Taylor Accessory Structure Variance  
Petition No. PLNBOA2012-00173  
2260 E Parleys Terrace  
June 21, 2012

Applicant:  
Markay Johnson, contractor

Staff:  
Michael Maloy (801) 535-7118 or michael.maloy@slcgov.com

Tax ID:  
16-22-328-009

Current Zone:  
R-1/12,000 Single-Family Residential

Master Plan Designation:  
Very Low Density Residential (less than 5 dwelling units per acre), Sugar House Community Master Plan  
(adopted November 13, 2001)

Council District:  
District 7 – Søren Simonsen

Community Council:  
Sugar House – Christopher Thomas, Chair

Lot Size:  
1.04 acres (∼45,302 square feet)

Current Use:  
Single Family Residence

Applicable Land Use Regulations:  
- 21A.18 Variances  
- Section 21A.24.050 R-1/12,000 Single-Family Residential District  
- Section 21A.40.050 General Yard, Bulk and Height Limitations

Notification:  
- Notice mailed June 6, 2012  
- Sign posted June 7, 2012  
- Posted to Planning Department and Utah State Public Meeting websites June 5, 2012

Attachments:  
A. Property Photographs  
B. Site Plan  
C. Development Renderings  
D. Floor Plan  
E. Petition Narrative  
F. Department Comments

Request

The applicant, Markay Johnson, contractor, in behalf of J.B. and Hillary Taylor, property owners, request approval of a variance to construct a 2,000 square foot detached accessory structure within an R-1/12,000 Single-Family Residential District. City Code 21A.40.050.B.2 states that the maximum building coverage of an accessory structure is 720 square feet in the R-1/12,000 District. The proposed building coverage exceeds the maximum by 1,280 square feet. The Appeals Hearing Officer has final decision authority for a variance petition. In order to approve the petition, the Appeals Hearing Officer must find that all of the standards for a variance are met.

Recommendation

Based on the findings listed in the staff report, it is the opinion of Staff that the project does not satisfy each one of the required standards of review and therefore recommends the Appeals Hearing Officer deny the request.

Potential Motions

Consistent with Staff Recommendation.  
Based on findings listed within the staff report, testimony received, and plans presented, I deny Petition number PLNBOA2012-00173 for a variance to exceed the maximum building coverage of a detached accessory structure at 2260 E Parleys Terrace.

Not Consistent with Staff Recommendation.  
Based on information contained within the staff report, testimony received, and plans presented, I approve Petition number PLNBOA2012-00173 for a variance to exceed the maximum building coverage of a detached accessory structure at 2260 E Parleys Terrace.

(If motion is for approval, the Appeals Hearing Officer must find the variance consistent with the general standards listed below.)

1. 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 Zoning Ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
4. The variance would not substantially affect the general plan of the City or be contrary to the public interest.
5. The spirit of the Zoning Ordinance is observed and substantial justice done.
**Project Information**

**Project Description**

On March 26, 2012, the applicant submitted petition number PLNBOA2012-00173 for a variance to exceed the maximum building coverage of an accessory structure to be constructed on property located at 2260 E Parleys Terrace, which is approximately equivalent to 2480 South. According to information received from the applicant, the subject property contains a recently constructed (circa 2009) 4,391 square foot single-family dwelling on approximately 1.04 acres, or 45,302 square feet of property (see Attachment A – Property Photographs).

The proposal is to construct an accessory structure that would measure approximately 50'-0" wide by 40'-0" deep. The proposed accessory structure would be located within the rear yard and cover approximately 2,000 square feet of ground (see Attachment B – Site Plan). The proposed accessory structure would be approximately 15'-0" tall. If approved, a portion of the building will be buried or sunken below grade to reduce the measurable height of the accessory structure and minimize its visual impact (see Attachment C – Development Renderings).

The property is zoned R-1/12,000 Single-Family Residential District. City Code 21A.40.050.B.2.a limits building coverage of all accessory structures to “fifty percent (50%) of the building footprint of the principal structure up to
...a maximum of seven hundred twenty (720) square feet for a single-family dwelling.” The proposal will exceed the maximum building coverage by 1,280 square feet.

If permitted, the accessory structure would be used for indoor recreational activities, such as basketball and squash, and personal storage (see Attachment D – Floor Plan). However, according to statements made by the applicant, the primary purpose for exceeding the accessory structure building coverage regulation is to mitigate noise (see Attachment E – Petition Narrative). The rear yard of the subject property is adjacent to The Country Club, which is a private golf course adjacent to Interstate-80 (I-80). Based on data obtained from the Salt Lake City Geographic Information System, the subject property is located approximately 794 feet from I-80, which is the source of the noise.

