

APPEALS HEARING OFFICER STAFF REPORT



Planning and Zoning Division
Department of
Community and Economic
Development

Jelm Skate Ramp Appeal of an Administrative Decision PLNAPP2012-00859 2018 South 1700 East March 6, 2013

Appellant:

George Kristian Jelm

Staff:

Ray Milliner
(801) 535-7645
ray.milliner@slcgov.com

Tax ID:

16-164-540-040

Current Zone:

R-1-7000

Master Plan

Designation:

East Bench, Residential

Council District:

Six, Charlie Luke

Lot Size:

.13 acres

Current Use:

Single Family Home

Applicable Land Use

Regulations:

- 21A.40.020
- 21A.36.020.B

Attachments:

- A. Appellant Claim
- B. November 13, 2012 Interpretation Letter

REQUEST

The appellant, George Kristian Jelm, is requesting that the Appeals Hearing Officer overturn an administrative determination made by the Zoning Administrator on November 13, 2012. The Determination found that a skateboard ramp “falls under the qualification of a swimming pool, tennis court, game court or similar use” and therefore cannot be located less than ten feet (10’) from a property line. The appellant counters that a skateboard ramp is “recreational equipment,” which is not required to meet the 10 foot setback from the rear property line. The appeals hearing officer hears and decides appeals alleging an error in any administrative decision made by the zoning administrator.

Recommendation

Staff recommends that the Appeals Hearing Officer review the evidence presented in this staff report, by staff, the appellant and members of the public and uphold the Zoning Administrator’s finding that a skateboard ramp falls under the qualification of a “swimming pool, tennis court, game court or similar use” and is therefore subject to the setback requirements in Table 21A.36.020.B of the Zoning Ordinance.

Potential Motions

Affirm: Based on the findings listed in the staff report, testimony and plans presented, staff recommends that the Appeals Hearing Officer affirm the Zoning Administrator’s finding that a skateboard ramp falls under the qualification of a “swimming pool, tennis court, game court or similar use” and is subject to the setback requirements in Table 21A.36.020.B of the Zoning Ordinance pursuant to the findings of fact written below:

Findings of Fact

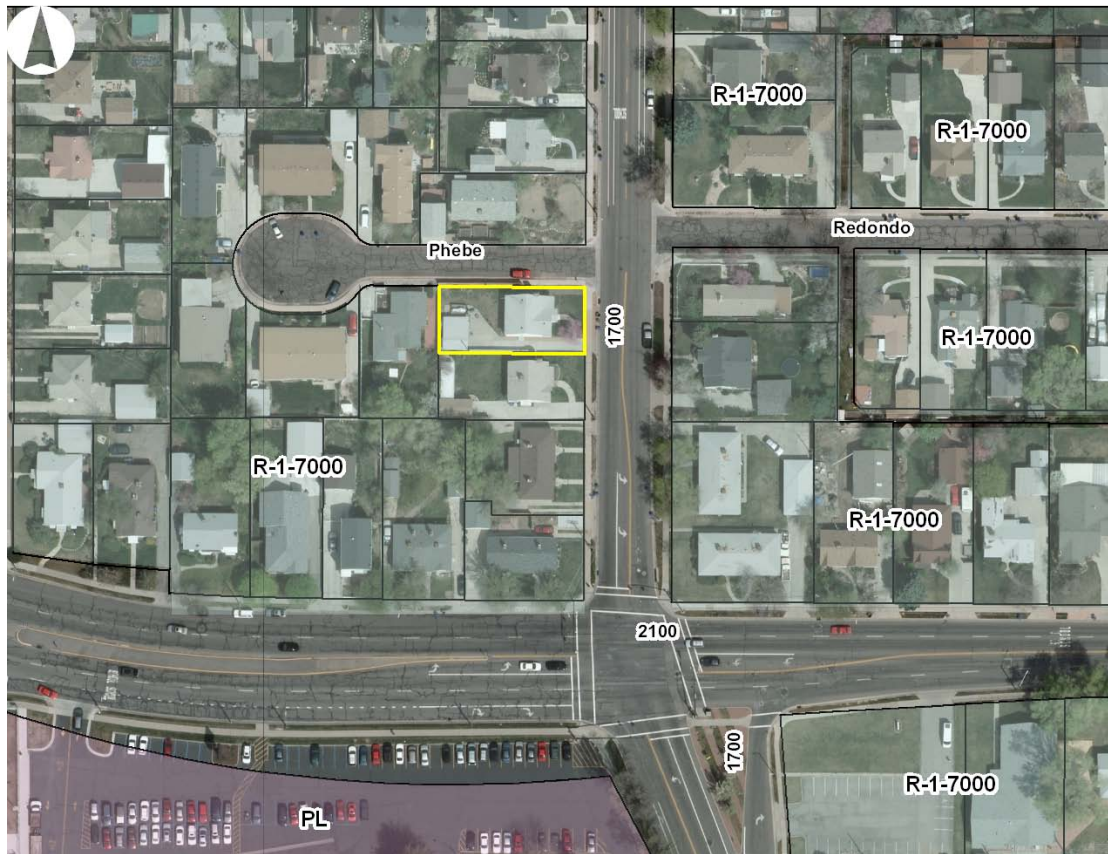
1. The November 13, 2012 administrative interpretation found that a skateboard ramp is an accessory structure or use similar to a swimming pool, tennis court, game court or similar use.
2. The appellant states that a skateboard ramp is better regulated under the setback requirements of “recreational equipment” because “the respective noise level

