

TEL: (626) 449-1362  
FAX: (626) 796-1555

LAW OFFICES OF

**KAREN A. DAVIS**

THE ELEVEN-TWENTY-TWO BUILDING  
1122 EAST GREEN STREET  
PASADENA, CA 91106

P.O. BOX 5092  
PASADENA, CALIFORNIA 91117

February 17, 2011

**VIA MESSENGER**

Mr. Richard Bruckner  
Planning Director  
County of Los Angeles  
Department of Regional Planning  
320 West Temple Street  
Los Angeles, CA 90012

Re: Project No. R2008-10777(5)  
Site Plan Review Case No. 200801286 (Yard Modification)

Dear Mr. Bruckner:

The purpose of this letter is to provide you with certain background information related to the above-referenced Project/Case prior to our meeting today at 3:00 p.m.

You have been kind enough to offer to meet with the property owners with an interest in this case. I represent Maureen Keane who owns the property at 526 Wenham Road in the City of Pasadena which has been impacted by the development.

I have enclosed a letter previously prepared by Ms. Keane for the Regional Planning Commission. I believe the letter provides a very good background of the history of the project and the impact it has had on her use and enjoyment of her long term residence.

I have also enclosed a copy of the original plans submitted by Steve Mason which misrepresented that the project would comply with the minimum zoning side yard offsets. The second page reflects the actual offsets of the improvement to the boundary lines for the East and West portions of the lot. The addition never complied with the side yard zoning requirements even before a chain link fence was removed and a new fence was built closer to the boundary line.

In the past, the staff at Regional Planning has suggested that Ms. Keane grant a lot line adjustment to accommodate the improvements that were built on the Mason property in violation of the zoning codes and building codes. This proposal simply is not feasible given that such

**Mr. Richard Bruckner**  
**Planning Director**  
**County of Los Angeles**  
**Department of Regional Planning**  
**February 17, 2011**  
**Page 2**

action would place her own improvements in violation of the zoning codes and due to the fact that such an adjustment would negatively impact the configuration of her lot.

In our meeting, we hope to obtain a better understanding of the current status of this matter and what action Ms. Keane should take to assist in bringing the matter to a final resolution either through an Order for modification or enforcement action.

We look forward to meeting with you today. Thank you for consideration.

Yours sincerely,

**LAW OFFICES OF KAREN A. DAVIS**

A handwritten signature in black ink, appearing to read "Karen A. Davis", is written over a faint, dotted line. The signature is somewhat stylized and loops around.

Karen A. Davis

Enclosures

April 29, 2010

Hon. Wayne Rew, Chair and Commissioners  
Los Angeles County Regional Planning Commission  
320 West Temple Street  
Los Angeles, CA 90012

Re Site Plan Review Case No. 200801286 (Yard Modification)

Dear Chairman Rew and Honorable Commissioners:

I am writing this letter as I cannot be present at the hearing on May 19<sup>th</sup> due to a previously scheduled trip out of town. As an LA County taxpayer, I thought that Regional Planning and Building and Safety would enforce the building codes and protect my interests. At the hearing on February 17, 2010, I was very concerned that the Commission was being misled by several errors and misrepresentations made by Mr. Mason and/or his attorney. For the record, I have never harassed or antagonized Mr. Mason. The truth about Mr. Mason's conduct is further referenced below and in the additional supplemental documents submitted on my behalf.

I have lived at 526 Wenham Road for nearly 18 years. During that time I have had 15 different families in the six properties that border my home. I have never had difficulty with any of them until Mr. Mason bought the house at 520 Wenham in 2006. Mr. Mason has complained about my pool equipment from the day he moved in ( June of 2007). The motor and filter for my permitted pool had run from 8am to 4pm 7 days a week for the previous 14 years including the time Mr. Mason looked at the property and during his remodeling. I initially tried to run the equipment at times convenient for him but after 7 schedule changes in 7 weeks, and visits from the County Sheriff and Mr. Sabboubeh from Regional Planning instigated by Mr. Mason, I returned to running the filter from 8-4.

Living in my home has become a complete nightmare since Mr. Mason purchased 520 Wenham and completed his construction. Mr. Mason and his wife have been relentless in their harassment of me because they do not like the location or operation of my pool equipment which has been on the North side of my house for 17 years.

The most crucial aspect of all of Mr. Mason's complaints arise solely because of the unlawful proximity of the addition to my property. No part of the addition would have been approved had Mr. Mason sought the proper approvals in advance of his construction. Mr. Mason chose to start his construction in December 2006, only 30 days after he purchased the property. Thereafter, Mr. Mason applied for permits in January 2007 based upon false information.

Now there is a structure which violates zoning codes and building codes and Mr. Mason proceeds to complain about the consequences of building this structure so close to the boundary line and near my pool equipment which has been in place for 17 years.

Mr. Mason has exceeded the boundaries of civil behavior and reasonable conduct since he has moved in by writing threatening and insulting notes, having his workmen trespass on to my property to cut hedges without my permission and breaking my sprinkler heads in the process, and making false reports to various County agencies which has resulted in District Attorney police wearing flack jackets and members of the Los Angeles Sheriff's Department arriving at my house, unannounced, to investigate the false claims.

Specifically, Mr. Mason has contacted the Sheriff's Department twelve times in a two year period from August 2007 through September 2009 to make frivolous complaints.

I never know what I will encounter when I return home on any given day. I have had to endure the Sheriff's pounding on my door at 11:30 p.m. at night because Mr. Mason does not like me to use my Jacuzzi in the evening or to have children using the pool during the day on weekends. I have been endlessly embarrassed when I have guests at the house and the Sheriffs arrive because of false complaints. The Sheriff's have asked that I obtain a civil restraining order so that they do not have to respond to these frivolous complaints.

I have had to lock my gates and pool equipment, and install security cameras because my pool equipment was vandalized and because I am fearful of my safety as a result of the threatening letters I received. I have also had to install shrubbery to mask the 7 ft plywood fence Mr. Mason put up in sight of my driveway and to maintain privacy in my backyard since the windows on the addition overlook this area. I never before felt unsafe at my property until Mr. Mason moved next door and commenced this outrageous pattern of harassment.

