



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: March 19, 2024

NAME OF APPLICANT: Lane M. Lythgoe, as agent or authorized representative of Steven B. Heiner

AGENDA ITEM: Code Text Amendment to add Section 16.13.130: Setback Exceptions for Historic Building Structural Reinforcement on Small Lots

ITEM: 16

Lane M. Lythgoe, as agent for Steven B. Heiner (who resides at 271 North Center Street, Midway), is proposing a code text amendment to add Section 16.13.130: Limited Setback Exceptions for Historic Building Structural Reinforcement, that would specify setback exceptions for historical structures and would allow historic building owners the ability to structurally reinforce their structures if the current footprint of the structure is nonconforming to the current setback codes.

While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other comparable historic buildings which met the requirements.

BACKGROUND:

The Midway Municipal Code regulates setbacks and establishes minimum setback requirements in all zones.

Mr. Heiner resides at 271 North Center Street, which is located in the R-1-15 zone. Mr. Heiner's residence consists of a single story cottage with detached garage located on a .15 acre lot.

Under existing code, lots as small as .15 acre are not permitted and main dwellings in the R-1-15 zone require a minimum setback of thirty (30) feet both front and rear. While both Mr. Heiner's

lot and residence do not meet code, both the lot and structure preexist 1961 and the first zoning regulations in Midway so continue as legal nonconforming.

Mr. Heiner seeks to renovate and enlarge the residence and has employed Mr. Lythgoe as his architect. Mr. Heiner advises he seeks to preserve the historic appearance and structure of the residence. Mr. Lythgoe advises that to preserve the historic structure, including the pot rock, the masonry structure would need to be reinforced with 12 inch by 12 inch vertical beams, which would in turn increase the footprint of the structure by 12 inches in multiple directions. As a legal nonconforming structure, the structure may not be made more nonconforming without authorization under the Code.

Section 16.13.170 of the Midway City Code, Exception to Front and Side Setback Requirements, currently provides:

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings on are on the same side of the street and are located within 150 feet of each other. However, no dwelling shall be located closer than 20 feet from the street.

This language does not apply to the applicant as the dwelling is closer than 20 feet from the street.

Accordingly, the applicant requests that Midway City amend its code to provide an avenue for historic homes on nonconforming small lots the ability to reinforce the structures to preserve the historic nature and appearance of the structure when the modification will not increase the footprint of the structure by more than the depth of the support, and in no event more than one foot in any direction.

Code text amendments fall under the category of legislative action. Therefore, the City Council has broad discretion regarding the proposal.

Proposed Language:

16.13.130 Setback Exceptions for Historic Building Structural Reinforcement on Small Lots

- A. *Where an existing recorded lot does not meet the current minimum lot area and/or width/depth requirements and the lot contains a legally built and existing structure that meets the definition of a historic structure under the Code (structure built in whole or in part over 75 years prior to the date of proposed work on the structure or that is listed on the National Register of Historic Places or the Midway City Historic Register), the structure may be structurally reinforced to preserve the historic structure and appearance of the building provided the structural changes do not increase the existing footprint of the structure that is currently nonconforming by more than one (1) foot in any direction. Nothing in this section shall limit a conforming addition to a historic structure.*
- B. *Procedure: Before applying for a building permit, an owner seeking to structurally*

reinforce a historic building on a small lot under this section shall apply for and obtain a recommendation from the Midway City Historic Preservation Committee and forward its recommendation to the Planning Director, who is the City's land use authority for building permit decisions.

DISCUSSION:

- It appears the requested application is limited to an existing recorded lot which does not meet the current minimum lot area and/or width requirements.
- It appears the requested application is limited to a nonconforming lot containing an existing dwelling that is legal nonconforming and would fall under the Protection of Older Buildings for Historic Preservation Provisions of the Code (Chapter 12.06).
- It appears the requested application is limited to structural changes to provide structural support, only, and which do not increase the footprint of the structure by more than the depth of the structural support and in no event more than one (1) foot in any direction.
- While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other comparable historic buildings in Midway which meet the same requirements.

