

BOARD OF ADJUSTMENT STAFF REPORT



Petition No. 420-08-088 Variance for Increased Height of a Building Addition Located at 668 South 1300 East.

Planning & Zoning Division
Department of Community &
Economic Development

PUBLIC HEARING DATE: June 16, 2008

Applicant:

Glenn Anderson, GA Architects, in behalf of McGillis School

Staff:

Michael Maloy, 535-7118, michael.maloy@slcgov.com

Tax ID:

16-05-482-011

Current Zone:

I Institutional District

Master Plan Designation:

Institutional, Central Community Master Plan (adopted November 1, 2005)

Council District:

District 4, Councilmember Luke Garrott

Lot size:

3.69 acres

Current Use:

Schools, K-12 private

Applicable Land Use Regulations:

- 21A.18 Variances
- 21A.32.080.Institutional District

Attachments:

- A. Variance Request with Narrative
- B. Site Plan
- C. Landscape Plan
- D. Building Elevations
- E. Building Addition Setbacks
- F. Property Photographs
- G. Architectural Renderings

REQUEST: Glenn Anderson, GA Architects, submitted a Variance Request petition in behalf of the McGillis School in order to exceed the permitted height of a proposed building addition in the I Institutional District. The subject property is located at 668 South 1300 East and contains a private school. The maximum height permitted within the I Institutional District is 35'. Additional building height up to 75' may be approved as a conditional use with increased building setback. The applicant requests permission to construct a building addition that would exceed the permitted building height from 5'-0" to 11'-4".

PUBLIC NOTICE: Staff has complied with the following Public Notice requirements as contained within section 21A.10.020 (Public Hearing Notice Requirements) of the Salt Lake City Code:

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') or three hundred feet (300') if the proposal involves construction of a new principal building (exclusive of intervening streets), of the periphery of the land subject to the application for a special exception for a variance, or a decision by the zoning administrator. Notice shall be given to each individual property owner if an affected property is held in condominium ownership.
3. Posting: The land subject to an application shall be posted by the city with a sign giving notice of the public hearing at least ten (10) calendar days in advance of the public hearing.

RECOMMENDED MOTIONS:

Approval. From the evidence and testimony presented and pursuant to the plans submitted, I move that the Board grant the variance to allow construction of a building addition that would exceed the maximum building height by 11'-4" for the following reasons:

1. Literal enforcement of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;
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 this Title is observed and substantial justice done.

Denial. From the evidence and testimony presented and pursuant to the plans submitted, I move that the Board deny the variance to allow construction of a building addition that would exceed the maximum building height by 11'-4" for the following reasons:

1. Literal enforcement of this Title would not cause an unreasonable hardship for the applicant and is necessary to carry out the general purpose of this Title;
2. There are special circumstances attached to the property that generally apply to other properties in the same zoning district;
3. Granting the variance is not essential to the enjoyment of a substantial property right possessed by other property in the same district;
4. The variance will substantially affect the general plan of the City and will be contrary to the public interest; and
5. The spirit of this Title is not observed and substantial justice is not done.

VICINITY MAP



Overview

On April 29, 2008 Glenn Anderson, GA Architects, submitted a Variance Request (# 420-08-088) to permit a height increase for a proposed 47,000 ± square foot building addition located at 668 South 1300 East. The subject property is a corner parcel with frontage along 1300 East and 700 South. The proposed building addition is parallel to 700 South (see Attachment B – Site Plan).

The property contains 3.69 acres and has an existing multi-story building that was originally occupied by the Douglas Elementary School and formerly owned by Salt Lake Valley Mental Health (see Attachment F – Property Photographs). The property is currently owned and operated by the McGillis School, which is a private school with grades kindergarten through eighth. The subject property has not been designated as a historic structure by Salt Lake City nor is it within a locally recognized preservation district.

The subject property is zoned I Institutional District, which district is classified as a “Special Purpose District” by Salt Lake City Zoning Title 21A. Chapter 21A.32.080, which contains the I Institutional District zoning code, states the following height regulation:

21A.32.080.D. Maximum Building Height: Building height shall be limited to thirty five feet (35'). Building heights in excess of thirty five feet (35') but not more than seventy five feet (75') may be approved as a conditional use; provided, that for each foot of height over thirty five feet (35'), each required yard shall be increased one foot (1').

Also for reference, staff has provided the following section from City Code 21A.24.200 Summary Table of Yard and Bulk Requirements for the I Institutional District:

Minimum Lot Area	Minimum Lot Width	Maximum Building Height	Maximum FAR	Minimum Open Space	Minimum Front Yard	Minimum Corner Yard	Interior Side Yard	Minimum Rear Yard	Required Landscape Yard	Landscape Buffer Yards
Worship places: 2 acres Others: 20,000 sf	100'	35' permitted 75' conditional (see subsection 21A.32.080D of this chapter)	1.0	40%	20'	20'	20'	25'	Front and corner side: 20' Interior side and rear: 8'	15' or equal to building height

The applicant has requested approval to exceed the permitted building height of 35' by a minimum of 5'-0" and a maximum of 11'-4" (see Attachment E – Building Addition Setbacks). The reason for the height variance is due to a downward sloping grade that extends westward from the property’s frontage along 1300 East. According to the applicant issues such as building programming, desired connections with the existing building, and preservation of useable open space are key design objectives that led the applicant to submit a Variance Request (see Attachment A – Variance Request with Narrative).

