



Planning Commission Report

Meeting Date: January 12, 2012

Subject: Discussion and direction regarding amendments to the Beverly Hills Municipal Code regarding rear setbacks and encroachments into the front yard setback area for single family residential lots south of Santa Monica in the Central Area of the City.

Recommendation: Receive the staff report and provide direction to staff regarding the proposed amendments to the City's Zoning Code.

REPORT SUMMARY

This report transmits draft language that would modify existing regulations related to requests for reduced rear yard setbacks and for the construction of fences in the front yard for single-family properties located south of Santa Monica Boulevard, in the Central Area of the City. The proposed amendments relate to limited circumstances involving homes located on both interior and corner lots.

BACKGROUND

The Planning Commission held a study session on September 8, 2011 and received a staff report regarding possible revisions to corner lot regulations. At that meeting, Mr. Murray Fischer presented information to the Commission regarding potential revisions to interior lots as well, expressing the need for property owners to seek relief for homes with existing non-conforming rear yards. Based on the staff report and the testimony presented by Mr. Fischer, the Commission expressed a desire for staff to return at a future meeting with options for amending the Municipal Code to address both instances.

In early December, staff met with the Ad Hoc Committee Members of the Mayor's Task Force for Government Efficiency and broadly discussed the concept of amending existing regulations to afford single-family property owners greater flexibility when contemplating additions or remodels to existing homes in the rear yards of their property. At this meeting, a third issue was raised regarding the height of fences allowed to be constructed in the front yards of homes when there is a slight encroachment into a front yard setback area. The Committee Members expressed support for implementing policies to improve processing efficiencies that would also establish greater flexibility for homeowners and maintain safeguards against unintended impacts of development. The proposed amendments described in this report are intended to achieve this goal.

DISCUSSION

Attachment(s):

1. Beverly Hills Municipal Code Section 10-3-2408 D
2. Beverly Hills Municipal Code Section 10-3-2406 C

Report Author and Contact Information:

David Reyes
Principal Planner
(310) 285-1135
dreyes@beverlyhills.org

ISSUE 1: CORNER LOTS – South of Santa Monica Boulevard, Central Area of the City

The rear yard setback for corner, single family residences located South of Santa Monica Boulevard, in the Central Area of the City is required to be 30% of the lot depth minus nine (9) feet. However, pursuant to Beverly Hills Municipal Code (BHMC) Section 10-3-2418 (D) (Attachment 1), the Planning Commission may reduce the required rear yard setback requirement for additions to these properties through the Central R-1 permit process if the required findings can be made and existing home complies with *all* of the following:

1. The corner lot in question is located south of Santa Monica Boulevard;
2. The rear lot line of the corner lot is located along an alley;
3. The corner lot has a minimum width of fifty four feet (54');
4. The street side setback is a minimum of fifteen feet (15') for the portion of side setback outside the required rear setback;
5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;
6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;
7. The portion of the structure within the required rear setback maintains a minimum five foot (5') side setback; and
8. The proposed structure maintains a minimum eight foot (8') rear setback.

If the above conditions are met, a property owner may file an application for review before the Planning Commission. In approving a Central R-1 Permit, the Commission must find that the proposed development will not have a substantial adverse impact on:

- A. The scale and massing of the streetscape,
- B. Neighbors' access to light and air,
- C. Neighbors' privacy, and
- D. The garden quality of the city

The eight (8) standards identified in BHMC Section 10-3-2418 (D), above result in a barrier that restricts the ability of property owners to seek relief from the Planning Commission for a reduced rear yard setback, even when all of the required findings for approval of a Central R-1 Permit can be made and the project would not result in a negative impact on the surrounding neighborhood. The Code provides a process for the reduction of *side* yard setbacks without the “pre-screening” criteria established for corner lots. The intent of the ordinance appears to have been to strike a balance between the desire of property owners to add to the rear area of their corner lots and ensuring that such development does not impact the neighborhood. However, the result of the ordinance has been to effectively preclude property owners from seeking the relief intended to be provided, namely a reduced rear yard setback:

there have been no applications files under this section of the Code in the last five years and only one that staff could identify within the last eight years.

While keeping some of the criteria contained in the existing Code may be important, removing or modifying other criteria would achieve greater flexibility for property owners and result in efficiencies the development process.

