

APPEALS HEARING OFFICER STAFF REPORT



Planning Division
Department of Community &
Economic Development

Parsons' Carport Variance PLNBOA2011-00715 222 'L' Street Public Hearing: October 3, 2012

Applicant:

Bliss Parsons and Veronica Parsons,
property owner

Staff:

Katia Pace (801) 535-6354
katia.pace@slcgov.com

Tax ID:

09-32-330-004-0000

Current Zone:

SR-1A Special Development Pattern
Residential District

Master Plan Designation:

Low-Density 4-8 Units per Gross Acre
Avenues Master Plan
(Adopted July 1987)

Council District:

Council District 3, Stan Penfold

Community Council:

Greater Avenues Community Council
John K. Johnson (Chair)

Lot Size:

10,189.75 square feet (.23 acres)

Current Use:

Multi Family Dwellings

Applicable Land Use Regulations:

- 21A.24.080 SR-1A District
- 21A.40 Accessory Uses, Buildings and Structures
- 21A.18 Variances

Notification:

- Notice mailed September 19, 2012
- Sign posted September 24, 2012
- Posted to Planning Department and Utah State Public Meeting websites September 20, 2012

Attachments:

- A. Applicant's Information
- B. Site Plan
- C. Photographs
- D. Transportation Comments
- E. Building Permit History

Request

A request by Bliss and Veronica Parsons for a variance to legalize a portion of a carport that was constructed without permits and construct an additional carport on the property located at 222 "L" Street. The existing carport does not comply with setback, size and lot coverage regulations.

The proposed carport exceeds the maximum building coverage allowed and a portion of it is proposed to be located in the side yard. The subject property is located in the SR-1A (Special Development Pattern District) zoning district and the Avenues Historic District. The Appeals Hearing Officer has final decision authority for a variance request. In order to approve the request, 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 Planning Staff's opinion that the variance requested does not meet all of the five standards for a variance and 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 PLNBOA2011-00715 for a variance to exceed the maximum building coverage and to reduce the side yard setback at 222 'L' Street.

Not Consistent with Staff Recommendation

Based on information contained within the staff report, testimony received, and plans presented, I approve Petition number PLNBOA2011-00715 for a variance to exceed the maximum building coverage and to reduce the side yard setback at 222 'L' Street.

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.

Vicinity Map



Background

Project Description

City records shows building permits for a 12 unit apartment and a carport and storage obtained in 1965 for the subject property. Sometime between the years 1973 and 1986 the zoning for this property changed from R-6 (Multi Family Residential) to R-2 (Single and Two Family Residential) and again in 1995 to SR-1 (Special Development Pattern Residential). The property has had an existing carport with four spaces and a storage unit with a total of 930 square feet for accessory structures. Due to the zoning change these structures have become legal noncompliant structures since the total square footage allowed currently is 600 square feet.

In 2011, an additional carport with three spaces and with 432 square feet was built without a permit and consequently the property is being enforced because of lack of a building permit. The applicant would like to legalize the carport built in 2011 and would like to request an additional 288 square foot carport with two parking spaces.

The applicant states the reasons for a Variance are as follows:

- The additional carport is necessary in order to attract a better class of tenants.
- Most other apartments in the area have covered parking.
- The additional carport is necessary to compete with other apartments in the area.
- This problem was created when the property was down zoned from multiple unit to single family & duplexes units.
- The additional carport will not have a negative impact on other property owners or the general public.
- Allowing carports will increase the quality of life for the tenants and increase the tax base for the City.

Comments

Public Comments

Two property owners called to explain their concern that the applicant is using a property that is a right-of-way which he does not have an easement to access the carport on the northeast portion of the property, which is the carport that the applicant is requesting to be legalized.

