

BOARD OF ADJUSTMENT STAFF REPORT

Donald Fulton lot frontage reduction

Case #420-08-119 at 624 South Emery Street
Variance request to reduce interior side yard setbacks
and to exceed the maximum exterior wall height.

June 16, 2007



Planning and Zoning Division
Department of Community
Development

Applicant:

Donald Fulton

Staff:

Ana Valdemoros,
Associate Planner
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Tax IDs:

15-02-529-021 (0.01 acres)
15-02-358-022 (0.05 acres)
15-02-358-015 (0.01 acres)

Current Zone:

R-1/5000 (Single-Family
Residential)

Master Plan Designation:

Single-family Residential

Council District:

Council District 2 – Van Turner

Acreage:

0.07 acres (3,049.2 square feet)

Current Use:

Vacant

Applicable Land Use

Regulations:

- 21A.40.070(C)(1)
- 21A.24.070(D) and (E)(3)
- 21A.040.050(A)(3)(a) and (3)(d)(i)

Attachments:

- A. Proposed Site Plan
- B. Application

REQUEST

Donald Fulton, the owner of the property located at 624 South Emery Street in the R-1/5,000 zone is requesting that the Board of Adjustment approve his application for the following in order to accommodate a new single-family dwelling:

- A variance to reduce side yard setback requirements from 4 feet on one side and 10 feet on the other to 4 feet on both sides.
- A variance to exceed the maximum interior wall height from 16 feet to 19 feet 8 inches

A variance request for reduced lot width (25 feet) and lot size (3,049 square feet) was granted on May 19, 2008 in a Board of Adjustments public hearing.

PUBLIC NOTICE

Notice of the public hearing was mailed to all property owners within eighty-five (85') feet of the subject property on May 28, 2008 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 June 6, 2008 at least ten (10) days in advance of the public hearing. The Planning Division listserve has also been notified and a copy of the staff report has been posted in the division's webpage. Community Council review is not required by city code for a variance review. Since the notices have been mailed, Staff has one comment by a neighbor which is in favor of the proposal.

RECOMMENDED 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 required interior side yard setbacks from four feet on one side and 10 feet for the other side to four feet on each side. Also to increase the maximum wall height from 16 feet to 19 feet 8 inches to accommodate the construction of a standard new single-family dwelling unit at 624 S Emery Street 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 only allows for the construction of a standard size 17 foot wide single-family dwelling of approximately seven hundred eighty two (782) 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 substandard widths and area;
3. Granting the variance is essential to the enjoyment of a substantial property right, which is enjoyed by other property owners in the neighborhood because the applicant is requesting to construct a standard single-family residence similar to the existing neighboring properties;
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 reduce the interior side yard setbacks and to exceed the maximum exterior wall height of the property at 624 South Emery Street pursuant to the findings and analysis in this staff report.

1. Literal enforcement of the ordinance does not cause an 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 reduction in lot width, lot size and required setbacks will be contrary to the public interest; and
5. The proposed plan does not meet the spirit and intent of the Zoning Ordinance.

SUBJECT SITE



COMMENTS

Public Comments:

At the time of this writing, staff only received comments from a neighbor which was in favor to the proposed variance and communicated it in person.

ANALYSIS

Background Information

The subject property is located in the Jordan Place Subdivision a platted subdivision. The property is the result of the combination of three substandard lots into a new lot with reduced width and size. The Board of Adjustment granted the reduced lot with and size variance request on May 19, 2008. See Table 1 showing the new non-complying lot dimensions:

Table1

Subject Property	Width (in Feet)	Area (in Square Feet)
624 S Emery St.	25	3049.2

The applicant requests a variance to reduce the interior side yard setbacks in order to accommodate a 782 square-foot single-family dwelling and a 420 square foot garage on the proposed new lot. The R-1/5000 Zoning District specifies that interior side yard be 4 feet on one side and 10 feet on the other. The applicant requests a reduction to four feet on both sides.

In addition, the principal building will be 24 feet 4 inches in height measured to the pitch of the roof and will have exterior wall heights of 19 feet 8 inches. The R-1/5000 Zoning District requires that exterior walls be 20 feet however, since the sideyard setback is reduced by six feet, the ordinance requires that the wall height also be reduced by six feet, resulting in a maximum wall height requirement of fourteen feet. (Section ..) Therefore, the applicant is requesting a variance to exceed the maximum exterior wall height from the required 14 feet to 19 feet 8 inches.