Proposed New Code Language – Corner Lots

The proposed Code amendment would amend the existing requisite criteria contained in 10-3-2418 D, but would not change the requirement for a hearing and findings for a Central R-1 Permit. Staff has identified proposed changes to the code in ~~strikeout~~, underline format, below.

10-3-2418 D. Rear Setback Adjustment For Corner Lots South Of Santa Monica Boulevard: Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced rear setback for an addition to an existing building located on a corner lot provided all of the following requirements are satisfied:

- 1. The corner lot in question is located south of Santa Monica Boulevard;**
- 2. The rear lot line of the corner lot is located along an alley;**
- 3. The corner lot has a minimum width of fifty four feet (54');**
- 4. The street side setback is a minimum of ~~fifteen feet (15')~~ five feet (5') for the portion of side setback outside the required rear setback;**
- 5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;**
- 6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;**
- 7. The portion of the structure within the required rear setback maintains a minimum ~~five foot (5')~~ three foot (3') side setback; and**
- 8. The proposed structure maintains a minimum ~~eight foot (8')~~ four foot (4') rear setback.**

ISSUE 2: INTERIOR LOTS – South of Santa Monica Boulevard, Central Area of the City

The Code does not currently allow for any additions to non-conforming rear yards in the Central Area of the City. However, the Code does have provisions to allow property owners to remodel and add to non-conforming homes in the side yard, in limited circumstances and with three separate processes, depending on the situation. To allow for greater flexibility in the review process, the same approach for side yards could be applied to the rear yard additions. Each of the three situations for extensions of non-conforming side yards is presented below, as contained in BHMC Section 10-3-2406 (C) (Attachment 2).

1. By-Right Addition

If a legally constructed existing building does not conform to the side setback requirements, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that: a) existing setback is not less than three feet (3'); and b) the new construction does not exceed fourteen feet (14') in height.

2. Minor Accommodation

If the new construction is over 14-feet in height, then the extension may be permitted by a minor accommodation permit provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing building, providing the Director finds that the project will not have an adverse impact on:

- (1) The scale and massing of the streetscape,
- (2) Neighbors' access to light and air,
- (3) Neighbors' privacy, and
- (4) The garden quality of the city.

3. Central R-1 Permit

If the new construction exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing building then the extension may be permitted by a Central R-1 permit, subject to required findings.

Both the Minor Accommodation and Central R-1 processes identified above require public notice to neighbors (100-foot radius for Minor Accommodation and 300-foot for Central R-1) to ensure that any concerns regarding the proposed development can be expressed and considered prior to rendering a decision. This process has seemingly worked well in the Community and only one project out of nearly fifty (50) have been appealed to the City Council (the Director's decision was upheld by Council in the one instance).

An approach to addressing the needs of property owners with existing legal non-conforming rear yard setbacks is to establish rules similar to those for non-conforming side yards.

Proposed New Code Language

The proposed code amendment would add a new Code section **10-3-2405 C**, for rear yards, as identified below. This new proposed language mirrors that found in 10-3-2406 C for *side* yards.

Rear Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, rear setback provided that:

- 1. The existing setback is not less than 18-feet (18').**
- 2. The enlarged portion of the building does not exceed fourteen feet (14') in height.**

a. Minor Accommodation: If the existing setback is not less than 18-feet (18') and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the

existing floor area authorized by building permit as of September 2, 1988, and provided that the reviewing authority finds that the extension will not have any adverse impact on:

- (1) The scale and massing of the streetscape,**
- (2) Neighbors' access to light and air,**
- (3) Neighbors' privacy, and**
- (4) The garden quality of the city.**

b. Central R-1 Permit: If the existing setback is not less than 18-feet (18'), the extension exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.

ISSUE 3: FENCES IN THE FRONT YARD - South of Santa Monica Boulevard, Central Area of the City

The maximum allowable height of a wall, fence, or hedge located within the first twenty percent (20%) of the front yard, is three feet (3'). However, if the fence is setback a distance of more than twenty percent (20%) of the front setback, the fence can be six feet (6'); provided, however, any portion of such wall which exceeds three feet (3') in height is open to public view.