Transportation Division Comments

The Division of Transportation review comment and recommendation are as follows:

The proposed carports are shown replacing open parking stalls. Provide parking calculations to document the present compliance status along with documentation of all access easements from both alleys ways and dimension the stall depth and back out area for each parking space. Indicate no ADA parking required due to height of proposed carports. Minimum ADA van stalls to be 8'-2" high. See Attachment D for notes on site plan.

Analysis

Options

Options for this variance request include denying the variance, approving the variance or approving a modified request. Utah state law requires that a variance must meet all five standards in order to be approved. If one standard is not met, then the variance request must be denied. Furthermore, City ordinance prohibits variances that:

- Are intended as a temporary measure;
- Are greater than the minimum variation necessary to relieve the unnecessary harshship demonstrated by the applicant; and
- Authorizes uses not allowed by law.

If it is determined that the proposed variance fits one of the above mentioned situations, then a request for a variance must be denied.

Zoning Analysis

The following is a comparison between what is permitted and what is being requested relative to the request for a variance:

Regulation	Zoning Reference	Zoning Regulation	Carport to be Legalized	Proposed Carport
Side Yard	21A.40.050.A.3	Accessory buildings are prohibited in any required interior side yard		To be located on the South side yard
Maximum Building Coverage	21A.24.080.F	The surface coverage of all principal and accessory buildings shall not exceed forty percent (40%) of the lot area.	41.65%* (432 square feet)	44.5%* (288 square feet)
* <i>Principal Structure</i> 2,882.14 ft ² <i>Legal noncompliant</i> 930 ft ² <i>To be Legalized</i> 432 ft ² <i>Proposed</i> 288 ft ² <i>Total lot area</i> 10,189.75 ft ²				

Other Issues

The following are other issues related to this request:

1. The accessory structure coverage exceeds the 600 square feet required. If approved, the total accessory structure footage would be 1,650 square feet. However, excess accessory structure coverage is a Special Exception that would be reviewed by the Historic Landmark Commission.
2. According to the Building Code any structure less than 5 feet from the property lines requires a firewall.
3. The applicant does not have an easement to access the carport to be legalized and in order for the carport to get a building permit, an easement would be required.

Findings

General Standards of Review

The standards of review for a variance are set forth in the Utah Code 10-9-707 and Salt Lake City Code 21A.18.060. The Salt Lake City Zoning Ordinance Standards are as follows:

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?

Regulatory Provisions:

1. *The alleged hardship is related to the size, shape or topography of the property.*
2. *The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
3. *The hardship is not self-imposed or economic.*

Finding: The existing noncompliant and proposed carports exceed the 40% of the lot area by 4.5%, or 358 square feet. According to the Salt Lake County records the apartment building has 12 one-bedroom units. There are 9 parking spaces in the back of the property and an additional 2 spaces along the street. With 11 parking spaces the property is one space short of complying with the Zoning Ordinance. The number of parking spaces does not change with the carports.

The lot has an irregular shape and the request to build in the side yard can be attributed to the awkward layout of the carports because of the lot shape. However, the need for additional building coverage cannot be associated with a hardship related to size, shape or topography of the property.

The reason for building additional carport to attract a better class of tenants is an economic hardship and is not a valid reason for a variance.

Staff finds that the variance request does not meet this standard.

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

Regulatory Provisions:

1. *The special circumstances relate to the alleged hardship.*
2. *The special circumstances deprive the property of privileges granted to other properties in the same zoning district.*

Finding: The property is allowed to retain the existing legal noncompliant carport and storage area. There are other multi-family structures with carports in the Avenues, and in the same zoning district. However, there is no sufficient evidence to determine that the majority of the apartments in the area have covered parking. For the most part, these properties are in a similar situation as the subject property, in that they are noncompliant structures and are limited to the requirements of the current zoning district.

The subject property does not have special circumstances that are related to the alleged hardship. Staff finds that the variance request does not meet this standard.

