

**Salt Lake City Land Use Appeals Hearing Officer**

Variance Decision

Cameron Broadbent – 151 W. Paxton Avenue

PLNZAD2017-00181

March 5, 2018

This application consists of a request for the following six (6) variances for a proposed single family dwelling at 151 W. Paxton Avenue in the City:

1. A reduction of the 10 foot side yard to 3 feet
  2. A reduction of the 4 foot side yard to 2 feet 9 inches
  3. A reduction of the 25% of the lot depth rear yard setback to 6 feet 5 ¾ inches
  4. Exceeding the maximum 45% building coverage by 4% (49% lot coverage)
  5. Relief from one of the two required off street parking spaces
  6. One front yard parking space
- (collectively, the “Requested Variances”).

Variances are decisions made by the Appeals Hearing Officer per ordinance section 21A.18.020.

A hearing on this matter was held before the Appeals Hearing Officer on February 15, 2018. Mr. Broadbent, the Applicant property owner appeared and testified. Amy Thompson, Principal Planner, appeared and represented the City.

**Discussion**

Before the statutory variance requirements can be analyzed, the Salt Lake City Zoning Ordinance, Section 21A (hereinafter referred to as the “City Code”), provides a threshold analysis that is required where variances are prohibited:

*21A.18.050 Prohibited Variances: “The appeals hearing officer shall not grant a variance that: A. is intended as a temporary measure only; B. is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant; and C. authorizes uses not allowed by law.”*

I find that the Applicant showed that the Requested Variances were not temporary measures since a permanent structure is being built, and that the Applicant is not requesting more than the minimum variance necessary to relieve the unnecessary hardship of the extremely narrow lot. The variance would not authorize a use not allowed by law as the use would not change as a result of the Requested Variances. The Applicant is proposing the minimum variation necessary to accomplish his desires for a single family residence built on narrow lot. Thus, I find that these initial conditions are met.

Since all of the variance standards set forth in City Code, Section 21A.18.060, must be met for a variance to be granted, I will analyze each of the variance standards based upon the evidence presented at the hearing and provided to the Appeals Hearing Officer to consider by the

City and the Applicant. City Code also places the burden of showing that the variances meet all of the standards upon the Applicants (See City Code 21A.18.040).

*21A.18.060. Standards for Variances A.1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title.*

Because of the unusual narrowness of the lot, the Requested Variances would allow a home to be constructed. Without the Requested Variances, it would be an unreasonable hardship in that a livable home would not be able to be constructed in a reasonable manner.

*21A.18.060. Standard for Variances A.2. There are special circumstances attached to the Property that do not generally apply to other properties in the same zoning district.*

City Code provides guidance for finding whether special circumstances exist, namely, that (1) “the special circumstances relate to the alleged hardship; and (2) the special circumstances deprive the property of privileges granted to other properties in the same zoning district” (21A.18.060D).

Here the special circumstances (narrow lot) relate to the alleged hardship (inability to build a home on such a narrow lot) and such a narrow lot would deprive the Applicant of building a home like other properties on their same street and neighborhood. Thus, this variance requirement is met.

*21A.18.060. Standard for Variances A.3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.*

The granting of the Requested Variances are essential to the Applicant to build the home on this vacant lot which is a substantial property right in this residential neighborhood and street. This would bring this lot the same property rights as others in the street and neighborhood.

*21A.18.060. Standard for Variances A.4. The variance will not substantially affect the general plan of the city and will not be contrary to the public interest.*

The Requested Variances will not substantially affect the general plan of the City and will not be contrary to the public interest. In fact, without this variance the Property would be mostly undevelopable. To have a residence built on the home would improve the neighborhood and it is in the public interest to have homes built on vacant lots like this lot.

*21A.18.060. Standard for Variances A.5. The spirit of this title is observed and substantial justice done.*

The Applicant has demonstrated that building a single family residence on this lot, although much narrower than other lots, would meet the spirit of the zoning ordinance and would

provide substantial justice to be able to enjoy a substantial property right to build a home on this vacant lot, in spite of the narrowness of the lot.

### **Conclusion and Ruling**

Based on the findings in the Staff Report and the testimony and evidence provided at the hearing, I find that the Applicant has shown that all of the variance standards have been met and I approve the Requested Variances as follows:

1. A reduction of the 10 foot side yard to 3 feet
2. A reduction of the 4 foot side yard to 2 feet 9 inches
3. A reduction of the 25% of the lot depth rear yard setback to 6 feet 5 ¾ inches
4. Exceeding the maximum 45% building coverage by 4% (49% lot coverage)
5. Relief from one of the two required off street parking spaces
6. One front yard parking space

**Dated this 5th day of March, 2018**



Matthew T. Wirthlin, Appeals Hearing Officer