



**PARK CITY MUNICIPAL CORPORATION  
BOARD OF ADJUSTMENT MEETING  
SUMMIT COUNTY, UTAH  
MINUTES OF JANUARY 9, 2024**

**BOARD MEMBERS IN ATTENDANCE:** Ruth Gezelius - Chair, Beth Armstrong, Jennifer Franklin, Mary Wintzer, John Stafsholt

**STAFF:** Planning Director, Rebecca Ward; Planner II, Spencer Cawley

**1. ROLL CALL**

Chair Ruth Gezelius called the Park City Board of Adjustment Meeting to order at 5:00 p.m. and referenced the Board Members who were present.

**2. MINUTES APPROVAL**

**A. Consideration to Approve the Board of Adjustment Meeting Minutes from December 12, 2023.**

Planning Director, Rebecca Ward, reported that there was a recommended addition for the Board of Adjustment Meeting Minutes from December 12, 2023. There was a recommendation to reference the Closed Session. There was a motion by Board Member Armstrong to move into a Closed Session to discuss the Deployment of Security Personnel, Devices, or Systems. Board Member Franklin seconded the motion. The motion passed with the unanimous consent of the Board. The Board was in Closed Session from 4:00 p.m. to 4:43 p.m. Board Member Franklin moved to adjourn from the Closed Session at 4:43 p.m. and Board Member Armstrong seconded the motion.

**MOTION:** Board Member Armstrong moved to APPROVE the Board of Adjustment Meeting Minutes from December 12, 2023, as amended. Board Member Franklin seconded the motion. The motion passed with the unanimous consent of the Board.

**3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES**

There were no Staff or Board communications and disclosures.

**4. PUBLIC COMMUNICATIONS**

No comments were submitted.

**5. REGULAR AGENDA**

**A. 948 Woodside Avenue - Variance - The Applicant Requests a Variance to the Historic Residential - 1 Zoning District Maximum Building Footprint to Increase the Footprint of An Existing Single-Family Dwelling by 51 Square Feet. PL-23-05967.**

Planner II, Spencer Cawley, presented the Staff Report and stated that the application was for a variance for property located at 948 Woodside Avenue. Following his presentation, the applicant and the applicant's representative would share information with the Board. Planner Cawley reported that 948 Woodside Avenue is a non-historic single-family dwelling. The request was to increase the building footprint from 909 to 960 feet. This would increase the building footprint beyond the allowed zoning maximum. The variance would allow the applicant to construct an additional bathroom at the basement level. Currently, there is one bathroom and three bedrooms on that level. The variance would allow an increase in the maximum building footprint in the HR-1 Zone.

Planner Cawley shared an image of the existing structure. He reported that the building was constructed in 1992 and approved through the Historic District Design Review ("HDDR"). On the basement level, there is an area that was not enclosed, which is outside of the building footprint. That was the area the variance wanted to address. The footprint has remained unchanged since it was originally constructed in 1992. Additional images were shared to highlight the indentation that had been referenced previously. The applicant was looking to enclose that section to add another bathroom. At the time the house was constructed, there was not a maximum building footprint. The governing Land Management Code ("LMC") at that time had a floor area ratio instead. Based on the information from the original building plans, there was a floor area ratio of 1.09. The maximum floor area ratio for the zone at that time was 0.9. There was no indication from Staff at the time if there was an exception made or if there was a different way to calculate the floor area ratio, but the 1.09 floor area ratio included the allowance for the garage.

Currently, the LMC defined the Building Footprint with the following language:

- The total area of the foundation of the structure, or the furthest exterior wall of the structure projected to natural grade, not including exterior stairs, patios, decks, and accessory buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged, or incorporated into the main building.

Planner Cawley reported that it is not a historic structure. What was being examined was the existing building footprint. The maximum building footprint was determined under the current LMC. It was possible to determine the maximum building footprint based on the lot size. This was a standard Old Town lot with 1,875 square feet, which resulted in a maximum building footprint of 843.75 square feet. What was currently built and existing was 909 square feet, which was already in excess of what is currently allowed. The proposal would further exceed that for a total excess of 116.25 square feet.

Regarding non-complying structures, the LMC states that when a structure is in compliance it may not be moved, enlarged, or altered, except in the manner provided in that section of Code or unless required by law. Specifically, non-complying structures may undergo changes provided that the changes do not further increase the degree of the existing non-compliance of all or any part of such structure. Planner Cawley explained that the request would, under the LMC definition, increase the existing non-compliance.

In the Staff Report and the Draft Final Action Letter, there were drafted Findings of Fact for each of the five variance criteria. The first criterion stated that “Literal enforcement of the LMC would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the LMC.” This is a typical Old Town lot that is 25 feet wide and 75 feet deep and 1,875 square feet in size. There is an established maximum building footprint under the current Code and the existing building footprint is already in excess of that. The requested variance would increase the building footprint further. Literal enforcement of the LMC would not cause an unreasonable hardship for the applicant as the structure has an available bathroom for the basement bedrooms.

The second criterion states that “There are special circumstances attached to the property that do not generally apply to other properties in the same zone.” Planner Cawley explained that the site is not a steep slope as defined by the LMC, which is anything greater than 15%. The site has a slope that was less than 14%. It is not near a wetland or stream, is not designated as a Historic Structure, and there were no special circumstances attached to the property that do not generally apply to other properties in the same zone.

The third criterion states that “Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.” The structure has three bathrooms with one in the basement level. There is also one on the first floor and one on the second floor. An additional bathroom is not essential to the enjoyment of a substantial property right possessed by other property in the same zone.

The fourth criterion states that “The variance will not substantially affect the General Plan and will not be contrary to the public interest.” Planner Cawley explained that the historic character of the Old Town neighborhood is one of the core community values in the General Plan. Goal #15 of the General Plan was to “preserve the integrity, mass, scale, compatibility, and historic fabric of the nationally and locally designated historic resources and districts for future generations.” Increasing the non-conformity was contrary to the General Plan and did not preserve integrity, mass, scale, compatibility, or historic fabric.

