

Minutes of the Hearing Officer meeting held on Wednesday, April 12<sup>th</sup>, 2023, at 12:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland, Hearing Officer  
Jared Hall, CED Director  
Susan Nixon, Senior Planner  
Zachary Smallwood, Senior Planner

Members of the public:

Peggy Imai  
Dustin Silver

#### CONFLICT OF INTEREST

No conflicts of interest.

#### VARIANCES

##### CASE #1605 – Peggy Imai - 451 East Vine Street – Project #23-036

This is a request by Peggy Imai regarding a rear yard setback for a detached accessory dwelling unit. The property address is 451 East Vine Street, in the R-1-8 zone. Ms. Imai requested a text amendment to reduce the area requirement for an ADU (accessory dwelling unit), which was approved by City Council. The text amendment reduced the minimum square footage from 12,000 square-foot lot to 10,000 square-foot lot. As she was getting ready to develop, staff found that there was a power line easement running through the middle of her backyard. This request is to reduce the required 25-foot setback to approximately 14 feet, at the smallest portion. The power department will not allow for construction underneath the easement. This is a large power line easement through her backyard, which is making it impossible to proceed. Besides this issue, she can meet all the other requirements for an ADU.

The first requirement is that the literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary in order to carry out the general purpose of the land use ordinance. The power line easement running through the backyard, or her proposed backyard, plus requiring the 25-foot rear yard setback, and having enough area for a dwelling and an ADU is an unreasonable hardship in staff's view. The R-1-8 zone does promote family life and the accessory dwelling unit ordinance promotes opportunities for affordable housing, social and personal support for family members, and preserving the character of single-family neighborhoods. Staff believes this is consistent with the land use ordinance by granting such a variance. As context, most setbacks are provided to buffer neighboring property owners. Because the neighboring property owner is Murray City/Salt Lake County golf course, staff feels this would not be a hardship to enforce the 25-foot setback. Staff finds that she meets this requirement.

The second requirement is that there are special circumstances attached to the property that do not generally apply to other properties in the district. Typically, utility easements run along the borders of properties, not through the middle of them. This easement is unique to her property. Staff finds that she meets this requirement.

The third requirement is that granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district. Staff finds that being able to build an accessory dwelling unit in the R-1-8 zone is a substantial property right, as long as the requirements can otherwise be met. Ms. Imai's ability to do so is subject to that, without the power line easement, would not have been an issue. Many other properties in the zoning district can build accessory dwelling units, and the applicant will be able to comply with all other aspects of both the R-1-8 zone and the accessory dwelling unit ordinance. Staff finds that she meets this requirement as well.

The fourth requirement is that the variance will not substantially affect the general plan and not be contrary to the public interest. Granting the variance would, in fact, facilitate the goals of the general plan and would serve the public interest. This property is zoned residential in the General Plan and in the city's Neighborhoods and Housing Plan. There are two specific objectives – the first is to preserve and stabilize current neighborhoods and the second is encourage housing options for a variety of age, family size and financial levels. Being able to build a new home and have an accessory dwelling unit would further those goals. Staff finds that applicant meets this requirement.

The fifth requirement is that the spirit of the land use ordinance is observed and substantial justice done. Staff finds the accessory dwelling unit ordinance states that ADU's are important tools for the overall housing of the city. They provide social and personal support, affordable housing, and preserve single-family neighborhoods. Staff finds that it does not violate the spirit of the land use ordinance. Staff finds that the applicant meets this requirement. In closing, staff recommends approval of the requested variance to the land use ordinance for the accessory dwelling unit rear yard setback from 25 feet to 14 feet, subject to the following conditions:

1. The applicant shall obtain the appropriate Murray City Building Permits necessary for the proposed single-family dwelling and accessory dwelling unit.
2. The applicant shall obtain an Accessory Dwelling Unit Permit.

Mr. Harland asked if Murray Power was aware of her plans. Mr. Smallwood indicated that Ms. Imai has been in contact with the power company and they are in communication with her about this. Mr. Smallwood also indicated that a driveway will be built which will facilitate access to the backyard, in case the power company needs access to it. Mr. Harland was satisfied with that answer.

Mr. Harland asked for clarification on the other setbacks. There is a 9-foot setback on the west side and 12-feet on the other side. Mr. Smallwood indicated Ms. Imai has more setbacks than that, including a 12-foot driveway and an 11-foot area of landscaping. Mr. Harland seemed satisfied with that.

Mr. Harland asked if there is a canal or a ditch in the back, but it is an operational canal. Notices were sent to all property owners nearby.

Mr. Harland seemed satisfied with the variance application.

Ms. Imai spoke regarding her application. She has always been fond of that property, but did not realize how much work it would be to develop it. She has a brother who is an architect, who has designed the house. The property was last developed in the 1950's.

Public comment was opened.

Mr. Dustin Silver, an adjacent neighbor, spoke regarding the variance. He supports the project one hundred percent.

Public comment was closed.

Mr. Harland asked Ms. Imai if she can adhere to the two conditions previously outlined. Mr. Harland indicated that he is inclined to approve the variance, but reminded the applicant to take no action until she receives something in writing.

**ADJOURNMENT**

The meeting was adjourned by Mr. Harland at 12:47 p.m.

NOTE: A decision of a Hearing Officer takes effect on the date when the Hearing Officer issues a written decision. (Murray City Municipal Code Section 17.16.060(A).)

An appeal of the decision by the Hearing Officer may be made to the Utah District Court in compliance with Section 10-9a-801 of the Utah Code.