

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER
DECISION ON VARIANCE REQUEST
PLNZAD2023-00826
563 N CENTER ST
PUBLIC HEARING HELD MAY 16, 2024
DECISION ISSUED MAY 28, 2024

The above matter is before me pursuant to an application for a variance to allow the property owner to construct a new single-family dwelling without providing the off-street parking required under Salt Lake City Code § 21A.44.040. Salt Lake City (“the City”) held a public hearing on May 16, 2024 where Mayara Lima, on behalf of the City, and James Cocks, on behalf of the property owner, provided testimony in support of the variance. During the public hearing, I also received public comment and a staff report provided by the City, which included attachments A through G. Having considered the foregoing as well as Utah State Code, Salt Lake City Code, and duly adopted Salt Lake City General Plans, I issue this decision granting the request for a variance.

I. FINDINGS OF FACT

I adopt as findings of fact the facts represented in the staff report. The property subject to this variance request (“the Property”) is located at 563 N Center Street. It is located in the SR-1A zoning district and in the Capitol Hill local historic district. The Property is roughly rectangular with a lot width of 19.22 feet, a depth of 67.27 feet, and a total area of approximately 1,215 square feet. The lot size is substantially smaller than would be allowed in the zoning district, but it was subdivided in 1916, and an administrative interpretation issued in 2023 determined that it is a legally non-conforming parcel. In contrast, the current minimum lot size for new lots in the zoning district is 5,000 square feet, making the Property less than one-fourth the size of a normal lot in the district.

City staff and the applicant have reviewed several different options for constructing a residential dwelling unit on the Property, but they have been unable to find a way to provide off-street parking and still have enough room on the Property for a home. Parking spaces are usually required to be 8-10 feet wide and 18-20 feet long. Due to those dimensions and the dimensions of the Property, it is impractical to build a large driveway or garage in front because it would result in a very small house and an ugly facade. Additionally, page 5 of the staff report includes a table showing eleven historic design standards that would be compromised if off-street parking were required in this manner. Another discussed option for a parking location, underneath a podium on which the building would be built, is impractical because of retaining walls, access route, safety clearances, and clearances for required sewer laterals.

The staff report included a map and a table showing similar sized properties in the immediate vicinity, and none of the properties of comparable size provide off-street parking. The smallest example of a home providing off-street parking nearby has a lot area of 2,175 square feet, almost 1,000 square feet more than the Property.

Finally, only one public comment was made during the hearing. It was provided by a neighbor, Miranda, who lives on Center Street and who is a member of the City's Transportation Advisory Board. She expressed the opinion that granting this variance and others like it would be a great thing for the neighborhood and the City because they need more housing. She said that the requested variance is especially positive for the specific neighborhood in which the Property is found. She supported granting the requested variance.

II. APPLICABLE LAW

The property owner requesting a variance has the burden of proving that the property meets the standards justifying a variance. Utah Code § 10-9a-702(3).

The Zoning Ordinance of Salt Lake City, UT ("the Zoning Ordinance") allows the appeals hearing officer to grant a variance only if the following standards are met:

- "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 zoning 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 will not substantially affect the general plan of the City and will not be contrary to the public interest; and
5. The spirit of [the Zoning Ordinance] is observed and substantial justice done."

Salt Lake City Code § 21A.18.060(A); See also Utah Code § 10-9a-702(2).

Furthermore, an unreasonable hardship does not exist unless "1) The alleged hardship is related to the size, shape or topography of the property for which the variance is sought; and 2) The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood." Salt Lake City Code § 21A.18.060(B).

III. DISCUSSION

In this matter, a sufficient factual and legal basis has been provided to grant the variance requested because all five standards established by the Salt Lake City Code and the Utah Code are met. I apply all five standards to the Property and the requested variance below.

First, literal enforcement of the parking requirement would cause an unreasonable hardship for the Property that is not necessary to carry out the general purpose of the Zoning Ordinance. Ample evidence was provided that requiring two off-street parking spaces would cause a qualifying unreasonable hardship for the Property. Parking spaces are usually required to be 8-10 feet wide and 18-20 feet long. Thus, two parking spaces would require up to 20 feet of frontage, which would take up the entirety of the 19-foot frontage of the lot. Furthermore, two parking spaces would occupy up to 400 square feet of space, which is approximately one-third of the square footage of the lot. This would unreasonably eliminate a substantial portion of the footprint upon which to build a residential structure on the Property. Furthermore, constructing parking below a residential building is prohibitive structurally because the necessary retaining walls, access route, safety clearances, and clearances for required sewer laterals are impractical. Therefore, due to the size of the lot, requiring two off-street parking spaces would cause unreasonable hardship.

