



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Jon Sanabria
Acting Director of Planning

August 13, 2009

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Steven Mason and Nadine Chim
520 Wenham Road
Pasadena, CA 91107

Dear Applicant:

**RE: RPP 200801286 (Project R2008-01777)
520 WENHAM ROAD (APN 5331-003-005)**

The Director has denied case number RPP 200801286 (Project R2008-01777) for a yard modification request to authorize a modification in the building setbacks for an addition to a single-family residence located within the required side yard setback and rear yard setback and an over height fence in the rear yard on August 13, 2009.

Pursuant to Part 5 of Section 22.60 of the Los Angeles County Zoning Code (Title 22), the applicant or other interested person may appeal the Director's decision to the Los Angeles County Regional Planning Commission (Commission) at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission secretary for the appeal procedures and fee at (213) 974-6409.

The appeal period for this project will end at 5:00 p.m. on August 27, 2009 (end of the 14th calendar day). Any appeal must be delivered in person to the Commission secretary by this time. The Director's decision may also be called up for review by the Commission during the appeal period. If the project is not called for review or no appeal is filed during the specified period, the Director's action is final.

For any other questions or information regarding this approval, please contact Richard Claghorn at (213) 974-6470.

DIRECTOR'S FINDINGS AND ORDER:

1. The applicant is requesting a modification in the side yard setback from the required five feet to two feet. The site plan shows a two-foot side yard setback, although according to the Zoning Enforcement section of the Los Angeles County Department of Regional Planning, a survey shows the addition is only 18 inches from the property line. The applicant is also requesting a rear yard setback of about 11.5 feet in lieu of the required 15 feet. The applicant is also requesting approval for an over height fence of seven feet along the rear property line in lieu of the maximum six feet allowed by the Los Angeles County Zoning Code. A summary giving the history and background of the modification request is given below under items six through ten.
2. Pursuant to Chapter 22.48.180 of the Zoning Code, the director of planning may grant a modification to setback requirements where topographic features, subdivision plans or other conditions create an unnecessary hardship or unreasonable regulation or make it obviously impractical to require compliance with the yard requirements. A burden of proof statement is required from the applicant in such cases to provide supporting information to justify the modification request. A burden of proof statement was provided, but it was deemed inadequate to justify a modification. There were no examples provided of other properties in the neighborhood with setbacks similar to what is being requested. There are no topographic features on the property that provide a reason to allow a reduction in the required setbacks. The applicant did not provide enough justification for the requested modification.
3. The subject property is located at 520 Wenham Road in unincorporated Pasadena within the San Pasqual Zoned District. The property is not located within any Community Standards District.
4. The subject property is classified as Low-Density Residential within the Los Angeles County General Plan. This category is suitable for the proposed use.
5. The property is zoned R-1 (Single-Family Residence). Pursuant to Section 22.20.120 of the Zoning Code, structures in Zone R-1 must maintain interior side yard setbacks of at least five feet and rear yards of at least 15 feet. Fence height is limited to six feet within interior side and rear yards by section 22.48.160 C of the Zoning Code.
6. The subject property is a flat level parcel with a single-family residence that had an addition built in 2007. The addition was not reviewed by Regional Planning, but received a building permit from the Los Angeles County Department of Public Works Building and Safety Division. The site plan approved by Building and Safety in January 2007 showed a five foot side yard setback and 15 foot rear yard setback, in accordance with the setback requirements of the Zoning Code. Permits for the addition received final approval from Building and Safety in August 2007.

