

Decision of the West Haven Hearing Officer
Variance Request – 2580 West 2200 South, West Haven
February 12, 2021

This matter is reviewed in response to an application for a Variance submitted by Mark Ellis (the “applicant”), on or about January 25, 2021. The property at issue is located at 2580 West 2200 South in West Haven City.

A hearing regarding the application was held via email exchange, commencing on Wednesday January 27, 2021. Participating were Mark Ellis; Amy Hugie, West Haven City Attorney; Michael Fisher, West Haven City Building Inspector; Steve Anderson, West Haven City Planner/Engineer; and Emily Green, West Haven City Recorder. The email exchanges are part of the record of this decision.

Notice of the request was published by the West Haven City Recorder as provided by ordinance. No comments were received from the public during the ten-day comment period allowed. The record also includes an Administrative Hearing Office Application submitted by Mark Ellis on January 25, 2021.

In order to qualify for a variance, certain criteria must be met under Utah Code Ann. 10-9a-702(2)(a). Each one of the criteria is cited below, along with the findings and conclusions supporting the conclusion that this request meets the criteria.

- (a) (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;

The ordinance requires a thirty foot front yard setback in the A-1 Zone. The particular parcel of land involved in this request is oddly shaped and is burdened by extraordinarily large canal, canal access road, and land drain easements. A strict application of the thirty foot setback will cause exceptional difficulties in placement of the home, leaving no practical yard in the rear. This imposes an unreasonable hardship on the property owner.

- (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

The lot is irregular and oddly shaped. The presence of the large canal, canal access road and land drain easements are special circumstances attached to the property which 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;

Without the variance, construction of a home such as the one proposed for the property would not be practical. Strict application of the ordinance eliminates the ability to enjoy the benefits of rear yard areas enjoyed by other property owners in the area. The

ability to benefit from the proper placement of the proposed home on an irregular lot is a significant property right as evidenced by the importance assigned to the placement of homes on residential lots by the setback requirements. Such requirements are of such importance that they are universally imposed by land use regulations throughout the various jurisdictions in the State of Utah..

- (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest;

As this lot has an irregular shape, those participating in the discussion of the proposed variance on behalf of the city have expressed their support of the proposed request. Granting the request will allow the lot to have a more practical buildable area.

- (v) the spirit of the land use ordinance is observed and substantial justice done.

The land use regulations advance the goal of allowing practical use of parcels of land, preserving property values, providing for orderly growth, and protecting the interests of property owners. The interests of the owners of the canal easement, the owners of other properties in the neighborhood and of the public at large are advanced by granting the variance.

It is further found that the requirements of the West Haven City Ordinances for issuance of a variance are also met. The parcel here involves exceptional narrowness, shallowness or shape as well as other extraordinary and exceptional situations or conditions. Granting the variance does not impose substantial detriment to the public good nor impairment of the intent and purpose of the master plan or the ordinance. The hardship is not economic nor is it self-imposed, as it relates to the configuration of this unique parcel of land.

The criteria for a variance having been met, a variance reducing the front yard setback from 30 feet to a minimum of 25 feet is approved.

Dated this 12th day of February, 2021.

/s/Craig M Call
West Haven Administrative Hearing Officer