

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER  
DECISION ON REQUEST FOR VARIANCE  
PETITION NO. PLNZAD2022-01122  
2373 EAST 1300 SOUTH  
PUBLIC HEARING HELD JANUARY 19, 2023  
DECISION ISSUED JANUARY 24, 2023

Steven Cornell representing property owners Jon and Carol Lear, filed a request directed to the Salt Lake City Land Use Appeals Hearing Officer requesting a variance allowing a reduction of the front yard set-back in order to build a covered porch attached to the house located at 2373 East 1300 South. The applicant asserts that the sloping topography and orientation of the house in relation to the roadway and neighborhood justify the exception. Pursuant to Salt Lake City ordinance 21A.18.020; variances are determined by the Appeals Hearing Officer following a public hearing.

On January 19, 2023, a public hearing on this matter was held and appearances were made by Mr. Cornell, the property owners and Diana Martinez for Salt Lake City all of whom presented evidence in support of the variance. No testimony was offered when the hearing was opened for public comment. The Applicant offered additional photographs and architectural drawings of the property which are included in the record herein. Based on the evidence in the record, the variance is granted.

The applicant is proposing a 176 square foot addition to the southwest corner of the main dwelling including additional space on the 2<sup>nd</sup> floor, a covered porch and a gazebo protruding from the main dwelling. The required setback is 98 feet and the petitioners ask that the set-back be reduced to 44 feet 6 inches. Evidence on the record indicates that the property slopes significantly to the north at that edge of the house, preventing further development on that side. Despite the minimized set back, the porch and upstairs addition would be significantly distanced from abutting and neighboring properties. The property to the south and across the street is a cemetery and to the rear is a public golf course.

The record evidence demonstrates a hardship based on both the topography and the orientation of the house on the property. The proposed use is one allowed by law in Salt Lake City. This creates special circumstances which do not apply to other properties in the same zoning district. Moreover, the variance will not substantially affect the general plan of the city, is not contrary to the public interest and is consistent with the spirit of the zoning code and substantial justice.

Although the right to a covered front porch and additional floor space are not substantial property rights under the law, other properties in this zoning district do have the right to those modifications. Those alterations are limited in this case only because of the size and shape of the lot and orientation of the home. As a result, granting the variance is reasonably necessary to the enjoyment of a substantial property right enjoyed by other property in the same neighborhood.

Based on the substantial evidence in the record, described above, the variance is granted. The record demonstrates that the applicant's ability to build a covered porch and addition is hampered by the shape and topography of the lot resulting in a hardship as compared to other

properties in the district. The evidence is undisputed that the application for a variance meets the standards set forth in Utah Code Section 10-9-707 and Salt Lake City Zoning Ordinance, Section 21A.18.060 in that the hardship is related to specific characteristics of the property. The application meets each subsection of Section 21A.18.060, and is not in conflict with any other provision of Salt Lake City ordinance.

The request for a variance as requested is approved.

Dated this 24<sup>th</sup> day of January, 2023.

/s/ Mary J. Woodhead

Mary J. Woodhead, Appeals Hearing Officer