



Administrative Report

J.1., File # PC21-2220

Meeting Date: 3/18/2021

To: PLANNING COMMISSION

From: LINA PORTOLESE, PLANNING ANALYST

TITLE

Public Hearing for consideration of an appeal of the Administrative Design Review decision denying the request to construct an accessory structure attached to the main home within the rear setback of the rear unit of an existing 2-unit residential condominium development on property located within a Low-Density Multiple-Family Residential (R-2) zone.

APPLICANT: Matthew and Cory Sufnar

PROPERTY OWNER: Same as applicant

PROPERTY ADDRESS: **2015 Speyer Lane Unit B**

RECOMMENDATION:

- 1) Open public hearing and administer oath;
- 2) Request Staff presentation;
- 3) Request appellant's presentation;
- 4) Take further testimony from staff, the appellant, and the public, and deliberate;
- 5) Close the public hearing;
- 6) Adopt by title only a Resolution of the Planning Commission of the City of Redondo Beach, California, denying an appeal and upholding the Administrative Design Review decision denying the request for an accessory structure attached to the rear elevation of the main home within the rear setback of the rear unit of an existing 2-unit residential condominium development on property located within a Low-Density Multiple-Family Residential (R-2) zone at 2015 Speyer Lane Unit B;
OR
- 7) Adopt by title only a Resolution of the Planning Commission of the City of Redondo Beach, California, upholding an appeal of the Administrative Design Review decision and granting the request for an accessory structure attached to the rear elevation of the main home within the rear setback of the rear unit of an existing 2-unit residential condominium development on property located within a Low-Density Multiple-Family Residential (R-2) zone at 2015 Speyer Lane Unit B

EXECUTIVE SUMMARY

The property owners of 2015 Speyer Lane Unit B submitted an application to the Planning Division for Administrative Design Review to allow an accessory structure that is attached to the rear elevation of the main home, which encroaches into the rear setback. The application was denied by the Community Development Director, citing the section of the Zoning Code which requires a minimum

separation of 5-feet between a dwelling unit and an accessory structure. The property owner has appealed the denial, stating that the interpretation of this code section is in error, and that the attached accessory structure complies with the Zoning Code.

BACKGROUND

The subject property at 2015 Speyer Lane is an existing 2-unit residential condominium development approved in 2001 located within the R-2 Low-Density Multiple-Family Residential Zone. The units were built per the development standards of the R-2 zone, with Unit B having an average 15-foot setback from the rear property line. The R-2 development standards for setbacks have not changed since construction of this project. At the time of construction, the project developer was required to plant trees along the rear property line as a condition of approval.

Beginning in June 2020, the current owners of Unit B began a backyard renovation project. As the scope of the project expanded, neighboring property owners to the rear were concerned as to the removal of the trees, and additionally whether any of the work required permits.

Code Enforcement History

A complaint was submitted on June 17, 2020 with the City's Code Enforcement Division regarding construction occurring in the rear yard of 2015 Speyer Lane Unit B. The complaint stated that the rear yard had been torn up, trees were removed (that had been required of the developer as a condition at the time of original construction), and new plumbing, gas, and electrical was being installed.

Code Enforcement sent a letter on June 17, 2020 to the owners of 2015 Speyer Lane Unit B asking to cease all outdoor construction in the rear yard until required permits were secured. In response to the letter, the property owner contacted Code Enforcement by email on June 22, 2020, and stated that they were landscaping their backyard and making some improvements, and inquired on the appropriate process for securing permits. Code Enforcement replied to the email and asked that they submit a site plan for Planning approval of the work, prior to applying for building permits.

Between June 22, 2020 and June 24, 2020 the property owners worked with the Planning Division, and a site plan was approved that included a barbeque island area and 9-foot tall fireplace. The structures were approved per Redondo Beach Municipal Code Section 10-2.1500, which allows for accessory structures to encroach into a rear setback, with no setback required from the rear property line. Additionally, accessory structures located within the rear 23-feet of the lot need a "cumulative" side setback of 10 feet. As proposed on this site plan, the barbeque island and fireplace structures were to be 3-feet away from the rear property line. The barbeque island would be 3-feet away from the east side property line, and over 38 feet away from the west side property line. The distance between the barbeque island and the fireplace also met the minimum separation requirement between accessory structure of 5-feet.

