



Land Use Hearing Officer Summary & Analysis

Date: 1/12/2023
File Number LUHO-22-020
Request Type: Variance - Request to encroach within rear yard setback.
Parcel ID: 16-34-301-003
Address: 3758 S 2035 E
Zone: R-1-10, Single-Family Residential Zone
Applicant: Milton Watts
Planner: Katie Larsen, Planner

SUMMARY DESCRIPTION

The applicant is seeking a variance for a reduction of their **rear yard** setback from 15 to 13.5 feet to allow for a home renovation and expansion. The applicant is asking for a variance from the setbacks as prescribed within the R-1-10 Zoning Code. Millcreek City Code §19.14.050.

Pursuant to Millcreek City code, 19.04.570 Yard, Rear means a space on the same lot with a building, between the rear line of the building and the rear lot line and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

The subject property comprises of .23 acres and is located at 3758 S 2035 E. The property is located on a corner, giving it an irregular shape, and more restrictive setbacks compared to other properties in the neighborhood. The West lot line is considered the rear yard as the home fronts along 2035 East. If the home were to front and be accessed from Lost River Road, then this area would be considered side yard.

Due to the shape of the lot and what is deemed to be the rear yard, the applicant is requesting a rear yard setback of 13.5' from the standard 15'. The reduction will allow for the applicant to expand the footprint of their home to allow for more space in the kitchen and great room area. This expansion will not create an issue for compliance with RCOZ, more specifically, the building envelope.

STAFF FINDINGS, ANALYSIS, & SUPPORTING DOCUMENTS

Staff Findings:

1. The burden of justifying a request for a variance rests on the applicant. Utah Code § 10-9a-702(3) and Millcreek Code §19.92.050
 2. The property is irregular compared to neighboring properties in the way that it is located on a corner, and fronts on 2035 East.
 3. As the lot fronts 2035 E, the rear yard is directly West of so. See photo.
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4. Granting a rear yard exception will not warrant an exception to RCOZ standards.
5. The property has no other non-conformities in relation to zoning.
6. The proposed design will be attached in the exhibits of this document.
7. The request is to reduce the minimum rear setback of 15' by 1.5', coming to **13.5'**.
8. The proposed extension is to accommodate new kitchen and living space.



Staff Analysis:

1. *Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;*
City Code §19.92.050.B

Staff Response: Due to the orientation of the home, the rear yard is unusually small. Surrounding homes have a similar lot coverage as to what is being requested.

2. *There are special circumstances attached to the property that do not generally apply to other properties in the same district;*
City Code §19.92.050.B

Staff Response: Since the front of the home is oriented East, land directly West of the home is considered rear yard. The land directly west limits the home owner significantly as it only measures 15'-16' from the home to the property line. The usual rear yard for the neighborhood ranges from 25-50'.

3. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;*

Staff Response: Other property owners are allowed to cover up to 31% of their lot with home, the applicants request covers 26% of the lot.

4. *The variance will not substantially affect the general plan and will not be contrary to the public interest;*

