

City of West Linn
PRE-APPLICATION CONFERENCE MEETING
Notes
November 15, 2012

SUBJECT: Expansion/Alteration of a Non-Conforming Structure (deck) at 2337 Taylor Drive

ATTENDEES: Applicant/Property owner: Richard Hunter

Staff: Peter Spir (Planning Department)

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any "follow-up" items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

Project Details and Background

The house at 2337 Taylor Drive was built, circa 1999, with a deck at the rear of the house that stands 25-30 feet above grade. The deck has been in this location for 14 years at no apparent detriment to the adjoining properties or neighborhood. The nearest housing west of the deck is 150 feet away in the Madison Heights Condominiums which are also 75 feet in elevation below the applicant's property and separated by a year round buffer of mature coniferous trees. The residential lots to the north and south are unoccupied.





According to the applicant, the deck's angled columns were either not properly engineered or constructed to support the deck load. Consequently, the deck beams, which extend back into the house, are causing uplifts of the living room floor when people are standing on the deck.



The applicant's concern is how to rebuild the deck so that:

- 1) it is structurally sound with particular attention paid to the angled columns
- 2) it does not cause uplifts of the flooring in the house
- 3) dry rotted sections of decking are removed and replaced



To address those concerns the applicant has submitted an engineered and stamped set of plans to the Building Department for plan review.

For the Planning Department, there is an additional concern, relative to the Community Development Code (CDC): the deck is within the 20 foot rear yard setback and is above a 20 foot wide sanitary sewer easement. No decks over 30-inches high are allowed in the rear setback and no structures (with exceptions) are allowed to be built on or over easements. For these reasons the deck is classified as a Non-Conforming Structure. In order for the deck to be repaired, a CDC Chapter 66 permit must be obtained to allow continued encroachment into the rear setback.



To address the encroachment into the sanitary sewer utility easement there are two solutions. One was to vacate the easement. This approach costs 1,500 dollars but staff found that it was unlikely to be vacated since a functional sewer line exists in that easement. (It is acknowledged that the sewer line has not been used but theoretically it could be used in the future.)

The second solution is to have the deck's angled columns at least 12 feet above grade per 38.060(A):

An open deck may extend into an existing utility easement, provided a minimum vertical clearance of 12 feet is maintained between the lowest point of the deck and the ground, and that no posts are installed within the easement. No other structures shall be allowed.

The applicant has submitted plans showing the angled columns tying back into the house at over 12 feet above grade. If that is accomplished then the easement issue will have been satisfactorily addressed.

Getting back to the Chapter 66 requirements, the following approval criteria standards are applicable:

**66.080 ENLARGEMENT OF OR ALTERATION TO A NON-CONFORMING STRUCTURE:
PROCESS AND APPROVAL STANDARDS**

B. An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to the following:

1. If the enlargement, in and of itself, meets all provisions of this code, the enlargement will be permitted. This exception does not preclude design review or other applicable provisions of this code.
2. If the enlargement, in and of itself, does not meet all provisions of the code, review and approval by the Planning Director for single-family structures, and by the Planning Commission for non-single-family structures under the provisions of CDC 99.060 (B) is required subject to the following standards.
 - a. The enlargement or alteration will not change the non-conformity; and
 - b. All other applicable ordinance provisions will be met. (Ord. 1192, 1987)

Staff finds that (B) (1) cannot be used since the proposed enlargement/alteration will still not meet the rear 20 foot setback. Therefore the provisions of (B) (2) shall apply. Findings must be made that *“The enlargement or alteration will not change the non-conformity and that “all other applicable provisions are met.”*

Process

To permit the replacement of the deck, the following section must be successfully addressed: CDC section 66.080 “ENLARGEMENT OF OR ALTERATION TO A NON-CONFORMING STRUCTURE: PROCESS AND APPROVAL STANDARDS”. The applicant will have to provide a written response to 66.080(B) (a) and (b) as explained and highlighted in the previous section of these notes. The written responses must be accompanied by:

1. A completed Development Review Application form
<http://westlinnoregon.gov/planning/development-review-application>
2. A check payable to City of West Linn in the amount of 800 dollars.

PLEASE NOTE that the 800 dollars is an initial *deposit*, and staff time is charged against the *deposit* account. It is common for there to be more staff time spent on development applications than the deposits cover, and therefore additional billing is likely to occur. The *fees* are not refundable regardless.

Submittal requirements may be waived but the applicant must first identify the specific submittal requirement and request, in letter form, that it be waived by the Planning Director and must identify the specific grounds for that waiver. The waiver may or may not be granted by the Planning Director.

Once the submittal is deemed complete, the Planning Director will send out public notice of the pending decision then render a decision in two to four weeks. There is no public hearing. The Planning Director's decision may be appealed by the applicant or anyone with standing to City Council, requiring at least one City Council hearing.

The CDC is online at <http://westlinnoregon.gov/planning/community-development-code-cdc>.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed.

In cases where the CDC is significantly amended prior to an application is made or where the proposal sees significant change, a new pre-application conference shall be required. In any case, pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required.

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