The fifth criterion states that “The spirit of the LMC is observed and substantial justice done.” As outlined in the LMC, the purpose of the HR-1 Zoning District included preserving the present land uses and character of the historic residential areas of the City, encouraging the construction of historically compatible structures that contribute to the character and scale of the Historic District, and maintaining existing residential neighborhoods.

The Draft Final Action Letter attached to the Staff Report made a reference to being “approved with conditions.” Staff asked that as part of the recommendation the Draft Final Action Letter be amended to state that it was denied to align with Findings of Fact and Conclusions of Law. The Board of Adjustment could review the proposed variance, conduct a public hearing, and consider denial of the variance according to the Findings of Fact and Conclusions of Law outlined in the amended Draft Final Action Letter.

Board Member Stafsholt noted that reference was made to three bedrooms and two bathrooms on the basement level. Later there was a reference to one bathroom on the basement level. He asked for clarification about what currently exists in the home. Planner Cawley clarified that there are three bedrooms in the basement and one bathroom. The request for the variance would make it possible to add another. There is also one bathroom on the main level and one bathroom on the second level.

Board Member Stafsholt discussed the drawings that were submitted. On the basement level, it showed a family room. He wondered if that had been converted into a bedroom. Planner Cawley noted that the reference to a family room was incorrect and that it is actually a bedroom. That was mislabeled on the drawing that was referenced.

The applicant, Rick Schach, reported that he and his wife, Susie Schach, purchased the home in 2019. Work had been done with Planner Cawley and the Planning Department in 2020. An HDDR application was submitted and that process was moving ahead. The variance request was part of that process. Mr. Schach commissioned professionals to assist with the work over the last few years, including Mike Sweeney who assisted with the City Hall process, Contractor Justin Layton, and Architect Michael Anderson. Mr. Schach shared an image of the home and stated there were some main objectives for the remodel, which included addressing the fact that the house is an exact duplicate of the neighboring home, the small galley kitchen, the lack of storage, and lack of space for a dining area or table. There was also a desire to add a second bathroom to the basement level as three bedrooms were on that level and there was only one bathroom available. He had also contemplated a roof deck and the addition of heating technology for the driveway and the back patio.

Mr. Schach reviewed the proposed design and compared that to the existing design. He next shared example images with the Board for reference. On the left side of the screen, there was the original floor plan, which showed the three bedrooms and one full bathroom. The nook was cut out in the foundation. It was unclear why that nook existed, but it might have been to accommodate an outside air conditioning unit. On the right side of the screen, there was the proposed floor plan. The intention was to fill in that nook and make it a small bathroom. The three bedrooms would then be supported by two bathrooms. Mr. Schach shared some example views from the street to illustrate the impacts on others.

Mr. Schach next reviewed the variance criteria and explained that an applicant response had been provided for each one. For example, for variance criteria one, related to hardship, it stated: “The hardship caused to 948 Woodside would be the limited availability of bathrooms in the basement level. Currently, one bathroom serves three lower-level bedrooms. To cure this hardship, there is the availability of a small indentation

in the current ground-level footprint that enables the betterment of the home's livability, while not increasing the ground-level footprint. This indentation fills in an area at grade that should have been originally enclosed in the 1993 build of the structure. As stated above, we do not know the original reason for this indentation, because the second level and third level of the house are built over the indentation and used as living space."

The second variance had to do with special circumstances on the property. Mr. Schach explained that there was a unique footprint and the house was on the downhill side of the mountain. It was a narrow lot and it did not support itself well for a lot of amenities. This variance would make it possible to add an amenity to a more challenging lot. The third criteria response stated that the variance was essential to the enjoyment of the property. For the fourth criteria response, he pointed out that the area in question was a fairly inconspicuous part of the property. It was an indentation that likely should have been filled in when it was originally built. He did not believe a change there would impact the integrity, scale, compatibility, or historic fabric for future generations. As for the last criterion, he did not believe addressing the indentation would break the spirit of the LMC.

Board Member Stafsholt noted that this was the first time that the Board had been able to review the proposed plan for the whole home. It looked like the applicant also wanted to fill in the entryway, which was currently open. He believed that would add more square footage to the structure, which would increase the total beyond the current variance request. There were also other ideas shown that would increase the total square footage. Chair Gezelius pointed out that what had been mentioned was not under the purview of the current Board of Adjustment discussion. Currently, only one variance has been requested. Board Member Stafsholt explained that he wanted to understand what the applicant intended. Mr. Schach clarified that the top gable would be removed and that square footage would be available. With regards to the entryway, it was his understanding that additional square feet would not be added when that was filled in.

Mr. Layton clarified that the location of the front door was recessed from the front of the house. There was an open walkway. The intention was to keep the front door in the current location but enclose that in, so there was a proper entry. A new front door would be added and there would be more of a storm door where the current front door was. It would not technically count toward living space as it was being enclosed to have a double entry instead of a single-door entry. As for the space above the proposed bathroom, that was the walkway. Above that was the master bedroom. The sides, length, and width of the house would not be increased. It was simply a matter of filling in the existing space. Board Member Stafsholt stated that the footprint was based on enclosed space, whether it was living space or not. The type of enclosed space was irrelevant to the code.

Additional discussions were had about the walkway and other elements that had been contemplated. Chair Gezelius reminded Board Members what was currently before the Board of Adjustment and noted that the application related to the requested variance.

Chair Gezelius opened the public hearing. There were no comments. The public hearing was closed.

It was noted that both Staff and the applicant had presented their interpretations of the five criteria that must be found in order to justify a variance. Chair Gezelius asked if any of the Board Members had an issue with the Staff interpretation of the five criteria. This was denied. She asked for discussion regarding the request for the variance. Board Member Wintzer appreciated the position of the applicant, but she believed the assessment from Staff was correct. She did not feel the application met the criteria. As a result, she felt it was appropriate to uphold the Staff recommendation to deny the application for a variance. Board Member Stafsholt did not think it was appropriate to add to an already non-conforming structure. Board Member Armstrong and Board Member Franklin both agreed with the position that had been shared by Staff during the meeting.