This insanity arises solely because of, and as a result of, the construction of an illegal structure which Mr. Mason now seeks permission to remain as an exception to the laws governing our properties.

Mr. Mason claims that an order to tear down the structure will be punitive and impose a financial hardship on him. If the Commission is concerned about financial hardship, I ask that they consider the financial hardship I have endured, and will continue to endure, if this exception is granted. My financial hardship has included the cost of a survey, the cost of staking said survey, the cost to build new fences, the cost to repair my pool equipment, the cost to install a security system, the cost of additional landscaping to protect my privacy and the cost to retain legal counsel to assist me in ensuring that the laws governing our properties are properly enforced. In addition, the value of my property has decreased significantly as no prospective buyer would ever want to purchase this property with the prospects of undertaking the harassment from Mr. Mason and the existing encroachment.

This letter will be accompanied by a Supplemental Opposition which contains a more detailed summary and additional documents prepared by my attorney. However, I have also provided a time-line of events which have occurred since the time-line provided by Ms. Gail Price contained numerous inaccuracies. Please note the following time-line:

Ms. Price in her document presented to the Commission dated 2-16-10, gave a time-line with a few omissions and inaccuracies.

- July 20, 2007 I emailed the Zoning-Land Development Coordinating Center of LA County asking about setback requirements and was told erroneously that Mr. Mason did not have a permit. Not knowing there was a permit about to be finalized, I did not understand the urgency of the situation. (Exhibit 1)
- August, 2007 I was approached by Mr. Mason's surveyors, Gilbert Engineering, for access to my backyard to locate a monument in the southeast corner. (see survey, Exhibit 2) I was told Mr. Mason did the survey to ascertain if my pool equipment met the setback requirements. Mr. Mason could have done a survey prior to building his addition.
- September 6, 2007 Mr. Sabboubeh and two enforcement officers in flak jackets visited my home and asked to inspect my pool equipment as Mr. Mason had complained that it was noisy and did not meet the 5 foot setback requirements. Mr. Sabboubeh found no grounds for the setback or noise complaint and when I pointed out the closeness of Mr. Mason's building, he (Mr. Sabboubeh) suggested that I get a survey, record it and contact him as he was/is in code enforcement.
- October 9, 2007 I had a survey done which recorded the position of the old chain link fence with regard to the property line as well as my pool equipment and Mr. Mason's new addition. (Exhibit 3)
- October 31, 2007 Mr. Mason placed 13 6-foot tall plants on my driveway; I had to hire legal counsel to get him to remove them. He indicated at that time that he planned to plant them along the driveway which having done a survey I now knew was my property. He further stated that other boundaries had not changed which I knew to be untrue, thus necessitating a staking of the survey results.
- November 8, 2007 my surveyors staked the property using the monuments from Mr. Mason's survey (they agreed with my survey) and I made sure we scheduled the staking at Mr. Mason's convenience. He was in attendance and interacted with the surveyors.
- Dec. 3<sup>rd</sup> and 4<sup>th</sup>, 2007 with prior notice to Mr. Mason, Western Fence installed a 2-1/2 ft fence along the driveway and a 6 ft. redwood fence along the northern border of the backyard. The owner of Western Fence, JC, talked with Mr. Mason to gain his permission to enter his yard to install the fence. (Exhibit 4)

- Dec. 13, 2007 now that my survey was recorded, I wrote Mr. Sabboubeh to follow-up on my formal complaint about the setback, the 7 foot fence Mr. Mason put up on the southern side of his property and the drainage. (Exhibit 5)
- Dec. 30, 2007 Mr. Gomez of Regional Planning called to say unless I could find the plans Mr. Mason submitted and validate that Building and Safety did not grant an on the spot variance, there was nothing he could do.
- January 11, 2008 I met with Mr. Garcia, the new manager of the Building and Safety office in Arcadia, found the plans and asked that he begin an inquiry. At that time Mr. Garcia said Building and Safety did not grant a variance. I followed up with Mr. Garcia every two weeks.
- April, 2008 Mr. Garcia forward the inquiry to his manager, Mr. Moreno
- May, 2008 Mr. Gomez asked Mr. Moreno to not take action until he had reviewed the case. On May 8, 2008 Mr. Sabboubeh once again visited my property with enforcement officers but his purpose was unclear.
- September, 2008 Mr. Gomez declined to take action and Mr. Moreno of Building and Safety cited Mr. Mason. Mr. Mason then applied for a Yard Modification.
- August, 2009 after several extensions and delays the Yard Modification was denied. Mr. Mason appealed the decision.
- February 17, 2010 the Planning Commission heard the appeal and continued the hearing until May 19, 2010. At the hearing, my ownership of the property between the old fence and the new was questioned. I checked with the County and the property on my tax bill, deed and survey are the same. I own the property and have paid taxes on it. (Exhibits 6,7,3). I also owned the chain link fence as I had this fencing on the north and south sides of my home when I bought in 1992, Prior to Mr. Mason's arrival there was my chain link fence on the south side of his property and a chicken wire fence overgrown with ivy on the rear of his property.

I have been concerned about the setback since July 2007 when it became obvious how close Mr. Mason's new construction is to my home. I relied on Regional Planning and Building and Safety to make sure the appropriate codes and setbacks were met. When I found out this was not the case, I have been working with these entities to rectify the situation. Mr. Mason early on stated many times he was a contractor and in fact did much of the work on the addition himself. He obviously knew about the 5 foot setback requirement when he questioned the location of my pool equipment in August 2007, Mr. Mason was quick to do a survey when concerned about my pool equipment but did not feel it necessary to do one before beginning construction. I find it incredible that he did not check setbacks prior to beginning construction. But given recent events with his neighbor to the north, it appears that Mr. Mason has a complete disregard for property lines and setbacks.

Handwritten text, likely a letter or document, starting with "The first of the..." and ending with "yours truly".

Handwritten text, possibly a name or title.

*Handwritten signature or name*

Handwritten text, possibly a date or location.

