

DECISION
Pleasant Grove Land Use Appeals Hearing Officer
Request for Variance
Steve and Julie Wright – 1782 North 320 East
February 16, 2024

This matter involves a request for a variance from the terms of the land use ordinances related to a requested driveway access to 1800 North Street. It relates to property at 1782 North 320 East.

RECORD

The record includes the five-page staff report, the four page application for a variance, a proposed residential site plan, a map associated with the Pleasant Grove transportation master plan, and an audio recording of that hearing held on Wednesday, February 14, 2024, at 70 South 100 East in Pleasant Grove.

Present and participating at the hearing were Craig M. Call, hearing officer; Steve and Julie Wright, the property owners; Daniel Cardenas, City Director of Community Development; Jacob Hawkins, City Planner; Danny Shelton, neighboring property owner, and Christina Gregory, Planning and Zoning Assistant.

ANALYSIS – FINDINGS OF FACT

1. This matter involves a single-family residential lot located at 1782 N 320 East in the City.
2. The property abuts 1800 North Street, which is a collector street in the Pleasant Grove Master Transportation Plan.
3. The lot is approximately 95 feet in width along its frontage on 320 East Street and 150 feet in length along 1800 North Street.
4. The property line setback requirements of the land use ordinance for the R1-12 Zoning District for a corner lot are 30 feet on both street frontages of the lot, 10 feet for a side yard, and 30 feet for a back yard.
5. The combined side and front yard setbacks on the 95-foot-wide frontage would total 40 feet, leaving approximately 45 feet of width for a dwelling which faces the west side of the lot.
6. The combined side and front yard setbacks on the northern side of the lot, which also would total 40 feet, would leave approximately 110 feet of width for a dwelling facing the north side of the lot.
7. It is common in the area for dwellings to have garage space for more than one vehicle. This is a privilege that other properties in the area enjoy.
8. It is common in the area for dwellings to enjoy vehicular access to the property on the same level as the main living area of a home. This provides more convenient access, more ease of moving items such as groceries from automobiles into the main living area, and greater utility for the uses that the side and rear yards of the property may be put to. This is thus a privilege that other properties in the area enjoy.
9. To locate the garages for the proposed home on the lot involved here on the front of a dwelling oriented toward the north frontage of the lot would allow more flexibility in the design.

10. The steep increase in elevation on the west side of the lot is a special circumstance associated with the property itself and imposes design problems if the front of the proposed dwelling were required to be located there. For example, exterior stairs climbing eight to ten feet would be required if the primary entrance to the dwelling were to be on its main level, and not in its basement level. Exterior stairs can become a hazard to safety and convenience, especially in inclement and freezing weather.
11. The steep slope along the west side of the property is unique to the property and not common to other properties located in the same area.
12. According to satellite images of the neighborhood reviewed at the hearing, several other corner properties in the area were developed with driveway access to 1800 North Street in addition to or instead of access to a side street. This privilege is thus possessed by other properties in the same neighborhood but would be denied by the strict application of the code to the subject property here.
13. There is sufficient space in the proposed yard area fronting along 1800 North Street to install a turn-around area as part of the concrete paving to be located in front of a proposed garage.
14. Although 1800 North Street is designated on the Transportation Master Plan as a collector street, the traffic on the street is quite light, and there is no prospect of significant future development that would increase the traffic burdens along the street. The great majority of the land area served by 1800 North is fully developed and there is little vacant land available for residences which would increase the traffic flow on 1800 North Street.
15. 1800 North Street is along a right of way which is wide enough to accommodate two traffic lanes with generous shoulders on each side of the roadway in the vicinity of 320 East Street. This is wider than the normal street width found for side streets in the area.
16. The wider width of the pavement on 1800 North is a mitigating factor in allowing direct access from a single-family home to that street.
17. To allow a single proposed residence at 1782 North 320 East to access 1800 North with a driveway will not result in a significant increase in traffic safety hazards because of the current and future light traffic use of 1800 North Street.
18. The proposed driveway would also not result in a significant increase in traffic safety hazards if a turn-around area is provided in association with that driveway, allowing vehicles to enter the roadway going forward and not backing into 1800 North Street.
19. It is safer for a vehicle to enter a street moving forward than it is for a vehicle to back onto a city street.
20. Adherence to the strict terms of the ordinance in this instance would deprive the property owners of privileges possessed by other properties in the same neighborhood as explained above.

ANALYSIS – CONCLUSIONS OF LAW

1. The subject property is subject to a provision of the city code which only allows driveway access to a collector street if the staff finds that there is “no other possible alternative access”.
2. The decision by the staff that the configuration of the property here allows for a possible access for a dwelling which is not along 1800 North is correct.

