



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

March 18, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Cary Gepner
22231 Mulholland Highway, #113
Calabasas, CA 91302

Regarding: Project Number R2008-00315-(3)
Variance No. 200900010
Front yard variance for residence at 1557 Topanga Skyline Drive, Topanga

Dear Applicant:

The Regional Planning Commission, by its action of March 17, 2010, **APPROVED** the above described variance. The attached documents contain the Regional Planning Commission's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 3 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant or other interested person may appeal the Regional Planning Commission's decision to the Board of Supervisors through the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012. Please contact the Executive Office for the amount of the appeal fee at (213) 974-1426. **The appeal period for this project will end at 5:00 p.m. on March 31, 2010.** Any appeal must be delivered in person to the Executive Office by this time. If no appeal is filed during the specified period, the Regional Planning Commission action is final.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously. For further information on appeal procedures or any other matter pertaining to these approvals, please contact Tyler Montgomery in the Zoning Permits II Section at (213) 974-6435.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner
Director

Maria Masis, Supervising Regional Planner
Zoning Permits II Section

Enclosures: Findings and Conditions, Affidavit and Covenant (Permittee's Completion)
c: BOS; Zoning Enforcement; Testifiers
MM:TM

FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES

PROJECT NO. R2008-00315-(3)
VARIANCE NO. 200900010

REGIONAL PLANNING COMMISSION HEARING DATE: MARCH 17, 2010

SYNOPSIS:

Pursuant to Section 22.56.260 of the Los Angeles County Planning and Zoning Code (Title 22), the applicant is requesting a variance to authorize the expansion of an existing deck within the required 20-foot front yard setback of a single-family residence in the R-1-10,000 (Single Family Residence; 10,000 square-foot minimum lot size) zone and within the Topanga Canyon Community Standards District (CSD). Within the Topanga Canyon CSD, any modification to development standards within a small lot subdivision may only be approved through the variance process.

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

March 17, 2010 Public Hearing

A duly noticed public hearing was held on March 17, 2010. After a staff presentation, the applicant, Mr. Philip Fine, and his representative, Mr. Cary Gepner, were sworn in and testified in favor of the project. Commissioner Helsley requested that Regional Planning staff modify certain language within the draft findings to better clarify that all existing decks were to be rebuilt. The Regional Planning Commission then voted to close the public hearing and approve the project.

Findings

1. The applicants, Philip and Dawn Fine, are requesting a variance to authorize the expansion of an existing deck within the required 20-foot front yard setback of a single-family residence in the R-1-10,000 (Single Family Residence; 10,000 square-foot minimum lot size) zone and within the Topanga Canyon Community Standards District (CSD). The proposed deck expansion would have a distance of between 0 and 1'9" from the front property line. The site is located at 1557 Topanga Skyline Drive in The Malibu Zoned District of Los Angeles County.
2. The project site is zoned R-1-10,000 (Single Family Residence; 10,000 square-foot minimum lot size). The property is also within the Topanga Canyon CSD.
3. The property consists of two (2) parcels with a total area of approximately 23,200 square feet (0.53 acres), which slopes steeply upward from east to west, and an existing 2,093 square-foot single-family residence near its eastern edge. The remainder of the property consists of native vegetation, including oak trees, and accessory decks and landscaping. The parcel is irregularly shaped and takes

access from Topanga Skyline Drive to the east. The Old Topanga Creek ESHA and a designated Significant Oak Woodland are located approximately 100 feet to the southeast of the property.

4. Surrounding properties to the north, south, east, and west are zoned R-1-10,000 (Single Family Residence; 10,000 square-foot minimum lot size).
5. The surrounding land uses to the north, south, east, and west consists of vacant land and single-family residences.
6. The current single-family residence was approved by Plot Plan 35522 in 1988. As a part of this plot plan, a yard modification was approved that allowed construction of the residence and accessory structures within the required 20-foot front yard setback. The Topanga Canyon CSD—first adopted in 1990 and modified in 2002—now requires that any development within a required setback apply for a variance. While repair or replacement of the existing deck would be allowed, its proposed expansion requires this entitlement.
7. The Department of Regional Planning has determined that the project qualifies for a Class 5 Categorical Exemption (Minor Alterations in Land Use Limitations) under the California Environmental Quality Act (CEQA) reporting requirements.
8. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, and property posting.
9. The subject property is designated “4” (Rural Land II) in the Malibu Coastal Plan. The Plan states that these areas are “generally low-intensity, rural areas characterized by rolling to steep terrain usually outside established rural communities.” Permitted uses included large-lot residential uses, low-intensity commercial recreational uses, and agricultural uses.
10. Staff consulted with the Los Angeles County Fire Department and the Los Angeles County Department of Public Works regarding the project proposal. These departments subsequently cleared the project for public hearing.
11. Staff has not received any comments from the public regarding this project proposal.
12. Section 22.20.105 of the Los Angeles County Code lists development standards for the R-1-10,000 (Single Family Residence; 10,000 square-foot minimum lot size) zone. Rear-yard and side-yard setbacks of the existing residence fall within these standards (15 feet and 5 feet, respectively). A 20-foot front yard setback is also required, which is the reason for the filing of the variance application. The Code also requires two (2) covered off-street parking spaces for each single-family residence, which are provided by the existing first-floor garage.

