

# BOARD OF ADJUSTMENT STAFF REPORT

## Redeemer Lutheran Church Landscaping Setback - Case #420-07-262

Variance request to waive the required 8 foot  
interior side yard and rear yard landscaping  
requirement at 1955 East Stratford Avenue  
December 17, 2007



Planning and Zoning Division  
Department of Community  
Development

### Applicant:

Redeemer Lutheran Church and  
School

### Staff:

Nick Britton, Principal Planner  
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### Tax IDs:

16-21-430-002

### Current Zone:

I (Institutional)

### Master Plan Designation:

Institutional

### Council District:

Council District 7 - Søren  
Simonsen

### Acreage:

Approximately 0.74 acres

### Current Use:

Church, school

### Applicable Land Use

#### Regulations:

- 21A.32.080G:  
Institutional Zoning  
District: Landscape  
Yard Requirements

### Attachments:

- A. Proposed Site Plan

### REQUEST

Redeemer Lutheran Church and School at 1955 East Stratford Avenue are petitioning the Board of Adjustment for a variance that would allow them to forego the required eight (8) foot interior side yard and rear yard landscaping requirement in the Institutional ("I") Zoning District. The request stems from a error made by Salt Lake City in 1989 which incorrectly deeded too much property to the applicant as part of a street closure request (for more information, please see the "Property History" section on Page 2). The error is currently being corrected but, as a result, the expansion plans submitted by Redeemer Lutheran Church and School do not conform to the required landscape yard for interior side and rear yards in the "I" Zoning District.

### POTENTIAL MOTIONS

#### Approval

From the evidence and testimony presented and pursuant to the plans submitted, I move that the Board grant the variance to reduce the landscape yard in an interior side yard and rear yard from the required eight (8) feet to approximately zero (0) feet at 1955 East Stratford Avenue because:

1. Holding the petitioner to the regulations of the ordinance would cause an unreasonable hardship that is not necessary to carry out the general intent of the ordinance;
2. A special circumstance is attached to the property that does not generally apply to other properties in the "I" Zoning District because the existing building does not comply with current zoning standards;
3. Granting the variance is essential to the enjoyment of a substantial property right, which is enjoyed by other property owners in the district because the proposed use will be able to occupy the building and bring the site requirements closer into compliance with the Zoning Ordinance;
4. The allowance will not affect the general plan nor be contrary to public interest; and
5. The plan meets the spirit and intent of the Zoning Ordinance.

#### Denial

From the evidence and testimony present and pursuant to the plans submitted, I move that the Board deny the variance to reduce the landscape yards in an interior side and rear yards from the required eight (8) feet to approximately zero (0) feet at 1955 East Stratford Avenue because

1. Literal enforcement of the ordinance causes no unreasonable hardship;
2. The Board is unable to identify a special circumstance attached to the property, which relates to a development hardship;
3. Granting the variance is not essential to the enjoyment of a substantial property right;
4. The proposed addition will be contrary to the public interest; and
5. The proposed plan does not meet the spirit and intent of the Zoning Ordinance.

### PUBLIC NOTICE / COMMUNITY COUNCIL INPUT

Notice of the special exception was mailed to all property owners within eighty-five (85) feet of the subject property at least fourteen (14) days prior to the scheduled Board of Adjustment public hearing. The subject property was posted by the city with a notice of public hearing sign on December 7, 2007, at least ten days in advance of the public hearing. Community council review of variances is not required by city code.

## Vicinity Map



## Analysis

### *Property History*

In the early 1980s, both Redeemer Lutheran Church and School and the Sugar House Community Council (SHCC) petitioned for the City to close a segment of Hillcrest Avenue. Redeemer Church wished to expand their facilities at a later date and SHCC wished to incorporate the land into a proposed park (Hillcrest Park). The street was closed by the City Council on October 13, 1987 (Ordinance No. 74 of 1987). Redeemer Church purchased approximately one half (0.359 acres) of the street and the remainder of the street was retained by the City. The property lines agreed upon did not travel down the center of the closed right-of-way, but rather jogged in a number of places to ensure the park could be accessed from Stratford Avenue and Preston Avenue (see Exhibit A); however, when the quit-claim deed was recorded on January 31, 1989, the incorrect legal description was used as the exhibit on the deed. The entire street was deeded to Redeemer Church, and because the abandoned portion of Hillcrest Avenue never existed on the ground, the land was used more or less as intended, mostly as green space associated with the park and by the school for outdoor activities.