does not seem to be a factor behind any of the requirements regarding obstruction setbacks and locations on property.

3. A “swimming pool, tennis court, game court or similar use” may be permitted subject to compliance with 10 foot set backs from the property line when located in the side or rear yard.
4. “Recreational Equipment” is allowed anywhere in the rear yard area, but not in the side yard or front yard.
5. “Recreational Equipment” includes items like a swing set, jungle gym or slide.
6. A skate board ramp is a structure designed for higher a level of performance than playground equipment such as a swimming pool, tennis court or game court.

Reverse: The Appeals Hearing Officer overturns the Zoning Administrator’s administrative decision Zoning Administrator’s finding that a skateboard ramp falls under the qualification of a “swimming pool, tennis court, game court or similar use” as defined by Section 21A.36.020.B of the Zoning Ordinance (the officer then would make findings for his decision).

Vicinity Map



2018 SOUTH 1700 EAST

-  Neighboring Parcels
-  Subject Property

APPLICABLE ZONING ORDINANCE SECTIONS AND DEFINITIONS

Table 21A.36.020B Obstructions in Required Yards of the Zoning Ordinance states:

- C. Obstructions In Required Yards: Accessory uses and structures, and projections of the principal structure, may be located in a required yard only as indicated ("X") in table [21A.36.020B](#) of this section. No portion of an obstruction authorized in table [21A.36.020B](#) of this section shall extend beyond the authorized projection. Dimensions shall be measured from the finished surface of the building or structure.

TABLE 21A.36.020B OBSTRUCTIONS IN REQUIRED YARDS

Type Of Structure Or Use Obstruction	Front And Corner Side Yards	Side Yard	Rear Yard
Recreational (playground) equipment			X
Swimming pools (measured to the water line), tennis courts, game courts, and similar uses shall not be located less than 10 feet from a property line		X	X

Neither of the terms in question are defined in the definition section of the Ordinance.

CORRECTION

In the November 13, 2012 appeal letter stated the following:

- Table 21A.36.020B of the Zoning Ordinance requires that “Recreational Equipment” have a 10 foot setback from the rear property line but no setback from the side property line.

The statement that “recreational equipment have...no setback from the side property line” is incorrect. Table 21A.36.020B states that the placement of “recreational equipment” is not allowed in the side yard.

SUMMARY CLAIM OF APPELLANT

Claim attached as Exhibit A

The appellant contends that a skateboard ramp is better regulated under the setback requirements of “recreational equipment” he states that the Zoning Administrator’s finding that the noise generated by a skateboard ramp is more similar to that of a swimming pool, tennis court, game court or similar use, than that of “recreational equipment” is not valid because “the respective noise level does not seem to be a factor behind any of the requirements regarding obstruction setbacks and locations on property.” Mr. Jelm further states that noise regulation is separately governed in Section 9.28.060 of the Zoning Ordinance and therefore, should not be a factor in determining the location of the ramp.

BACKGROUND

The appellant, George Kristian Jelm is appealing an administrative determination by the Zoning Administrator stating that skateboard ramps should be regulated in the Zoning Ordinance as a “swimming pools, tennis courts, game courts, and similar uses” (letter attached as exhibit B). Below is a timeline of events leading to this appeal hearing:

- On September 20, 2012, the City received a complaint that the appellant was building a skateboard ramp in the rear and side yard of his home.
- On September 20, 2012, a stop work order was placed on the project and the appellant was ordered to move the ramp to a compliant area in the yard.
- On October 2, the appellant received a one week extension to the order so that he could file an administrative interpretation application to determine if the skateboard ramp could be considered recreational equipment not a swimming pool, tennis court, game court or similar use.
- On October 16, 2012 the appellant filed an administrative interpretation request.
- November 13, 2012 the Zoning Administrator issued an administrative interpretation letter confirming that the skateboard ramp should be reviewed as a swimming pool, tennis court, game court or similar use, and not recreational equipment.
- December 12, 2012, appellant files an appeal of the Zoning Administrator’s interpretation.