# **EXHIBIT "1"**

**Maureen**

---

**From:** Zoning LDCC [zoningldcc@planning.lacounty.gov]  
**Sent:** Monday, July 23, 2007 8:08 AM  
**To:** Maureen  
**Subject:** RE: building permit for 520 Wenham Road in Pasadena

Maureen,

Current records do not show an addition approved for 520 Wenham. The addition should be built with building permits and our approval and the required side yard setback is 5 ft. To report a zoning violation please follow the instructions pasted below.

Regards,

Land Development Coordinating Center  
Department of Regional Planning  
Los Angeles County

Zoning violations must be reported in writing to establish "reasonable cause" for investigating an alleged violation on private property. You may choose one of the following methods of submitting your complaint:

**Email**

ZoningEnforcement@planning.lacounty.gov (NEW E\_MAIL ADDRESS)

**Call**

County Helpline 211. They will take down your complaint in writing and forward it to ALL applicable County agencies.

**Write a Letter**

Department of Regional Planning, Zoning Enforcement Section  
320 West Temple Street  
Los Angeles, CA 90012

In your complaint, include the following information:

- Identify the specific complaint or nuisance.
- Give your name, address, and telephone number. This information is just for us and is kept confidential.
- Give the exact location of the problem.
- Street address and house number
  - If no address, location of property, i.e. northwest corner of First and Main streets.
  - Provide additional information that will aid in the investigation.

**Examples:**

- Vehicle license number, type, color, make of vehicle, left door missing, etc.
- Type of debris: car parts; building material; tires; garbage
- Selling clothes, bags, furniture, paintings, flowers, etc

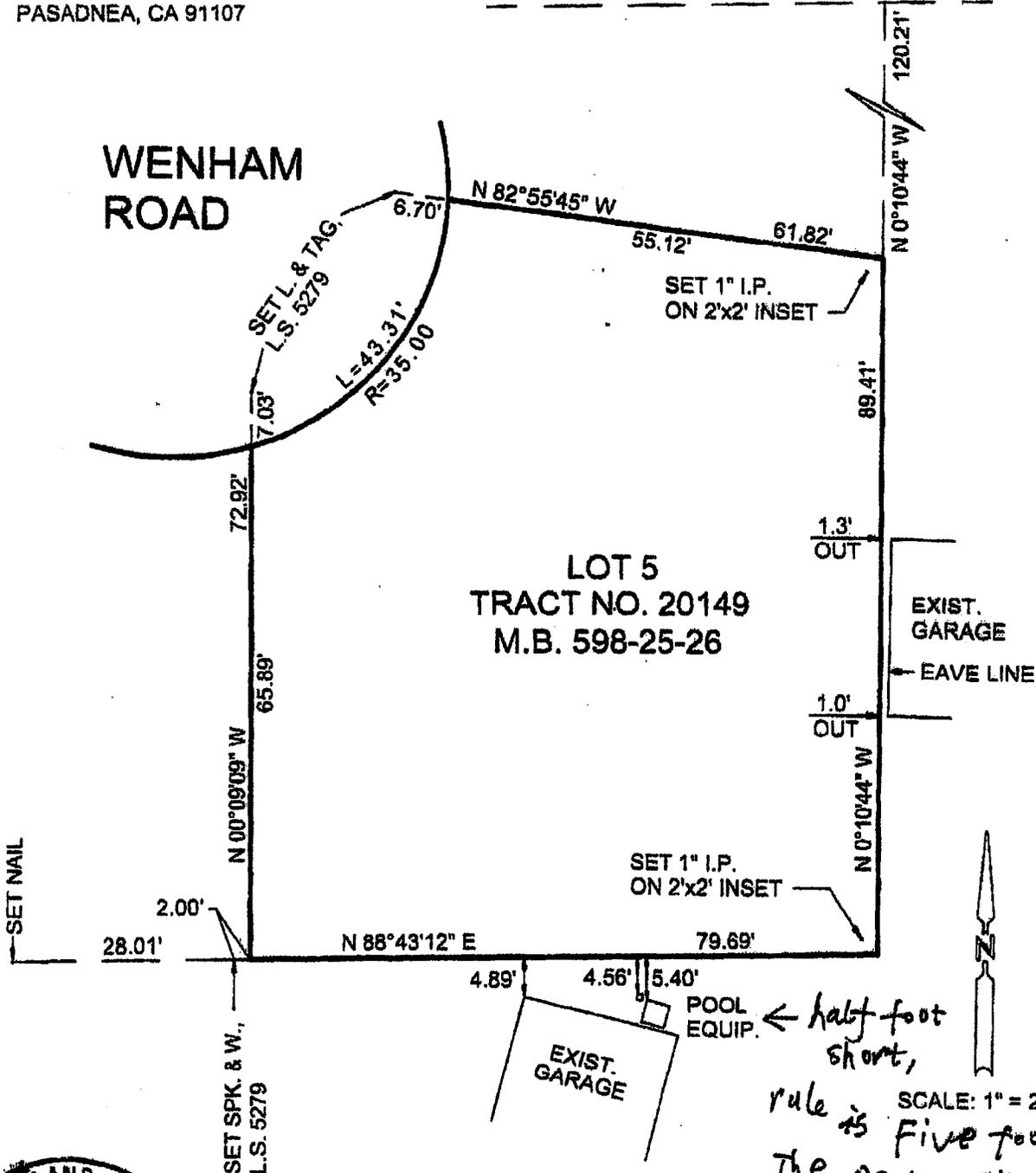
8/20/2007

# **EXHIBIT "2"**

PREPARED FOR:  
STEVE MASON  
520 WENHAM ROAD  
PASADENA, CA 91107

SAN PASQUAL STREET

WENHAM ROAD



LOT 5  
TRACT NO. 20149  
M.B. 598-25-26

EXIST. GARAGE  
← EAVE LINE

SET 1" I.P.  
ON 2'x2' INSET

← half foot short,  
POOL EQUIP.