### Project Details

<table>
<thead>
<tr>
<th>Regulations for Accessory Structures within R-1/2,000 Single-Family Residential District</th>
<th>Requirement</th>
<th>Current Development</th>
<th>Proposed Development</th>
<th>Complies?</th>
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<tr>
<td>Minimum Corner Side Yard Setback from Property Line</td>
<td>20'-0&quot;</td>
<td>N/A</td>
<td>N/A</td>
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<td>Minimum Interior Side Yard Setback from Property Line</td>
<td>1'-0&quot;</td>
<td>N/A</td>
<td>28'-0&quot; east side yard 52'-0&quot; west side yard</td>
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<tr>
<td>Minimum Rear Yard Setback from Property Line</td>
<td>1'-0&quot;</td>
<td>N/A</td>
<td>20'-0&quot;</td>
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<td>Minimum Setback from Principal Building</td>
<td>4'-0&quot;</td>
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<td>81'-0&quot;</td>
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<td>Maximum Rear Yard Coverage</td>
<td>50%</td>
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<td>10.75%</td>
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<tr>
<td>Maximum Building Coverage (for all accessory structures)</td>
<td>50% of building footprint up to 720 square feet</td>
<td>N/A</td>
<td>2,000 square feet</td>
<td>No</td>
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<td>Maximum Building Coverage (for all structures)</td>
<td>40% of lot</td>
<td>9.69%</td>
<td>14.11%</td>
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<td>Maximum Height of Accessory Structure</td>
<td>17'-0&quot;</td>
<td>N/A</td>
<td>15'-0&quot;</td>
<td>Yes</td>
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</table>

### Comments

#### Public Comments

Prior to publication, staff received four comments from residents who opposed the petition.

#### Transportation Division Comments

On May 11, 2012, Barry Walsh, Engineering Technician VI of the Salt Lake City Transportation Division, reviewed the request and recommended approval (see Attachment F – Department Comments).

### Analysis

#### Options

If the Appeals Hearing Officer denies the variance, the applicant would be allowed to construct an above grade 720 square foot accessory structure. If denied, the applicant may also pursue development plans of a 2,000 square foot below grade structure that is not subject to the building coverage regulation previously cited. However, according to statements made by the applicant, the property owner had previously considered a below grade structure, but preferred the current proposal in order “to have zero impact on (existing) trees.”

Regarding the property owners desire to mitigate noise, the applicant may pursue a permit to construct a sound attenuating wall along the rear (south) property line that parallels I-80. However, this course of action would require removal of mature hillside vegetation (see Attachment A – Property Photographs).

If the Appeals Hearing Officer approves the variance, the Appeals Hearing Officer must find the proposal compliant with all five of the approval standards listed on page one of this staff report.
General Standards of Review

The standards required for granting a variance are set forth in Utah Code 10-9-707 and Salt Lake City Code 21A.18.060, which standards are provided below. If the Appeals Hearing Officer finds that the following standards are met, then the variance to exceed the maximum lot coverage to accommodate the proposed accessory structure may be granted.

Standard 1: Does literal enforcement of the Zoning Ordinance cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Zoning Ordinance?

Section 21A.18.060.B of Salt Lake City Code provides direction to the Appeals Hearing Officer in determining if an “unreasonable hardship” exists. Specifically, Section 21A.18.060.B.1 states the following provisions:

The alleged hardship is related to the size, shape or topography of the property for which the variance is sought.

Finding: One of the applicant’s claims is that the 45,302 square foot lot creates a hardship, because the zoning regulation was intended for 12,000 square foot lots. However, the previously cited building coverage regulation is identical to other residential districts within the City, including the FR-1/43,560 Foothills Estate Residential District, which has a minimum lot area of 43,560 square feet.

The applicant also claims the hardship is caused by excessive noise from I-80. According to information received from the applicant, the property owner believes that the presence of sound walls along the south side of I-80, and the lack of sound walls along the north side of I-80 reverberates and amplifies the freeway noise into the backyard of the subject property. Although the topography of the property, which slopes downward from north to south toward I-80, may not suitably buffer the aforementioned noise, this condition is common to other properties along the block face.

Staff finds that the size of the “atypical” lot does not prevent the applicant from complying with the applicable regulation, and the alleged hardship is not related to the size, shape, or topography of the property.

