



DRAPER CITY HALL

Community Development | 1020 E. Pioneer Rd. Draper, UT 84020

February 15, 2022

Draper City Planning Division Administrative Interpretation

RE: Davis Garage Breezeway

This letter answers a question that has arisen concerning whether the addition of a breezeway to connect two legal non-conforming structures increases the degree of non-conformity. The property under question is located at 12960 South Fort St., parcel number 28-32-176-031. The zoning for the property is RA1 (Residential Agricultural, 40,000 square foot lot minimum). The property contains 0.53 acres. The property fronts onto Fort St., but obtains garage access from an adjacent private street that runs along the north property line and serves three homes. According to the building permits issued on the property, the residential home on the property was built in 1982 with a 24-foot setback from the north property line and private street. The detached garage was built in 1988 with a 16-foot setback from the north property line and private street. The City does not have copies of the historic zoning codes in place in the 1980's and is therefore unable to verify what the minimum setbacks were at the time. The applicant would like to attach these two structures together with a breezeway.

Draper City Municipal Code (DCMC) Section 9-10-090, Table 9-10-3 requires a minimum 30-foot front setback from all streets, including both public and private streets. This property is considered a corner lot because it fronts both Fort St., and the private street to the north.

**TABLE 9-10-3
DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES**

<i>Development Standard</i>	<i>Zones</i>
	RA1
Setback standards - front yard³:	
Main buildings on interior and corner lots ⁴	30'

Notes:

1. Minimum required lot area on private right-of-way or access easement shall be net area, excluding any area of the lot located within a private right-of-way or access easement.
3. Except as modified by the provisions of section 9-27-140, "Lots And Yards", of this title.

Per DCMC Section 9-3-040, corner lots have two front yards and two rear yards. This means that the front setback is 30-feet from both Fort St. and the private street on the north.

9-3-040: DEFINITIONS:

LOT, CORNER: A lot or parcel abutting two (2) intersecting or intercepting streets where the interior angle of intersection or interception does not exceed one hundred thirty five degrees (135°). Corner lots shall have two (2) front yards and two (2) rear yards.

The house and garage are considered legal nonconforming with regards to front setbacks because they are closer than 30-feet to the north property line. Both structures are allowed to remain as is and any additions have to comply with the current code setback standards.

Draper City requires accessory structures to be detached from the main building on a property. Per the definition in 9-3-040, accessory structures are detached and subordinate.

9-3-040: DEFINITIONS:

BUILDING, ACCESSORY: A detached subordinate building located on a lot with a main building, the use of which is incidental to the use of the main building.

DCMC Section 9-10-040(A) requires all accessory structures to be set back a minimum of 6-feet from the main building structure. When combining DCMC Sections 9-3-040 and 9-10-040 an accessory structure cannot be connected to the house.

9-10-040: DEVELOPMENT STANDARDS:

- A. Accessory Buildings: The following requirements shall apply to any accessory building in a residential zone:
 - d. Accessory buildings shall be set at least six feet (6') from the main building.

In addition, the International Residential Building Code (IRC) allows the Building Official to reconcile structures that are connected together as one structure for purposes to fire suppression, utility connection, etc.

The proposed breezeway would connect both structures and turn them into one larger structure. This would make the setback for the enlarged house 16-foot rather than the current 24-feet. This would increase the degree of nonconformity of the house. Per DCMC Section 9-6-050, any increase in degree of nonconformity is prohibited.

9-6-050: NONCONFORMING STRUCTURES:

C. Enlargement And Expansion: Any expansion of a nonconforming structure that increases the degree of nonconformance is prohibited, except as provided in this subsection:

1. The initial determination of whether a proposed expansion increases the degree of nonconformity shall be made by the zoning administrator. (Ord. 394, 8-7-2001)
2. A structure which is nonconforming as to height, area, or yard regulations may be added to or enlarged upon authorization by the appeals and variance hearing officer; provided, that the appeals and variance hearing officer, after a hearing, finds the expansion to be compatible with the neighborhood and not detrimental to the community, as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, and the availability of adequate public facilities and services.

It is the Zoning Administrators position that the proposed breezeway would be in violation of DCMC Section 9-6-050 and would increase the degree of nonconformity. Under this section, the applicant can request to increase the degree of nonconformity with the Appeals and Variance Hearing Officer. An application is attached.

There are a couple options available to you if you wish to pursue this matter further. You may apply with the Appeals and Variance Hearing Officer to request an increase in degree of nonconformity, you may seek a text amendment in order to change the code, or you may appeal this determination. An appeal is subject to DCMC Section 9-5-180 and shall be made within 10 days of the decision which is appealed. Applications for all options can be found on the city's website.

If you have further questions, please contact me at jennifer.jastremsky@draperutah.gov or at 801-576-6328.

Respectfully,



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