EXIST. GARAGE

SCALE: 1" = 20'  
rule is five foot.  
The pool EQUIP only  
4 1/2'



PREPARED BY:  
**GILBERT ENGINEERING COMPANY, INC.**

2028 EAST ROUTE 66, SUITE 203  
GLEN DORA, CALIFORNIA 91740  
(626) 852-1600  
FAX (626) 852-1601  
email - gilbertcivil@integrity.com

# **EXHIBIT "3"**

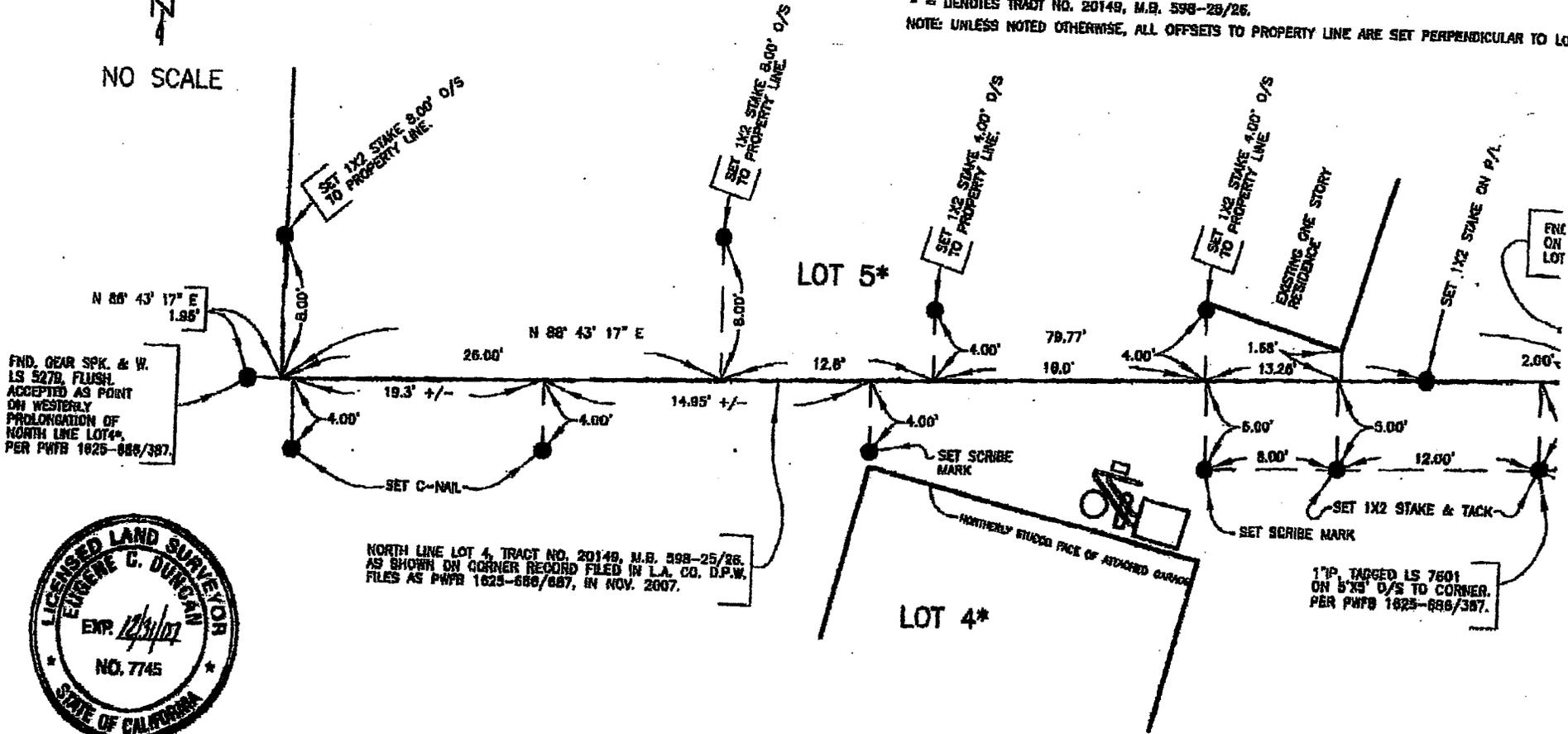
# EXHIBIT OF POINTS SET OFFSET TO PROPERTY LINE FOR FENCE CONSTRUCTION

526 WENHAM ROAD, PASADENA,  
AS OF NOVEMBER 8, 2007.

\* = DENOTES TRACT NO. 20149, M.B. 598-25/26.  
NOTE: UNLESS NOTED OTHERWISE, ALL OFFSETS TO PROPERTY LINE ARE SET PERPENDICULAR TO LOT



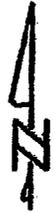
NO SCALE



NORTH LINE LOT 4, TRACT NO. 20149, M.B. 598-25/26,  
AS SHOWN ON CORNER RECORD FILED IN L.A. CO. D.P.W.  
FILES AS PWPB 1825-888/887, IN NOV. 2007.