On September 26, 1994, Redeemer Church and Salt Lake City entered into an Agreement for a License in Real Property, allowing the City to use and maintain Redeemer Church's half of the abandoned street as part of Hillcrest Park. This agreement reinforced the prior property line agreement from 1987, but did not fix the mistake made on the quit-claim deed. As a result, Redeemer's half of the street has been used and maintained as part of the park, but the remainder of the street has mistakenly remained under Redeemer's ownership.

### ***Request***

Redeemer Lutheran Church is requesting that the Board of Adjustment grant a variance that reduces the required landscape yard in an interior side yard. Section 21A.32.080G states that in the “I” Zoning District, the property must have an eight (8) foot landscape yard in the interior side yard and in the rear yard. The applicant is proposing a 79-stall parking lot that wraps around the property from one frontage to the other along a property line that abuts Hillcrest Park, owned by Salt Lake City and zoned Open Space (“OS”). The proposed landscape yard varies from zero (0) feet to approximately two 2’-5” at its greatest extent.

The applicants’ proposal does not meet the requirement because the proposal was developed before the property line was drawn. The applicants originally initiated a petition for a zoning map amendment of a property found to the northeast of the subject property which was owned by the applicant but zoned “OS”. The property was formerly a section of Hillcrest Avenue which was declared surplus by the City Council and half of it was sold to Redeemer Lutheran. However, as noted above in the “Property History” section, an error was made with the deed and Redeemer Lutheran received the entire street property. As a result, the rezoning petition was modified to include the transfer of land back to the city from Redeemer Lutheran, in the amount that was originally marked for inclusion in Hillcrest Park.

Planning staff worked with the applicant and the Engineering Division to modify the boundary line between the park and the subject property. The new property line was drawn along the outer edge of the proposed parking lot (see Exhibit A), allowed Redeemer Lutheran to keep their site plan proposal without much modification. The newly drawn lines also ensured that Salt Lake City would get the same amount of land for Hillcrest Park as was agreed upon in 1987. However, when the new deeds are filed, if approved by the City Council, the parking lot will violate Section 21A.32.080G of the Zoning Ordinance which requires an eight (8) foot landscape yard along the interior side yard and rear property lines.

The required amount of parking is 47 (42 for the church and 5 for the school) and the church has proposed 79 spaces. The proposal includes more parking than required by the Zoning Ordinance for a couple of reasons. First, there is a shortage of parking for both Redeemer Lutheran and the church across the street. Secondly, they are providing parking for the abutting city park. Furthermore, if parking were limited to just the interior edge of the proposed parking lot, which would allow Redeemer Lutheran to meet their landscaping requirement, there would not be enough parking for the church itself, let alone for the city parking and potential overflow parking.

### ***General Standards of Review***

The standards required for granting a variance are set forth in Utah Code 10-9-707 and Salt Lake City Code 21A.18.060.

### **Standard 1: Does literal enforcement of the Zoning Ordinance cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Zoning Ordinance?**

Section 21A.18.060B provides direction to the Board of Adjustment in determining an unreasonable hardship. Section 21A.18.060B(1) states:

The alleged hardship is related to the size, shape or topography of the property for which the variance is sought:

***Analysis:*** *The subject property is located in the “I” Zoning District. The subject parcel is approximately 0.72 acres in size and has two frontages along Stratford Avenue and Preston Street. The shape of the property is unique in that there is no clear delineation between the interior side yard or rear yard because the property line curves most of the way from one frontage to the other. With the proposed addition of a recreation center at the site of their current parking lot (due north of the existing building), the parking lot can only be placed along the*

curve in the interior side yard and rear yard. The uses of the subject property (church and school) require 47 parking spaces and they are providing additional parking for park-goers as part of an agreement with the city. The proposed parking lot does not allow the applicant to comply with the required eight (8) foot landscaping standard.

