



**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT MEETING
SUMMIT COUNTY, UTAH
MINUTES OF JUNE 18, 2024**

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius-Chair, Stefanie Wilson, Beth Armstrong, Jennifer Franklin, John Stafsholt

STAFF: Lillian Zollinger, Planner II

1. ROLL CALL

Chair Ruth Gezelius called the meeting to order at 5:00 PM and identified the Board Members present.

2. MINUTES APPROVAL

A. Consideration to Approve the Board of Adjustment Meeting Minutes from May 21, 2024.

Board Member Franklin noted that a female spoke in the minutes but was not identified by name. The speaker was identified as Board Member Wilson.

MOTION: Board Member Franklin moved to APPROVE the Minutes of May 21, 2024, as amended. Board Member Armstrong seconded the motion. Vote on motion: John Stafsholt-Yes, Beth Armstrong-Yes, Chair Gezelius-Yes, Jennifer Franklin-Abstained; Stefanie Wilson-Yes. The motion passed unanimously with one abstention.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

There were no Staff or Board Member communications.

4. PUBLIC COMMUNICATIONS

There were no public communications.

5. REGULAR AGENDA

A. 1014 Empire Avenue- The Applicant Requests a Variance From the Requirements of Land Management Code Section 15-3-8 Regarding Materials for a Non-Historic Single-Family Dwelling in the Historic Residential - 1 Zoning District. PL-24-06114.

Planner II, Lillian Zollinger reported that the applicant is requesting a variance to the Historic Regulations for property located at 1014 Empire Avenue. It is an existing single-family dwelling located in the Historic Residential - 1 Zoning District. The applicant received approval for Historic District Design Review (“HDDR”) in 2021 for an addition and remodel. Conditions of approval outlined under the HDDR require the applicant to submit proposed changes to the Planning Department for review of compliance with the Land Management Code before construction may occur. The applicant submitted their Building Permit with the plans which were determined to be compliant.

During construction of the addition, the front and garage doors were modified and installed without submitting plans for review to the Planning Department or to the Building Permit. The changes were discovered during an inspection in 2023 by the Planning Department and found to be out of compliance with the Land Management Code, the HDDR approval, and the Building Permit. The inspection was also not completely passed off. Staff worked with the applicant to establish a May 1, 2024 date to bring the structure into compliance with the approved plans. On May 2, 2024, the applicant applied for the variance.

Planner Zollinger presented the following five criteria for receiving a variance:

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.

Planner Zollinger explained that in this case, bringing the front and garage doors into compliance does not cause an unreasonable hardship and is self-imposed.

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

Planner Zollinger reported that all properties in the Historic Residential – 1 Zoning District that propose an addition are required to go through the HDDR process and submit the required applications.

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

Planner Zollinger reported that the installed front and garage door that violate the requirements of the Land Management Code are not essential to the property rights and enjoyment of the property.

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

Planner Zollinger stated that requirements regarding glazing in the Historic District have been the same for several years and allowing applicants exceptions to the Code is not in compliance with the Land Management Code or the public interest.

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

The Land Management Code states that new infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale, and proportion. The existing garage doors are contrary to this section of the Land Management Code and the HDDR.

Board Member Stafsholt commented that the basis that the applicant is looking to obtain the variance on is that other homes in the area have similar glazing on their garage doors. Currently, what was built does not comply with the Code. He asked if it was changed specifically to stop what has been taking place in the area. Planner Zollinger explained that the specific section of Code that addresses glazing requirements has been established for some time. Other nearby properties that are in violation may be undergoing a similar experience and being required to come into compliance with Code. This property, in particular, needs to comply with the existing Code wherein the door glazing on the front and garage doors is not compliant with the regulations.

Chair Gezelius noted that this is a new material and there are examples in every neighborhood of unpermitted work and items that are not in compliance with the Code. When there is a request for remodeling, a property owner has the opportunity to bring the home up to the current standards. The current Code has been in effect for a number of years and should apply to everyone.

Paul Miller from Good Harbor Designs was present representing the applicant. He did not object to the findings and stated that seeking a variance was something the property owners wanted to pursue as they felt they were matching the neighboring properties and did not understand the section of Code they were in violation of.

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

Board Member Wilson commented that the request does not meet any of the five criteria and the applicant did not try to address them.