Board Member Franklin did not believe the application met any of the five criteria. While there was a desire to look at the livability of the homes for people who lived in Park City full-time, she felt it would be possible to do something different within the envelope.

Board Member Stafsholt made a motion to deny the application. The motion was seconded by Board Member Wintzer. Discussions were had about the motion and the application. Board Member Franklin felt it might be necessary to make clear that the non-conforming use could continue to be non-conforming, but the envelope and ratio could not increase. She wondered whether that needed to be listed in the Final Action Letter. Director Ward explained that there would be Findings of Fact and Conclusions of Law in the Final Action Letter, but LMC § 15-9 would continue to apply. The applicant still needed to go through the HDDR process. As part of that, no alterations to the building footprint would be allowed. It was clarified that the matter would be addressed during the HDDR.

**MOTION:** Board Member Stafsholt moved to DENY the variance request at 948 Woodside Avenue in the HR-1 Zoning District, subject to the Findings of Fact and Conclusions of Law outlined in the Draft Final Action Letter, with the amendment that the Draft Final Action Letter action item be updated to reflect the decision of the Board:

### Findings of Fact

1. The property is located at 948 Woodside Avenue in the Historic Residential – 1 Zoning District.
2. The site contains a non-historic Single-Family Dwelling constructed in 1993.
3. The City approved a Historic District Design Review application for a Single-Family Dwelling at 948 Woodside Avenue on March 2, 1992.
4. The Applicant requests a Variance to the LMC to increase the Building Footprint to 960 square feet.
5. The basement level was constructed with an exterior carve-out area of approximately 51 square feet, and excluded from the Building Footprint calculation.

6. The Applicant proposes to enclose this area to construct a new bathroom.
7. The governing Land Management Code (LMC) in 1992 did not establish a Maximum Building Footprint, rather the LMC required new Structures to comply with a maximum Floor Area Ratio (FAR).
8. In 1992, the Floor Area of all new Structures constructed within the HR-1 Zoning District was limited by the FAR. For Lots up to 1,875 square feet, the maximum FAR was 0.9.
9. In 1992, the LMC defined Floor Area as: “[t]he area of a building that is enclosed by surrounding exterior walls, excluding a 600 square foot allowance for garages. Walkout basements will be considered floor areas whether finished or unfinished. Basements that are more than 80% below natural and finished grade will not be included in the floor area calculation. Porches, balconies, patios, and decks will not be considered floor area.”
10. The 1992 Building Permit plans for 948 Woodside Avenue indicate the gross Floor Area as 2,048 square feet (1,139 square feet of main and upper Floor Area; 909 square feet of finished basement Floor Area; 287 square feet of garage Floor Area).
11. The FAR for 948 Woodside Avenue is 1.09, exceeding the 1992 0.9 FAR allowance.
12. The Building Footprint has never been altered from its original, approved layout.
13. On July 27, 2006, the City Council adopted Ordinance No. 06-56 to mitigate infill development in the Historic Zoning Districts. This Ordinance established a Maximum Building Footprint, which is still used to determine Building Footprint size in the HR-1 Zoning District.
14. The 948 Woodside Avenue Lot is 25 feet wide by 75 feet deep.
15. The LMC defines Building Footprint as: “[t]he total Area of the foundation of the Structure, or the furthest exterior wall of the Structure project to Natural Grade, not including exterior stairs, patios, decks, and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged, or incorporated into the Main Building.”
16. Pursuant to LMC § 15-2.2-3(E), the Maximum Building Footprint for this site is 843.75 square feet.
17. The existing Structure has a Building Footprint of 909 square feet, an excess of 65.25 square feet.

18. The existing Structure does not comply with the 1992 LMC FAR nor the current LMC for Maximum Building Footprint. The Structure is therefore considered Non-Complying. LMC § 15-9-6 states, "No Non-Complying Structure may be moved, enlarged or altered, except in the manner provided in this Section or unless required by law." Regarding the repair, maintenance, alteration, and enlargement of a Non-Complying Structure, Non-Complying Structures may undergo such changes provided that such changes neither create any new non-compliance nor increase the degree of the existing non-compliance of all or any part of such Structure.
19. The proposal for a basement bathroom addition will increase the Non-Complying Structure by an additional 51 square feet.
20. To grant the requested Variance to the HR – 1 Maximum Building Footprint regulations, the Board of Adjustment must find that all five criteria outlined in LMC § 15-10-8(C) are met.
21. The Applicant bears the burden of proving that all the conditions justifying a Variance have been met.
22. In determining whether enforcement of the Zoning Ordinance will cause unreasonable hardship under LMC § 15-10-8(C)(1), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the Variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether enforcement of the LMC would cause unreasonable hardship, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.
23. The following outlines the Variance criteria and Findings:

- a. **Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code.**

The Applicant proposes a Variance from the Maximum Building Footprint to construct a 51-square-foot bathroom addition, however, this Lot is not unusual in the HR – 1 Zoning District. Rather, Woodside Avenue is a typical Old Town Lot: 25 feet wide by 75 feet deep, with a total Lot Area of 1,875 square feet.

The Maximum Building Footprint Formula established in the LMC for an HR – 1 Zoning District Lot containing 1,875 square feet is 843.75 square feet and is applied to all HR – 1 Zoning District Lots. The existing Building Footprint is 909 square feet, already exceeding the

Maximum Building. Footprint by 65.25 square feet. The requested Variance would increase the excess Building Footprint to 116.25 square feet. Literal enforcement of the Land Management Code would not cause an unreasonable hardship for the Applicant. The existing Structure has three bathrooms.

- b. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.**

948 Woodside Avenue has a slope of less than 14%. LMC § 15-15-1 defines a Steep Slope as a slope greater than 15%. 948 Woodside Avenue is, therefore, not impacted by Steep Slope considerations. The Property is not near a wetland or stream. The Structure is not designated a Historic Structure on the Park City Historic Sites Inventory. As a result, no special circumstances are attached to the Property that does not generally apply to other Properties in the same zone.