Section 21A.18.060B(2) states:

The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood:

***Analysis:** Because properties zoned “I” typically exist individually surrounded by residential districts, there are rarely comparable examples within the neighborhood. There is another church south of the subject property, across Stratford Avenue, but it is zoned R-1/7,000. The alleged hardship for Redeemer Lutheran’s property comes from the fact that the property line proposed by the City to remedy a 20-year old mistake created a noncompliance in their proposed plans where none existed before. When they applied for a zoning map amendment in December of 2006, they had drawn up a proposal for expansion that met the requirements of the “I” Zoning District, should the abandoned street be rezoned. However, they have been required to deed back a portion of that street property to the city and to comply with this requirement and a new property line has been proposed. This new property line runs along their parking lot and violates the required landscape yard for interior side yards and rear yards in the “I” Zoning District. Furthermore, the subject property abuts city property that is zoned “OS” and is already landscaped. The applicants have an existing use agreement in place with Salt Lake City to provide parking to city residents wishing to visit Hillcrest Park. The license does not expressly state how many parking spaces are requirement. The agreement would have to be modified as a result of the pending zoning map amendment, but the use allowance would remain in place. Staff finds that these conditions are peculiar to the property.*

**Standard 2: Are there special circumstances attached to the property that do not generally apply to other properties in the same district?**

Section 21A.18.060D provides direction to the Board of Adjustment in determining whether or not there are special circumstances attached to the property. Section 21A.18.060D(1) states:

The special circumstances relate to the alleged hardship.

Section 21A.18.060D(2) states:

The special circumstances deprive the property of privileges granted to other properties in the same zoning district.

***Analysis:** Currently, there is one building and a parking lot on the subject property. The applicants developed an expansion plan based on records that showed they owned the entirety of the land that was once a portion of Hillcrest Avenue, which wraps around their corner lot and abuts their property to the east and to the north. Now that the amount of land they have to work with has been decreased, the parking lot, which was originally in compliance, is noncompliant. Any change to the proposed configuration would lessen the amount of spaces they are able to provide or would diminish the scale of the proposed expansion. Typically, properties in the “I” Zoning District are larger and are either squared or rectangular, unlike the curved property line of the subject property that makes up its north and east boundaries. Given the location of the existing building and the alteration to the property lines, there may be no configuration of the proposed parking lot and proposed recreation center that meets all regulations of the “I” Zoning District.*

**Standard 3: Is granting the variance essential to the enjoyment of a substantial property right possessed by other properties in the same district?**

*Analysis: Redeemer Lutheran Church and School is proposing a recreation center and additional building space so that they can offer the quality of education that they believe other similar schools can offer. Furthermore, given the existing conditions, there is very little parking available on site and on Sundays, parking on the street is difficult because there is another church across the street that has limited on-site parking as well. The variance will allow the church to provide its members, faculty, students, and parents with on-site parking and to provide parking for visitors to Hillcrest Park. Other properties in the same district do not have the same history, lot configuration, or conditions as the subject property and therefore may not have the same difficulties in developing a site plan that provides enough parking to meet their needs.*

**Standard 4: Will the variance substantially affect the general plan or be contrary to the public interest?**

*Analysis: Staff does not find that the requested variance will substantially affect the general plan or be contrary to public interest. There will be no substantial change on the ground if this variance is granted because the abutting property is landscaped open space. Furthermore, as a result of the proposed rezoning and the church's expansion plans, Salt Lake City will be in better position to develop Hillcrest Park for the residents of the neighborhood and there will be enough parking for both visitors to Redeemer Lutheran and visitors to the park. Staff finds that the variance will be beneficial to public interest by reducing the need for street parking.*

**Standard 5: Is the spirit of the Zoning Ordinance observed and substantial justice done?**

*Analysis: The intent of the landscape yard requirements in the "I" Zoning District is to ensure that there is suitable buffers between uses with the districts (typically schools and churches) and those uses that abut the districts (typically residential). In this case, the landscaped yards would abut a small neighborhood park, and there would be no visual evidence that the landscaped yard was "missing." Further, staff does not find that there is need for an eight (8) foot buffer between the parking lot and the park because there will likely be no negative impact on the park from the parking lot. Redeemer Lutheran Church and School has an agreement in place with Salt Lake City that allows residents to park on the church's property to use the park. That agreement will require modification pending the zoning amendment and new property lines, but will remain in place. Ample parking, without requiring street parking, may also provide the City with the means to upgrade Hillcrest Park by providing park facilities as requested by the neighborhood.*