Additionally, the requirement to require two off-street parking spaces is not necessary to carry out the general purpose of the Zoning Ordinance. Among the purposes of the Zoning Ordinance are “to promote the prosperity and welfare of the present and future inhabitants of Salt Lake City,” to “protect the tax base,” and to “foster the City’s ... residential development.” Salt Lake City Code § 21A.02.030. The alternative to not allowing a residential structure on the Property is to leave it vacant, which works against the purposes of promoting prosperity and welfare because useful land is left vacant, and vacant land can attract nuisances and cause blight. Furthermore, leaving the Property vacant reduces the taxable value of the property, thereby failing to protect the tax base. And leaving the Property vacant obviously does not foster residential development in the residential zoning district.

Also, the requirement to require two off-street parking spaces is not necessary to carry out the general purpose of the Historic Preservation Overlay District. A purpose of the Historic Preservation Overlay District is to “encourage new development and redevelopment of properties that is compatible with the character of existing development of historic districts or individual landmarks.” Salt Lake City Code §21A.34.020(A). However, requiring two off-street parking spaces on such a small lot is not compatible with the character of existing development in the zoning district. As described on page 8 of the Staff Report, several existing homes in the same district with larger areas than the Property do not have off-street parking, and no examples

were provided of similar sized lots in the same district with off-street parking. Therefore, as discussed in the foregoing paragraphs, literal enforcement of the parking requirement would cause an unreasonable hardship for the Property that is not necessary to carry out the general purpose of the Zoning Ordinance.

Regarding the second standard listed in § 21A.18.060, there are special circumstances attached to the Property that do not generally apply to other properties in the same zoning district. The special circumstance for the Property is that it is a very small, yet legally non-conforming lot, which is useful only for residential development. This special circumstance is the cause of the hardship discussed above.

Third, granting the requested variance is essential to the enjoyment of a substantial property right possessed by other property in the same district. The vast majority of other lots in the same zoning district have residential homes and are being put to productive use. While a home is buildable on the Property, the Property would be deprived of that right for all practical purposes were I to enforce the requirement to provide two off-street parking spaces. The right to construct a buildable home is a substantial property right, particularly where it is practically the only allowed use in the applicable zoning district.

Regarding the next standard, the requested variance will not substantially affect the general plan of the City and will not be contrary to the public interest. A stated goal of the Capitol Hill Neighborhood Plan (2001) is to “encourage appropriate housing opportunities in the community in appropriate locations through ... compatible infill development and redevelopment.” Allowing a home to be built on the Property complies with this goal and will not substantially affect the neighborhood plan, except to promote the plan. Furthermore, the only public comment made during the public hearing was made by a neighbor of the Property and a member of the City’s Transportation Advisory Board who expressed an opinion that granting this variance would be a benefit to the City and the neighborhood and, therefore, not contrary to the public interest.

Finally, the requested variance observes the spirit of the Zoning Ordinance by allowing productive, desired residential development in an appropriate zoning district while taking into account the limitations of the legally non-conforming lot. Justice will be served because relieving the Property from the requirement of two off-street parking spaces will cause insignificant adverse impact on the City and the neighborhood. And this insignificant adverse impact is substantially outweighed by the benefit of using the property productively and providing additional housing stock for the City.

In discussing and applying the five standards required to grant a variance, the evidence on the record, provided by the applicant, the City, and the public comment, shows that the requested variance for the Property satisfies all five standards.

IV. CONCLUSION

Having considered the foregoing, and finding substantial, uncontested evidence in the record to support the request, I conclude that the variance requested to waive the requirement of two off-street parking spaces for a residential building on the Property complies with the standards established in Salt Lake City Code § 21A.18.060 and Utah Code § 10-9a-702.

Therefore, the requested variance relieving the Property from complying with the minimum off-street parking requirement under Salt Lake City Code § 21A.44.040 is hereby **granted**.

Dated this 28th day of May, 2024

A handwritten signature in blue ink, appearing to read "Aaron McKnight". The signature is fluid and cursive, with a large, stylized initial "A" and "M".

Aaron R. McKnight, Appeals Hearing Officer