

BOARD OF ADJUSTMENT STAFF REPORT

Watcke corner lot garage relocation

Case #420-07-228 at 1053 East Roosevelt Avenue

Variance request to reduce the corner sideyard setback

from twenty feet to twelve feet to accommodate a

detached two-car garage

November 19, 2007



Planning and Zoning Division
Department of Community
Development

Applicant:

Dave Horne representing Tim
Watcke

Staff:

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Associate Planner
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Tax IDs:

16-17-204-015

Current Zone:

R-1/5000 (Single-Family
Residential)

Master Plan Designation:

Single Family Residential

Council District:

Council District 5 – Jill
Remington Love

Acreage:

0.10 acres (4,356 square feet)

Current Use:

Residential

Applicable Land Use

Regulations:

- 21A.40.050A(2):
Corner Lots

Attachments:

- A. Proposed Site Plan
- B. Application

REQUEST

Dave Horne, representing Mr. Tim Watcke is requesting that the Board of Adjustment grant a variance to allow a reduced corner lot side yard setback to accommodate a detached two-car garage in an R-1/5000 (Single Family Residential) Zoning District. The requested side yard setback is twelve (12) feet and the required setback for an accessory garage is twenty (20) feet from the sidewalk.

PUBLIC NOTICE

Notice of the variance 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 November 9, 2007, at least ten days in advance of the public hearing. Community Council review is not required by city code for a variance review. Since the notices have been mailed, Staff has not received any comments regarding the proposed setback reduction.

POTENTIAL MOTIONS

Approval

From the evidence and testimony present and pursuant to the plans submitted, I move that the Board grant the variance to reduce the corner sideyard setback from twenty (20) feet to twelve (12) feet to accommodate the construction of a detached two-car garage at 1053 East Roosevelt Avenue because:

1. Holding the petitioner to the regulations of the Zoning Ordinance would cause an unreasonable hardship that is not necessary to carry out the general intent of the ordinance because the width of the property cannot provide a twenty foot setback and accommodate the construction of a standard size two-car garage of approximately five hundred (500) square feet;
2. A special circumstance is attached to the property that does not generally apply to other properties in the R-1/5000 Zoning District because the lot has a substandard width and is further restricted by a twenty (20) foot sideyard setback requirement for street access to a detached garage on a corner lot;
3. Granting the variance is essential to the enjoyment of a substantial property right, which is enjoyed by other property owners in the city because the proposed garage is in general compliance with height and size and would be permitted by zone right if not for the property being located on a corner lot;
4. The allowance will not affect the general plan and will not be contrary to the 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 grant the reduced corner side yard setback from twenty (20) feet to (12) feet at 1053 East Roosevelt Avenue because the applicant has not demonstrated that the proposed two-car detached garage could not be redesigned to meet the required twenty (20) foot sideyard setback.



ANAYLSIS

Background information

The applicant is proposing to construct a new garage in the corner sideyard. Since the subject property is a corner lot, the required yard setback is twenty (20) feet from the sidewalk. The setback requirement is to prevent automobiles from encroaching onto the public way. The proposed detached garage will not exceed five hundred (500) square feet (20' x 25'), which is approximately 50% of the principle dwelling's building footprint. The garage will be accessed from Roosevelt Street to the rear of the subject property. The Zoning Ordinance requires that detached garages that access a public street requires a setback of at least twenty feet (20') from a sidewalk. The applicant's proposal does not meet this requirement and is requesting a variance in order to construct a new accessory garage that encroaches into the required corner sideyard setback; however the garage will maintain all setback, size and height requirements of the Salt Lake City Zoning Ordinance.

The following are the dimensions of the proposed accessory garage and associated Code requirements:

	Code Requirement/Maximum	Proposed
Garage Footprint Area	50% of the square footage of the home*	500 square feet
Yard location	Must be located in the rear yard or buildable area of the lot.	Corner Side yard, but is located in the rear of the primary dwelling
Rear Setback	1 foot (accessory structure)	3 feet
Interior Side Setback	1 foot	3 feet
Corner Sideyard Setback	20 feet to sidewalk	12 feet
Height	17 feet	11 feet

*Based upon the scale drawing, staff estimates the building footprint of the main structure to be approximately 1,008 square feet. Fifty percent of 1,008 equal 504 square feet.