POSSIBLE FINDINGS:

- The proposed amendment would allow the applicant to expand his dwelling while preserving the historic masonry and rock by permitting structural supports outside of the existing footprint of the dwelling. However, the dwelling, which is currently nonconforming with front and rear setbacks, would be made even more nonconforming in an amount equal to the depth of the added structural support.
- Midway City has an interest in preserving historic structures, as evidenced by the Protection of Older Buildings for Historic Preservation Provisions of the Code. See Chapter 12.06
- Consider making any such provision subject to review and recommendation by the Historic Preservation Committee, with final approval to rest with the Planning Director, who is the City's land use authority for building permit decisions.
- Restricting application to legally nonconforming historic structures on small lots should limit the applicability of such provision.

PLANNING COMMISSION RECOMMENDATION

At its regularly scheduled meeting of February 13, 2024, the Planning Commission reviewed this application and made the following recommendation:

Motion: Commissioner Osborne: I make a motion that we recommend approval of a code text amendment to add Section 16.13.130: Setback Exceptions for Historic Building Structural Reinforcement. The proposed code would add a Section 16.13.130 that would specify setback exceptions for historical structures and would allow historic building owners the ability to structurally reinforce their structures if the current footprint of the structure is nonconforming to the current setback codes. Approved the findings of the staff report.

Seconded: Commissioner Lineback

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners:

Nays: None

Motion: Passed

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
 - a. Accept the staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again.

3. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings
 - c. Reasons for denial



Midway

ORDINANCE

2024-07

**AN ORDINANCE TO AMEND SECTIONS OF THE
MIDWAY CITY LAND USE CODE TO SPECIFY SETBACK
EXCEPTIONS FOR HISTORICAL STRUCTURES.**

WHEREAS, pursuant to Utah Code Section 10-9a-509 the Midway City Council may formally initiate proceedings to amend city ordinances; and

WHEREAS, Midway City has an interest in preserving historic structures; and

WHEREAS, the Midway City Council desires to add Section 16.13.130, which would specify setback exceptions for historical structures and allow historic building owners the ability to structurally reinforce their structures if the current footprint is nonconforming to current setback codes; and

WHEREAS, the amendment would allow applicants to expand their historic dwellings while preserving the historic masonry and rock by permitting structural supports outside of the existing footprint of the dwelling.

NOW THEREFORE, be it ordained by the City Council of Midway City, Utah, as follows:

The following Section of Chapter 16 shall be added:

Section 16.13.130. Setback Exceptions for Historic Building Structural Reinforcement on Small Lots

- A. Where an existing recorded lot does not meet the current minimum lot area and/or width/depth requirements and the lot contains a legally built and existing structure that meets the definition of a historic structure under the Code (structure built in whole or in part over 75 years prior to the date of proposed work on the structure or that is listed on the National Register of Historic Places or the Midway City Historic Register), the structure may be structurally reinforced to preserve the historic structure and appearance of the

building provided the structural changes do not increase the existing footprint of the structure that is currently nonconforming by more than one (1) foot in any direction. Nothing in this section shall limit a conforming addition to a historic structure.

- B. Procedure: Before applying for a building permit, an owner seeking to structurally reinforce a historic building on a small lot under this section shall apply for and obtain a recommendation from the Midway City Historic Preservation Committee and forward its recommendation to the Planning Director, who is the City's land use authority for building permit decisions.

This ordinance shall take effect upon publication as required by law.

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PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of _____, 2024.

	AYE	NAY
Council Member Jeff Drury	_____	_____
Council Member Lisa Orme	_____	_____
Council Member Kevin Payne	_____	_____
Council Member Craig Simons	_____	_____
Council Member JC Simonsen	_____	_____

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)