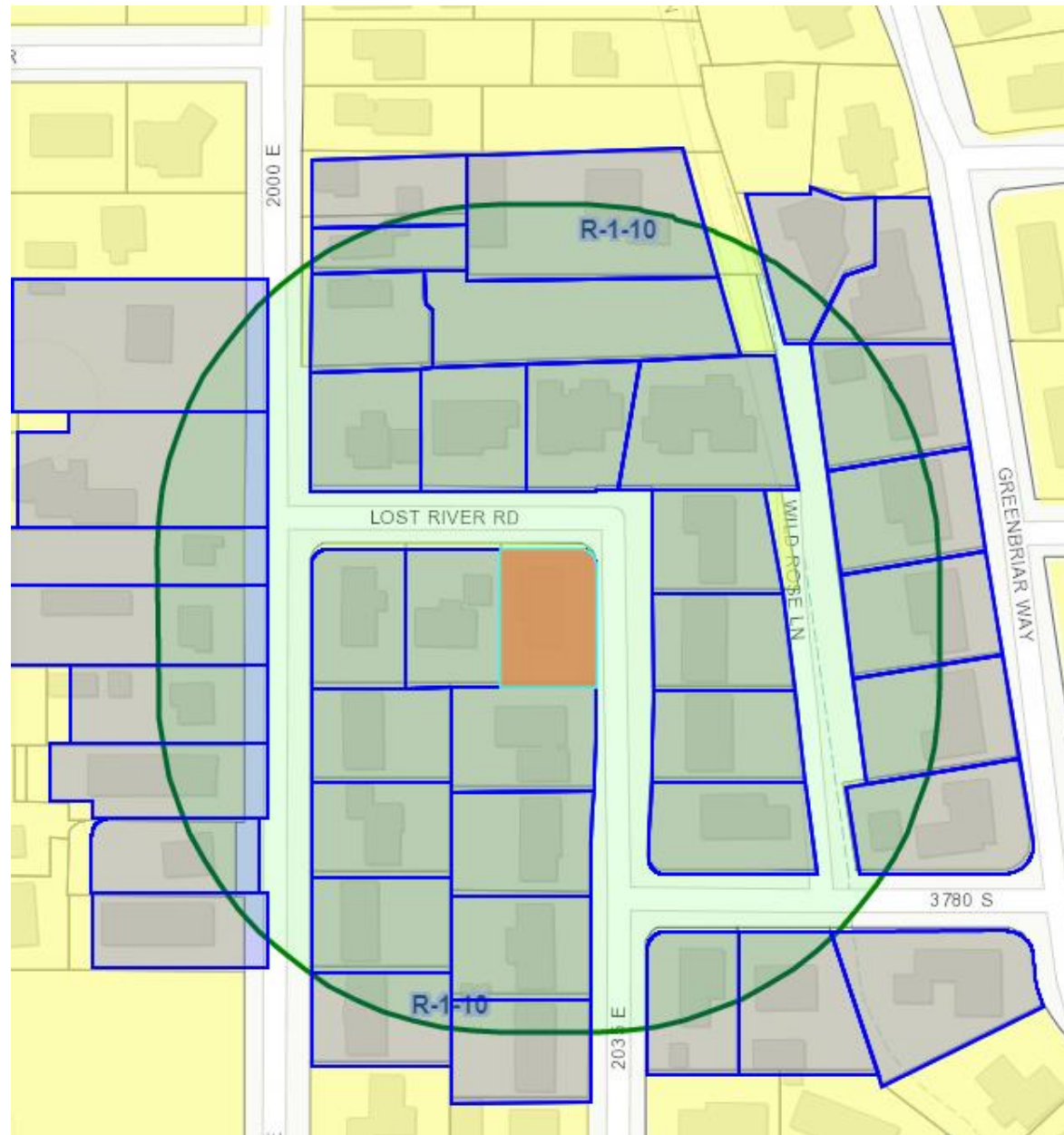
Staff Response: This request will not affect the general plan.

5. *The spirit of this title is observed, and substantial justice is done.*

Staff Response: Based on staff findings, the owner faces a hardship warranting a special exception due to the orientation of their home.

Supporting Documents:

- **Exhibit A** - Vicinity Map
 - **Exhibit B** - Applicant's Response
 - **Exhibit D** - Plans
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Planning Services

3330 South 1300 East, Millcreek, Utah 84106

Phone: (801) 214-2750

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File #

AFFIDAVIT - Property Owner

STATE OF UTAH }
 } ss
COUNTY OF SALT LAKE }

I (we) MILTON & KAREN WAITS being duly sworn, depose and say that

I (we) am (are) the owner(s) of the property(s) located at:

3758 S 2035 E, MILLCREEK UT 84109

My (our) signature below attests that I (we) have reviewed the proposal by MILTON WAITS
requesting review and approval of LAND USE DEVELOPMENT VARIANCE

and that I (we) consent to the statements and information provided in the attached plans and exhibits
and that all information presented is true and correct to the best of my (our) knowledge.

Property Owner [Signature]

Property Owner [Signature]

Subscribed and sworn to me this 28 day of November, 2022.



Notary: [Signature]

Residing in Salt Lake County, Utah

**Millcreek Planning and Zoning**

3330 South 1300 East

Millcreek, Utah 84106

Phone: 801.214.2750

LAND USE AND DEVELOPMENT APPLICATION

OFFICE USE ONLY	File Number		Zone	
	Date Received		Community Council	

Property Address	3758 S 2035 E, Millcreek, UT 84109	Parcel No.	16-34-301--003-0000
Name of Project	Kitchen Remodel	Project Size in SF	900

Please describe your request. Include Supplemental Application if Required. Add additional pages if necessary.

