



# SANDY CITY COMMUNITY DEVELOPMENT

JAMES SORENSEN COMMUNITY DEVELOPMENT DIRECTOR

MONICA ZOLTANSKI MAYOR

SHANE E. PACE CHIEF ADMINISTRATIVE OFFICER

## Staff Report Memorandum December 11, 2025

To: Board of Adjustment  
From: Community Development Department  
Subject: Thompson Variance Request - front yard setbacks on a corner lot 8230 S. 1330 E. [Community #15, Alta Canyon]

BOA11052025-007067  
R-1-8 Zone  
Approx. 0.19 Acres

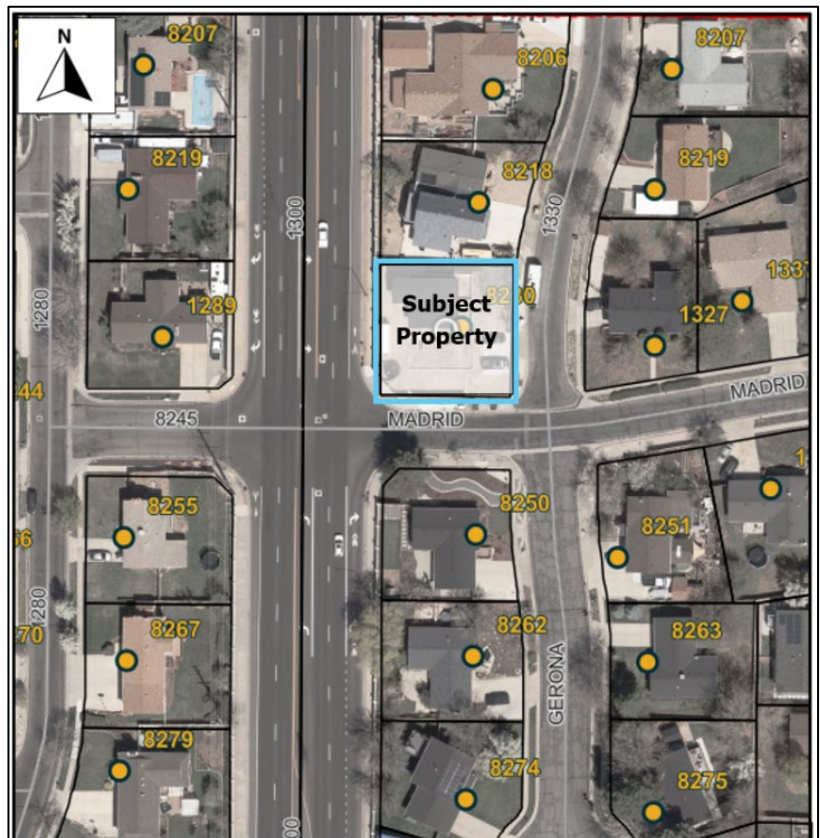
**Public Meeting Notice:** This item has been noticed to property owners within 500 feet of the subject area, posted on public websites and at public locations.

### Request

The owner and applicant, Derek Thompson, has requested a Variance from the *Residential Building Setbacks, and Building Heights for R-1 and R-2 Zoning Districts (Sec. 21-20-2)*, which requires corner lots in the R-1-8 zone to provide a minimum of a 20- and 30-foot setback from the front property line to the primary dwelling. The applicant requests a four-foot (4') reduction from a front setback on the east side of the lot (30' to 26"), and a three-foot (3') reduction from a front setback on the south side of the lot (20' to 17"). The property is located at 8230 S. 1330 E., as shown on the adjacent vicinity map. The applicant provides a description and basis for their request in the application materials, which are included as Exhibit "A" to this report.

### Background

The subject property is a legally platted lot that was created in 1975 with the Oakwood Estates #3 Subdivision (see Lot 1, in Exhibit "B"). The property is zoned R-1-8 and is surrounded by other single family homes that have the same zoning designation.



BOA11052025-007067  
Variance Request  
8230 S 1330 E

Relevant Case History	
Case Number	Case Summary
S75-15	Oakwood Estates #3 Subdivision (Lot #1), 1975.
CASE-02-19-014542	Building without a Permit – Covered Deck. Issued stop work order.
RESB-11-20-023778	Reroof and Covered Deck permit – Not issued, but work was completed.
12122023-000032369	Certificate of Non-Compliance for not passing required inspections or approvals for improvements on the property, recorded 2024.
RAD12182023-032418	Building permit for a residential addition. Initiated December 2023. Case on hold.
RRM06302025-036920	Building permit for a residential remodel. Initiated June 2025. Case is open and under review, pending land use decision.