Comments

Public Comments: Staff has not received any public contact that is either for or against the variance request.

City Department Comments: Variance Requests are not typically reviewed by other City departments; however Barry Walsh, Engineering Technician VI in the Transportation Division, provided the following comment:

- The height proposal has no impact to the public right-of-way transportation corridor as presented.

Community Council Comments: Variance Requests are not reviewed by the respective community council.

Standards of Review and Analysis

The 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 a variance if all of the conditions described below are found to exist. The applicant shall bear the burden of demonstrating that the standards have been met and that the variance is justified. For the Board's consideration the applicant has provided (see Attachment A – Variance Request with Narrative) a comprehensive response to each of the following standards:

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?

Analysis: City Code 21A.18.060 states that in order to determine whether or not enforcement of the Zoning 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.

Based on the above criteria, staff finds that the variance request does not meet each element the hardship criteria. Staff findings are summarized below:

Criteria No.	Criteria Satisfied?	Staff Comments
1	Yes	The hardship is caused by the combination of the large size of the property and sloping topography.
2	No	Staff finds that the sloping topography is not peculiar to the property and generally exists on other properties within the neighborhood.
3	No	The hardship is self-imposed, however the proposed variance does not appear to be economically motivated, but rather it is based on open space preservation, building programming, and aesthetics (see Attachment D – Building Elevations and Attachment G – Architectural Renderings).

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

Analysis: In determining whether or not there are special circumstances attached to the property, City Code 21A.18.060. D states that the Board of Adjustment may find that special circumstances exist only if:

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

Staff finds that site topography has directly caused the perceived hardship. However, staff questions the applicant's position that the topography has deprived the property owner of privileges granted to other properties in the same zoning district. Staff finds that the applicant has failed to demonstrate compliance with this standard.

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

Analysis: The purpose for the variance is to allow expansion of the private school while preserving open space located on the northwest portion of the site (see Attachment C – Landscape Plan). The applicant has communicated with staff that the building could be redesigned to comply with the height regulation as a conditional use; however this process would likely require a significant portion of the useable open space to be consumed by the proposed building addition as the building addition setback would need to increase. Even so, whereas other design solutions or processes appear to be feasible staff does not find that granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same district.

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

Analysis: The Central Community Future Land Use map identifies the property as Institutional (Central Community Master Plan, page 2). The Central Community Master Plan more specifically discusses (on pages 12-13) the desirability of Institutional land uses within the community. Staff finds that the proposal is consistent with the goals and objectives of the applicable general plan. With regard to the affect the variance will have on the public interest, staff has not received any public comment in opposition to the variance request. As such staff finds that the proposal is compliant with this standard.

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

Analysis: City Code provides the following purpose and intent statement for the Zoning Title (*italics added*):

21A.02.030 Purpose and Intent. The purpose of this Title is to promote the health, safety, morals, convenience, *order, prosperity* and welfare of the present and future inhabitants of Salt Lake City, *to implement the adopted plans of the City*, and to carry out the purposes of the Municipal Land Use Development and Management Act, title 10, chapter 9, of the Utah Code Annotated or its successor, and other relevant statutes.

City Code also states the following purpose statement for the I Institutional District (*italics added*):

21A.32.080.A. Purpose Statement. The purpose of the I Institutional District is *to regulate the development of larger public and semipublic uses in a manner harmonious with surrounding uses*. The uses regulated by this district are generally those having multiple buildings on a campus like site.

Although the applicant's request does appear to be compliant with the previous purpose statements, staff has concern with the following purpose statement for Chapter 21.18 Variances (*italics added*):

21A.18.010 Purpose Statement. The variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this title that create unreasonable hardships. *When such hardships may be more appropriately remedied, if at all, pursuant to other provisions of this title, the variance procedure is inappropriate.*

Staff has suggested to the applicant that a petition for increased height should be submitted as a planned development and not as a variance. Although the planned development is a conditional use subject to Planning Commission review, which process may or may not result in approval of the desired plans, staff believes it is a feasible process that should be considered before determination of a variance petition. Therefore staff finds that the spirit of the zoning ordinance has been observed in part, but the petition is not consistent with the purpose statement for Chapter 21A.18 Variances.

ATTACHMENT A – VARIANCE REQUEST WITH NARRATIVE

ATTACHMENT B – SITE PLAN

ATTACHMENT C – LANDSCAPE PLAN

ATTACHMENT D – BUILDING ELEVATIONS

ATTACHMENT E – BUILDING ADDITION SETBACKS

ATTACHMENT F – PROPERTY PHOTOGRAPHS

ATTACHMENT G – ARCHITECTURAL RENDERINGS