MOTION: Board Member Wilson moved to DENY the variance subject to the following:

Findings of Fact

1. On August 19, 2021, Planning staff approved a Historic District Design Review (HDDR) for the remodel of 1014 Empire Avenue, a non-historic Single-Family Dwelling in the Historic Residential – 1 Zoning District.
2. LMC Section 15-13-8(B)(2)(c) outlines the requirements for doors in the Historic Districts:
 - a. The historic pattern of principal doorways along the street shall be maintained. All buildings that face the street shall have a well-defined primary entrance.
 - b. New doors shall be similar in location, size, and material to those seen traditionally in the Historic District. Doors shall be compatible with the style of both the new building and historical buildings in the Historic District.
 - c. Doors shall be designed and finished with trim elements similar to those used historically.
3. The approved HDDR included a front door with glazing in the upper half of the door, a traditional door, compliant with the requirements of LMC Section 15-13-8(B)(2)(c).
4. LMC Section 15-13-8(B)(6)(a)(4) states:
 - a. Single-vehicle garage doors not greater than 9 feet wide by 9 feet high shall be used to access the garage. Glazing on garage doors shall be limited to no more than 30% of garage doors.
5. LMC Section 15-13-8(B)(2)(d)(7) states:
 - a. New glazing shall match the appearance of historic glazing and/or shall be clear. Metallic, frosted, tinted, stained, textured, and reflective finishes are generally inappropriate for glazing on the primary façade.
6. The approved HDDR included two solid garage doors.
7. The HDDR Condition of Approval 1 states “[f]inal building plans and construction details shall reflect substantial compliance with the plans

approved August 19, 2021, by the Planning Department. Any changes, modifications, or deviations from the approved design that have not been approved in advance by the Planning and Building Departments may result in a stop work order.”

8. The HDDR Condition of Approval 3 states “[t]he Applicant is responsible for notifying the Planning Department prior to making any changes to the approved plans.”
9. The HDDR Condition of Approval 4 states “[a]ny changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review and approval/denial in accordance with the applicable standards by the Planning Director or designee prior [sic] construction.”
10. The HDDR Condition of Approval 7 states “[t]he designer, architect, and/or applicant shall be responsible for coordinating the approved architectural drawings and documents with the approved construction drawings and documents. The overall aesthetics of the approved HDDR architectural plans shall take precedence. Any discrepancies found among these documents that would cause a change in the approved construction drawings shall be reviewed and approved by Planning Staff prior to construction.”
11. On November 3, 2021, the Building Department issued Building Permit 21-1332, after Planning reviewed the plans for conformance with the LMC and the HDDR. The plans stamped for approval conformed with the LMC and the HDDR.
12. At some point during construction, the Applicant modified the front door and garage doors without review or approval, contrary to the LMC and the HDDR Conditions of Approval.
13. In December 2023, the Applicant’s Representative requested a final inspection of the remodel to close the Building Permit. During the inspection, Planning staff noted that the front door and garage doors installed were not compliant with LMC Section 15-13-8. Specifically, the glazing exceeded what is allowed, and the garage doors contained frosted glass.
14. Building and Planning staff and the Applicant established a timeframe for a compliant front door and garage doors to be installed by May 1, 2024.
15. However, the Applicant did not install code-compliant doors by May 1, 2024.

16. On May 2, 2024, the Applicant submitted a Variance application, requesting the Board of Adjustment grant a Variance for the Applicant to keep the non-compliant doors.
17. The LMC regulates the design of residential structures in Historic Districts to fulfill the policy directives provided in the General Plan and the LMC. The goal of the regulations is to meet the needs of various interests in the community by providing guidance in determining the sustainability and architectural compatibility of proposed projects while allowing for reasonable changes to individual buildings to meet current needs. For property owners, design professionals, and contractors, the regulations provide guidance in planning projects sympathetic to the unique architectural and cultural qualities of Park City. The regulations provide a foundation for making decisions and a framework for ensuring consistent procedures and fair deliberations.
18. To grant the requested Variance, the Board of Adjustment must find that all five criteria in LMC Section 15-10-8(C) are met.
19. The Applicant bears the burden of providing that all the conditions justifying a Variance have been met.
20. The five criteria outlined in LMC Section 15-10-8(C)(1) are outlined below with analysis:
 - 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.**
 - i. On August 19, 2021, the Planning Department issued HDDR approval for the renovation of 1014 Empire Avenue. On November 3, 2021, the Building Department issued a Building Permit 21-1332 to construct the project after Planning reviewed and found the proposed plans complied with the requirements of the LMC and the HDDR approval.
 - ii. At some point during construction, the Applicant installed the non-compliant front door and garage doors. The Applicant then coordinated with staff to establish a timeline in which the front door and garage doors would be brought into compliance. Rather than bring the non-compliant doors into compliance, the Applicant requested an exception from the requirements of the LMC.