Table 2 shows a summary of the Code requirements for lots, principal buildings and accessory structures in comparison to what the applicant has proposed:

Table 2

	Code Requirement	Proposed	Compliance
Interior Side Yard Setbacks	4 feet on one side and 10 feet on the other	4 feet on both sides	No
Maximum Exterior Wall Height	14 feet on one side and 20 feet on the other	19 feet 8 inches on both sides	No
Maximum Building Height with Pitched Roofs	28 feet	24 feet 4 inches	Yes
Maximum Building Coverage: principal building and accessory structure	40 % or 1219.68 square feet	1,202 square feet	Yes

General Standards of Review for a Variance

The standards required for granting a variance are set forth in Utah Code 10-9-707 and Salt Lake City Code 21A.18.060. If the Board finds that these criteria are met, then it may grant the variance reducing the interior side yard setbacks and exceeding the maximum exterior wall height of the principal building in the R-1/5000 Zoning District.

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 applicant is requesting to build a single-family dwelling and an accessory structure in this substandard lot. The property is a combination of three substandard lots into one new non-complaint lot approved by the Board of Adjustments on May 19, 2008. In order to accommodate the new structures, the applicant is requesting variances for a reduced interior side yard setback and to exceed the maximum exterior wall height. Literal enforcement of the Zoning Ordinance would cause an unreasonable hardship for the applicant because current standards for typical lots in the R-1/5000 Zoning District would not allow the applicant to construct a reasonable single-family dwelling in the lot, thereby denying him a right to enjoy the property. Staff finds that allowing the reduction of an interior side yard setback and the increase in wall height would allow the applicant to build a single-family dwelling unit, a substantial property right enjoyed by other properties in the same zoning district. Staff also finds that the application meets the hardship criteria, due to the following:

Criteria #	Are the criteria satisfied?	Reason
1	Yes	The alleged hardship is related to the lot size and configuration which are non-compliant according to the current Zoning Ordinance. Even though the lot is non-compliant, the reduced interior side yard setbacks and increased exterior wall height will allow for a single-family dwelling unit that literal enforcement of the Zoning Ordinance would otherwise not allow.
2	Yes	The substandard width and area of the new lot is peculiar to the subject property and not from conditions that are general to the neighborhood because most of the same block face lots are complying with widths and sizes and can accommodate standard sized houses and garages.
3	Yes	The hardship is not self-imposed or economic but is related to the substandard condition of the existing lot. The applicant would like to construct a standard sized single-family dwelling, requiring reduced interior side yard setbacks and excess of the maximum exterior wall height.

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 is requesting that the required interior side yard setback be reduced in order to accommodate a single-family dwelling unit. He also is requesting approval to exceed the maximum exterior wall height. The property is a substandard lot, therefore in order for him to construct the lot, the request must be granted. The alleged hardship is related to the circumstances imposed by the current substandard width and area of the lot. These special circumstances do not generally apply to the same block face properties since most neighboring lots have complying widths and sizes. Therefore, staff finds that by granting the requested interior side yard setback reduction and allowing the increase of the exterior wall height, it would allow the property to include privileges afforded to other properties in the same zoning district such as the construction of a single-family dwelling.

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

Analysis: Staff finds that granting the variance would enable the construction of a single-family home on the property. If the variance is not granted, the applicant would have a very difficult time building on the property, and would not be able to enjoy a property right that is common to other owners in the immediate neighborhood. Moreover, the property next to the subject lot is the only one that has similar characteristics in terms of lot width and size and side yard setbacks and despite these circumstances enjoys a substantial property right of a single-family dwelling. Granting the applicant the requested reduced interior side yard setbacks to accommodate a single-family unit, would be 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 goal section of the West Salt Lake Master plan adopted in 1995 states, “Ensure opportunities for a variety of quality residential housing types for people of all income levels.” Staff finds that granting the requested variance will affect the general plan positively since the approval of the variance would enable the construction of a single-family home on an otherwise useless lot. If no construction was allowed in the lot, it could potentially be contrary to the public interest because of the vacant status that would remain on site. Staff finds that despite the reduced interior side yard setbacks and the 5 feet 8 inches of excess from the maximum allowable exterior wall height, the proposed single-family dwelling would not only positively affect the general plan and the development pattern of the neighborhood but would ultimately be in favor of the public interest.

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

Analysis: The Zoning Ordinance regulates lot setbacks and wall heights among other lot and bulk dimensions to ensure compatibility with surrounding properties in the same zoning district and to ensure that the proposed size, side yard setbacks, and height will not adversely affect the character of the area or public health, safety or

general welfare of its citizens. Granting the variance for a reduced interior side yard setback and higher exterior wall height will not literally enforce the Zoning Ordinance, however, it will observe the spirit of the Zoning Ordinance and substantial justice will be done because the proposed structure will comply with building regulations and ultimately will be compatible with the development pattern of the neighborhood.

Exhibit A: Proposed Site Plan

Exhibit C: Site Photographs