3. The only option to allow direct access to 1800 North from the property would be by means of a variance. Without a variance, the only available access to a proposed dwelling for vehicles would be along 320 East Street.
4. In order to grant a variance, the hearing officer must find, based on substantial evidence in the record, that all of the required conditions in both city and state code have been met. *Wells v. Board of Adjustment of Salt Lake City*, 936 P.2d 1102 (Utah App. 1997).
5. The Pleasant Grove ordinances provide, at Section 10-2-3, that “The Hearings Officer may authorize, upon appeal, such variances from the terms of this title as will not be contrary to the public interest, where owing to the special conditions the literal enforcement of the provisions of this title will result in unnecessary hardship; provided, that the spirit of this title shall be observed and substantial justice done. Before any variance may be authorized, however, it shall be shown that:
 1. The variance will not substantially affect the General Plan of zoning and that adherence to the strict letter of this title will cause unnecessary difficulties and hardships.
 2. There are special circumstances attached to the property covered by the application that do not generally apply to other properties in the same neighborhood.
 3. Because of special circumstances, property covered by this application is deprived of privileges possessed by other properties in the same neighborhood; and
 4. The granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same neighborhood.”
6. In response to conclusion 5, it is found that to deny the variance would result in unnecessary hardship in the form of inefficient use of the subject property, permanent inconvenience in accessing vehicles only by means of a basement entrance, design restrictions associated with a narrower street frontage for the front of the home, and other hardships as outlined above.
7. In response to conclusion 5, it is found that the spirit of the land use regulations are observed in that traffic safety is not substantially affected by granting the variance and more orderly and efficient use of property is achieved.
8. In response to conclusion 5, it is found that substantial justice is done in that the property owners would enjoy the same street access as do other corner lot owners in the immediate neighborhood.
9. In response to conclusion 5(1), it is found that adherence to the strict letter of this title will cause difficulties and hardships which are unnecessary. The wider right-of-way and light traffic related to 1800 North can accommodate convenient access to the subject property without posing traffic and safety risks. Any potential increased risk is mitigated by requiring that a vehicle turn-around be provided as a condition of this variance.
10. In response to conclusion 5(2), it is found that the special circumstances attached to the property which do not generally apply to other properties in the same neighborhood are the steeply sloping terrain on the west side of the property and the narrower frontage along 320 East Street.
11. In response to conclusion 5(3), it is found that the special circumstances deprive the subject property of privileges possessed by other properties in the same neighborhood, including driveway access at the same level as the main living space of a dwelling instead of by means of a basement entrance, access along the longer frontage of a corner lot, and pedestrian access to the front door of the dwelling on the main level without the hazards associated with extended lengths of exterior stairs.
12. In response to conclusion 5(4) it is determined that granting the variance is essential to the enjoyment of the substantial property right of reasonable and convenient access to property as

possessed by other property in the same neighborhood. *Hampton v. State Road Commn.* 21 Utah 2d 342, 445 P.2d 708 (Utah 1968)

13. A variance, if granted, must also comply with state law, at Utah Code Ann. 10-9a-707(2), which reads as follows:

- “(a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
- (b)
 - (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship: (A) is located on or associated with the property for which the variance is sought; and (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
 - (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.”

14. In response to conclusion 13(a)(i)-(v) and (b)(i), see conclusions of law noted above.

15. In response to conclusion 13(b)(ii), it is found that the hardships here are related to the configuration and topography of the land and streets, and are not self-imposed or purely economic.

16. In response to conclusion 13(c), it is found that the special circumstances associated with the property relate to the hardship complained of and deprived the property of privileges granted to other properties in the same zone, as explained above.

17. As provided in Utah Code Ann. 10-9a-702(6), in granting a variance, the appeal authority may impose additional requirements on the applicant that will (a) mitigate any harmful effects of the variance; or (b) serve the purpose of the standard or requirement that is waived or modified.

18. A requirement that the property owner provide a vehicle turn-around within the subject property so that vehicles can move from the property to 1800 North in a forward direction and not back

onto the street is appropriate under this provision of the Utah Code in that it mitigates the harmful effect of the variance on traffic safety and serves the traffic safety purposes of the city code which restricts access to collector roads.

Conclusion:

The requested variance is approved with the condition that the property owner provide a conveniently and reasonably located vehicle turn-around within the subject property, such as that shown on the proposed site plan for a home on the property which is part of the record of these proceedings. This condition is imposed so that vehicles can move from the property to 1800 North in a forward direction and not back onto the street.

Dated this 16th day of February, 2024.

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read "Craig S. [unclear]".