

1 **MINUTES OF THE COTTONWOOD HEIGHTS CITY**
2 **APPEALS HEARING OFFICER MEETING**

3
4 **Thursday, January 9, 2025**

5 **5:00 p.m.**

6 **City Council Chambers**
7 **2277 East Bengal Boulevard**
8 **Cottonwood Heights, Utah**
9

10 **ATTENDANCE**

11 **Present:** Frank Nakamura, Hearing Officer
12 Mike Johnson, Community Development Director
13 Ian Harris, Associate Planner
14 Matt Ervin, IT Manager
15 Kate Hoflich, Deputy City Recorder
16

17 **Attendees:** John Love
18

19 **PUBLIC MEETING**

20
21 **1.0 Welcome and Acknowledgements.**
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23 Administrative Hearing Officer, Frank Nakamura called the meeting to order at 5:00 p.m.
24 and welcomed those present.
25

26 **1.1.1 Ex Parte Communications or Conflicts of Interest to Disclose.**
27

28 There were no Ex Parte Communications or Conflicts of Interest to disclose.
29

30 **2.0 Business Items**
31

32 2.1 **Project AHO-24-007 - Consideration of a request by John and Rebecca**
33 **Love for an addition to their residence at 8378 S. Austrian Way. The**
34 **proposed addition constitutes an expansion of a nonconforming**
35 **structure, as the existing home is legally nonconforming in terms of rear**
36 **setback measurement.**

Hearing Officer Nakamura reported that he has reviewed the record including the application provided by Kimberly Sorrentino and a Staff Report prepared by the City.

Associate Planner, Ian Harris presented the Staff Report and noted that the applicant was requesting approval for an addition to a legal nonconforming deck on a single-family home at 8378 S. Austrian Way.

The applicant is requesting to add a second story to an already existing non-conforming structure that was existing prior to city incorporation.

The existing home is considered legally nonconforming due to its attached deck in the rear yard. City code requires a 20' rear yard setback for single-family homes in the R-1-8 zone. While the exterior wall at the home is located more than 20' from the rear lot line, the attached deck protrudes into the setback. Because the deck is attached to the primary structure and projects more than 18" above ground level, it is subject to primary building setbacks for the R-1-8 zone. Associate Planner Harris shared satellite images, photographs, and plans that are included in the agenda packet.

The home was originally built in 1989, which predates city incorporation. Based on historic satellite imagery, the deck has existed in its current footprint since at least before the city's incorporation in 2005. Nonconforming setbacks are common for homes built or added on to in Cottonwood Heights prior to city incorporation.

The applicant is requesting approval to expand this nonconforming deck in three ways:

1. **Steps Expansion:** In rebuilding the existing deck on the first story, the applicant wishes to modify the configuration of the steps, which would slightly expand their footprint within the setback. The applicant's plans show the portion of the current stairs that would be removed, and the portion that would be added as part of their reconstruction.
2. **Second Story Deck:** The applicant wishes to construct a second story deck that mirrors the footprint of the current first story deck, excluding the steps. Based on the applicant's site plan, the second story deck would be approximately 15 ft from the property line, short of the required 20 ft, but no nearer to the rear property line than the existing first story deck.
3. **Spiral Staircase:** Because the applicant's primary goal of constructing a second story deck is to increase safety during a fire escape, the applicant wishes to include a spiral staircase leading from the second story to the ground. The homeowner has not selected a model or exact location yet but has stated that the diameter of the staircase would be no wider than 5'. It would be located on the north side of the deck, approximately shown in the attached drawing in the staff report.

Associate Planner Harris shared the staff analysis as follows. This application constitutes an expansion of a nonconforming structure as it expands the nonconformity in three aspects (the steps, second story deck, and spiral staircase). This application type requires

1 approval from the Appeals Hearing Officer. The applicant has submitted a site plan which
2 shows a larger rear yard than the Salt Lake County Assessor parcel viewer map does. The
3 applicant's site plan is not certified by a surveyor or licensed professional, so both are
4 approximations. Staff has included a recommended condition of approval that the
5 applicant obtain a survey (or otherwise provide clear, certified evidence from a licensed
6 professional) to determine the exact location of their rear property line, in order to ensure
7 that the measurements shown on their site plan are accurate.

