

BOARD OF ADJUSTMENT STAFF REPORT

Special Exception, Case 2818-B (modification) to allow a newly constructed dwelling that the Board approved to exceed 10 inches above the SR-1A zoning height of 23 feet along the front end gable located at 494 East 9th Avenue
September 17, 2007



Planning and Zoning Division
Department of Community
Development

Applicant:

Bruce Meisenheimer

Staff:

Kevin LoPiccolo, Program
Manager, 535-6003 or
kevin.lopiccolo@slcgov.com

Tax ID:

09-31-281-006

Current Zone:

SR-1A

Council District: 3

Eric Jergensen

Acreeage:

0.16 (6,969 square feet)

Current Use:

Single-family dwelling

Applicable Land Use

Regulations:

- 21A.24.080D6(a)
- 21A.52

Attachments:

- A. North Elevation (as-built)
- B. Photographs
- C. April 17, 2006 Minutes
- D. April 17, 2006 Report
- E. GAAC Letter
- F. Streetscape

REQUEST

The applicant is requesting a Special Exception to allow a portion of an existing roof ridgeline to remain at a height of 23 feet 10 inches. The SR-1A height limit is 23 feet. The height increase varies between 1 to 10 inches along the roof ridge run of approximately 18 feet (Attachment A). Staff is requesting that the Board of Adjustment make a determination on whether they find the request to be consistent with the existing development pattern along 9th Avenue.

Background

The Board of Adjustment approved a Special Exception at their April 17, 2006 meeting, to allow the construction of a new single-family dwelling to exceed the minimum height requirement. However, once the dwelling was constructed, a survey was requested due to community concerns that the dwelling was over height. After review of the survey(s) was conducted, it was determined that the building height exceeded the base zone height of 23 feet for the north elevation. During the April 17, 2006 meeting, the Board of Adjustment was not asked by Staff to grant a height exception for the north elevation because the plan that was presented to the Board complied with the base zone height of 23 feet.

PUBLIC NOTICE

1. **Publication:** At least fourteen (14) calendar days in advance of each public hearing on an application for a special exception or for a variance, or to consider an appeal from a decision of the zoning administrator, the city shall publish a notice of such public hearing in a newspaper of general circulation in Salt Lake City.
2. **Mailing:** Notice by first class mail shall be provided a minimum of fourteen (14) calendar days in advance of the public hearing to all owners of the land, as shown on the latest published property tax records of the county assessor, included in the application for a special exception, variance, or an appeal of a decision by the zoning administrator, as well as to all owners of land, as shown on the latest published property tax records of the county assessor, within eighty five feet (85') feet.
3. **Posting:** The land subject to an application was posted by the city with a sign giving notice of the public hearing at least ten (10) calendar days.

RECOMMENDED MOTIONS:

Approval: From the evidence and testimony presented and pursuant to the plans submitted, I move that the Board grant the special exception at 494 East 9th Avenue to allow a portion of a roof ridgeline above the front porch gable to exceed up to 10 inches above the 23 foot height limit of the SR-1A Zoning District because:

1. The general design of the front facade is typical of many homes in the area.
2. The front porch gable does not exceed the height limit of the main cross gable roof ridgeline.
3. The proposal will not diminish neighboring property values.
4. The proposal will not have a material adverse effect upon the character of the area.
5. The proposal will be compatible with surrounding development.

Denial: From the evidence and testimony presented and pursuant to the plans submitted, I move that the Board deny the special exception at 494 East 9th Avenue to allow a portion of a roof ridgeline above the front porch gable to exceed 10 inches above the 23 foot height limit of the SR-1A Zoning District because:

1. The Petitioner has failed to demonstrate that the proposed special exception would result in development compatible with the surrounding neighborhood.
2. The proposal is not compatible with established block face in that it exceeds the height of the base zoning district.
3. The proposal will diminish neighboring property values.
4. The proposal will have a material adverse effect upon the character of the area.

Staff Analysis

The application standards were different when the applicant requested the special exception. In February 2006 (original application), the application did not require a survey to determine heights, just that the applicant demonstrate that the block face was consistent with the established development pattern through the use of measuring poles. It was staff's position that the applicant met the application requirements and forwarded a positive recommendation to the Board of Adjustment. Today, the Planning Division has a "Compatibility Residential Infill Development" application that requires photographic documentation, a stamped survey, and requires that the proposed development meets the building height to other houses on the block face to establish the existing development pattern.

The applicant is requesting a Special Exception to allow for an over height front porch gable that exceeds the 23 foot height limit by 10 inches (Attachment A). After the construction of the dwelling was completed, a city ordered survey identified that the front gable exceeded the 23 foot height limit. As stated earlier in the Staff Report, this application was approved by the Board of Adjustment at their April 17, 2006 meeting under the compatibility guidelines that were just adopted by the City Council. When the Board of Adjustment reviewed the original application request for a height exception, the north elevation plan was not addressed for the reason that Staff measured the north elevation plan and found the elevation to be in compliance with the 23 foot height requirement. Staff primarily focused on the downhill slope of the property where the proposed height exceeded the base zone by approximately 9 feet. At the April 17, 2006 meeting, the Board approved the special exception request based on Staff's recommendation that the proposed dwelling was consistent with the block face along 9th Avenue.

GENERAL STANDARDS OF REVIEW

21A.24.080.D.6 Additional Building Height:

For properties outside of the H Historic Preservation Overlay District, additional building height may be granted as a special exception by an Administrative Hearing Officer, subject to the special exception standards in 21A.52 and if the proposed building height is in keeping with the development pattern on the block face. The Administrative Hearing Officer will approve, approve with conditions, deny or refer the application to the Board of Adjustment to be considered as a special exception pursuant to Chapter 21A.52 of this Title. Any person adversely affected by a decision of the Administrative Hearing Officer may appeal the decision to the Board of Adjustment.