Once Planning staff approved the site plan, the property owners were then instructed to submit the approved site plan to the Building Division to secure any appropriate permits, as determined by Building Division staff.

After consultation with the Building Division, the property owners submitted a revised site plan to Planning which lowered the height of fireplace from 9-feet down to 4-feet, and still included the

barbeque island area. The revised site plan was approved by Planning on July 7, 2020. The property owner obtained permits from the Building Division for gas lines to the new fireplace and barbeque area on July 13, 2020.

On August 4, 2020, a new complaint was submitted stating that the sliding glass door on the rear elevation of the home had been removed, and surrounding framing replaced to accommodate a new accordion style door. The complaint also stated that it appeared a masonry structure taller than the property line fence was being constructed. Staff searched the permit database to verify if any additional permits had been pulled for the sliding glass door replacement or a structure taller than 5-feet, which there had not. Code Enforcement staff asked the City's Senior Building Inspector to inspect the work and verify if it needed a permit, to which the Senior Building Inspector verified that in fact it did require permits for the masonry structure and for the new sliding door. Code Enforcement staff contacted the property owner on August 11, 2020 and stated permits needed to be secured for this additional work. The property owner stated that the sliding glass door had been removed in order to fix termite damage and that they were not aware it would have needed a permit. In an email on August 12, 2020, Code Enforcement staff stated that all construction work must stop and that the property owner could not continue any construction activity until all proper permits had been secured.

On August 19 and August 20, 2020, further complaints were submitted that construction work was still occurring on the masonry structure and that the new sliding glass door was fully installed. A search of the permit database showed that no additional permits had been issued. Code Enforcement staff emailed the property owner on August 21, 2020 reminding them that no work can occur until proper permits had been secured, and that all construction work be stopped. The property owner replied on the same day, stating they were not aware permits were needed for the sliding door work. However, Code Enforcement had informed them on August 11th that permits were required for the door. The City's Senior Building Inspector spoke with the property owner on August 21st and also informed that permits will be required for the masonry structure and the new sliding door. He issued a stop work to the property owner that day.

On Sunday August 23, 2020 Code Enforcement received an email from the neighbor stating that there was scaffolding and workers continuing to work on the masonry structure. Code Enforcement staff spoke with the property owner the following day, Monday August 24, 2020.

On August 24, 2020, Planning approved a revised site plan which included the sliding glass door replacement to a bi-fold door, and a 9-foot tall masonry accessory structure with an integrated fireplace and television mount above the fireplace. The revised site plan continued to include the barbeque island area. The distance from side and rear property lines remained the same as in the first site plan which was approved.

On August 26, 2020, the property owner asked permission from the Chief Building Official to continue work on the barbeque area, as the gas line permit had been issued and the barbeque island itself did not require a permit. The Chief Building Official granted the request on August 27th, stating that work should only occur for the barbeque island area.

After the property owner consulted with the Building Division, a revised drawing noting the width of the bi-fold door was approved by Planning on August 26, 2020. After further Building Division review, an updated drawing was approved by Planning on August 27, 2020 that also noted a new 6-inch concrete slab poured adjacent to the rear sliding glass door. This correction was noted by the Senior

Building Inspector, who had observed the new slab when inspecting the site.

Subsequent to these site plan approvals, it was determined by the Building Division that professional drawings created by a licensed professional would be required, including structural details for the new concrete masonry unit (CMU) wall comprising the 9-foot fireplace structure and for the sliding door framing. Obtaining professional drawings would take the property owner an additional 2-3 weeks.

On September 10, 2020, the neighbor submitted a complaint stating that work was continuing on the masonry structure. The Chief Building Official spoke to the property owner the same day reinforcing that work should not be taking place on the structure.