Also relative to Standard 1, Section 21A.18.060.B.2 also states the following:

The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

Finding: As stated previously, one of the applicant’s claims is that the lot is “much larger than other properties . . . in Salt Lake City.” However, with respect to “conditions that are general to the neighborhood” there are 18 parcels on the Parleys Terrace block face from approximately 2100 East Street to 2300 East Street. The largest parcel contains 1.04 acres, while the smallest parcel contains 0.26 of an acre. The average (or mean) parcel size for the block face is 0.621 of an acre, or 27,055 square feet, which is 2.25 times larger than the minimum lot size requirement for the R-1/12,000 District. Based on the aforementioned analysis, staff finds that “larger” lots are general to the neighborhood and that the alleged hardship does not “come from circumstances that are peculiar to the property.” Therefore, staff finds that an “unreasonable hardship” based on “circumstances peculiar to the property” does not exist in this case.

Finally, Section 21A.18.060.C provides the following:

The hardship is not self-imposed or economic.
Finding: Although the applicant is not responsible for the shape, size, location, or topography of the lot, the applicant is able to construct a 2,000 square foot structure below grade in a manner that is compliant with City Code. The applicant has not claimed an economic hardship, but it is self-imposed (see Attachment D – Petition Narrative).

Standard 2: Are there special circumstances attached to the property that do not generally apply to other properties in the same district?

Section 21A.18.060.D.1 provides direction to the Appeals Hearing Officer in determining whether or not there are special circumstances attached to the property. Section 21A.18.060.D.1 states:

The special circumstances relate to the alleged hardship.

Finding: As stated previously, the circumstances related to the alleged hardship are common to the block face and does not constitute a peculiar or “special” circumstance related to the “alleged hardship.”

Section 21A.18.060.D.2 also states:

The special circumstances deprive the property of privileges granted to other properties in the same zoning district.

Finding: The applicant is able to construct the maximum size accessory structure allowed by City Code. As such, staff finds that there are no “special” circumstances that relate to the “alleged hardship” or deprives the property owner of privileges granted to other properties in the same zoning district.

Standard 3: Is granting the variance essential to the enjoyment of a substantial property right possessed by other properties in the same district?

Finding: The proposed accessory structure is 1,280 square feet larger than permissible for the subject property. Based on information derived from a 2010 aerial photograph of the contiguous zoning district, staff determined that other properties did not generally or noticeably “enjoy” accessory structures—similar in size—to the applicant’s proposal. Although the property owners claim that granting the variance—in order to reduce noise—is essential to the enjoyment of the property, the applicant may seek permission to construct a sound attenuated wall along the rear yard property line to mitigate the freeway noise. In conclusion, staff does not find that granting the variance is essential to the enjoyment of a substantial property right.

Standard 4: Will the variance substantially affect the general plan or be contrary to the public interest?

Finding: If approved, the variance would permit an accessory structure that exceeds the maximum zoning requirements for building coverage within the R-1/12,000 District. However, there is no evidence that approval of the petition would substantially affect the general plan for the neighborhood, which is the Sugar House Community Master Plan. Regarding public interest, staff received four telephone calls from residents of the community who oppose the petition.

Standard 5: Is the spirit of the Zoning Ordinance observed and substantial justice done?

Finding: Section 21A.24.050 of Salt Lake City Code states:

The purpose of the R-1/12,000 single-family residential district is to provide for conventional single-family residential neighborhoods with lots twelve thousand (12,000) square feet in size or larger. This district is appropriate in areas of the city as identified in the applicable community master plan. Uses are intended to
be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood (italics added for emphasis).

Also, Section 21.40.010 of Salt Lake City Code, which is the purpose statement for Accessory Uses, Buildings and Structures, states:

This chapter is intended to provide general regulations, applicable to all zoning districts, for accessory uses, buildings and structures which are customarily incidental and subordinate to the principal use and which are located on the same lot. It is further intended to provide specific standards for certain accessory uses, buildings and structures (italics added for emphasis).