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

Findings: Although the applicant claims that granting the variance is essential to the enjoyment of the property in terms of providing covered parking for the tenants of the apartment, covered parking is not recognized as a “substantial property right” by the City because covered parking is not required by ordinance and individual property owners are allowed a maximum size of accessory structure. In this instance, the subject property already has an accessory structure that exceeds the maximum allowed footprint size in the SR-1A zoning district. In essence, the property has exceeded the development right allowed under the zoning ordinance that currently exists. Granting the variance is not essential to the enjoyment of a substantial property right that is enjoyed by other properties in the same zoning district.

Staff finds that the variance request does not meet this standard.

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

Findings: An overview of the area shows other multi-family structures that have a variety of carport sizes and locations. Therefore there is no evidence that the request will substantially affect the Avenues Master Plan.

Staff finds that the variance meets this standard.

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

Findings: The purpose of the SR-1A Special Development Pattern Residential zoning district is “to maintain the unique character of older predominately single- and two-family dwelling neighborhoods that display a variety of yards, lot sizes and bulk characteristics.” Although the character of the district is predominately single- and two-family dwellings, the apartment building has existed at this location since 1965. The carport is located in a yard that does not negatively impact the streetscape and is generally compliant with the purpose statement.

Staff finds that the variance request meets this standard.

***Attachment A
Applicant's Information***

Please provide the following information. Use additional sheets, if necessary

1. Describe your proposed construction and specifically how it would not meet the zoning ordinance.

Installation of carports for the tenants. The new carports would exceed the allowance for accessory structures on the property. In fact the existing accessory building already exceeded the allowance this occurred when the property was down zoned to single family and duplexes from multiple unit

2. Cite the zoning ordinance that prevents your proposed construction from meeting the zoning requirements.

Accessory building and structures in yards: Accessory buildings and structures may be located in a required yard subject to section 21A.36.020, table 21A.36.020B, "Obstructions In Required yards" and section 21A.40.050 of the

3. What special circumstances associated with the subject property prevent you from meeting the zoning requirements? (Reasons for your variance request may not be economic).

In order to attract a better class of tenants as required by the new Land Lord tenant ordinance passed by the City. In order to compete with other apartments in the area we must be able to offer covered parking. This problem was created when the property was down zoned from multiple unit to single family & duplexes units.

4. Explain how the literal enforcement of this Zoning Ordinance causes an unreasonable hardship that is not necessary in carrying out the general purpose of this Zoning Ordinance.

The enforcement of this zoning Ordinance would cause if not make it impossible to attract a better class of tenants. I would not rent a place that did not have covered parking if I were looking for an apartment.

5. Explain what special circumstances exist on the subject property, which do not generally apply to other properties in the same zoning district. The law requires that the Board of Adjustment identify a property-related hardship before granting a variance. For example, size, grade of lot, etc. Most other apartments in the same area have covered parking.

There is enough property to accomplish the installation of carports but the present zoning and space requirements would prevent installation of carports. Most other apartments in the area offer covered parking for their tenants. Having been down zoned and the size of the accessory structures having been reduced, places a real hardship in attracting good tenants.

6. Explain how this variance will be essential to the enjoyment of a substantial property right possessed by other properties in the same zoning district. The installation of carports will not negatively effect the general public or the other property owners in the area. In addition the installation of carports will improve the quality of life for the tenants thus attracting a better class of tenants. There would not be any negative impact on the other property owners or the general public in general.

7. Would the variance uphold the general zoning plan and not negatively affect the public interest? Please explain your reasoning.

The whole idea of a possible variance goes to the practice of treating a property owner fairly. The carports would not be visible from the main street or in fact visible to most of the other property owners without considerable effort on their part and thus would not be effecting anyone negatively. On the other hand it would increase the quality of life for the tenants greatly. Carports would be very positive and would generate additional property tax revenue.

8. Explain how this variance will observe the spirit of this Zoning Ordinance and City Master Plan.

Allowing carports will not do any harm to anyone, but will increase the quality of life for the tenants and increase the tax base for the City.