7. In October 2007, a survey completed at the request of the neighbor at 526 Wenham Road, located immediately to the south of the subject property, showed that the property line was not where it was previously believed to be. Based on the survey, the addition was only 18 inches from the side property line and less than 12 feet from the rear. Subsequently, the fence on the side yard was relocated to accurately reflect the true location of the property line. The property boundary has not changed.
8. A neighbor notified the Zoning Enforcement section of Regional Planning about the encroachment of the subject addition into the required setback area. In May 2008, Zoning Enforcement issued a notice of violation for the setback violation and for a fence exceeding the height limit on the eastern side of the property.
9. In September 2008, the applicant filed a yard modification case (RPP 200801286) to request a modification to the setback requirements to allow the addition to remain, as well as to legalize the existing rear yard fence which exceeds the height limit.
10. In November 2008 a correction letter was mailed informing the applicant that the site plan contained inaccuracies and that there were other corrections and omissions which needed to be addressed. The applicant was informed that the burden of proof provided did not justify a modification to the setback requirements. The applicant was given two options to resolve the situation, including filing a lot line adjustment (LLA) with the neighbor to meet the required setbacks or demolishing the portions of the addition that encroached into the required setbacks. A deadline of February 5, 2009 was given. The deadline was later extended to April 2 and then to May 19, 2009 to give the applicant time to work out a solution with the neighbor and to file an LLA.
11. The site plan depicts a 6,800 square foot lot and shows the location of the residence and existing garage, as well as the addition. The side yard setback is shown as two feet from the property line, and as five feet, four inches from the "old boundary line". The site plan inaccurately depicts the old fence location as the "old boundary line" even though it was never the real property line. It is not clear what the actual distance from the addition to the property line is since the site plan shows two feet and the survey shows 18 inches. There are also some discrepancies between the lot dimensions shown on the site plan and the assessor's map. The north property line is shown as 61.82 feet on the site plan, but is only 55.23 feet according to the assessor's map. The south property line is 79.69 feet long according to the site plan, but the assessor's map shows the length is 79.77 feet. The rear setback is not shown at the closest point, but it scales out to about 11.5 feet on the site plan.
12. A neighbor claims that the roof eave of the addition extends over the property line and encroaches onto her lot, and that the addition drains onto her property. She also believes it is a fire hazard. The site plan does not show the eave, so it

is not possible to determine whether it does cross the property line. According to the elevation plan the eave appears to project about one foot from the building wall, so based on that drawing it does not appear to encroach onto the other property. Nevertheless, the drainage problems and potential fire safety issues are factors that would support a denial of a modification request.

13. The over height fence in the rear was not addressed in the yard modification burden of proof. In the November 2008 correction letter, the applicant was asked to submit a burden of proof statement supporting the request to modify the fence height. This information was never provided. The applicant did submit a letter from the neighbor at 2644 San Pasqual, the property to the east that shares the over height fence, in support of a modification as part of the original submittal in September 2008. This letter cited privacy concerns and financial hardship related to the cost of altering the fence as reasons to approve this modification. No information on other over height fences in the area was provided, nor was the burden of proof section of the application form filled out with any information relating to the fence modification request.
14. In March 2009 the applicant indicated that they would like to attempt to have a lot line adjustment (LLA) done to remedy the setback problem. However, this would require the cooperation of the owner of 526 Wenham Road. Since this potential solution is not feasible at this time, there is no other way to comply with the setback requirements except to demolish the portions of the addition that encroach into the required setbacks.
15. This project was determined to be categorically exempt (Class 3, New Construction or Conversion of Small Structures) under the environmental reporting procedures and guidelines of the California Environmental Quality Act (CEQA). This exemption includes single-family residences.

BASED ON THE FOREGOING, THE DIRECTOR CONCLUDES:

- A. That the use, development of land and/or application of development standards is not in compliance with all applicable provisions of Title 22 of the Los Angeles County Code;
- B. That the use, development of land and/or application of development standards, when considered on the basis of the suitability of the site for the particular use or development intended, does not insure the protection of public health, safety and general welfare, does not prevent adverse effects on neighboring property and is not in conformity with good zoning practice; and
- C. That the use, development of land and/or application of development standards is not suitable from the standpoint of functional developmental design.

THEREFORE, the Director has determined that the information submitted by the applicant does not substantiate the required findings for a yard modification as set forth in Sections 22.48.180 and 22.56.1690 of the Zoning Code.

DIRECTOR'S ACTION:

1. In view of the findings of fact presented above, Plot Plan Case RPP 200801286 (Project No. R2008-01777) is **DENIED**.