Discussion

As described in section 21A.16.010 of the Zoning Ordinance the appeals hearing officer shall hear and decide appeals alleging an error in any administrative decision made by the Zoning Administrator in the administration or enforcement of this title. The role of the Zoning Administrator is to interpret and apply the regulations of the Salt Lake City Zoning Ordinance. In this case, the Administrator applied Table 21A.36.020B Obstructions in Required Yards to the case which delineates the location requirements for structures on lots. To refute the Zoning Administrator’s determination that a skateboard ramp is a “swimming pool, tennis court, game court or similar use” the appellant must demonstrate where the Zoning Administrator erred, the burden of proof rests with the appellant.

The findings of the November 13, 2012 administrative interpretation stated that a skateboard ramp is an accessory structure or use similar to a swimming pool, tennis court, game court or similar use. The letter continues to say that the structure may be permitted subject to compliance with 10 foot set backs from the property line when located in the side or rear yard. A skate board ramp is not considered to be recreational (playground) equipment. Recreational (playground) equipment types of accessory structures or uses includes items like a swing set, jungle gym, slide or other items commonly designed for children. While a skate board ramp may be used by children it is a structure designed for higher a level of performance than playground equipment. Noise controls are a factor in the decision making process for setback requirements but they are not the sole factor in these types of decisions. Visual obstructions, privacy, and buffering for stray balls, skateboards or other items which may leave the area during its use are also considered when establishing set back requirements.

As a result, the Zoning Administrator reasoned that the potential impacts of a skateboard ramp on adjacent property owners were significant enough to warrant a 10 foot setback from the property line.

ATTACHMENT A
Appellant Claim

December 5, 2012

Wilford H. Sommerkorn
Planning Director
Salt Lake City Corporation

RE: Skateboard ramp in the rear yard of a single family home at 2018 South 1700 East Salt Lake City Utah

Dear Mr. Sommerkorn,

I previously asked Salt Lake City Planning for administrative interpretation in regards to whether a skateboard ramp should be regulated as "Recreational Equipment" or a "swimming pool, tennis court, game court or similar use" under the Salt Lake City Zoning Ordinance regulating Conformance with Lot and Bulk Controls.

I received your administrative interpretation on November 13th, 2012. The letter I received stated

Although a Skateboard ramp is not similar to swimming pools, tennis courts, and game courts in look or design, it is similar in relation to impacts on adjacent properties as it relates to noise. Each of these uses generates more noise, and therefore more impacts on adjacent properties than would a piece of recreation equipment, such as a swing or jungle gym. As a result, it is my determination that the skateboard ramp falls under the qualification of a "swimming pool, tennis court, game court or similar use" and therefore, must maintain a 10 foot setback from the side property line. Additionally, there should be efforts made to minimize the noise from the ramp, such as baffling and skirting the transition and deck areas.

Both "recreation equipment" and a "swimming pool, tennis court, game court or similar use" are regulated through Salt Lake City Code 21 A.36.020: Conformance with Lot and Bulk Controls, which regulates permanent and semi-permanent objects and obstructions within lots. That regulation states:

21A.36.020: Conformance with Lot and Bulk Controls:

A. Conformance with District Requirements: No structure or lot shall be developed, used or occupied unless it meets the lot area, lot width, yards, building height, and other requirements established in the applicable district regulations, except where specifically established otherwise elsewhere in this title.

B. Obstructions In Required Yards: Accessory uses and structures, and projections of the principal structure, may be located in a required yard only as indicated ("X") in table 21A.36.020B of this section. No portion of an obstruction authorized in table 21A.36.020B of this section shall extend beyond the authorized projection. Dimensions shall be measured from the finished surface of the building or structure.

Included within 21 A.36.020 is table 21A.36.020B, "types of structure or use obstruction". This table outlines common objects and obstructions and indicates where they can be placed in a lot within Salt Lake City. Listed within this table are three categories of obstructions that may make noise:

- Basketball hoop and backboard on or adjacent to permitted driveways, which can be located anywhere on a residential property
- Recreational (playground) equipment, which can only be located in the rear yard
- Swimming Pools (measured to the water line), tennis courts, game courts, and similar uses shall not be located less than 10 feet from a property line in a rear or side yard.

Although there are obstructions that make noise included in the table, the respective noise level does not seem to be a factor behind any of the requirements regarding obstruction setbacks and locations on property. If that were the case, basketball hoops and backboards, which produce as much sound if not more than a tennis court, would be regulated in the same way as a tennis court, requiring the hoop and backboard to be 10 feet off of a property line and located in a rear or side yard. Further, recreational equipment, which is not subject to setback requirements, can involve a substantial amount of noise, and swimming pools, which may or may not involve noise issues, have setback requirements. Instead, Salt Lake City Code 21A.36.020 regulates physical objects and obstructions within lots.

