
1889 Sanborn Fire Insurance Map



1911 Sanborn Fire Insurance Map



1950 Sanborn Fire Insurance Map



ATTACHMENT B

Board of Adjustment 1989 Site Plan