BY: _____ **DATE:** _____

**Richard Claghorn, Principal Regional Planner
Land Development Coordinating Center
Department of Regional Planning
County of Los Angeles**

c: Zoning Enforcement, Building and Safety

NP:RC

8.13.09

**12. Yard Modification Burden of Proof (only required for a yard modification)*
(Carga de la Prueba para una Modificación de Yarda)**

Los Angeles County Zoning Ordinance Section 22.48.180 authorizes the Director of Planning without notice or hearing to grant a modification to specified setback regulations of the Zoning Ordinance where topographic features, subdivision plans and other conditions create an unnecessary hardship or unreasonable regulation or make it obviously impractical to require compliance with the setback requirements. (See page 7 for additional requirements that must be submitted along with this application)

A. What topographic features, lot design or other conditions justify the setback modification? (If necessary attach additional pages)

Existing house is not parallel with property line which caused encroachment after build was complete and signed off. Proposed 10x15' Addition, Recently the old Boundary line fence of 100 years was moved because of recent survey. During All inspection the existing fence line met all requirements.

B. Are other adjacent or neighboring properties enjoying setbacks similar to what you propose? If so, please list addresses, relevant setback, height and description of structure involved. Include photos and a vicinity map showing the location of all listed properties. (If necessary attach additional pages)

X



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Jon Sanabria
Acting Director of Planning

November 5, 2008

Steven Mason and Nadine Chim
520 Wenham Rd.
Pasadena, CA 91107

Subject: Plot Plan 200801286
Location: 520 Wenham Rd., Pasadena

Dear Applicant,

Your case can not be approved until the following issues are resolved.

- 1.) The lot dimensions shown on the site plan differ from what is shown on the assessor's map. The south property line is shown as 79.77 feet on the assessor's map but 79.69' on the site plan. The north property line is shown as 55.23 feet on the assessor's map but is 61.82 feet on the site plan. Please use the dimensions shown on the assessor's map unless the survey by a licensed surveyor shows different dimensions.
- 2.) The dimensions on the drawing must be as accurate as possible in order to accurately determine the setback distances. Some of the measurements are somewhat off when scaled out. For example, the north property line is labeled as 61.82 feet but scales to under 55 feet (the correct distance is 55.23'). The south property line scales to 79 feet but should be 79.77 feet, so it's off by about 9 inches or so on this side. In addition to scaling the dimensions accurately, the setback distances also should be labeled for verification purposes. Be sure to measure to actual property lines and not just to the fence.
- 3.) The rear yard setback is less than required. According to the plans stamped by Building and Safety, the rear yard setback was 15 feet, which is the minimum required in our code. However, on the current site plan, the rear yard is only about 11.5 feet. It needs to be a minimum of 15 feet.
- 4.) Please provide a copy of the survey showing the structure and property lines. According to information provided by a neighbor, a survey shows the addition to be 18 inches from the property line. On your site plan it is 2 feet. We need to see the survey in order to verify the correct distance of the setback.
- 5.) The project description is unclear as to the fence heights. The fence is listed as 7 feet high in the rear on the site plan and 6 feet high on the north and south sides. However, the project description appears to indicate a 7 foot fence height on the north and south sides. It also does not provide any reasons for why an over height fence might be justified. Please provide a justification for the requested modification to the fence height. The photos show posts sticking up above the actual fence in the rear. Are these posts included in the 7 foot fence height? They

- should be included in the height if they are not already. Why do the posts rise so much higher than the rest of the fence?
- 6.) After discussing the case and the yard modification burden of proof with my supervisor and other staff it was found that there is not a sufficient justification to allow a modification. There are three potential solutions to the problem:
- a.) File a lot line adjustment (LLA) with the neighboring property owners so that the setback is 5 feet on the side and 15 feet in the rear. Only the portion of the lot lines around the addition would need to be moved in order to meet the required setbacks. This option would only be possible if the neighbors of the adjoining lots agreed to the LLA. An LLA form is enclosed with instructions on the submittal requirements. There is a \$1,460 fee.
 - b.) The portions of the additions that are less than 5 feet from the side and 15 feet from the rear would need to be demolished. The addition could be expanded into the porch area outside of the required setbacks. You would need to submit 3 sets of revised plans.
 - c.) This case could be denied. You would then have the option of appealing the denial to the Regional Planning Commission (RPC). The appeal would need to be made to the RPC within 15 days of the denial. You would need to pay a \$1,352 appeal fee. And would have the opportunity to present the case to the RPC.

Please submit 3 sets of revised plans to Regional Planning as described above.

Please provide the requested information by February 5, 2009 or your case will be denied. If you have any questions you can call me at 213-974-6278 or send e-mail to rclaghorn@planning.lacounty.gov.

Richard Claghorn
Principal Regional Planning Assistant
Los Angeles County Department of Regional Planning