9. Any other information deemed necessary by the Zoning Administrator

***Attachment B
Site Plan***

M:\2011\012_222_L_Street\Drawings\COVER.DWG, Cl.1, 11/28/2011 4:04:12 PM

L STREET

EXISTING CURB & GUTTER

EXISTING PARK STRIP

EXISTING SIDEWALK

PROPERTY LINE 41.25'

PROPERTY LINE 3.50'

PROPERTY LINE 123.75'

EXISTING NEIGHBOR PROPERTY

PROPERTY LINE 82.50'

EXISTING CONCRETE RETAINING WALL

EXISTING APARTMENT BUILDING

180'-0"

EXISTING NEIGHBOR HOUSE

EXISTING NEIGHBOR PROPERTY

EXISTING GARAGE

PROPERTY LINE 38.25'

ELEVATION
SCALE 1" = 10'-0"

EXISTING CARPORT

7'-10" HEIGHT

EXISTING CARPORT

8'-0" HEIGHT

PROPERTY LINE 82.50'

EXISTING NEIGHBOR PROPERTY

EXISTING THE RETAINING WALL

EXISTING PARKING

PROPERTY LINE 41.25'

EXISTING NEIGHBOR PROPERTY

EXISTING DUMPSTER

EXISTING NEIGHBOR PROPERTY

EXISTING DRIVE ACCESS

EXISTING NEIGHBOR PROPERTY



SITE PLAN
SCALE 1" = 10'-0"

EXISTING GARAGE

EXISTING GARAGE

ELEVATION 8'-0"

ELEVATION 7'-10"

ELEVATION 8'-0"

ELEVATION 7'-10"

ELEVATION 8'-0"

ELEVATION 7'-10"

ELEVATION 8'-0"

ELEVATION 7'-10"

NOTES:

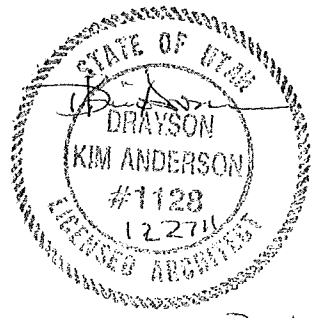
SEE STRUCTURAL DRAWINGS FROM NICHOL ENG. FOR SIZES AND SPECIFICATIONS IN STRUCTURE

DATE	NOV 2011
REVISION	
NO.	
BY	
CHK	

PROJECT TITLE
CARPORT ADDITION
222 L STREET
SALT LAKE CITY, UTAH

SHEET CONTAINS
SITE PLAN
COVER SHEET
AND DRAWING INDEX

d. kim anderson, architect
architect - planning - interior
350 west 800 north street - suite 104
salt lake city, utah 84103
(801) 355-4558 - kima@dka-arch.com



28 Nov 2011

GENERAL NOTES

- CONTRACTOR TO VERIFY THE LOCATION OF ALL UTILITIES
- VISITS TO THE JOB SITE BY REPRESENTATIVES OF THE ENGINEER AND/OR ARCHITECT DO NOT CONSTITUTE APPROVAL OF THE WORK PERFORMED BY THE CONTRACTOR OR HIS SUBCONTRACTORS AND ARE MERELY FOR THE PURPOSE OF OBSERVING THE WORK PERFORMED.
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- ANY SPECIAL INSPECTION REQUIRED BY THE BUILDING OFFICIAL OR THE IBC ARE THE RESPONSIBILITY OF THE OWNER OR CONTRACTOR.