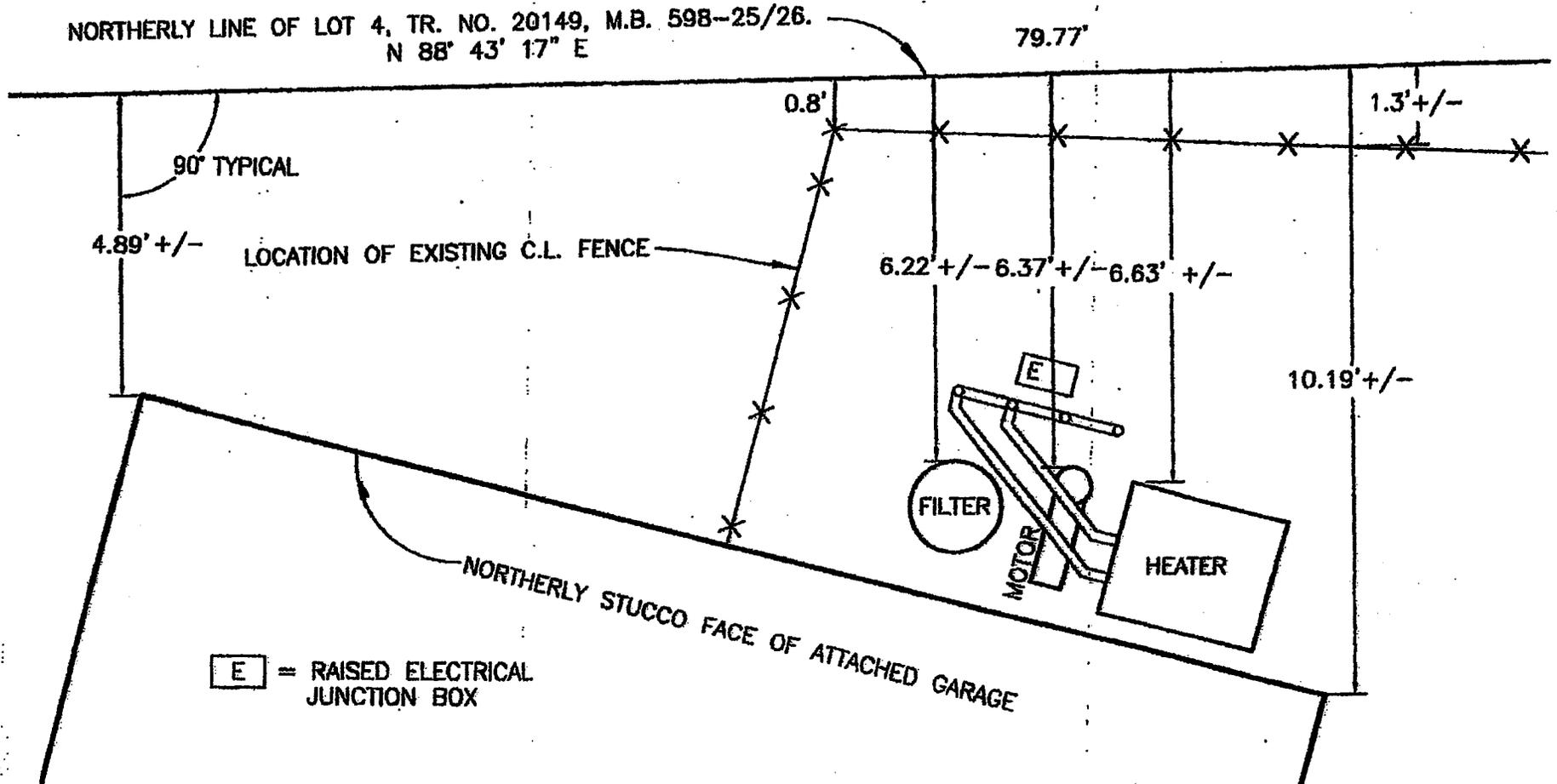
*Eugene C. Duncan*

**WESTERN STATES SURVEYING, INC.**  
889 W. FOOTHILL BLVD., E  
MONROVIA, CA 91016-1973

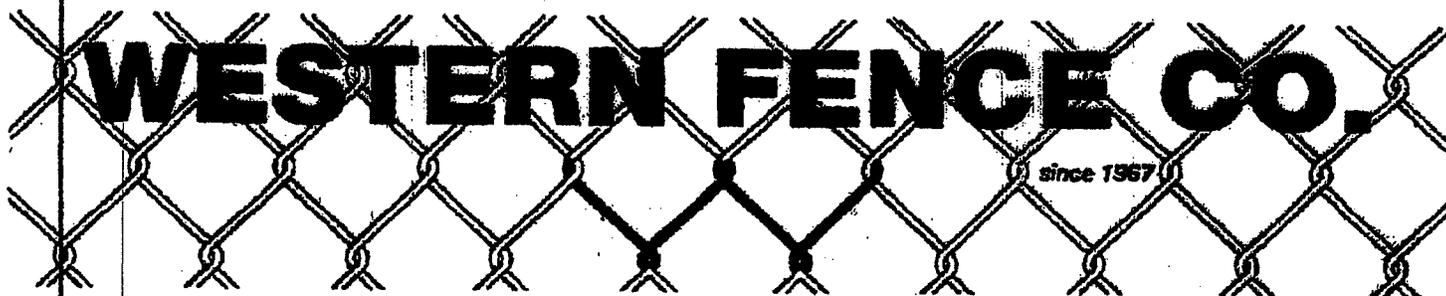


LOCATION OF MAIN POOL EQUIPMENT IN  
RELATION TO LOT LINE.  
526 WENHAM ROAD, PASADENA.  
AS OF OCTOBER 9, 2007.

NO SCALE



**EXHIBIT "4"**



2652 N. Fair Oaks Avenue . Altadena, CA 91001 . 626-791-8934 . Fax 626-794-2707 . Lic. No. 818532

January 9, 2008

Maureen Keane  
526 Wenham Rd  
Pasadena, CA 91107

RE: Fence placement on north boundary of property at 526 Wenham Rd.

To whom it may concern,

Western Fence Co. installed both a 2 ½ foot high ranch rail fence and a 6 foot high dog eared redwood fence along the north boundary line of the address above.

Western Fence Co. set the fence line as measured off of surveyors monuments placed at the request of the property owner by a licensed surveyor during a recent survey of her property, at the direction of the property owner.

The fences were install so that the concrete ball that supports the posts went up to but not beyond the property line and would support the posts when which were set so the the finished edge of the fence or bear post on the ranch rail fence, would be 2 inches back from the property line.

All work was done in a workmanlike manner and in compliance with all codes and and applicable standards.

Sincerely,

Ed Haylett

Western Fence Co.

**EXHIBIT "5"**

December 13, 2007

Mr. Hani Sabboubeh  
Regional Planning Assistant  
County of Los Angeles  
Department of Regional Planning  
320 West Temple Street  
Los Angeles, CA 90012

Dear Mr. Sabboubeh:

We met on September 5<sup>th</sup> of this year when you were investigating a complaint by my neighbor concerning the noise made by my pool equipment and its setback from the property line. At the time you found no basis for the complaint but asked that I send you my property survey when I mentioned my concern that my neighbor's new addition did not meet the minimum setback requirement.

I am including my property survey for 526 Wenham Road which indicates that my neighbor's new addition at 520 Wenham Road is 1.68 feet from the property line. I would like to file a formal complaint and find out what can be done. It appears the eaves to his addition are on or over the property line causing drainage issues as rain water from his extensive new roof now runs onto my property. Lastly, my neighbor has built a 7 foot fence without a permit.