STANDARDS OF REVIEW

The five standards required for granting a variance are set forth in Utah Code Section 10-9-707 and Salt Lake City Zoning Ordinance, Section 21A.18.060. The Board may grant variances if all of the conditions described below are found to exist. The applicant shall bear the burden of showing that all the conditions justifying a variance have been met.

Staff's comments have been italicized.

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?

Regulatory Provisions: In determining whether or not enforcement of this Title would cause unreasonable hardship, the Board of Adjustment may not find an unreasonable hardship unless:

1. The alleged hardship is related to the size, shape, or topography of the property.
2. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
3. The hardship is not self-imposed or economic.

Analysis: The subject property is located in the R-1/5000 Zoning District which has a minimum lot size of five thousand square feet. The subject parcel is 4,356 square feet in size and has a lot width of forty (40) feet. Although the lots in the area are similar in size and configuration, the subject property is a corner lot and due to the lot width, the property owner is further restricted to construct an average size garage due to setback requirement of twenty (20) feet. Staff finds that the application meets the hardship criteria, due to the following:

Criteria #	Are the criteria satisfied?	Reason
1	Yes	<i>The property is substandard in terms of lot width, but due to the corner lot configuration, the rear portion of the lot cannot accommodate a detached garage due to setback requirement.</i>
2	Yes	<i>Since the subject property is a corner lot, any proposed garage that has access from Roosevelt Avenue will be restricted to garage size in order to comply with the Zoning Ordinance.</i>
3	Yes	<i>The hardship is not self-imposed or economic but is related to the location of the lot.</i>

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

Regulatory Provisions: In determining whether or not there are special circumstances attached to the property, the Board of Adjustment may find that special circumstances exist only if:

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

Analysis: The applicant-requests to build a five hundred (500) square foot two-car garage on a corner lot. The property's special circumstance is its condition of being a corner lot. In order for the proposed structure to be code compliant, the accessory structure would need to meet the required twenty (20) foot setback from the

public sidewalk. The alleged hardship is directly related to the corner lot configuration and due to this fact; an accessory garage is further restricted due to the setback requirement.

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

Analysis: Many other properties in the same district have accessory structures such as a two-car garage. Also, due to the location of the rear yard (parallel to street), the proposed garage location would have to be reduced to 17 feet in depth which would not accommodate the length of a standard vehicle. Staff finds that the proposal is a substantial property right to allow the construction of an accessory garage, but because access is from Roosevelt Avenue and not from McClelland Avenue, the required setback creates an unreasonable hardship that is afforded to property owners in the same district.

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

Analysis: A two-car garage at this location will provide on-site parking for the property owner and will not be contrary to the public interest. The requested variance would have no impact on the neighborhood development pattern. The variance would have no impact on the general plan.

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

Analysis: The Zoning Ordinance regulates the location and size of new construction to ensure compatibility with surrounding properties in the same zoning district and to ensure that the proposed size or location will not adversely affect the character of the area or public health, safety or general welfare of its citizens. Yard area setbacks, building setbacks and lot area coverage requirements of the Zoning Ordinance are established to ensure the provision of adequate light and air for development within the City.

The location and size of the proposed accessory garage will not adversely affect the character of the area or the public health, safety or general welfare of its citizens. The proposed garage will not interfere with adequate light and air for any neighboring properties.

In cases where a hardship is associated with a parcel of land due to the size, shape, and topography of the property, a variance may be granted to provide relief. Staff finds that there is a hardship associated with the layout of the subject property making it impossible to meet all required yard areas by the Zoning Ordinance; therefore, the spirit of the Zoning Ordinance would be observed if the variance were granted.

Exhibit A: Proposed Site Plan

Exhibit B: Application