- c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.**

The Structure has three bathrooms – one on the basement level, one on the first floor, and one on the second floor. An additional bathroom is not essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.

- d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest.**

Historic Character is one of the core community values outlined in the General Plan. Goal 15 of the General Plan is to preserve the integrity, mass, scale, compatibility, and historic fabric of the nationally and locally designated historic resources and districts for future generations. Objective 15B is to maintain the character, context, and scale of local historic districts with compatible infill development and additions. The HR-1 Zoning District maximum Building Footprint is established in part to support compatible infill in the City's Historic Districts. Allowing a Building Footprint that already exceeds what is allowed to increase the non-conformity is contrary to Goal 15 of the General Plan and does not preserve the integrity, scale, compatibility, and historic fabric for future generations.

- e. The spirit of the Land Management Code is observed, and substantial justice done.**

LMC § 15-2.2-1 outlines the purpose of the HR – 1 Zoning District, which includes preserving present land uses and character of the Historic residential areas of the City, encouraging the construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods. The spirit of the LMC is not observed.

24. Staff published notice on the City's website and the Utah Public Notice website, and posted a notice to the property on December 26, 2023.
25. Staff mailed courtesy notices to property owners within 300 feet on December 26, 2023.
26. The Park Record published notice on December 26, 2023.

### Conclusions of Law

1. Literal enforcement of the Land Management Code for this Property does not cause an unreasonable hardship and is not necessary to carry out the general purpose of the Land Management Code.
2. No special circumstances are attached to the Property that does not generally apply to other properties in the same district.
3. Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other Property in the same Zone.
4. The proposal is not consistent with the General Plan.
5. The spirit of the Zoning Ordinance is not observed, and substantial justice is not met by the requested Variance.

Board Member Wintzer seconded the motion.

**VOTE:** The motion passed with the unanimous consent of the Board.

- B. 2724 Creek Drive - Variance - On December 12, 2023, the Board of Adjustment Conducted a Public Hearing and Directed Planning Staff to Draft a Final Action Letter Denying the Requested Variance to the Front Setback Requirements in the Single-Family Zoning District to Extend the Existing Front-Facing Garage. PL-23-05853.**

Chair Gezelius explained that the application was a variance request for 2724 Creek Drive. On December 12, 2023, the Board of Adjustment reviewed the applicant's request for a variance from the Single-Family Zoning District minimum front setback for front-facing garages of 25 feet. The Board determined that the requested variance did not meet the five required criteria outlined in LMC Section 15-10-8 and unanimously voted to

deny the variance. The Board directed Staff to make findings for their decision. Board Member Wintzer noted that she had not been present for the original discussion. As a result, she would recuse herself from the discussion and vote on the variance application.

Planner Cawley stated that Findings of Fact #12 had been added to the materials, which included the following language: "The Board of Adjustment determined the Applicant did not meet its burden to demonstrate that the application meets the five criteria outlined in LMC Section 15-10-8(C), specifically finding that the Applicant's explanation confirmed another construction option was possible, negating any argument for unreasonable hardship, special circumstances or necessity to enjoy a substantial property right."

**MOTION:** Board Member Armstrong moved to DENY the variance request at 2724 Creek Drive, subject to the Findings of Fact and Conclusions of Law outlined in the Final Action Letter, as amended:

### Findings of Fact

1. The Property is located at 2724 Creek Drive in the Single-Family (SF) Zoning District.
2. 2724 Creek Drive is Lot 1 of the McLeod Creek Subdivision and is 0.31 acres or 13,507 square feet.
3. The City approved a building permit in 1987 for the construction of the existing Single-Family Dwelling at 2724 Creek Drive.
4. Land Management Code (LMC) § 15-2.11-3(B), Single-Family Zoning District Front Setback Requirements, establishes a 25-foot Front Setback for Front-Facing Garages.
5. The Applicant requests a Variance to:
  - a. Extend the garage 7 feet 6 inches to encroach five feet into the required 25-foot Front Setback for Front-Facing Garages to provide additional space in the laundry room and garage.
  - b. Construct a rooftop deck above the proposed garage extension to encroach five feet into the required 25-foot Front Setback for Front-Facing Garages.
6. LMC § 15-10-8(C) outlines five required criteria that the Board of Adjustment evaluates to grant a variance. The five criteria and Findings are outlined below:
  - a. **Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not**

**necessary to carry out the general purpose of the Land Management Code.**

Expansion of the existing Single-Family Dwelling is achievable to the north, west, southwest, and southeast of the existing Single-Family Dwelling in compliance with code-required setbacks.

- b. There are special circumstances attached to the Property that do not generally apply to other Properties in the same Zone.**

2724 Creek Drive is within the McLeod Creek Subdivision. There are eight corner lots within the McLeod Creek Subdivision. Lot 1 (2724 Creek Drive approved in 1987), Lot 5 (2706 Creek Drive approved in 1988), Lot 23 (2418 Creek Drive approved in 1994), Lot 24 (2419 Creek Drive approved in 1997), Lot 27 (2471 Creek Drive approved in 1989), Lot 28 (2501 Creek Drive approved in 1984), Lot 37 (2697 Creek Drive approved in 1992), and Lot 47 (2731 Creek Drive approved in 2005). At the time of the Building Permit review, each of the eight corner lots within the McLeod Creek Subdivision were required to comply with the Front-Facing Setback requirements for Front-Facing Garages in the SF Zoning District.

- c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.**

As noted above, at the time of the Building Permit review, each of the eight corner lots within the McLeod Creek Subdivision were required to comply with the Front-Facing Setback requirements for Front-Facing Garages in the SF Zoning District.

- d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest.**

2724 Creek Drive is within the Park Meadows neighborhood, Neighborhood 2 of the General Plan. General Plan Section 2.4 states “[t]o maintain the aesthetic of the individual pockets of development, limitations on building pads should be adopted.” The SF Zoning District regulations establish limitations on where buildings may be sited within a property.