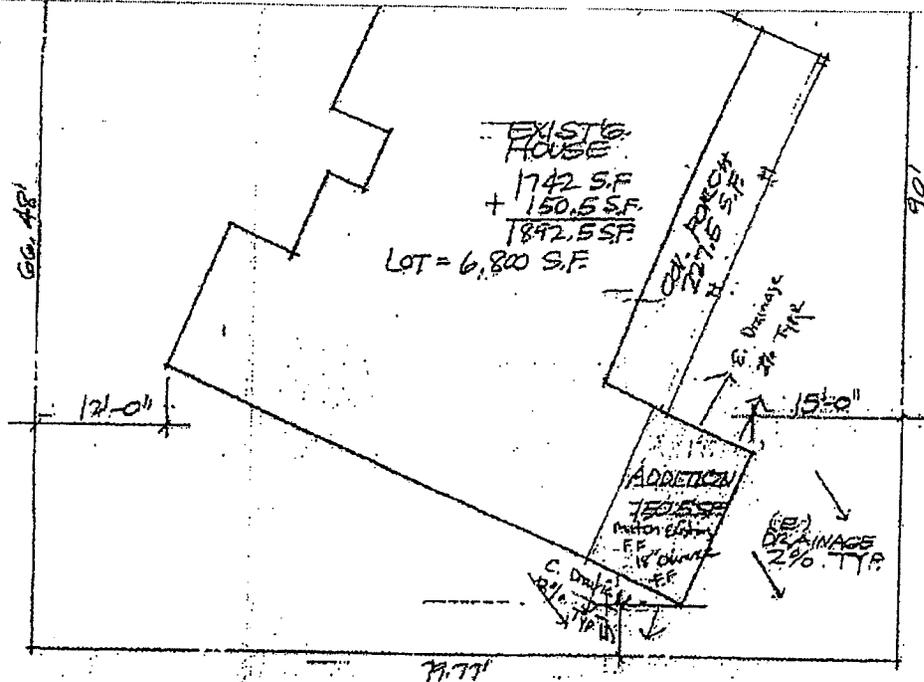
When I inquired about the setback and his permit in July (see attached email) I was told there was no permit on file. When I checked about the fence permit in late October, I was told there was a building permit for the addition and that it had been finalized in August, 2007.

I am extremely concerned about the setback and look forward to hearing from you.

Sincerely,

Maureen H.Keane  
526 Wenham Road  
Pasadena, CA 91107  
(626) 792-7288

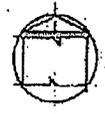
Bookmarks  
Signatures  
Pages  
Model Tree  
Attachments  
Comments



LOT 5 TR. 20145  
APN 5831-002-005

SITE PLAN  
1/8" = 1'-0"

BUILDING DRAINAGE PLAN APPROVED  
BY: *[Signature]* DATE: 1/4/07  
SCIENCE AND SAFETY DIVISION  
LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS



REVISIONS  
NO. DATE DESCRIPTION  
1 JAN 02 2007

ROOM ADDITION - FOR:  
STEVEN MASON  
520 WENHAM ROAD  
PASADENA, CA 91107  
(626) 222-4719

DRAWN
CHECKED
DATE
SCALE
JOB NO.
SHEET
<b>A-1</b>
SHEETS

1,892.5 S.F.

LOT COVERAGE = 6,800 S.F.

LOT 5 TR. 20145  
APN 5331-003-005

COVERED PORCH  
227.5 S.F.

(MATCH EXISTING)

UP

EXISTING PATIO PORCH

EXISTING 2007 ADDITION

150.6 S.F.  
(MATCH EXISTING)

17'-0"

1'-10"

5'-0"

EASEMENT

FACED

2' HIGH (POST & RAIL)

20'-10"

7' HIGH (TRELLIS)

2' HIGH (POST & RAIL)

6' HIGH (TRESPASS DEC. 2007 RED WOOD FENCE)

79.77' PL

OLD BOUNDARY LINE

EXISTING 5'-0" HIGH 80 YR. OLD CHAINLINK FENCE

# SITE PLAN

**DECLARATION OF DAVID A. BETHANY**

**SITE PLAN REVIEW CASE NO.: 200801286 (YARD MODIFICATION)**

I, David Bethany, do hereby declare as follows:

1. I am over the age of 18 and a resident of the County of Los Angeles, State of California.

2. I have personal knowledge of the following facts and if called, could and would testify as follows:

3. I am a licensed contractor in the State of California. I have held my General Contractor's license since 1985. I am President of Bethco Builders, Inc. where I continue to act as a general contractor for both residential and commercial projects. I have qualified and testified in California State Court and Federal Court as an expert witness in the following areas of the construction industry: Building Standards; Construction Documents; Construction Scheduling and Delays/Delay damages; Cost Estimating; Job Cost Analysis, Standard of Care for Construction Manager; Standard of Care for a Developer, Standard of Care for a General Contractor and Standard of Care for Trade Contractors.

4. On April 27, 2010 I personally inspected the real property located at 526 Wenham Road in the City of Pasadena, State of California. The purpose of this inspection was to assess the building code and zoning code violations of the addition built on the South side of the contiguous property located at 520 Wenham Road in the City of Pasadena. The purpose of this inspection was also to assess the various claims and defenses raised by the owner of 520 Wenham Road and by his representatives including the representations made by Michael Cook, RDBI.

5. Through my inspection I concluded that the Keane garage and pool equipment located on the North side of the garage is compliant with all relevant Building Codes and Zoning codes. In addition, the noise level of Ms. Keane's pool equipment does not violate any noise regulation within the County of Los Angeles. The reading obtained by the City of Pasadena reflects a nominal variance from that City's code which cannot explain the level of disturbance claimed by the Applicant.

6. Michael Cook incorrectly stated that the portion of Ms. Keane's chain link fence that surround her property and secure the pool area was not in compliance with the Build Code. In fact, Ms. Keane's chain link fence is compliant as it was installed prior to the new code coming into effect and the revised code is not under mandatory retro-fitting.

7. The proximity of Ms. Keane's wood fence to the addition does not violate any building codes related to safety as there are no code requirements for a fire rated fence material. Moreover, it is noteworthy that the Applicant has a wood fence which is located even closer to

the neighbor's garage on the East property line and to the neighbor's property at the North property line.

