



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Planning and Building



**Date:** March 18, 2013  
**Board Meeting Date:** April 9, 2013  
**Special Notice / Hearing:** 300 Feet  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Jim Eggemeyer, Community Development Director

**Subject:** EXECUTIVE SUMMARY: Public hearing to consider an appeal of the Planning Commission's approval of a Non-Conforming Use Permit and Off-Street Parking Exception to allow the expansion of a non-conforming house on a non-conforming parcel that will result in encroachments into required setbacks and daylight planes and allow one covered parking space where two are required, at 4 Perry Avenue, in the unincorporated West Menlo Park area of San Mateo County.

**RECOMMENDATION:**

Public hearing to consider denying the appeal and upholding the Planning Commission's decision to approve the Non-Conforming Use Permit and Off-Street Parking Exception, County File Number PLN 2012-00056, by making the required findings and subject to the conditions of approval listed in Attachment A.

**BACKGROUND:**

The applicant has applied for a Non-Conforming Use Permit and Off-Street Parking Exception to allow a 1,737 sq. ft. addition to a legal non-conforming house on a legal, non-conforming parcel. The existing single story house is 990 sq. ft. in size with a one-car garage. The subject parcel is substandard in size at 3,125 sq. ft. where 5,000 sq. ft. is the minimum square footage required by the zoning district.

The applicant is proposing to expand the first floor of the house by:

- Enclosing an existing at-grade deck (approximately 256 sq. ft.) at the rear of the house. This portion of the addition would conform to the required setbacks.
- Constructing an addition to the front of the garage and house (approximately 92 sq. ft.) that would also create a new foyer and covered porch. A portion of this proposed addition would encroach into the required front and side yard setbacks.

- Constructing a 41 sq. ft. covered porch that is entirely in the front setback. Because this covered porch extends more than 4 feet from the exterior walls, it counts towards the maximum floor area allowed on this parcel, as well as lot coverage.
- Enclosing an alcove area on the left side of the existing living room (approximately 45 sq. ft.). Approximately 34 sq. ft. of this addition encroaches into the front yard setback.
- The applicant is also proposing a new second story addition of approximately 1,303 sq. ft. A portion of the second story addition will encroach approximately 15 feet into the required front yard setback, 1 foot into the required right side yard setback, and 2 feet, 8 inches into the rear yard setback. A portion of the second story addition encroaches into the required daylight plane on the right side and front.
- The applicant has also applied for an Off-Street Parking Exception to allow one parking space (existing attached garage) where two are required.

#### **DISCUSSION:**

The Planning Commission considered an appeal of the Zoning Hearing Officer's (ZHO) approval at its November 14, 2012 meeting. After hearing testimony by the applicant and appellants, as well as staff's presentation, the Commission voted 3-1 to deny the appeal and uphold the ZHO's decision. An appeal of this decision was filed on November 29, 2012, with subsequent additional points of appeal submitted on February 15, 2013 and March 4, 2013. The appeal argues that three of the required findings for this Non-Conforming Use Permit cannot be reasonably justified. Specifically:

1. The proposed development is proportioned to the parcel on which it is being built,
2. The proposed development is as nearly in conformance with the zoning regulations as is reasonably possible, and
3. Use permit approval does not constitute a granting of special privileges.

In summary, the Planning Commission considered the information contained in the staff report, the project plans, statements from the applicant, the appellants, and members of the public, and based upon the evidence before them, made the required findings.

The appellants have also proposed an alternative to the project that they believe is more consistent with the neighborhood character. Staff has also proposed an alternative that would be consistent with both the required findings for a non-conforming use permit and the methodology used for the adjoining legal non-conforming parcel in determining floor area that also required a use permit. In addition, the applicants have also submitted an alternative that further reduces the second story encroachments as

compared to their original proposed project. All three alternatives are discussed in the Board memo in greater detail.

County Counsel has reviewed and approved this report as to form.

The approval of this Non-Conforming Use Permit for the major remodel of a single-family residence contributes to the 2025 Shared Vision outcome of a Livable Community through compliance with General Plan Visual Quality Policies requiring new development to maintain and, where possible, improve upon the appearance and visual character of development in urban areas, and to ensure that new development in urban areas is designed and constructed to contribute to the orderly and harmonious development of the locality.

**FISCAL IMPACT:**

No fiscal impact.