

February 24, 2020

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2019-01103**



REQUEST:

This is a request to allow a carport that was constructed without approval from Salt Lake City. The applicant is requesting to keep the carport due to the unique circumstance of the property. The property where the carport was built is on an accessory lot not attached to the lot with the primary residence. The subject property is located at 427 N I Street in the SR-1A zoning district.

Construction drawings for the subject carport have not been reviewed. The purpose of this interpretation is not to determine if the carport that was constructed meets zoning requirements. This interpretation will determine if a carport could be built and, if so, what process is required to review and approve the carport.

DECISION:

The constructed carport is not authorized by Salt Lake City zoning regulations "by-right", meaning that it is not allowed without review through a special process. The existing parking stall that is located on a separate lot than the lot containing the principal use (single-family home) is considered an "accessory use on an accessory lot". The subject accessory use on an accessory lot is considered a legal nonconforming use. Building a carport over the existing parking stall is an alteration/expansion of the nonconforming use, which requires review and approval through the Special Exception process in accordance with Sections 21A.38.040H2 and 21A.52 of the Salt Lake City Zoning Ordinance (Zoning Ordinance). This interpretation in no way implies that a special exception would be approved. It merely states the process available to the applicant.

Since the accessory lot was created for the sole purpose of providing an area for accessory uses to the principal lot, the setback requirements are those stipulated in the Accessory Uses, Buildings and Structures chapter of the Zoning Ordinance. In particular, the accessory structure (in this case, the carport) must be located at least one foot from the side and rear property lines and meet all other regulations stipulated in 21A.40.050 of the Zoning Ordinance.

FINDINGS:

This interpretation is broken down into two separate topics: 1) Do zoning regulations allow for the construction of a carport on the subject property; and 2) Where can the carport be constructed.

1) Do Zoning Regulations allow for the Construction of the Subject Carport

The property located at 471 N I Street consists of two separate pieces of property. The main property is located along I Street and contains a single-family dwelling. The other property is considered an accessory lot located interior to the block and accessed from an alleyway. Both pieces of property have the same street address and County tax identification number. The accessory lot has been used, historically, for parking, which is an accessory use to the single-family home.

Zoning regulations once allowed accessory uses, such as parking, garages, etc. on accessory lots.

In 2011, the City Council changed the ordinance and repealed the section of the code that allows accessory uses on accessory lots meaning that they are no longer permitted. When a use was once allowed and the ordinance changes to no longer allow it, it becomes a nonconforming use. It can remain as it originally functioned, but there are limitations to changes that can be made.

As stated, the parking area on the accessory lot is a nonconforming use and, as such, requires special consideration when making improvements. The nonconforming use regulations (21A.38.040, SLC Zoning Ordinance) state that a structure containing a nonconforming use can be altered/expanded under certain parameters. Parking is considered a structure according to the Zoning Ordinance definition (21A.62):

STRUCTURE: Anything constructed or erected with a fixed location on the ground or in/over the water bodies in the city. Structure includes, but is not limited to, buildings, fences, walls, signs, and piers and docks, along with any objects permanently attached to the structure. (emphasis added)

As stated in the above definition, the parking area was constructed or erected with a fixed location on the ground; therefore, it is considered a structure. Enclosing the parking area with a garage or carport would be considered an expansion of the nonconforming use. Section 21A.38.040H2 of the Zoning Ordinance regulates the alteration or expansion of a structure with a nonconforming use and reads as follows:

Enlargement Of A Structure With A Nonconforming Use: Alterations or modifications to a portion of a structure with a legal nonconforming use may be approved by special exception, subject to the provisions of chapter 21A.52 of this title, if the floor area does not increase by more than twenty five percent (25%) of the gross floor area, or one thousand (1,000) gross square feet, whichever is less and subject to the site being able to provide required off street parking within the limits of existing legal hard surfaced parking areas on the site. An approved expansion shall be documented through an updated zoning certificate for the property. Any expansion to the nonconforming use portion of a structure beyond these limits is not permitted. (emphasis added)

The Zoning Ordinance defines “gross floor area” as:

Gross floor area (for determining size of establishment) means the sum of the gross horizontal area of all floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area of a building shall include basement floor area, penthouses, attic space having headroom of seven feet (7') or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses. Space devoted to open air off street parking or loading shall not be included in floor area. (emphasis added)

As stated in the definition, “open air off street parking” is excluded from the calculation of gross floor area; therefore, enclosing the parking area with a carport would not increase the floor area of the nonconforming use (parking area). Since the proposed carport would not increase the floor area of the nonconforming use, it could be allowed as a special exception according to 21A.38.040H2 and 21A.52 of the Zoning Ordinance.

2) Where can the carport be constructed (What are the yard and bulk requirements)

Although it is uncommon in the City, there are several circumstances in the Avenues community where accessory lots were developed interior to the block and accessed by an alley. These lots were developed specifically to provide an area for accessory functions, such as parking and storage. They were not created as standalone developable lots and they do not have frontage on a street; therefore, the City does not impose the typical front yard, side yard and rear yard setback requirements as would be imposed on a principal, developable lot.

As stated, the subject lot was created for accessory functions only. Accessory uses are allowed only in the buildable area or rear yard of a principal lot. The subject lot is not considered a principal lot; however, it is part of the principal lot since it has the same street address and County tax id identification number. Since the subject lot is part of the principal lot and was created for accessory purposes, the accessory lot functions as the rear yard of a principal lot.

Section 21A.40.050A4a provides the required setbacks for accessory buildings in rear yards and states that they must be located at least one foot from the side and rear property lines, which are defined as follows:

LOT LINE, INTERIOR SIDE: "Interior side lot line" means any lot line between the front and rear lot lines which does not abut a public street.

LOT LINE, REAR: "Rear lot line" means that boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.

As stated in the definitions, the rear and side lot lines are dependent on the location of the front lot line, which is defined as follows:

LOT LINE, FRONT: "Front lot line" means that boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way. On corner lots, the property owner shall declare the front lot line and corner side yard line on a building permit application. In the case of landlocked land, the front lot line shall be the lot line that faces the access to the lot. (emphasis added)

According to the definitions above, the front lot line of the subject accessory lot is the lot line along the access to the lot (the alley). The side and rear lot lines are in the locations stated in the above definitions and the subject carport must be located at least one foot from these property lines. The carport is also subject to all other yard, bulk, and height regulations stated in Section 21A.40.050 of the Zoning Ordinance.

If you have any questions regarding this interpretation, please contact Wayne Mills at (801) 535-7282 or by email at wayne.mills@slcgov.com.

APPEAL PROCESS:

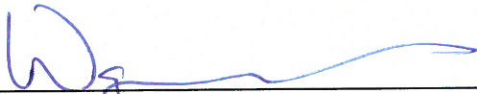
An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and 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

<https://www.sl.c.gov/planning/applications/> along with information about the applicable fee. Appeals may be filed in person or by mail at:

In Person: Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT		US Mail: Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT 84114-5417
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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.



Wayne Mills
Planning Manager

cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Greg Mikolash, Development Review Supervisor
Posted to Web