- e. The spirit of the Land Management Code is observed, and substantial justice done.**

- LMC Section 15-2.11-1 establishes the purposes of the SF Zoning District:

- A. Maintain existing predominately Single Family detached residential neighborhoods;
  - B. Allow for Single Family Development Compatible with existing Developments;
  - C. Maintain the character of mountain resort neighborhoods with Compatible residential design; and
  - D. Require Streetscape design that minimizes impacts on existing residents and reduces architectural impacts of the automobile.
- The Front Setback Requirements for the SF Zoning District established in LMC Section 15-2.11-3(B) require the minimum Front Setback for Front-Facing Garages for Single Family Dwellings to maintain a minimum of twenty-five feet (25') from Front Lot Line. The eight corner lots within the McLeod Creek Subdivision were required to comply with this standard and consistent application within the McLeod Creek Subdivision maintains the character with compatible residential design with a streetscape design that minimizes impacts on existing residents and reduces architectural impacts of the automobile.
7. Staff mailed notice to property owners within 300 feet on November 22, 2023.
  8. Staff published notice to the City's website and the Utah Public Notice Website on November 22, 2023.
  9. Staff posted notice to 2427 Creek Drive on November 22, 2023.
  10. *The Park Record* published a courtesy notice on November 28, 2023.
  11. On December 12, 2023, the Board of Adjustment reviewed the Applicant's request for a Variance from the Single-Family Zoning District's minimum Front-Setback for Front-Facing Garages of 25 and conducted a public hearing.
  12. The Board of Adjustment determined the Applicant did not meet its burden to demonstrate that the application meets the five criteria outlined in LMC Section 15-10-8(C), specifically finding that the Applicant's explanation confirmed another construction option was possible, negating any argument for unreasonable hardship, special circumstances or necessity to enjoy a substantial property right.
  13. The Board of Adjustment determined that maintaining the Front Setback, primarily in a neighborhood without sidewalks and with historic build-out honoring the Front Setback, was consistent with the General Plan and spirit of the LMC.

### Conclusions of Law

1. Literal enforcement of the Land Management Code for this Property does not cause an unreasonable hardship that is not necessary to carry out the general purpose of the Land Management Code.
2. There are no special circumstances attached to the Property that do not generally apply to other properties in the same district.
3. Denying the Variance does not diminish the enjoyment of a substantial property right possessed by other Property in the same Zone.
4. The proposal is inconsistent with the General Plan.
5. The spirit of the Land Management Code is not observed by the application.

Board Member Franklin seconded the motion.

**VOTE:** The motion passed with the unanimous consent of the Board.

### 6. ADJOURN

Director Ward reported that the next Board of Adjustment Meeting was scheduled to take place on Tuesday, February 20, 2024, at 5:00 p.m.

**MOTION:** Board Member Franklin moved to ADJOURN the Park City Board of Adjustment Meeting. Board Member Armstrong seconded the motion.

**VOTE:** The motion passed with the unanimous consent of the Board.

The Board of Adjustment Meeting adjourned at 5:37 p.m.

Approved by \_\_\_\_\_  
Ruth Gezelius, Board of Adjustment Chair

# 948 WOODSIDE AVENUE

## VARIANCE



# 948 WOODSIDE

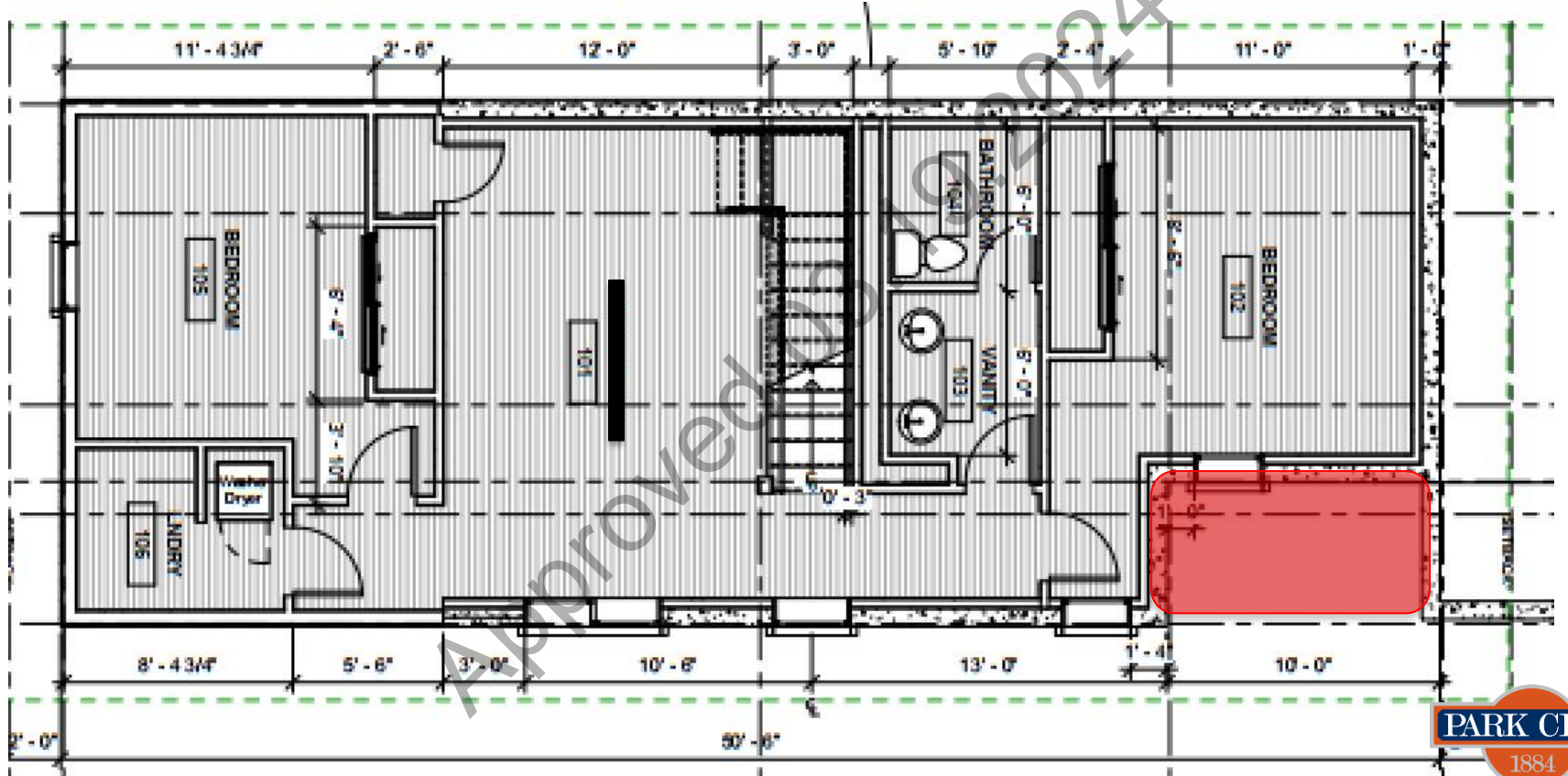
- Non-historic Single-Family Dwelling
- Increase Building Footprint from 909 to 960 square feet
- Construction of an additional bathroom on basement level
- Two bathrooms and three bedrooms – Existing
- Variance to increase the Maximum Building Footprint in HR – 1