8. It is my understanding, through a review of the documents submitted on behalf of the Applicant and owner of 520 Wenham Road, that the Applicant is a general contractor and acts as a building superintendent for construction. In assessing any project, a competent general contractor and building superintendent would first examine the project site to determine site concerns, including property lines and front, side and rear yard setbacks. Such an assessment of the subject property would have led even an inexperienced property owner to conclude that they should consider a survey. According to the Applicant, he did not take any such action prior to completing his construction.

9. It is my understanding, through a review of the documents submitted on behalf of the Applicant and owner of 520 Wenham Road, that he has claimed that the inspection by Building and Safety approved the structure side yard and back yard offset which violated the zoning code. This position is contrary to prevailing law. Building Code Section 108.1 states in pertinent part that "Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdictions. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection. Neither the building official nor the jurisdiction shall be liable for expense entailed on the removal or replacement of any material required to allow inspection. A survey of the lot may be required by the building official to verify that the structure is located in accordance with the approved plans."

10. The documents I reviewed contained a document entitled "Certificate of Visual Observation. The document was prepared by Michael Cook, a registered deputy building inspector (RDBI). Deputy inspectors are allowed to inspect very specific portions of the construction process as it takes place. Notably, Cook is certified to inspect concrete, masonry, pre-stressed concrete and welding work performed by contractors or subcontractors. Under Building Code Section 1701 and 1702 there is no certification or allowances for a special inspector to inspect or investigate any work or issue outside of those listed above. Based on this information, Mr. Cook's observations are clearly outside the scope of his license and he was apparently not present during the construction of any of the issues he discussed.

It is unclear how Deputy Inspector, Michael Cook could have rendered any observation or opinion about materials without performing destructive testing. For example, unless destructive testing was performed, the inspector would have no personal knowledge that Thermafiber Sound & Fire Blanket #ASTM C 665, Type 1 was placed between the exterior plaster (stucco and drywall in the wall cavity.) In addition, unless destructive testing was performed, the inspector would not have personal knowledge about whether the shear wall was OSB as "Flame Block ICC ESR #1365." Moreover, without destructive testing in a number of locations, the inspector would not have personal knowledge about the stucco thickness of 1-1/8". This observation being made merely goes to the credibility of the "observations" as memorialized by Deputy Inspector,

Michael Cook.

11. Through my inspection, I noted the following building code violations which cannot be remedied except for the removal of the relevant portion of the structure (which is the addition in this case):

a) The addition contains three windows on the South side which violate the minimum boundary line offset. The Applicant for the Yard Modification has purportedly placed a frame containing fiberglass material on the outside of two of the windows. Building Code Section 713.0 Glazing. This section does not allow for the Vertical Solutions, fiberglass panel - fire rated material as an approved "fire window opening". As such, the proximity of the addition wall containing windows violates public safety and fire safety provisions of the Building Code.

Note: Building Code Section 102.1 Fire Hazard. No persons, including but not limited to the state and its political subdivisions, operating any occupancy subject to these regulations shall permit any fire hazard, as defined in this section, to exist on premises under their control, or fail to take immediate action to abate a fire hazard when requested to do so by the enforcing agency. Further Note: "Fire hazard" as used in these regulations means any condition, arrangement or act which will increase, or may cause an increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire; or which may obstruct, delay or hinder, or may become the cause of obstruction, delay or hindrance to the prevention, suppression or extinguishment of fire.

The relevancy of the above-referenced code should compel the conclusion that the proposed Yard Modification, allowing the existing structure to remain, would be a material violation of this code and ratify the continuation of an unlawful fire hazard.

b) Michael Cook, the Deputy Inspector who provided a "Visual Inspection" report, claimed that the window covering referenced in subsection (a) above was fire rated by ASTM 384. ASTM E84 is only a testing protocol for fire spread on **interior walls and ceiling finishes**. The testing protocol is not an approval for any material to be used as a fire assembly in any interior or **exterior** condition. Attached to this Declaration as Exhibit "A" are two documents from ASTM regarding ASTM E84 which provide further information demonstrating the improper application in this case.

c) The majority of the South- side of the addition violates Building Code Section 1203.4.1 which requires that "yards shall not be less than 3' in width for one and two-story buildings.

d) The majority of the South- side of the addition violates Building Code Section 1204 - Eaves - which states that "Where eaves extend over required windows, they shall project no closer than 30 inches to any side or rear yard property line." In this case, the eave actually encroaches over the property line of the Keane property.

e) Building Code Section 106.3.3 regarding information on plans and specifications states in pertinent part that "Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the code and all relevant laws, ordinances rules and regulations." In this case, I observed the location of the original chain link fence posts which remain visible and cut at the surface. The location of the chain link fence from the South-east corner of the addition was less than three feet. In addition, the eave of the addition clearly encroaches over the wood fence which was placed two inches inside the Keane property line. In making this conclusion I relied on my visual inspection and the records prepared by Eugene Duncan of Western States Surveying, Inc., a licensed surveyor.

f) The proximity of the roof and eave and the encroachment over the boundary line of the Keane property violates Building Code Section 1804.7 which requires the property owner to control the surface drainage on the property. In this case, there is no operative drainage pipe located in the side yard area and the surface drainage is not sloped away from the property line on the South side of 520 Wenham and in the boundary shared with Ms. Keane.

12. The addition located on the South-east portion of 520 Wenham violated the zoning codes as follows:

a) The structure placement of the addition violates the five foot minimum side yard offset to the boundary line by 70% of the required distance, or 42" since the South-East corner of the addition is 18" off of the boundary line. The Building Code dictates that all dimensions are measured perpendicular to the property line.

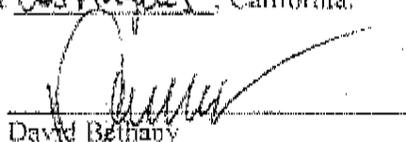
b) The structure placement of the addition violates the fifteen foot minimum rear yard offset to the boundary line.

c) The 7 foot high fence located on the South side of the addition and on the North side of the residence violates the height requirement.

