

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER
VARIANCE REQUEST
PETITION NO. PLNZAD2022-00545
1924 EAST 2100 SOUTH
PUBLIC HEARING HELD JULY 21, 2022
DECISION ISSUED AUGUST 2, 2022

This matter comes before the Salt Lake City Appeals Authority on a request by Christopher and Elizabeth Wright for a variance from the 15 foot set back requirement to construct a circular driveway in front of their property on 2100 South and approximately 1900 East. They ask that Salt Lake City vary its requirements to allow the driveway with only a five foot setback. The variance is denied.

On July 21, 2022, a public hearing on this matter was held and appearances were made by the applicant and Salt Lake City. The record in this matter consists of the staff report, and the submissions and testimony offered during the public hearing. Salt Lake City, Christopher and Elizabeth Wright and several neighbors testified about the request.

The evidence is undisputed that the application for a variance does not meet the standards set forth in Utah Code §10-9-702 and Salt Lake City Zoning Ordinance, The application does not meet each subsection of Sections 21A.18.050 and 21A.18.060, as set forth in the staff report.

The Wrights argue and testimony from their neighbors supports the assertion that it can be difficult and sometimes dangerous to back-out of the driveway next to their house. 2100 South has substantial traffic during the day and the Wrights' situation is exacerbated by incoming traffic from 1900 East. Their request is based on their assertion that a circular driveway would allow them to enter 2100 South driving forward, which would give them a safer entry onto the street.

While these concerns appear to be legitimate, they are not sufficient under Utah law and Salt Lake City code to qualify for a variance. Utah Code and Salt Lake City ordinance require an applicant to comply with each factual predicate listed in Code sections 21A.18.050 and 21A.18.060. "The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met" Utah Code §10-9-702(3). The application fails in this regard.

The code requires that before a variance may be granted, the applicant must show that the hardship prompting the request is "related to the size, shape or topography of the subject property." The hardship in this case arises out of the traffic flow on 2100 South, not the shape or size of the Wright property. And while it is true that properties with small front yards may not have sufficient space to meet the setback requirements for a circular driveway, those yard sizes are not an unusual hardship but rather a common configuration of homes and properties in the City. If the small front yard were considered a hardship, every home that could not meet the setback requirement on a busy street might be eligible for a variance.

Even if the property met the hardship requirement set forth in 21A.18.050, the application does not meet the related standards set forth in 21A.18.060. For example, an applicant is required to show that the "special circumstances;" deprives "the property of privileges granted to other

properties in the same zoning district.” Because the front yard dimensions are not a special circumstance, the applicant cannot meet this standard.

The applicant is also required to show that literal enforcement of the rule would cause not just hardship, but unreasonable hardship. As stated in the staff report, the property continues to allow access to the driveway or the ability to park on the street. The difficulty in backing up is not the result of the size, shape or topography of the property but rather traffic patterns in the area. Similarly, the applicant must show that the hardship comes from “circumstances peculiar to the property, not from conditions that are general to the neighborhood.” Again, the traffic is a condition general to the neighborhood, not specific to the property.

While the application does support some elements of the ordinance, for example “the variance will not substantially affect the general plan of the city and will not be contrary to the public interest,” the ordinance requires compliance with all standards.

Because the request fails to comply with all standards set forth by the City for the granting of variances, the request to reduce the front yard setback to allow construction of a circular driveway, as requested in the application, is denied

Dated this 2nd day of August, 2022,

/s/Mary J. Woodhead

Mary J. Woodhead, Appeals Hearing Officer