

Decision of the West Haven Hearing Officer
Variance Request – 2591 South 2250 West, West Haven
August 30, 2022

This matter is reviewed in response to an application for a Variance submitted by Martin and Brittany Ford (the “applicant”), on or about August 1, 2022. The property at issue is located at 2213 W 2550 South in West Haven City.

A hearing regarding the application was held on Wednesday, August 17, 2022. Participating were Martin and Brittany Ford, the Applicant; Amy Hugie, West Haven City Attorney; Shari Phippen, West Haven Community Development Director; and Emily Green, West Haven City Recorder. An audio recording of the hearing is part of the record of this matter.

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 Officer Application submitted by the Applicant on or about August 1, 2022.

In order to qualify for a variance, certain criteria must be met under Utah Code Ann. 10-9a-702(2)(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;
- (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;
- (v) the spirit of the land use ordinance is observed and substantial justice done.

No evidence has been provided to meet all of these criteria. Specifically, there is no evidence that this matter involves a substantial property right as the Utah courts have defined that term. The ability to subdivide land and use an existing utility building for a second primary residence on property that already has an existing primary residence has not been held to be a substantial property right, but is subject to the land use ordinance as are other properties in the area. The variance cannot be approved as requested. The Applicant has been encouraged to work with city staff to come to another solution to the issues raised with the proposed accessory structure.

Dated this 30th day of August, 2022.

/s/Craig M Call
West Haven Administrative Hearing Officer