13. The Building Code Violations and Zoning Code Violations cited above are material to this development as they create a public safety and fire hazard for the Keane' property and her improvements located directly to the South of the Addition. In addition, the Applicant has not submitted any evidence which would support the granting of a Yard Modification under the circumstances of this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 4<sup>th</sup>, at Los Angeles, California.

  
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David Bethany

# EXHIBIT "A"

## ASTM E 84

### Standard test method for surface burning characteristics of building materials.

The flame spread Index and Smoke Developed Index values obtained by the ASTM E 84 test are used by code officials and regulatory agencies in the acceptance of interior finish materials for various applications. The most widely accepted classification system is described in the National Fire Protection Association publication NFPA 101 *Life Safety Code*

#### 1. 2006 International Building Code

a. Section 803 Wall and Ceiling Finishes, Paragraph 803.1 General states, "Interior wall and ceiling finishes shall be classified in accordance with ASTM E- 84. Such interior finish materials shall be grouped in the following classes in accordance with their flame spread and smoke-developed indexes.

i. Class A: Flame Spread 0-25; smoke-developed 0-450

ii. Class B: Flame Spread 26-75; smoke-developed 0-450

iii. Class C: Flame Spread 76-200; smoke-developed 0-450

Class A, B, and C correspond to type I, II, and III respectively in other codes such as SBCCI, BOCA, ICBO. They do not preclude a material being otherwise classified by the authority of jurisdiction.

#### 2. NFPA 101®, Life Safety Code®

a. Chapter 10 Interior Finish, Contents, and Furnishings, Paragraph 10.2.3 Interior Wall or Ceiling Finish Testing and Classification states, "Interior wall or ceiling finish that is required elsewhere in this Code to be Class A, Class B, or Class C shall be classified based on test results from NFPA 255, ASTM E-84, or UL 723."

## ASTM E84

### Significance and Use

This test method is intended to provide only comparative measurements of surface flame spread and smoke density measurements with that of select grade red oak and fiber-cement board surfaces under the specific fire exposure conditions described herein.

This test method exposes a nominal 24-ft (7.32-m) long by 20-in. (508-mm) wide specimen to a controlled air flow and flaming fire exposure adjusted to spread the flame along the entire length of the select grade red oak specimen in 5 ½min.

This test method does not provide for the following:

Measurement of heat transmission through the tested surface.

The effect of aggravated flame spread behavior of an assembly resulting from the proximity of combustible walls and ceilings.

Classifying or defining a material as noncombustible, by means of a flame spread index by itself.

### 1. Scope

1.1 This fire-test-response standard for the comparative surface burning behavior of building materials is applicable to exposed surfaces such as walls and ceilings. The test is conducted with the specimen in the ceiling position with the surface to be evaluated exposed face down to the ignition source. The material, product, or assembly shall be capable of being mounted in the test position during the test. Thus, the specimen shall either be self-supporting by its own structural quality, held in place by added supports along the test surface, or secured from the back side.

1.2 The purpose of this test method is to determine the relative burning behavior of the material by observing the flame spread along the specimen. Flame spread and smoke developed index are reported. However, there is not necessarily a relationship between these two measurements.

1.3 The use of supporting materials on the underside of the test specimen has the ability to lower the flame spread index from those which might be obtained if the specimen could be tested without such support. These test results do not necessarily relate to indices obtained by testing materials without such support.

1.4 Testing of materials that melt, drip, or delaminate to such a degree that the continuity of the flame front is destroyed, results in low flame spread indices that do not relate directly to indices obtained by testing materials that remain in place.

1.5 The values stated in inch-pound units are to be regarded as standard. The values given in parentheses are mathematical conversions to SI units that are provided for information only and are

not considered standard.

1.6 The text of this standard references notes and footnotes that provide explanatory information. These notes and footnotes, excluding those in tables and figures, shall not be considered as requirements of the standard.

1.7 This standard is used to measure and describe the response of materials, products, or assemblies to heat and flame under controlled conditions, but does not by itself incorporate all factors required for fire-hazard or fire-risk assessment of the materials, products, or assemblies under actual fire conditions..

1.8 This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.

## 2. Referenced Documents

### ASTM Standards

A390 Specification for Zinc-Coated (Galvanized) Steel Poultry Fence Fabric (Hexagonal and Straight Line)

C1186 Specification for Flat Fiber-Cement Sheets

D4442 Test Methods for Direct Moisture Content Measurement of Wood and Wood-Base Materials

D4444 Test Method for Laboratory Standardization and Calibration of Hand-Held Moisture Meters

E136 Test Method for Behavior of Materials in a Vertical Tube Furnace at 750C

E162 Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source

E176 Terminology of Fire Standards

E2231 Practice for Specimen Preparation and Mounting of Pipe and Duct Insulation Materials to Assess Surface Burning Characteristics

E2404 Practice for Specimen Preparation and Mounting of Textile, Paper or Polymeric (Including Vinyl) Wall or Ceiling Coverings to Assess Surface Burning Characteristics

E2573 Practice for Specimen Preparation and Mounting of Site-Fabricated Stretch Systems to Assess Surface Burning Characteristics

E2579 Practice for Specimen Preparation and Mounting of Wood Products to Assess Surface Burning Characteristics

E2599 Practice for Specimen Preparation and Mounting of Reflective Insulation Materials and Radiant Barrier Materials for Building Applications to Assess Surface Burning Characteristics

E69 Test Method for Combustible Properties of Treated Wood by the Fire-Tube Apparatus

### UL Standards

UL2024 Standard for Safety for Optical Fiber and Communication Cable Raceway (2004)

### NFPA Standards

NFPA262 Standard Method of Test for Flame Travel and Smoke of Wires and Cables for Use in Air-Handling Spaces (2007)

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## Index Terms

flame spread; flame spread index; smoke developed; smoke developed index; Steiner tunnel; surface burning characteristics; 25 ft tunnel; tunnel test  
; Burning characteristics--building materials; Fire testing--building materials; Flame spread index; Flammability--building materials; Surface flammability; ICS Number Code 13.220.50 (Fire-resistance of building materials and elements); 91.100.01 (Construction materials)

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DOI: 10.1520/E0084-10

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ASTM E84 (Fire Standards and Flammability Standards)