After a few weeks, the professional drawings were approved, and building permits were issued on September 23, 2020 for the 9-foot tall masonry accessory structure and the sliding glass door replacement. These updated drawings now noted a distance of approximately 1-foot from the base of the fireplace structure to the rear property line.

On Friday October 23, 2020 and Saturday October 24, 2020, the neighbor submitted complaints stating that a pergola structure with full roof and electrical wiring was being attached to the masonry structure constructed at 2015 Speyer Lane Unit B. The complaint included the following photographs:





On October 26, 2020, Code Enforcement issued a stop work to the property owners.

On October 28 and 29, 2020, the neighbor submitted complaints that work was continuing on the new structure.

On November 2, 2020 the property owner requested formal Planning review of the structure as replacing a pergola that had previously existed.

Planning Division Review - Attached Pergola

Upon receiving the request from the property owner of 2015 Speyer Lane Unit B to review this new structure as an attached pergola, Planning staff began initial research into the request. Staff accessed the original approval of the 2-unit residential condominium development from the City's archives. The original site plan notes that the rear elevation of Unit B meets a 15-foot rear setback average, as is required of the R-2 zone development standards.

Per Redondo Beach Municipal Code (RBMC) Section 10-2.402 Definitions, a "setback" is defined as the following:

*"(156) **"Setback"** shall mean a required open space on an improved lot which is unoccupied by buildings and unobstructed by structures from the ground upward, except for projections and accessory buildings permitted by the provisions of this chapter. Setbacks shall be measured as the shortest distance between a property line and the nearest vertical support or wall of the building, enclosed or covered porch, or other structure."*

Therefore, since the existing home is built right to the setback requirement, Planning staff determined that an attached pergola would have to be considered under the exception for projections, governed by RBMC Section 10-2.1522 Building and other projections in all zones. Within this section, pergolas are addressed in Section (a)(2)(f) "Other architectural features and structures." The section states such features may be approved to project into a required setback subject to Administrative Design Review and provided that certain elements are not exceed, such as an overall height of 9-feet.

Based on the above information, Planning staff directed the property owner that if they would like to apply for a new attached pergola, they would need to submit an Administrative Design Review (ADR) application, for which the Community Development Director would render a decision.

It is staff's understanding that work continued and was completed under a stop work order and prior to an application for approval submitted, as the ADR application included photographs of a completed structure. At that point, the only permits approved for the work to date include the construction of the fireplace accessory structure, the barbeque area, and the replacement of the sliding door.

On December 8, 2020, the property owners submitted an Administrative Design Review application packet for consideration of an attached pergola. The application was subsequently denied by the Community Development Director based on the findings contained in the Notice of Administrative Decision dated December 16, 2020, including that the structure that was built did not qualify as a pergola. The decision is included as an attachment to this administrative report, therefore staff will not go into detail on the specifics for this denial.

Decisions on Administrative Design Review applications are appealable to the Planning Commission. The December 16, 2020 denial was appealed by the property owner. As Planning staff worked with the property owner on the appeal, the property owner chose to withdraw the appeal on the attached pergola, concurring with the determination that the structure did not meet the intent of a pergola. The property owner submitted a revised Administrative Design Review application for an accessory structure.

Planning Division Review - Attached Accessory Structure

On February 8, 2021, the property owner submitted an application for Administrative Design Review to the Planning Division for consideration of an accessory structure encroaching into the rear setback and attached to the rear elevation of the main home. In this instance, the Administrative Design Review application is utilized as a means for the Community Development Director to review minor developments not subject to other applications procedures.

The accessory structure is comprised of a solid roof element which is attached to the rear elevation of the main home and extending towards the rear property line, with support posts extending to the ground. The roof element then attaches to the fireplace structure, thereby creating one accessory structure which is attached to the rear elevation of the main home. The end of the accessory structure would be within 1 ½ feet of the rear property line.

On February 16, 2021, a Notice of Administrative Decision was issued denying the Administrative Design Review request, based on the findings stated therein. A copy of the decision is included as an attachment to this administrative report. The property owner appealed this decision to the Planning Commission, which is the consideration before you this evening.