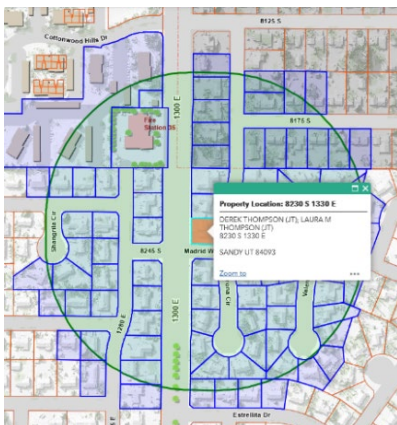


Since 2019, this property has had a history of building additions or alterations to the home without a building permit. Initially there was a rear covered deck that was built without a building permit. A building permit application was eventually made in 2020, but the permit was not issued due to lack of compliance with setbacks.

In 2023, the owner of the property had a contractor build a footing and foundation around the existing home with the intention of building a new single family home or a major addition onto the existing home on the property. This was also done without a permit. A stop work order was issued on December 13, 2023, but the contractor moved forward anyway. The footings were pored and eventually buried to their current state. A notice of non-compliance was recorded on the property a few months later

(April 22, 2024). The home used to have a two car attached garage on the south side of the existing home. Sometime in 2024 (specific date unknown), that garage was removed without a permit and has made the property even more non-conforming.

Various staff members have been discussing options with the property owner to rectify the situation and bring the property into compliance with all building and zoning code requirements. The applicant has been seeking ways to keep the footings and foundations without removing them or altering them to make them compliant with the required setbacks.



**Public Notice**

The city issued notice of this public meeting on public websites, posted in three public locations, and mailed to property owners within 500 feet of the subject property prior to the Board of Adjustment meeting in accordance with the LDC Sec. 21-36-1 and -2 and the Utah Code § 10-9a-205.

**Analysis**

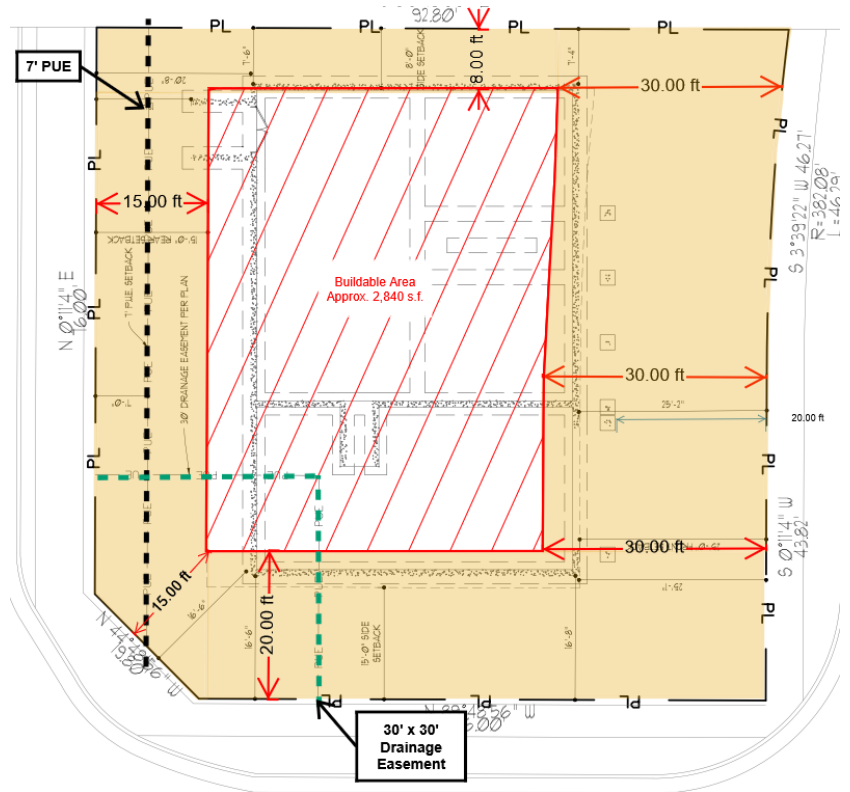
To qualify for a variance from the front setback requirements on a corner lot, the applicant is responsible for proving **all criteria** for a variance are met (per Utah Code § 10-20-1102; Exhibit “C”). The applicant’s findings are included as Exhibit “A” to this report.

The variance criteria are presented below with a staff analysis and discussion following each one:

- Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the alleged hardship must come from circumstances peculiar to the property, and not from conditions that are general to the neighborhood, self-imposed or economic in nature.**

**Findings:** The subject property is an 8,276 square foot legal lot of record, in the R-1-8 single-family residential zoning district where the minimum lot size is 8,000 square feet. This property is surrounded by similar properties in the same R-1-8 zone.