Extend existing foundation to create new basement room under existing covered porch (permitted). Extend Kitchen/Living room over new basement room, within area of existing covered porch. Expansion includes 20" pop-out on kitchen to match existing house features and provide room for expansion. The 20" pop-out will encroach on 15' rear-yard setback requirement. It does not increase

New Development**Modify Existing Development****Other**

- ☐ Accessory Dwelling Unit
- ☐ Conditional Use
- ☐ Development Agreement
- ☐ PUD (# units _____)
- ☐ Rezone
- ☐ Sign
- ☐ Site Plan Review
- ☐ Subdivision (# lots ____)

- ☐ Lot Consolidation
- ☐ Lot Line Adjustment
- ☐ Subdivision Amendment

- ☐ Appeal of a Land Use Decision
- ☐ Exception Request: _____
- ☐ General Plan Amendment
- ☐ Nonconforming Use
- ☐ Noncomplying Structure
- ☐ RCOZ B Approval
- ☐ RCOZ C Special Exception
- ☐ Reasonable Accommodation
- ☐ Research Request
- ☐ Street Vacation
- ☐ Text Amendment
- ☒ Variance

PLANNING REVIEW PERIOD

Each application is subject to a planning review period. Upon payment of all applicable fees and submission of a complete land use application for an approval that requires a public meeting, planning staff will have a review period of fifteen business days to review the application for substantial compliance with all the requirements of applicable ordinances before scheduling the application for the first public meeting or hearing. If staff requires additional information, clarification or an updated application submittal as part of their review, the time to provide the additional information, clarification, or submittal will be in addition to the review period. Staff will schedule your application at the first available public meeting after the review period concludes.

**Millcreek Planning and Zoning**

3330 South 1300 East

Millcreek, Utah 84106

Phone: 801.214.2750

APPLICANT'S NAME:

First Milton Last Watts Initial H
Address 3758 S 2035 E City Millcreek State UT ZIP 84109
Phone _____ Email _____

PROPERTY OWNER(S) – Note: A signed affidavit is required of all property owner(s).

First Milton & Karen Last Watts Initial _____
Address 3758 S 2035 E City Millcreek State UT ZIP 84109
Phone 801-647-0862 Email watm62@gmail.com

PROFESSIONALS

____ Engineer ☒ Architect ____ Other
Company Highland Group Building Design Contact Tim Furner
Address 4471 S Highland Drive City Salt Lake City State UT ZIP 84124
Phone 801-277-4433 Email timfurner@highland-group.com

Applicant hereby authorizes the city to reproduce this application and all documents attached to the application for staff, officials, and the interested public. Applicant further authorizes city staff to access the property for inspections and assessments as required as part of an application review.

Applicant's Signature: [Signature] Date: 11/28/22

**Planning Services**

3330 South 1300 East • Millcreek, Utah 84106

Phone: (801) 214-2750

Millcreek.us**File #**

Variance/Appeal Hearing Application before the Appeal Authority

Zone: _____ **Community Council:** _____ **Planner:** _____
Parent File #: _____ **Date:** _____

Name(s): Milton Watts**Address per tax rolls:** 2758 S 2035 E**City/County:** Millcreek**State:** UT**Zip:** 84109**Office/home phone:** 801-278-5108**Fax:** _____**Mobile phone:** 801-647-0862**Message phone:** 801-647-0862**Email address:** watm62@gmail.com**Application is made for:****Variance from the terms of the
zoning ordinance****(See Section A, Page 2)****Appeal of an administrative decision in
interpretation of the zoning ordinance****(See Section B, Page 3)**

ANSWER THE QUESTIONS COMPLETELY

Section A Application for a variance from the terms of the zoning ordinance

10-9a-702. Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance. These conditions are set forth in the following five questions:

- 1. State how the literal enforcement of the zoning ordinance would cause an unreasonable hardship that is not necessary to carry out the general purpose of the land use ordinance. (NOTE: A hardship must be associated with the property for which the variance is sought, comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood, and cannot be self-imposed or economic, 10-9a-702 (b)).**

The enforcement of the setback requirements for this property would prevent me from developing the property to accomodate the growing needs of my family. The present structure occupies less than 20% of the property.