EVALUATION OF REQUEST:

R-2 Rear Setback Requirement

The property at 2015 Speyer Lane is located within the R-2 zoning district. The R-2 zone development standards require a rear setback of an average of 15-feet, but at no point be less than 10-feet. The concept of setback averaging offers the opportunity for adding articulation and architectural interest, by varying the elevation of a building. For example, a rear elevation can either be designed straight across, with a 15-foot distance to the rear property line, or it can be articulated so that half the elevation can be pushed out as close as 10-feet to the rear property line, but the other half of the elevation is set-in to 20-feet away from the rear property line, so that the average remains at 15-feet. Or some variation of the articulation thereof. At the time of construction for the subject property, Unit B was designed with a straight rear elevation meeting the 15-foot rear setback.

Encroachments into Rear Setbacks

The Zoning Code allows for encroachments into rear setbacks in certain instances, including architectural projections, pools and spas, balconies, decks, patios, and accessory structures. The owners of 2015 Speyer Lane Unit B are requesting an accessory structure to encroach into the rear setback.

Accessory Structures

The Zoning Code defines an accessory structure as a structure which is subordinate to the main building or structure on the same lot.

RBMC Section 10-2.1500 Accessory Structures in Residential Zones sets the standards for accessory structures. The first standard states that there must be a minimum distance of 5-feet between the dwelling unit and an accessory structure and between two accessory structures. The next standard limits an accessory structure to one-story in height.

The code then goes on to address accessory structures occupying a rear setback. An accessory structure in a rear setback can be up to 15-feet in height, with perimeter walls not exceeding 10-feet in height. No rear setback is required if the structure is not habitable, except in certain instances.

Analysis of Request

As stated in the Notice of Administrative Decision dated February 16, 2021, it is the determination of the Community Development Director that the accessory structure at 2015 Speyer Lane Unit B, as proposed, does not meet the development standards for accessory structures, as it must be separated from the main dwelling unit by at least 5-feet. This determination was made based on RBMC Code Section 10-2.1500(a) which states:

(a) Setbacks between buildings. *The minimum distance between a dwelling unit and an accessory structure, or between two (2) accessory structures on the same site shall be five (5) feet. This subsection shall not be applicable to the R-MHP mobile home park zone.*

Although the proposed accessory structure meets the standards for setbacks and height, the structure does not comply with the minimum distance requirement stated in Section 10-2.1500(a) since it is attached to the rear elevation of the main home.

The property owner questions the applicability of this provision to accessory structures, since the

heading references the term “buildings.” As such, the owner appealed the administrative decision denying their request.

CONCLUSION

RBMC Section 10-2.202 states, in part, “where uncertainty exists regarding the interpretation of any provision of this chapter or its application to a specific site, the Community Development Director shall determine the intent of the provision.” This gives authority and deference to the Community Development Director’s interpretation of the any Zoning Code section in question.

Further, pursuant to RBMC Section 10-2.401(g), article and section headings contained in the Zoning Ordinance shall not be deemed to govern, limit, modify or in any matter affect the scope, meaning or intent of any section hereof. Therefore, although “buildings” is stated in the subsection heading, it does not modify the intent of including accessory structures in the immediate sentence following the heading.

Based on the authority granted by the Zoning Code as stated above, it is the position of the Community Development Director that the intent of the provision is to include accessory structures in addition to accessory buildings. The first sentence in the subsection references “accessory structure,” thereby, not excluding accessory structures, but rather including them along with “buildings.”

Therefore, staff recommends that the Planning Commission concur with the determination of the Community Development Director, and deny the appeal.

ATTACHMENTS

Draft Resolution Denying the Appeal
Draft Resolution Upholding the Appeal
Property Owner’s Appeal Materials
Architectural Drawings
Notice of Administrative Decision dated February 16, 2021
Administrative Design Review Application for attached accessory structure
Notice of Administrative Decision dated December 16, 2020
RBMC Section 10-2.1500 Accessory structures in residential zones
Neighbor comment letter in opposition