# 948 WOODSIDE

- Building approved in 1992 – HDDR
- Basement level constructed with an area outside Building Footprint
- Footprint unchanged



# 948 WOODSIDE



# 948 WOODSIDE



# 948 WOODSIDE

Floor Area Ratio. The floor area of all new structures constructed within the HR-1 District shall be limited by the Floor Area Ratio (FAR) which shall be the Floor Area as defined in Chapter 2, divided by the total area of the lot or parcel. For lots up to 1875 square feet, the maximum FAR shall be .9. For lots from 1876 square feet to 3750 square feet in area, the maximum FAR shall be .75. For lots larger than 3750 square feet in area, the maximum FAR shall be .6. In calculating the FAR for a single family structure, 400 square feet may be added to the total floor area for a two-car garage after calculating the FAR. For duplexes, triplexes and multi-unit structures, the garage addition shall be 400 square feet for each residential unit.

1,139 sq. ft. main and upper floor

909 sq. ft. finished basement

287 sq. ft. garage

---

2,048 sq. ft. gross floor area || FAR = 1.09

# 948 WOODSIDE

Building Footprint: The total Area of the foundation of the Structure, or the furthest exterior wall of the Structure projected to Natural Grade, not including exterior stairs, patios, decks, and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged, or incorporated into the Main Building.

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Maximum Building Footprint is 843.75 square feet

Existing = 909 square feet | Proposed = 960 square feet (excess of 116.25 square feet)



# 948 WOODSIDE

LMC § 15-9-6: No Non-Complying Structure may be moved, enlarged, or altered except in the manner provided in this Section or unless required by law.

Non-Complying Structures may undergo changes provided that these changes shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such Structure

# 948 WOODSIDE

1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC.

The Applicant proposes a Variance from the Maximum Building Footprint to construct a 51-square-foot bathroom addition, However, this Lot is not an unusual lot in the HR – 1 Zoning District. Rather, Woodside Avenue is a typical Old Town Lot: 25 feet wide by 75 feet deep, with a total Lot Area of 1,875 square feet.

The Maximum Building Footprint Formula established in the LMC for an HR – 1 Zoning District Lot containing 1,875 square feet is 843.75 square feet and is applied to all HR – 1 Zoning District Lots. The existing Building Footprint is 909 square feet, already exceeding the Maximum Building Footprint by 65.25 square feet. The requested Variance would increase the excess Building Footprint to 116.25 square feet. Literal enforcement of the Land Management Code would not cause an unreasonable hardship for the Applicant. The existing Structure has three bathrooms.

# 948 WOODSIDE

2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.

948 Woodside Avenue has a slope of less than 14%. LMC § 15-15-1 defines Steep Slope as a slope greater than 15%. 948 Woodside Avenue is, therefore, not impacted by Steep Slope considerations. The Property is not near a wetland or stream. The Structure is not designated a Historic Structure on the Park City Historic Sites Inventory. As a result, no special circumstances are attached to the Property that do not generally apply to other Properties in the same zone.

# 948 WOODSIDE

3. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.

The Structure has three bathrooms – one in the basement level, one on the first floor, and one on the second floor. An additional bathroom is not essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.

Approved 03.19.2024



# 948 WOODSIDE

4. The Variance will not substantially affect the General Plan and will not be contrary to the public interest.

Historic Character is one of the core community values outlined in the General Plan. Goal 15 of the General Plan is to preserve the integrity, mass, scale, compatibility, and historic fabric of the nationally and locally designated historic resources and districts for future generations.

Objective 15B is to maintain the character, context, and scale of local historic districts with compatible infill development and additions. The HR – 1 Zoning District maximum Building Footprint is established in part to support compatible infill in the City's Historic Districts. Allowing a Building Footprint that already exceeds what is allowed to increase the non-conformity is contrary to Goal 15 of the General Plan and does not preserve the integrity, scale, compatibility, and historic fabric for future generations.

# 948 WOODSIDE

5. The spirit of the Land Management Code is observed, and substantial justice done.

LMC § 15-2.2-1 outlines the purpose of the HR-1 Zoning District, which includes preserving present land uses and character of the Historic residential areas of the City, encouraging the construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods. The spirit of the LMC is not observed.



# 948 WOODSIDE

Amend the Final Action Letter to “Denied” to align with the Findings of Fact and Conclusions of Law.

## RECOMMENDATION

Review the proposed Variance, conduct a public hearing, and consider denying the Variance according to the Findings of Fact and Conclusions of Law outlined in the amended draft Final Action Letter.