**Setbacks:** The subject property is a triple-frontage lot with street frontage on the east, west and south sides of the lot; however, the front yard setback only applies to two of the three street frontages. As such, the rear yard setback for a corner lot applies to the west side of the lot, and the front yard corner lot setbacks apply to the south and east side of the lot. The minimum setbacks for the main dwelling on the subject property (per [Sec. 21-20-2](#)) equally apply to all corner lots in the R-1-8 zone. These setbacks are listed below along with the requested variance from these standards. An illustration of these setbacks is also provided in the adjacent graphic.



Setback	R-1-8 Zone	Variance Request
Front Corner (A)	30 feet	26 feet (east)
Front Corner (B)	20 feet	17 feet (south)
Side	8 feet	n/a
Rear (Corner Lot)	15 feet	n/a

The illustration shows a buildable area of approximately 2,840 square feet (approx. 62' x 45'), which is similar to other corner lots in the same zone, and more than sufficient to accommodate the 1,000 square foot minimum dwelling size (per Sec. 21-20-4). Based on the facts described above, the setback standards for a corner lot in the R-1-8 zone do not restrict development of a single-family home on the subject property any more than another corner lot in the surrounding neighborhood or the same zone.

**Easements:** There are utility easements on the property that the applicant has cited as a hardship that restricts development of a dwelling on the lot. The Oakwood Estates #3 Subdivision shows two utility easements on Lot 1 of the recorded plat (Exhibit “B”). These include a 7-foot-wide public utility and drainage easement running north-south along the west property line, and a 30-foot by 30-foot drainage easement, benefiting Sandy City, on the southwest corner of the property (see adjacent map image).

The 7-foot-wide utility easement on the west side of the property does not restrict development of a home because it is within the 15-foot rear yard setback for a corner lot, and this same utility easement affects other properties in the neighborhood. Consequently, the 7-foot-wide utility along the rear property line is not unique to the subject property.

Alternatively, the 30-foot by 30-foot drainage easement on the southwest corner of the lot is unique to the subject property; other properties in the neighborhood are not encumbered with an easement of a similar size and placement on the lot. The applicant provided a letter (Exhibit “A”) from the Sandy Public Utilities Department that allows for encroachment into the 30-foot by 30-foot drainage easement, but the letter states that if needed in the future, “*the property owner is responsible for the cost of removal of the encroaching structure.*” Consequently, this encroachment letter is not suitable for allowing construction of a permanent structure such as a dwelling within that easement.

To alleviate this restriction, a dwelling would need to be located outside of easement or remove the easement from the lot. The Sandy Public Utilities Department is willing to permanently vacate the 30-foot by 30-foot drainage easement because it is no longer in use. To do so, a plat amendment would be required to vacate the easement from the subdivision plat, in accordance with [Sec. 21-30-8](#) - *Vacating a public street, right-of-way, or public utility easement*. Consequently, the correct path to remove the restriction caused by this easement is to amend the plat.

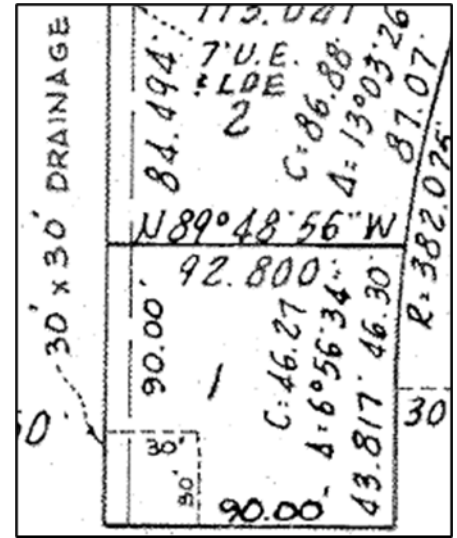
As shown on the site plan illustrated above and the survey (Exhibit “A”), the applicant has constructed a foundation to expand the existing dwelling, but without a building permit. This foundation currently encroaches into the 30-foot by 30-foot drainage easement on the southwest corner of the lot, the front yard setbacks on the south and east, and the side yard setback on the north side of the lot. There is also a covered deck within the rear yard setback that was constructed without a building permit.

To alleviate these conflicts, the applicant proposes to: a) apply for a property line adjustment on the north to meet the minimum 8-foot side yard setback, b) remove the covered patio from the rear yard setback, c) use the letter provided by the Public Utilities Department to encroach into the easement on the corner of the lot, and c) request variances from the 20- and 30-foot front yard setbacks.