There are many homes in the Central Area that choose to take advantage of this code provision and build a three-foot block wall with a three foot wrought iron fence on top, or to build a six-foot wrought iron fence in the front yard.

A separate section of the Code¹ allows minor architectural projections to encroach into a required front setback area by more than 6-inches but not more than 10% of the setback depth subject to certain restrictions. One of these restrictions limits the height of walls in the front yard to three-feet, regardless of whether or not they are open to public view. The purpose of this requirement appears to have been to ensure that the encroachment into the front yard did not result in mass and bulk that was incompatible with the streetscape. By limiting the height of walls to three-feet, the view of the home from the street would be more open and could limit perceived mass.

This code section was developed prior to the City's establishment of Design Review for the Central Area of the City and has become a somewhat antiquated zoning tool to deal with the larger issue of design and compatibility with the existing built environment. While it is important to critically review projects which have any encroachment into the front yard area, staff believes that this should be appropriately

¹ BHMC Section 10-3-2408 F: F. Architectural projections that project more than six inches (6") into the yard but no more than ten percent (10%) of the setback depth provided that the following conditions are met:

1. No walls, fences, or hedges located in the front yard shall exceed three feet (3') in height; and
2. Architectural projections which encroach into the front yard shall cover no more than twenty percent (20%) of the maximum potential facade of the building, except as permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and
3. All paving within the front yard conforms to the requirements of section 10-3-2422 of this article.

For the purposes of this subsection F, the depth of an architectural projection into a front setback shall be the distance between the front setback line and the point of the projection closest to the front lot line

handled through the Design Review process and not through an arbitrary zoning standard. The proposed amendment would allow those projects that had minor architectural projections into the front yard to construct fences similar to their neighbors, subject to the Design Review process. The proposed amendment is provided in ~~strikeout~~ underline format, below.

Proposed New Code Language

The proposed code amendment would amend BHMC Section 10-3-2408 F, as follows:

F. Architectural projections that project more than six inches (6") into the yard but no more than ten percent (10%) of the setback depth provided that the following conditions are met:

- 1. No walls, fences, or hedges located in the front yard shall exceed three feet (3') in height, unless first reviewed and approved by the design review commission or the director of community development in accordance with the provisions of article 44 of this chapter; and**
 - 2. Architectural projections which encroach into the front yard shall cover no more than twenty percent (20%) of the maximum potential facade of the building, except as permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter; and**
 - 3. All paving within the front yard conforms to the requirements of section 10-3-2422 of this article.**
- For the purposes of this subsection F, the depth of an architectural projection into a front setback shall be the distance between the front setback line and the point of the projection closest to the front lot line**

NEXT STEPS

It is recommended that the Planning Commission receive the staff report and any public testimony and provide direction to staff regarding proposed changes to the City's Zoning Code. If amendments are directed, staff would prepare the required public notice and prepare resolutions and a draft ordinance for the Commission's next regularly scheduled meeting on January 26, 2012.

ATTACHMENT 1

10-3-2418: DEVELOPMENT INCENTIVES FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT:

Notwithstanding any other provision of this article, the following incentive based development standards shall apply to single-family residential development in the Central Area of the city:

D. Rear Setback Adjustment For Corner Lots South Of Santa Monica Boulevard:

Subject to the requirements set forth in article 24.5 of this chapter, the planning commission may permit, through a Central R-1 permit, a reduced rear setback for an addition to an existing building located on a corner lot provided all of the following requirements are satisfied:

1. The corner lot in question is located south of Santa Monica Boulevard;
2. The rear lot line of the corner lot is located along an alley;
3. The corner lot has a minimum width of fifty four feet (54');
4. The street side setback is a minimum of fifteen feet (15') for the portion of side setback outside the required rear setback;
5. The height of the existing primary structure on the corner lot complies with the maximum building height requirements set forth in section 10-3-2403 of this article;
6. The height of the addition does not exceed the height of the existing primary structure on the corner lot;
7. The portion of the structure within the required rear setback maintains a minimum five foot (5') side setback; and
8. The proposed structure maintains a minimum eight foot (8') rear setback.