13. The existing residence was approved at its current height in 1988 and does not propose an increase in height.
14. The Topanga Canyon CSD states that “any modifications of development standards (within small lot subdivisions) shall be considered only through the variance procedures contained in Part 2, Chapter 22.56 of this code.” The subject property is located within a small lot subdivision, as designated within the CSD. Therefore, in order to expand the porch within the required 20-foot front yard setback, a variance must first be granted.
15. Density standards based on the average slope of a property do not apply to this project, as the project does not propose construction of a new dwelling unit. All other applicable CSD standards would be met by the project.
16. The 23,200 square-foot property is located at 1557 Topanga Skyline Drive in Topanga and slopes steeply upward (average 57 percent grade) from east to west. An existing 2,093 square-foot single-family residence is located on the southeastern portion of the property. Two (2) existing wooden stairways and second-story decks are located on the north and south sides of the residence, respectively. There is also a third-story wooden deck that extends along the north, east, and south sides of the residence. Currently, the front yard setback of the structure, including decks, is between 0 and 1’9” from the property line. Without the decks, the existing residence is between 4’9” and 5’7” from the front property line. The residence is accessed directly from Topanga Skyline Drive to the east, and a garage and basement is located on the structure’s first story.
17. The applicant proposes demolishing all existing wooden decks and stairways and replacing them with two (2) wooden decks spanning the north, east, and west sides of the second and third floors of the residence, respectively. A single, curving concrete stairway would access the second-story deck from the northern side of the residence, and the existing northern access door would be modified to become the structure’s main entrance. The new decks would have an area of approximately 1,000 square feet and would continue the residence’s existing front yard setback (between 0 and 1’9”). The side yard setback to the south would be expanded from 5’0” to 7’6” due to the demolition of the southern stairway.
18. An oak tree is located approximately 20 feet to the north of proposed construction. No encroachment into the tree’s canopy dripline will occur.
19. Aside from the required 20-foot front yard setback, the proposed deck expansion for a single-family residence would be allowed by right within the R-1-10,000 (Single Family Residence; 10,000 square-foot minimum lot size) zone. In addition, both a single-family residence and an accessory deck are appropriate uses within the Rural Land II land use classification of the Malibu Coastal Plan.

20. In order for a variance to be granted, the applicant must demonstrate that the property in question has some special circumstance or exceptional characteristic that does not apply to other identically zoned parcels in the vicinity. In this case, the existing residence and decks were approved at their current location before the implementation of the Topanga Canyon CSD. Allowing the expansion of the second-story deck would not decrease the front-yard setback; it would simply be adhering to the existing setback achieved by the third-story deck directly above it.
21. A variance application must also demonstrate that denying the project would deprive the owner of a substantial property right. In this case, the property owners are seeking to make use of an existing setback that was approved with the original construction of the residence. The proposed improvements would also increase access to the property for the purpose of fire safety, allowing 360 degree access for firefighters to the second story of the home and easier potential evacuation for residents. To deny the request could deprive the applicant of property rights already enjoyed by neighbors, as similar improvements could be made to nearby residences.
22. To be granted a variance, the applicant must also show that the requested decreased setback is not likely to be materially detrimental to the public welfare. This is unlikely to be the case, as the setback of the existing structure will not be decreased. In addition, the structure would be relatively unobtrusive and would blend well with the existing architecture of the residence. Finally, no area residents have objected to the project proposal.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

- A. That because of special circumstances or exceptional characteristics applicable to the property, the strict application of the code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification; and
- B. That the adjustment authorized will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated; and
- C. That strict application of zoning regulations as they apply to such property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards; and
- D. That such adjustment will not be materially detrimental to the public health, safety or general welfare, or to the use, enjoyment or valuation of property of other persons located in the vicinity.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Variance as set forth in Sections 22.56.330 of the Los Angeles County Code.

REGIONAL PLANNING COMMISSION ACTION:

1. Approve the Categorical Exemption (Class 5) for the project, and determine that the proposed project is exempt from the reporting requirements of the California Environmental Quality Act (CEQA).
2. In view of the findings of fact and conclusions presented above, Variance No. 200900010 is **APPROVED** subject to the attached conditions.

VOTE: 4-0

Concurring: Rew, Valadez, Bellamy, Helsley

Dissenting: None

Abstaining: None

Absent: Modugno

Action Date: 03/17/2010

c: Commission Services, Zoning Enforcement, Building and Safety

MM:TM
03/17/10

1. This grant authorizes the expansion of an existing deck within the required 20-foot front yard setback of a single-family residence in the R-1-10,000 (Single Family Residence; 10,000 square-foot minimum lot size) zone and within the Topanga Canyon Community Standards District (CSD), subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8. Notwithstanding the foregoing, this condition (No.3), and Condition Nos. 4 [indemnification], 5 [litigation deposit], and 6 [expiration date] shall be effective immediately upon final approval of this grant by the County.
4. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee according to Los Angeles County Code Section 2.170.010.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested, in writing and with the appropriate fee, before the expiration date.
7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the property owner or permittee shall record the terms and conditions of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
9. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance.
10. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
11. All structures shall comply with the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works.
12. A covenant to hold the subject parcel (APN 4438-011-039) as one with the adjacent parcel to the north (APN 4438-011-008), which is also owned by the applicants, shall be filed with the office of the County Recorder and submitted to the Department of Regional Planning prior to final approval of the project, to the satisfaction of the Director of Planning.
13. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, a Revised Exhibit "A" shall be submitted to the Department of Regional Planning within sixty (60) days of the date of approval for the variance.