Analysis: The case was heard by an Administrative Hearing officer on March 16, 2006. The hearing officer directed the case to the Board of Adjustment due to the fact that there was public opposition. Since the Board approved this case at their April 17, 2006 meeting, the Board needs to determine if the additional height along the front end gable fronting 9th Avenue is in keeping with the development pattern.

The standards of review for a special exception are set forth in Section 21A.52.060 of the Salt Lake City Zoning Ordinance. The standards are as follows:

21A.52.060 General Standards And Considerations For Special Exceptions:

No application for a special exception shall be approved unless the Board of Adjustment determines that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain special exceptions.

Standard A. Compliance With Ordinance And District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.

Analysis: The purpose of the Compatible Infill process is to provide standards for new construction, additions and alterations of principal and accessory residential structures within the community. The goal is to encourage compatibility between new construction, additions or alterations and the existing character and scale of the surrounding neighborhood. The zoning ordinance promotes a desirable residential neighborhood by maintaining aesthetically pleasing environments, safety, privacy, and neighborhood character. The standards allow for flexibility of design while providing compatibility with existing development patterns.

To ensure compatibility, regulations have been adopted limiting the height of the exterior walls and roofs of new structures and additions to structures. The existing dwelling has been reviewed as to its compliance with the SR-1A District regulations and the Board approved the dwelling at their April 17, 2006 meeting. The Board needs to determine if the additional 10 inch request is compliant with the standards of the zoning district and does not pose any detrimental architectural design impacts that would harm the neighborhood.

Standard B. No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.

Analysis: The building is situated on a downhill lot. Concerns were originally expressed by property owners across the street that the height that the Board approved would block their view. Staff conducted a visual survey of the properties along 9th Avenue and felt that the proposed dwelling would be similar to the existing homes along the block. A shorter home or a home that stepped down the hill would provide similar impact at the street

frontage; homes across the street to the north are constructed at a higher elevation. Since the additional 10 inches along the front gable end lays lower than the main roof ridgeline, the excess height will not create any more obstruction than what already exists from the prior Board of Adjustment approval. The Board needs to determine if they concur with this conclusion that the additional height will not create any more obstruction than what already exists and create further impairment to neighborhood property values.

Standard C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.

Analysis: The home is typical of other homes in the neighborhood in terms of architectural style, gable fronts with porches when viewed from the street. The garage under the building is not typical, but is afforded by the declining slope and is necessary to maintain minimum lot coverage (if the garage was accessory, rather than attached underneath, the coverage would increase).

Standard D. Compatible with Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.

Analysis: An effort was made for the dwelling design to be similar in scale to neighboring homes. Since the property is a corner lot it is deeper on the lot than the immediate neighbors, but does not have an accessory garage. It is generally consistent in height to neighboring homes. The Board needs to determine if the special exception request as constructed is compatible with the development of the neighborhood.

Standard E. No Destruction of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

Analysis: Staff finds no evidence of the presence of natural, scenic or historic features of significant importance on the site.

Standard F. No Material Pollution of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.

Analysis: No potential pollution is evident.

Standard G. Compliance with Standards: The proposed use and development complies with all additional standards imposed on it pursuant to Section 21A.52.100 of this Chapter.

Analysis: There are no additional standards imposed on the case pursuant to Section 21A.52.100 of the Zoning Ordinance.

Public Comments: At the time this Staff Report was prepared, Planning Staff received three phone calls regarding this request. Of the three phone calls, two property owners within the notice area did not object to the proposed 10 inch height exception. Staff has not yet spoken to the third caller.

Planning Division met with the Greater Avenues Community Council on August 24, 2007 to address application processes and infill compatibility concerns. This application was identified by GAAC as being somewhat problematic in terms of process and the way staff handled the special exception request. The GAAC has submitted a letter (Attachment E) outlining their concerns. Staff has bulleted some of the GAAC concerns

that were discussed at the August 24 meeting and have included quotes from the GAAC letter that details their concerns.

- Scaled drawings – “The GAAC is concerned that the north elevation (front) was submitted with the original application led the Planning Office to misinterpret a subsequent survey of the building height as viewed from the north. The planners in reviewing the height of the north elevation assumed the drawings of that elevation were to scale as clearly described below that drawing. The result was that the building was originally determined by the Planning Division to have exceeded the height as described in the original application by approximately five (5) feet”.
- Measurements without a survey – “No specific measures of relevant dimensions (which is required by ordinance to establish maximum building heights) for properties on either relevant blockface were provided by the applicant at the time the original application, nor were they subsequently required of the applicant by the Planning Office”.
- Streetscape presentation – “The two buildings depicted with measures (measurements taken not by official survey but using measuring pole) in exhibit C (Now Attachment F) of the original staff report were not located on either of the project’s two relevant block faces, and therefore should not have been included. GAAC also points out that the development pattern rendition in exhibit C of the original staff report clearly shows the proposed building as being very close to the same height as the building at 482 East 9th Avenue while in actuality the building that was constructed is significantly taller relative to the other buildings on the south side of 9th Avenue”.

These concerns were addressed at our GAAC meeting on August 24, 2007 and Staff told the GAAC that they would incorporate these concerns about process and application of infill compatibility to the Board of Adjustment. For a more in depth review regarding the GAAC concerns, please see Attachment E.

ATTACHMENT A - NORTH ELEVATION (AS-BUILT)

ATTACHMENT B – PHOTOGRAPHS

ATTACHMENT C – APRIL 17, 2006 MINUTES

ATTACHMENT D – APRIL 17, 2006 STAFF REPORT

ATTACHMENT E – GAAC LETTER

ATTACHMENT F – STREETScape ELEVATION