- 2. What special circumstances are attached to the property that does not generally apply to other properties in the same land use zone?**

The house is on a corner lot with the front of the house facing East which is the long dimension of the property. The functional back yard is to the South, but the City designates it as a side yard. The back yard, as designated by the City, is functionally a side-yard. It was originally developed with a covered deck within 13' of the West property line and a path connecting the patio to the effective back yard on the South.

Other properties in the neighborhood have added great rooms with kitchens by expanding into their back yards. The present zoning does not allow adequate extension into the designated back yard, and consequently prevents us from developing a significant portion of our property. The proposed expansion would have been allowed if the front of the lot had been designated differently. Most of my adjacent neighbors have side yards with setbacks as small as 8'.

3. How would the granting of a variance be essential to the enjoyment of a substantial property right possessed by other property in the same land use zone?

Several other properties in the neighborhood have added great rooms with kitchens by expanding into their back yards.
The present zoning does not allow adequate extension into the designated back yard, and consequently prevents us from developing a significant portion of our property.

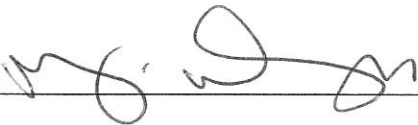
4. How will this variance affect the General Plan for Millcreek City?

The General Plan for Millcreek City would be unaffected by this variance. The property was originally developed with a covered porch in the proposed expansion area. The setback in question appears as a side yard as viewed from the street and is indeed wider than most side yards in the neighborhood. Millcreek City might consider allowing alternate designations of side vs. back yards in the case of corner lots where those designations seem arbitrary.

5. How will the spirit of the land use ordinance be observed and substantial justice done?

The land use ordinance encourages functional and aesthetic development. The existing and proposed uses of this land conform to that spirit.

The appearance from the street and adjacent yards will be essentially unchanged. Foundations will remain within the allowed setbacks. Rooflines will remain as they are and in conformance with all height restrictions. The only difference will be a small pop-out, consistent with existing pop-outs of the structure and remaining under the existing roof. Functionally, the house will continue to retain its value with the addition of a great-room. This feature is becoming standard for homes in the area.



11/28/22

SIGNATURE - SECTION A ONLY

DATE

Section B Appeal of an administrative determination in applying the zoning ordinance

10-9a-703. Appealing a land use authority's decision.

The applicant, a board or officer of the county, or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided by ordinance, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

Date of decision: _____

What determination was made?

(Include copies of any paperwork that you have received indicating this determination)

Name of board or official making that determination:

State the reason you feel that this determination is in error:

(Use additional paper and attach it to back of this application if more space is needed)

SIGNATURE - SECTION B ONLY

DATE

(For Office Use only)

Date received in Community Development Office: _____

Fee Paid: \$ _____

Received by: _____ Hearing Date : _____

Number assigned for reference: _____

Date Appeal authority made decision: _____

Decision of the Appeal Authority: _____

Date decision is mailed to applicant: _____

APPLICANT'S NAME:**First:** Milton **Last:** Watts **Initial:** _____**Address:** 3758 S 2035 E **City:** Millcreek **State:** UT **Zip:** 84109**Phone:** 801-278-5108 **Cell:** 801-647-0862 **Email:** watm62@gmail.com**Property Owner(s):****First:** Milton & Karen **Last:** Watts **Initial:** _____**Address:** 3758 S 2035 E **City:** Millcreek **State:** UT **Zip:** 84109**Phone:** _____ **Cell:** _____ **Email:** _____**Professional(s):** ☐ **Engineer** ☐ **Architect** ☐ **Other****Company:** Highland Group Building Design **Contact:** Tim Furner**Address:** 4471 S Highland Dr. **City:** SLC **State:** UT **Zip:** 84124 **Phone:** 801-277-4433**Cell:** _____ **Email:** timfurner@highland-group.com

**NOTE: all correspondence will be sent to the applicant's address:*

To facilitate the land use notice and review process, the undersigned hereby authorize the City to reproduce this application and all documents attached to the application for staff, officials, and the interested public:

Applicant's Signature: _____**Date** 11/28/22