There is nothing preventing the applicant from applying for a property line adjustment on the north or removing the covered patio on the rear; these approaches are feasible and do not conflict with the variance application. The encroachment letter provided by the Public Utilities Department cannot be used for permanent structures. Instead, a plat amendment is required to vacate the easement from the corner of the lot (per [Sec. 21-30-8](#)), and that approach is also feasible and supported by the city.

In contrast, a variance must meet all criteria to qualify, which includes unreasonable hardship that is *neither* economic in nature nor self-imposed. As presented earlier, the corner lot setbacks for the subject property are the same standards that apply to other corner lots in the surrounding neighborhood and to residential districts in general. The fact that the applicant has invested in constructing a new home foundation without a building permit within the front yard setbacks, cannot be used as a basis for a variance because it is a self-imposed economic hardship. Therefore, this criterion is not met.

2. **There are special circumstances attached to the property that do not generally apply to other properties in the same zone. In determining whether or not there are special circumstances, the special circumstances must relate to the hardship that deprives the property of privileges granted to other properties in the same zone.**



Finding: As stated under criterion #1 (above), there are no special circumstances attributed to the subject property other than a drainage easement at the southwest corner of the property. However, the city is willing to vacate that easement if the owner applies for a plat amendment to pursue this option to obtain relief from this restriction.

Regarding setbacks, the same front yard setback standards apply to all corner lots in the surrounding R-1-8 zoned neighborhood and to residential districts in general. Consequently, there are no special circumstances attached to the property that do not generally apply to other properties in the same zone that warrant a variance from the front yard setback requirements. Therefore, this criterion is not met.

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

Finding: The subject property is a legally platted lot that comes with a right to construct a single-family dwelling on the property in accordance with the residential development standards of the R-1-8 zone. There is currently a single-family dwelling on the property, and the applicant wishes to expand the structure for a larger home. It is possible to construct an expansion to the existing home and adhere to the same corner lot front yard setback standards as other properties in the same zoning district. Therefore, granting a variance is not essential to enjoy the same property right as other properties in this R-1-8 zoned neighborhood; this criterion is not met.

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

Finding: The subject property is envisioned to remain as a low-density residential neighborhood on the future land use map, and a variance to the corner front yard setbacks will not substantially affect the general plan. However, granting approval when the request does not meet all required criteria for a variance would be contrary to the public interest. Therefore, this criterion is not met.

**5. The spirit of the zoning ordinance is observed and substantial justice done.**

Finding: If a variance from the corner front yard setbacks is *not* granted, the applicant can still construct an expansion to the existing home on the lot that is consistent with the residential development standards for the R-1-8 zone. Alternatively, if a variance from the front yard setbacks is granted, other properties in the neighborhood and in the same zoning district would not be given the same consideration as the subject property and substantial justice would not be done. Therefore, this criterion is not met.

## **Conclusion and Recommendation**

Based upon the foregoing the Board of Adjustment should conclude that the applicant has not met their burden of proving all criteria are met to warrant a variance from the front yard setbacks on a corner lot in the R-1-8 zone, and adopt the following findings:

### **Findings:**

1. Literal enforcement of the zoning ordinance will not cause unreasonable hardship because the alleged hardship are conditions that apply equally to other corner lots in the same neighborhood, are self-imposed and economic in nature.
2. Circumstances peculiar to the property consists of a 30-foot by 30-foot drainage easement at the southwest corner of the lot; however, a plat amendment to remove that utility easement is the more appropriate avenue to ameliorate the situation rather than a variance; and the city would such support vacating that easement from the plat.
3. There are no special circumstances attached to the property that do not generally apply to other properties in the same zone that warrant a variance from the front yard setback requirements.
4. Granting a variance is not essential to enjoy the same property right as other properties in the neighborhood or the same zone.
5. Granting the variance will be contrary to public interest because other properties in the neighborhood or in the same zoning district would not be given the same consideration as the subject property.
6. The variance sought is as a result of actions that were self-imposed and economic in nature. The applicant is seeking approval to retain and utilize a foundation that was not built with a permit. Removal of the foundation and starting over will come at a great cost and expense but is not a proper justification for granting a variance.

Planner:



Melissa Anderson  
Zoning Administrator

Exhibits

- A. Application Materials
  - Applicant Findings (pp. 1-2)
  - Letter to the Board of Adjustment (pg. 3)
  - Encroachment Letter from Sandy Public Works (pg. 4)
  - Survey of the Property (pg. 5)
  - Building Plan Set (pp. 6-22)
- B. Oakwood Estates #3 Subdivision Plat
- C. Variance Criteria, UCA 10-20-S1102

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