BUILDING AREAS

LOT AREA	= 12,845.45	SF
APARTMENT AREA	= 2,882.44	SF
CARPORT/STORAGE AREAS	= 1,298.9	SF
TOTAL BUILDING/CARPORT AREAS	= 3,974.6	SF
TOTAL TENANT STORAGE BUILDING	= 206.5	SF
PERCENTAGE OF COVERED AREA	= 32.55	%
ALLOWABLE % OF AREA TO BE COVERED	= 40	%
PROPOSED CARPORT	= 288.00	SF
TOTAL BUILDING/CARPORT AREAS	= 4,469.1	SF
PERCENTAGE OF COVERED AREA	= 34.79	%

THREE ARCHES APARTMENTS

3 UNIT CARPORT FOR APPROVAL PROPOSED 2 UNIT CARPORT

222 L STREET
SALT LAKE CITY, UTAH

ARCHITECT

d. kim anderson - architect
350 west 800 north street #124
salt lake city, utah 84103
(801) 355-4558

DRAWING INDEX

SHEET NUMBER	SHEET TITLE
	ARCHITECTURAL
SD1	SITE PLAN, COVER SHEET, AND DRAWING INDEX
SD2	OVERALL SITE PLAN

CODE INFORMATION/DESIGN CRITERIA

CODE	8009 IBC
CONSTRUCTION TYPE	TYPE V-H
OCCUPANCY TYPE	R-2
SEISMIC DESIGN CATEGORY	E
WIND PARAMETERS (EARTHQUAKE SPECTRAL ACCELERATION MAPS)	S _s = 1.774 g S ₁ = 0.213 g R = 6.5 I _e = 1.00
BASIC WIND SPEED (3 SECOND GUST)	90 MPH EXPOSURE 'B' I _w = 1.00
BASIC ROOF DEAD LOAD	18 PSF
LIVE LOAD	30 PSF
SOIL BEARING PRESSURE	1500 PSF