The intent of the proposal is to build an accessory structure for private recreational use—which use is compatible with the R-1/12,000 District—that would attenuate freeway noise. However, building coverage restrictions are a common and legally accepted zoning practice intended to prohibit excessive development, preserve access to light and air, reduce storm water run-off, promote landscaping, and form an orderly built environment. Whereas the applicant is able to construct a below grade structure and a sound attenuating wall in a manner that is compliant with City Code, approval of the variance is not necessary to ensure that “substantial justice” is done. Therefore staff does not find the proposal compliant with the “spirit of the Zoning Ordinance.”
Property Photographs of 2260 E Parleys Terrace

Southerly View of Single-Family Dwelling Front façade

Northerly View of Single-Family Dwelling Rear façade
Southerly View of Approximate Location for Accessory Structure

Southeasterly View of Rear Yard Landscaping and Abutting Property
Northwesterly View of Rear Yard Landscaping and Fence

Southerly View of Rear Yard and Interstate 80 Corridor
SITE PLAN
2260 E. PARLEYS TERRACE

SCALE: 1"=20'-0"
AT TALLEST POINT-15 feet from current grade
The square foot maximum on an accessory structure presents a hardship to our family as it inhibits our ability to control the I-80 Interstate noise level on our property.

We own an atypical property in Salt Lake City. It is 1+ acre, has no backyard neighbor, and sits next to homes along the Salt Lake Country Club golf course. These homes contain buildings that help to block the sound of Interstate I-80 freeway. The other side of the freeway, on the county side, has a sound wall/barrier. The city of Salt Lake has never been interested or shown plans to build a sound wall along our side of the freeway. It is well known that a one-sided barrier exaggerates the sound to the properties that lie on the non-barrier side of the freeway. The sound greatly impacts the enjoyment of our yards along the golf course. A building is the only means of blocking sound, as there are numerous studies that show trees do not block sound.

We are interested in retaining all the old trees on our property as well. The trees bring beauty to our yard, city and to the cityscape. However, our children often complain of the noise while playing. We feel that we should be able to build an ancillary structure to block sound and allow enjoyment of the backyard space. Noise levels will only increase as the Wasatch population increases, and we feel it is a hardship to bear freeway noise that the city has not attempted to alleviate with a sound barrier. We feel the code was written for lots that are not comparable to ours in situation, size, or noise level classification. The code regarding maximum size of accessory structure, as written, presents a hardship to our family’s use of our backyard property.

Thank you,

Hillary & JB Taylor
1) Our proposed construction would not meet the ordinance because it exceeds 720 square feet. The accessory building we wish to construct is 10’ above ground and has a footprint of 40’x50’. It is approximately 2000 square feet.

2) Overlay ordinance.

3) We cannot build a structure that blocks sound if it is underground, and second, we want to be environmentally conscious of mature trees (50’ high pines) that have been on the lot and preclude building the structure attached to our existing home.

4) This is an unreasonable hardship that is not necessary to carry out the purpose of the Overlay Ordinance because:
   a. Our lot is a 1.04 acre size property. It is several times larger than an average lot contemplated by the Overlay Ordinance. However, our children cannot use the backyard because of the excessive freeway noise and the city has not pursued or shown any intention to build a sound barrier for our section of the I-80 freeway in Salt Lake City.

5) The special circumstances that exist on our property, which do not generally apply to other properties in the Overlay Ordinance are:
   a. We do not have a neighbor to the south of our property.
   b. Our property is much larger than other properties in the Overlay district areas of Salt Lake City, therefore our proposed structure poses no impact on neighboring properties.
   c. Our property is situated in a very noisy location due to the I-80 freeway and County side sound wall. The noise is amplified for our side of the freeway.
   d. We have very old, tall trees on our lot. We feel these trees are important for our neighborhood and even cityscape. The recent windstorm took many of these types of trees from our neighborhood and we feel it is of utmost importance to retain these trees. Our proposed structure and location is designed to have zero impact on these trees.

6) This variance is essential to enjoy the same property rights as others in the same zoning district because many of our neighbors have created multiple accessory buildings to curb freeway noise.

7) Yes, the variance would uphold the general zoning plan and not negatively affect the public interest because it would allows us to
   a. Retain trees
b. Create a no-impact building, perfectly situated

c. Lessen freeway noise for others on our street

8) This variance observes the spirit of the zoning ordinance because it does not build a large, poorly proportioned building to lot size. Our neighbors will not be able to see this building. Additionally, the Overlay Ordinance should encourage protection of mature neighborhood trees.
<table>
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<tr>
<th>Date</th>
<th>Task/ Inspection</th>
<th>Status/ Result</th>
<th>Action By</th>
<th>Comments</th>
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<td>6/11/2012</td>
<td>Transportation Staff Review</td>
<td>Complete</td>
<td>Walsh, Barry</td>
<td>The Division of Transportation review comments and recommendation are as follows:</td>
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<td>The proposed accessory structure located in the back yard present no impact to the required onsite parking or pedestrian and vehicular access.</td>
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<td>Barry Walsh</td>
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