8
9 Per Cottonwood Heights Municipal Code Section 19.88.070, approval from the Appeals
10 Hearing Officer is required when there is a modification, enlargement, addition, or
11 relocation of a legally non-conforming structure. Cottonwood Heights Municipal Code
12 Section 19.02.020 is designed and enacted for the purpose of promoting the health, safety,
13 convenience, order, prosperity and welfare of the present and future inhabitants of the
14 city, *including, among other things, safety from fire and other dangers*. City Staff
15 recommended approval of the project subject to the findings and conditions outlined in
16 the Staff Report. **Through analysis, staff has found that the proposed addition does not**
17 **increase the degree of nonconformity of this structure, and represents a reasonable**
18 **effort to modify an existing home.**

19
20 Hearing Officer Nakamura asked whether the spiral staircase would be in the rear setback.
21 Associate Planner Harris answered that it is well outside of the rear (north) setback.

22
23 Hearing Officer Nakamura invited the applicant, John Love, to make a statement. Mr. Love
24 added that the second story deck is directly off the children's bedroom and that their main
25 goal in building the addition is to improve the home's fire safety for his children.

26
27 Hearing Officer Nakamura stated that there is an apparent discrepancy between the
28 county records and the city records for the property lines. He asked whether Mr. Love was
29 comfortable moving forward with that discrepancy in mind. Mr Love said that he would
30 accept that discrepancy in order to avoid taking the staff recommendation of
31 commissioning a survey for of the property.

32
33 Hearing Officer Nakamura asked Associate Planner Harris to expand upon why they city is
34 recommending a survey, as Mr. Love expressed that he is reluctant to go to the expense of
35 obtaining a survey. Harris stated that the recommendation was made to solve the
36 discrepancy issue.

37
38 **Hearing Officer Nakamura moved to APPROVE, with conditions, the variance**
39 **requested as part of project AHO-24-007, based on the analysis, recommendations,**
40 **and findings summarized in the Staff Report and the agreement as approved and**
41 **executed.**

42
43 ***Request Findings:***
44

1. *The proposal will not negatively affect the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city because the use is the same as what currently exists;*
2. *The proposal will not create any additional congestion in the streets or roads;*
3. *The proposal will not create a fire safety issue;*
4. *The proposal will not affect air flow or block natural light from adjoining properties by conforming with all height regulations;*
5. *The proposal will have no apparent negative effect on the city's tax base;*
6. *The proposal will not place any type of unreasonable burden upon neighboring properties;*
7. *The proposal is in keeping with the intent of the Cottonwood Heights Zoning Ordinance.*

Recommended Conditions of Approval

1. *Prior to issuance of a building permit, the applicant shall provide a survey (or comparable certification by a licensed professional) to determine and verify the exact location of their rear property line.*

Hearing Officer Nakamura as if Mr. Love had any questions. Mr. Love asked what he would do with the survey once it was obtained. Community Development Director, Mike Johnson stated that it would be submitted as part of the permit application.

3.0 Consent Agenda

3.1 Approval of Appeals Hearing Officer Minutes from January 9, 2025

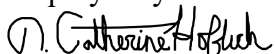
The Appeals Hearing Officer APPROVE the minutes of the January 9, 2025, meeting after the following process is met. The City Recorder will prepare the minutes and email them to the Hearing Officer. The Hearing Officer will have five days to review the minutes and provide any changes to the Recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until the changes are made and the hearing officer is in agreement, at which time the minutes shall be deemed approved.

4.0 Adjournment

The Administrative Hearing adjourned at 5:14 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Appeals Officer Hearing held Thursday, January 9, 2025.

Kate Hoflich
Deputy City Recorder



Minutes Approved: 01/16/2025