ATTACHMENT 2

10-3-2406: SIDE SETBACKS:

The following side setback requirements shall govern the Central Area of the city:

A. North Of Santa Monica Boulevard: The sum of the side setbacks from the two (2) longest side lot lines shall be at least fifteen feet (15') plus thirty percent (30%) of the lot width in excess of seventy feet (70'). In addition, except as otherwise provided in this section, each side setback for site areas located north of Santa Monica Boulevard shall be at least seven and one-half feet (7.5').

1. Exception: Site area in excess of one hundred feet (100') in width. In addition to any other side setback required, if the width of a site area exceeds one hundred feet (100'), then the side setback from the two longest side lot lines shall be at least ten feet (10') plus ten percent (10%) of the width of the site area in excess of one hundred feet (100').

2. Exception; Two Or More Lots: For those site areas that consist of two (2) or more lots as subdivided on July 3, 1984, the side setback shall be at least fifteen feet (15'). In addition, the sum of the side setbacks adjacent to the two (2) longest side lot lines shall be at least twelve feet (12') plus thirty percent (30%) of the lot width in excess of one hundred feet (100').

B. South Of Santa Monica Boulevard: Except as otherwise provided in this section, the side setback for buildings located south of Santa Monica shall be five feet (5') on one side. On the other side, the side setback shall be nine feet (9') for the first thirty eight feet (38') behind the front setback line and five feet (5') for the remainder of the site

area. Parking may be provided in this nine foot (9') area pursuant to section 10-3-2419 of this article.

1. Exception: The setback requirements set forth in this subsection B shall not be applicable to: a) any corner lot, b) those site areas located south of Olympic Boulevard and west of Roxbury Drive, nor c) those site areas located south of Olympic Boulevard and east of Doheny Drive.

a. Corner Lots And All Lots South Of Olympic Boulevard And West Of Roxbury Drive: The side setbacks for all corner lots located southerly of Santa Monica Boulevard and those site areas located southerly of Olympic Boulevard and westerly of Roxbury Drive shall be at least five feet (5'). In addition, the sum of the side setbacks adjacent to the two (2) longest side lot lines shall be at least twenty percent (20%) of the lot width.

b. South Of Olympic Boulevard And East Of Doheny Drive: The side setbacks for site areas southerly of Olympic Boulevard and easterly of Doheny Drive shall be five feet (5').

2. Exception: For those buildings located on site areas that consist of two (2) or more lots as subdivided on July 3, 1984, the side setback shall be ten feet (10') plus ten percent (10%) of the width of the lot in excess of one hundred feet (100').

C. Side Setback Extension: If a legally constructed existing building does not conform to the setback requirements of this section, the building may be enlarged through the extension of the existing, nonconforming, side setback provided that:

1. The existing setback is not less than three feet (3') and
2. The enlarged portion of the building does not exceed fourteen feet (14') in height.

a. Minor Accommodation: If the existing setback is not less than three feet (3') and the extension exceeds fourteen feet (14') in height, then the extension may be permitted by a minor accommodation permit issued pursuant to article 36 of this chapter provided that the floor area of the extension is less than one thousand (1,000) square feet and less than twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, and provided that the reviewing authority finds that the extension will not have any adverse impact on:

(1) The scale and massing of the streetscape,

(2) Neighbors' access to light and air,

(3) Neighbors' privacy, and

(4) The garden quality of the city.

b. Central R-1 Permit: If the existing setback is not less than three feet (3'), the extension exceeds fourteen feet (14') in height, and the area of the extension exceeds one thousand (1,000) square feet or twenty percent (20%) of the existing floor area authorized by building permit as of September 2, 1988, then the extension may be permitted by a Central R-1 permit issued pursuant to article 24.5 of this chapter.

D. Application Of Side Setback Requirements To Existing Legally Nonconforming Side Yards: In all cases that the side setback requirements of this section are applied to construction on lots with existing legally nonconforming side setbacks, the largest setback required by this section shall be applied to the side of the lot with the largest existing side yard. (Ord. 85-O-1953, eff. 7-4-1985; amd. Ord. 86-O-1977, eff. 10-2-1986; Ord. 89-O-2056, eff. 4-20-1989; Ord. 90-O-2090, eff. 3-8-1990; Ord. 92-O-2147, eff. 9-4-1992; Ord. 95-O-2239, eff. 7-7-1995; Ord. 96-O-2261, eff. 7-5-1996)