Noise regulation is separately governed by Section 9.28.060 of the Salt Lake City Code and the Salt Lake Valley Health Department's Adopted Health Regulations #21 – Community Noise Pollution Control Regulation. Specific Noise Restrictions do exist within the Community Noise Pollution Control Regulation, but sporting Ramps are not a specific category in the noise regulation and are under the same limits as other general noise sources, such as basketball hoops, jungle gyms and swimming pools.

As you stated in the administrative interpretation, "A skateboard ramp is not similar to a swimming pool, tennis courts, and game courts in look or design". As it is not similar, in look or design, to a swimming pool, tennis courts, or game courts, and your concern relates to the sound that may be emitted from the use of the ramp, it should be regulated as a piece of recreational equipment subject to the regulations and ordinances that govern noise, thus allowing it to stay in its current location.

I intend to comply with the regulations set forth by Salt Lake City and the Salt Lake Valley Health Department and will be completing the ramp by adding skirting and baffling to dampen

the noise emitted in order to stay within the decibel levels set by Salt Lake City and the Salt Lake Valley Health Department.

Thank you for your time and consideration in this matter.

Respectfully Yours,

A handwritten signature in cursive script, appearing to read "Jelms".

G. Kristian Jelms

ATTACHMENT B
November 13, 2012 Interpretation Letter

WILFORD H. SOMMERKORN
PLANNING DIRECTOR

CHERI COFFEY
ASSISTANT PLANNING DIRECTOR

SALT LAKE CITY CORPORATION
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
PLANNING DIVISION

RALPH BECKER
MAYOR

FRANK B. GRAY
COMMUNITY AND ECONOMIC
DEVELOPMENT DIRECTOR

November 13, 2012

G. Kristian Jelm
2018 South 1700 East
Salt Lake City Utah 84105

Re: Skateboard ramp in the rear yard of a single family home at 2018 South 1700 East Salt Lake City Utah.

Dear Mr. Jelm:

This letter answers your question of whether a skateboard ramp should be regulated as "Recreational Equipment" or a "swimming pool, tennis court, game court or similar use" under the Salt Lake City Zoning Ordinance. To answer the question, I have made the following findings:

- The proposed location, 2018 South 1700 East is located in the R-1-7000 zone.
- Section 21A.40.020 of the Zoning Ordinance states that accessory uses are permitted in any zoning district in connection with any principal use; provided that such accessory uses and structures conform to all applicable requirements of the Zoning Ordinance.
- Both "recreation equipment" and "swimming pool, tennis court, game court or similar use" are accessory uses.
- Table 21A.36.020B of the Zoning Ordinance requires that "Recreational Equipment" have a 10 foot setback from the rear property line but no setback from the side property line.
- Table 21A.36.020B of the Zoning Ordinance requires that "swimming pool, tennis court, game court or similar use" have a 10 foot setback from all property lines.

You are constructing a skateboard ramp in the rear of your property that is less than 10 feet from the side property line, and thus requesting that it be defined as "Recreational Equipment." This would enable the ramp to remain in its current location less than 10 feet from the side property line. Although a skateboard ramp is not similar to swimming pools, tennis courts and game courts in look or design, it is similar in relation to impacts on adjacent properties as it relates to noise. Each of these uses generates more noise, and therefore more impacts on adjacent properties than would a piece of recreational equipment, such as a swing or jungle gym.

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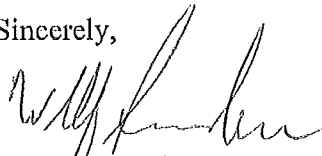
As a result, it is my determination that the skateboard ramp falls under the qualification of a "swimming pool, tennis court, game court or similar use" and therefore, must maintain a 10 foot setback from the side property line. Additionally, there should be efforts made to minimize the noise from the ramp, such as baffling and skirting the transition and deck areas.

If I may be of further assistance please contact me at (801) 535-7757 or by email wilf.sommerkorn@slcgov.com. Thank you for your attention.

NOTICE:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Administrative Hearing Officer. Notice of appeal shall be filed within thirty (10) days of the administrative decision. The appeal shall be filed with the Planning Department and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. A nonrefundable application and hearing fee of \$221.48 is required.

Sincerely,



Wilf Sommerkorn
Zoning Administrator
Salt Lake City Planning

Cc: Joel Paterson, Planning Manager
Orion Goff, Director, Building Services and Licensing
Posted to Web
File