

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER  
DECISION ON REQUEST FOR VARIANCE  
PETITION NO. PLNZAD2024-00113  
1185 SOUTH JEREMY STREET, SALT LAKE CITY  
PUBLIC HEARING HELD APRIL 18, 2024  
DECISION MAY 2, 2024

Richard Lewis, representing the property owners, filed an application directed to the Salt Lake City Land Use Appeals Hearing Officer requesting a variance to allow expansion of an accessory structure that would exceed 50 percent of the principle structure's footprint in the rear yard, contrary to City Code. Pursuant to Salt Lake City ordinance 21A.18.020; variances are determined by the Appeals Hearing Officer following a public hearing.

On April 18, 2024, a public hearing on this matter was held and appearances were made by Richard Lewis on behalf of the applicant and Diana Martinez on behalf of Salt Lake City. No testimony was offered when the hearing was opened for public comment. The property owner argued in favor of the variance. The Salt Lake City staff report and Ms. Martinez asserted that denial was appropriate. Based on the evidence in the record including testimony at the hearing and the staff report, and follow up submissions by the parties, the variance is denied.

According to the staff report, the applicant proposed a 24 foot by 24 foot addition to the eastern wall of the existing garage, which is approximately 720 square feet and was built in 1974. With the addition, the remodeled garage would be just under 1300 square feet and approximately twice the size allowed by the ordinance. The property in question is a single family home where the property owner purchased an adjacent lot. Mr. Lewis argues that because the addition would be adjacent to the vacant lot, the size will be less disruptive than if it abutted a neighbor. The applicant asserts that the structure would only be visible from the empty backyard space.

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 variance process is not an equitable review of the facts but rather a consideration of whether the circumstances comply with the strict conditions set forth in the ordinance. The application fails in this regard.

Salt Lake City code provides that in the FR, RI, R2 and SR residential districts, "the maximum footprint of any accessory building, shall not exceed 50 % of the building footprint of the principal structure." Salt Lake City Code 21A.40.050.B2a. It is undisputed that the proposed accessory building does not comply.

The code requires that before a variance may be granted, the applicant must show that "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." 21A.18.060. The alleged hardship must be "related to the size, shape or topography of the subject property." Salt Lake City Code § 21A.18.060 (B). In this case, the variance request is based on the applicant's desire to have a larger covered space for storage of vehicles. This is not a hardship based on the size, shape or topography of the applicant's lot.

Even if the property met the hardship requirement set forth in Salt Lake City Code § 21A.18.050, the application does not meet the related prerequisite for a variance set forth in Salt Lake City Code § 21A.18.060. The grant of this variance is not “essential to the enjoyment of a substantial property right possessed by other property in the same district.” Utah Code § 10-9a-702(a)(iii). The property owner, like his neighbors, is entitled to have an accessory building on his property. That his preferred configuration is a response to soil that he alleges is not conducive to growing plants or vegetables is not a condition of size, shape or topography.

Based on the evidence in the record, described above and because the request fails to comply with the prerequisite standards set forth by the City for the granting of variances, the application is denied. The evidence is undisputed that the application for a variance does not meet the standards set forth in Utah Code §10-9a-702 and Salt Lake City Zoning Ordinance, §21A.18.060.

Dated this 2<sup>nd</sup> day of May , 2024.

/s/ Mary J. Woodhead  
Mary J. Woodhead, Appeals Hearing Officer