FILE NO.
2011_012

FILE NAME
COVER.DWG

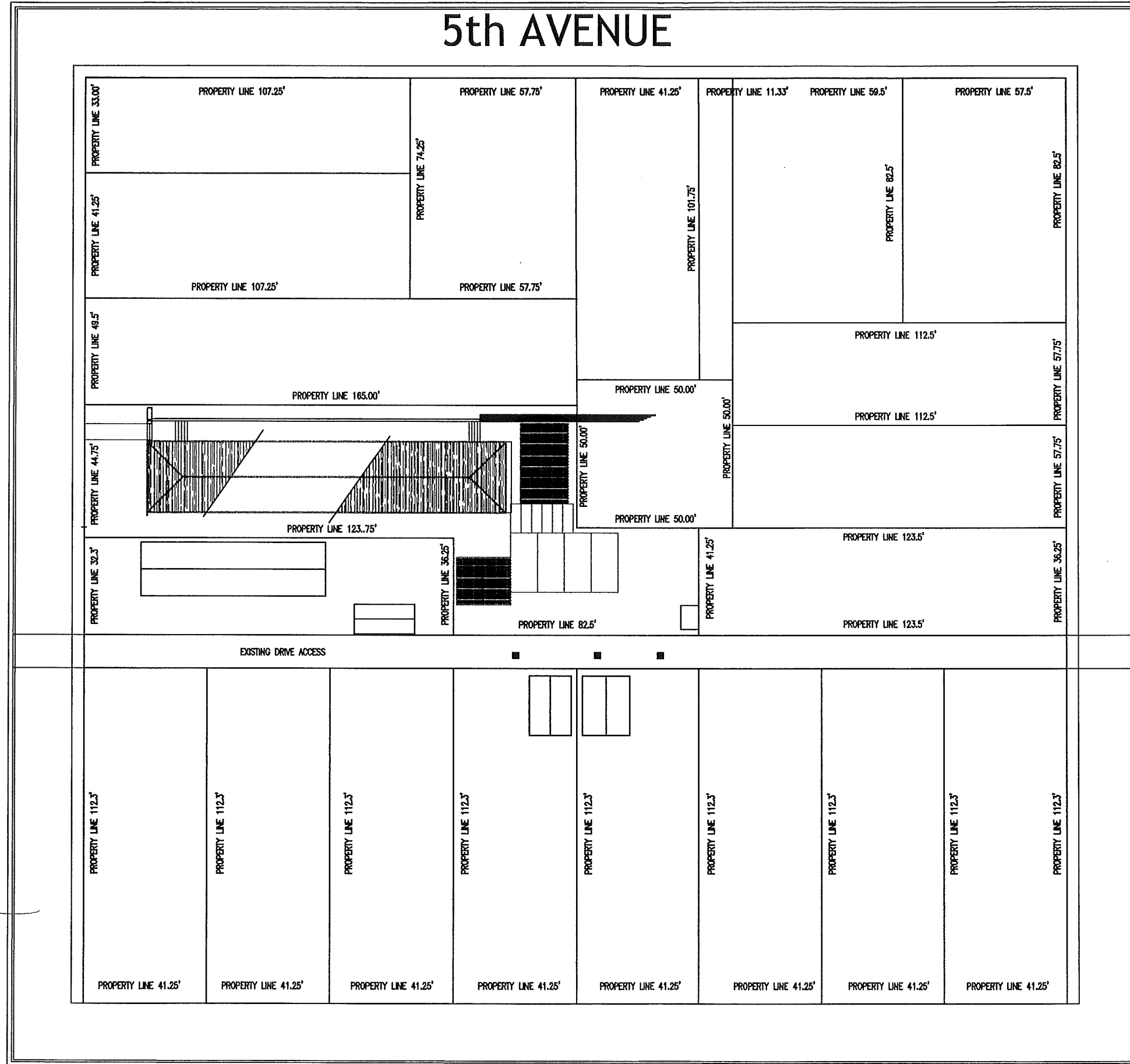
PROJECT NO.
2011012

SHEET NO.
SD1.1



28 Nov 2011

L STREET



4th AVENUE

M STREET



BLOCK LAYOUT

DATE	NOV 29 11
REVISION	
PROJECT TITLE	CARPORT ADDITION 222 L STREET SALT LAKE CITY, UTAH
SHEET CONTAINS	OVERALL SITE PLAN
DESIGNER	d. kim anderson, architect
DRAWN	architect - planning - interior 222 L STREET - SALT LAKE CITY, UTAH 84103 (801) 965-4638 - kkim@dkim-arch.com
PROJECT NO.	2011-012
FILE NAME	COVER.DWG
PROJECT NO.	201102
SHEET NO.	SD1.2

***Attachment C
Photographs***



Front of the building. Shows two parking spaces on the street. West elevation.



Proposed location for a two car carport. South elevation.



Legal noncompliant structure built in 1965. Four car carport and storage. South elevation.



Carport built in 2011, request to legalize. East elevation.



Private right-of-way area. Applicant does not have an easement to this area.

Access to parking. Applicant has an easement for this area.

***Attachment D
Transportation Comments***

From: [Walsh, Barry](#)
To: [Pace, Katia](#)
Cc: [Young, Kevin](#)
Subject: RE: PLNBOA2011-00715 Variance for Carport
Date: Tuesday, September 25, 2012 11:38:55 AM
Attachments: [PLNBOA2011-00715 Site Plan 9-25-12.pdf](#)

September 25, 2012

Katia Pace, Planning

Re: PLNBOA2011-00715 Carport proposal at 222 N "L" street.

The division of transportation review comment and recommendation are as follows:

The proposed carports are shown replacing open parking stalls. Provide parking calculations to document the present compliance status along with documentation of all access easements form both alleys ways and dimension the stall depth and back out area for each parking space. Indicate no ADA parking required due to height of proposed carports. Minimum ADA van stall to be 8'-2" high. See PDF attached.

Sincerely,

Barry Walsh

Cc Kevin Young, P.E.
File

No accelatask to date.