Approved 03/19/2024

# 948 Woodside Ave

Old Town, Park City

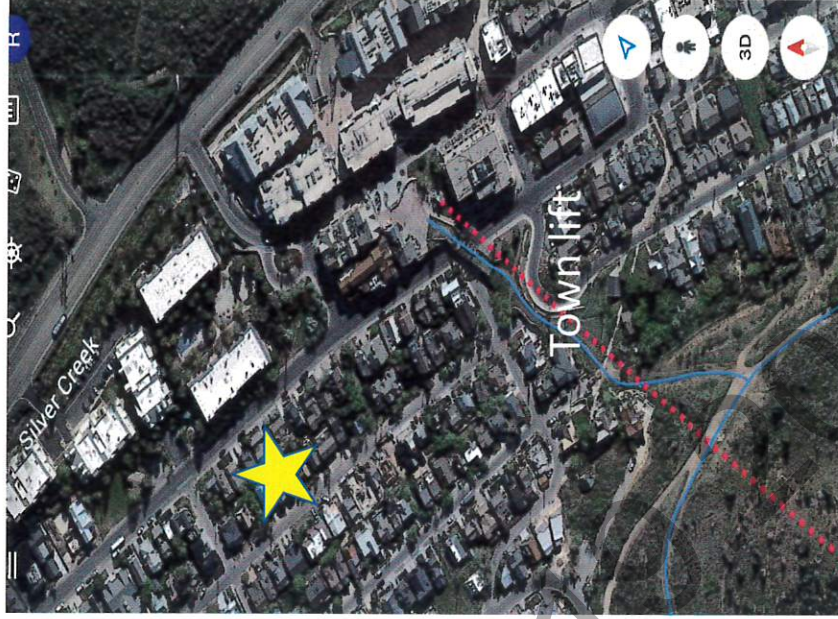
January 09, 2024

Variance Request

# Introductions

- Owner – Rick and Susie Schach, Evansville Indiana
- We purchased 948 Woodside in Spring 2019
- Our 5<sup>th</sup> winter in Park City
- Initial remodel plan – live in home for awhile to determine needs
- Started working with Park City Planning in 2020 to gain remodel approval
  - Current status - HDDR Application submitted; February 1 mtg scheduled
- Commissioned friend, Mike Sweeney, for assistance navigating City Hall
- Commissioned contractor Justin Layton, Back Country Services for build
- Commissioned Architect Michael Anderson, Arqui-Tectonics

# 948 Woodside Ave



## Main objectives of remodel:

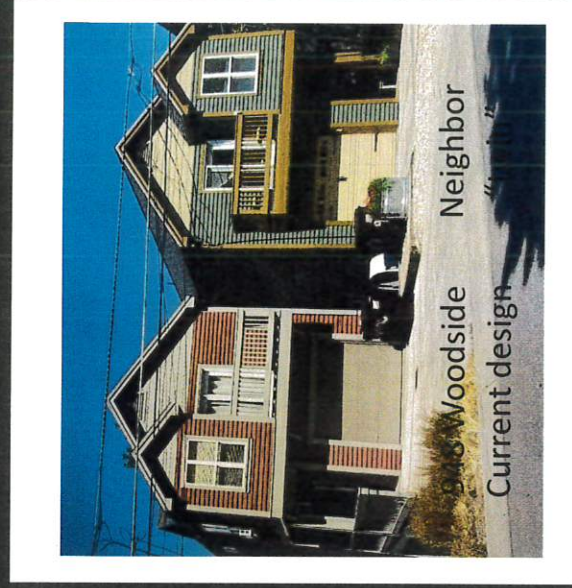
- Exterior dated, need to compensate for poor design representation within Old Town – is an exact “twin” of neighbor’s house
- Improve small galley kitchen
- Improve very narrow front entry with no storage space for coats, boots, ski apparel, etc
- Add dining area or space for a dinner table
- Add lower level bathroom – currently, three bedrooms in basement living area with only one bathroom
- Provide outdoor gathering space via a roof deck
- Add heating technology to driveway and back patio



Proposed Design

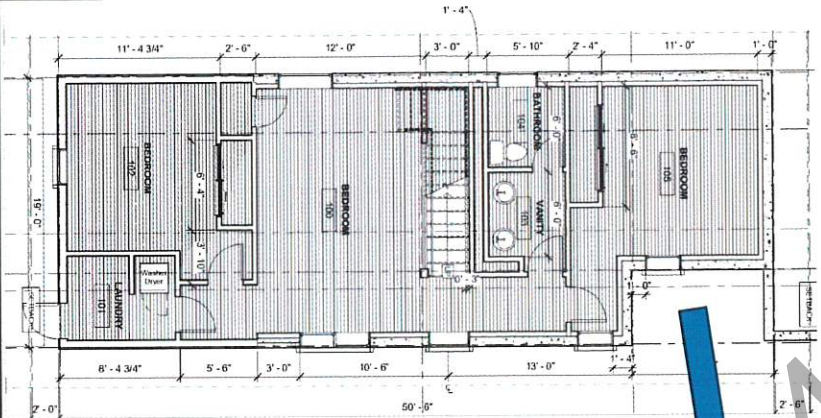


Proposed Design



Main Objectives – update exterior and eliminate “twin” of neighbor

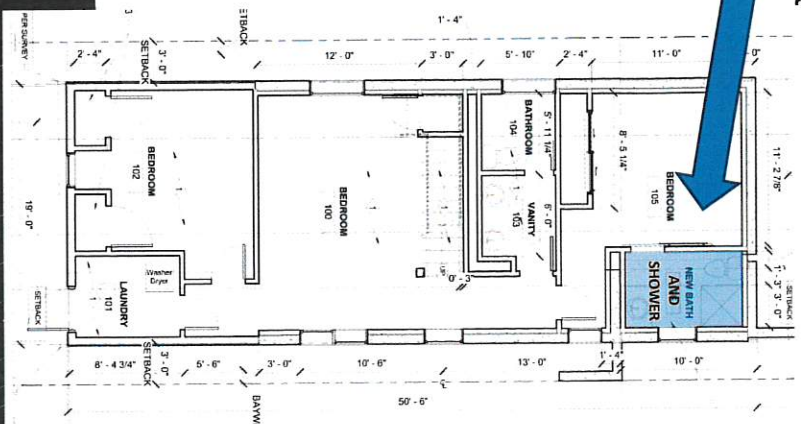
Improve “livability” with minor space saving changes throughout



Add New Bathroom - Build in vacant space/"indentation"