- iii. LMC Section 15-10-8(D)(2) states “[i]n determining whether or not 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.” As a result, literal enforcement of the LMC—which in this case means installing a front door and garage doors in conformance with the HDDR approval and Conditions of Approval, the LMC, and Building Permit 21-1332—does not cause unreasonable hardship for the Applicant. It is self-imposed. Compliance with the approved plans is necessary to carry out the general purpose of the LMC.
- b. **There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.**
 - i. LMC Section 15-10-8(D)(1) states “[i]n determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship . . . 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.”
 - ii. The Applicant states the doors comply with other front doors and garage doors installed in the Historic District. Yet, properties are required to comply with the LMC in effect at the time of construction. Additionally, the Applicant may not be aware of other code enforcement actions on properties within the Historic District. Properties within the Historic District that conformed with the requirements of the LMC at the time they were constructed do not change the requirements of the LMC for current projects, nor is construction that violates the approved HDDR, LMC, and Building Permit a special circumstance attached to 1014 Empire Avenue that does not generally apply to other properties within the HR – 1 Zoning District. All properties within the HR-1 Zoning District undergoing comprehensive renovations are required to complete the HDDR process and comply with the LMC. As a result, there are no special circumstances attached to the Property that do 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.**

- i. On November 3, 2021, the Building Department issued Building Permit 21-1332, which complied with the requirements of the LMC. A front door and garage doors that violate the requirements of LMC Section 15-13-8 is not essential to the enjoyment of a substantial property right possessed by other property in the same zone. The regulations of LMC Section 15-13-8 apply to all non-historic structures within the Historic Residential – 1 Zoning District.
- d. **Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.**
 - i. 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 (General Plan, Historic Preservation, p. 106). Objective 15B is to maintain character, context, and scale of local historic districts with compatible infill development and additions (General Plan, Historic Preservation, p. 107). Community Planning Strategy 15.4 is to review, annually, the LMC for Historic Districts in order to maintain regulatory consistency (General Plan, Historic Preservation, p. 108).
 - ii. Limitations on glazing and the types of glass allowed in the Historic Districts have been consistent for many years. The regulations regarding front doors and garage doors have been consistent since the regulations were comprehensively updated in 2019. Allowing Applicants exceptions to the LMC when they do not construct the project in compliance with HDDR Conditions of Approval, the LMC, and the issued Building Permit is contrary to the public interest.
- e. **The spirit of the Land Management Code is observed, and substantial justice done.**
 - i. LMC Section 15-13-8(A)(4) states new infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale, and proportion, and massing to protect the integrity of the Historic District as a whole. LMC Section 15-13-8(A)(6) states exterior elements—roofs, entrances, eaves, chimneys, porches, windows, doors, steps, garages, etc.—of the new

infill residential building shall be of human scale and shall be compatible with neighboring Historic Structures.

- ii. The Applicant went through the HDDR process to ensure compliance with the requirements of the LMC.
- iii. Allowing a front door and garage doors that were installed contrary to the approved HDDR Conditions of Approval, the LMC, and Building Permit 21-1332 does not observe the spirit of the LMC, and substantial justice is not done.

Conclusions of Law

1. Literal enforcement of the Land Management Code for this Property does not cause 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 do 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 Properties 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 done.
6. The Applicant did not meet the burden that all the conditions justifying a Variance have been met.

Board Member _____ seconded the motion. Vote on motion: John Stafsholt-Yes, Beth Armstrong-Yes, Chair Gezelius-Yes, Jennifer Franklin-Yes; Stefanie Wilson-Yes. The motion passed unanimously.

The next meeting was scheduled for July 16, 2024.

6. ADJOURN

MOTION: Board Member Stafsholt moved to ADJOURN. Board Member Franklin seconded the motion. The motion passed with the unanimous consent of the Board.

Board of Adjustment Meeting
June 18, 2024

The Board of Adjustment Meeting adjourned at 5:15 PM.

Approved by _____
Ruth Gezelius, Board of Adjustment Chair

Approved 07.16.2024