From: Pace, Katia
Sent: Thursday, September 20, 2012 2:59 PM
To: Walsh, Barry
Subject: PLNBOA2011-00715 Variance for Carport

Barry,

This is a request by Bliss and Veronica Parsons for a variance to legalize a portion of a carport that was constructed without permits and construct an additional carport on the property located at 222 "L" Street. The existing carport does not comply with setback, size and lot coverage regulations. The proposed carport exceeds the maximum building coverage allowed and is closer to the side property line than what is allowed. The subject property is located in the SR-1A (Special Development Pattern District) zoning district. I've attached a site plan for the project.

Please review and let me know what you think.

Katia Pace

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SITE PLAN
SCALE 1" = 10'-0"

EXISTING NEIGHBOR PROPERTY

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EXISTING PARKING

verify alley access easements.

PROPERTY LINE 41.25'

EXISTING NEIGHBOR PROPERTY

EXISTING STORAGE

8'-0" HEIGHT

EXISTING CARPORT

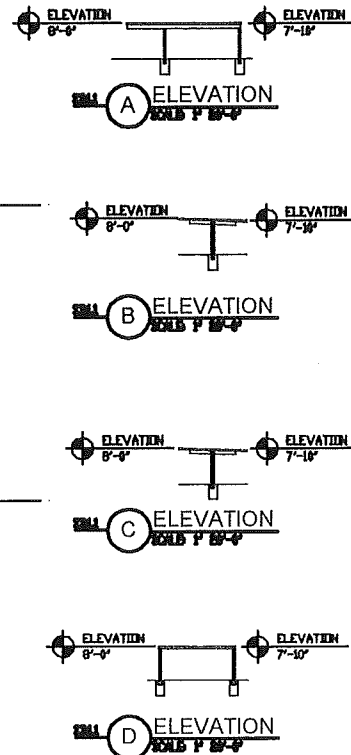
7'-10" HEIGHT

EXISTING GARAGE

EXISTING GARAGE

EXISTING STORM DRAINS (TYP)

EXISTING NEIGHBOR PROPERTY



NOTES:
SEE STRUCTURAL DRAWINGS FROM NCHL ENG. FOR SIZES AND SPECIFICATIONS IN STRUCTURE

verify alley access easements.

Dimension stall depth and back out. 40'-1" minimum

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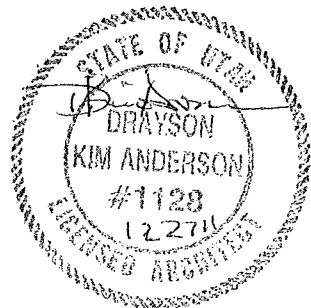
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SOIL BEARING PRESSURE	1500 PSF

DATE: NOV 2011

PROJECT TITLE: CARPORT ADDITION 222 L STREET SALT LAKE CITY, UTAH

SHEET CONTAINS: SITE PLAN COVER SHEET AND DRAWING INDEX

d. kim anderson, architect
350 west 800 north street #124 salt lake city, utah 84103 (801) 355-4558 - kd@dka-arch.com

SD1.1

***Attachment E
Building Permit History***

Address	222 Qi St	Date	5-2	198
Owner	Gessner-Hurd			
Building Permit No.	15738			
Electrical Permit No.	60-9776-5-4-21-16142-11-20-35			
Plumbing Permit No.	14446-9-22-49 29788-8-27-51-21			
Power and Heat Permit No.				
Building Permit No.				
Electrical	"	"	40977-429-53 F	5850-3-25-65
Plumbing	"	"		
Building	"	"		
Electrical	"	"		
Plumbing	"	"		

Address 222 - "L" Street

Date 3-4-65 19

Owner Wallace Wright

Building Permit No. 5522 - 12 unit Apt. no garage

Electrical Permit No. 5850-3-23-65 / 6221-10-19-65 Red

Plumbing Permit No. 6004-8-17-65

Building Permit No. 9023-11-24-65 carport

Electrical Permit No.

Plumbing Permit No.

Building Permit No.

Electrical Permit No.

Plumbing Permit No.

Electrical Permit No.

Electrical Permit No.