Vacant space under porch



# Variance Request

# Views from Street for Foundation Indentation



Indentation/nor proposed build  
are not visible from the street

# Variance Criteria #1

- Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code.
- Applicant's Response: The hardship caused [to] 948 Woodside would be the limited availability of bathrooms in the basement level (Level 1) – currently one bathroom serves three lower-level bedrooms. To cure this hardship there is the availability of a small indentation in the current ground-level footprint that enables the betterment [of] the home's livability, while not increasing the ground level footprint. This indentation actually fills-in an area at grade that should have been originally enclosed in the 1993 build [of the structure]. See attached exhibit of original architectural plans of 1993. As stated above, we don't know the original reason for this indentation because the second level and third level of the house [are built] over the indentation and is used as living space

# Variance Criteria #1 - continued

- Recommended Finding: The Applicant proposes a Variance from the Maximum Building Footprint to construct a 51- square-foot bathroom addition, However, this Lot is not an unusual lot in the HR – 1 Zoning District. Rather, Woodside Avenue is a typical Old Town Lot: 25 feet wide by 75 feet deep, with a total Lot Area of 1,875 square feet. The Maximum Building Footprint Formula established in the LMC for an HR – 1 Zoning District Lot containing 1,875 square feet is 843.75 square feet and is applied to all HR – 1 Zoning District Lots. The existing Building Footprint is 909 square feet, already exceeding the Maximum Building Footprint by 65.25 square feet. The requested Variance would increase the excess Building Footprint to 116.25 square feet. Literal enforcement of the Land Management Code would not cause an unreasonable hardship for the Applicant. The existing Structure has three bathrooms.

Counter argument to department's Findings – 948 only has 2 full baths; 1 in basement which has 3 bedrooms

## Variance Criteria #2

- There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone
- Applicant's Response: The Applicant's request is to create a bathroom where the indentation exists in the grade-level foundation [which is] unique to 948 and 946 Woodside (mirrored homes built at the same time) and differs from other homes in the neighborhood. One goal is no longer to have twin and differs from other lots in the area due to the individual lot's narrow dimensions. Currently the building footprint for 948 Woodside is a rectangle that includes a small "indentation" below grade on the front left side of the house (5' x 10'). The original reason of the indentation is unknown; however, it is speculated that it may have been intended for the addition of an outdoor A/C condenser. The requested modification will not extend the footprint however it will "fill-in" the "indentation" and make the footprint a perfect rectangle. By enclosing the below grade indentation [the Applicant] will be adding ~50 square feet to the footprint square footage. The enclosed space will be used to provide a small basement bathroom to service one of the three basement bedrooms but differentiate the two homes. The grade-level foundation is unique to both 948 and 946 Woodside

## Variance Criteria #2 - continued

- Recommended Finding: 948 Woodside Avenue has a slope of less than 14%. LMC § 15-15-1 defines Steep Slope as a slope greater than 15%. 948 Woodside Avenue is, therefore, not impacted by Steep Slope considerations. The Property is not near a wetland or stream. The Structure is not designated a Historic Structure on the Park City Historic Sites Inventory. As a result, no special circumstances are attached to the Property that do not generally apply to other Properties in the same zone.

### Counter Argument to Department's Findings

Our response is simply that this narrow lot/house has a unique “indentation” in its foundation that other properties (besides the twin neighbor) do not.

## Variance Criteria #3

- Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.
- Applicant's Response: Other properties do not have this anomaly of an "indentation" in the footprint and thus have utilized the full space of their specific footprints for proper [bathroom-to-bedroom] "livability" ratios.
- Recommended Finding: The Structure has three bathrooms – one in the basement level, one on the first floor, and one on the second floor. An additional bathroom is not essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.

### Counter Argument to Department's Findings

Yes we have 3 bathrooms, however only 2 bathrooms are full; AND the basement has 3 bedrooms with only one full bathroom. We believe it is essential to add a second full bathroom to the basement. Because we are unique to other properties with this "indentation", other properties have had no trouble adding bathrooms to support their bedrooms.

## Variance Criteria #4

The Variance will not substantially affect the General Plan and will not be contrary to the public interest.

Applicant's Response: This small indentation in the footprint is below grade and not seen from the road or other properties. The second and third floors of the home have already been built above this "indentation", so it appears from the street view that the space is already being utilized where the indentation exists. Again, since the home's levels above the "indentation" are over said "indentation" the casual observer assumes it does not exist.

Recommended Finding: Historic Character is one of the core community values outlined in the General Plan. Goal 15 of the General Plan is to preserve the integrity, mass, scale, compatibility, and historic fabric of the nationally and locally designated historic resources and districts for future generations. Objective 15B is to maintain the character, context, and scale of local historic districts with compatible infill development and additions. The HR – 1 Zoning District maximum Building Footprint is established in part to support compatible infill in the City's Historic Districts. Allowing a Building Footprint that already exceeds what is allowed to increase the nonconformity is contrary to Goal 15 of the General Plan and does not preserve the integrity, scale, compatibility, and historic fabric for future generations

## Variance Criteria #4 – continued

### Counter Argument to Department's Findings

We contend that by our filling in this inconspicuous, small foundation “indentation” has no affect on impugning the “integrity, scale, compatibility, and historic fabric for future generations”.

## Variance Criteria #5

The spirit of the Land Management Code is observed, and substantial justice done.

Applicant's Response: The spirit of the Land Management Code is observed because of the explanation on Level 1 above related to this space is already being used for all floors above it. In particular, it complies with [LMC Section] 15-2.22 Uses and does not require any Conditional Uses and does not have any Prohibited Uses.

Recommended Finding: LMC § 15-2.2-1 outlines the purpose of the HR – 1 Zoning District, which includes preserving present land uses and character of the Historic residential areas of the City, encouraging the construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods. The spirit of the LMC is not observed

### Counter Argument to the Departments Findings

We are asking for the committee's consideration that our filling in the foundation "indentation" does not rise to the level of breaking the spirit of the Land Management Code HR-1 Zoning District.

Approved 03.19.2024