



PLANNING COUNCIL MEETING STAFF REPORT

DATE OF MEETING: February 13, 2024

NAME OF APPLICANT: Lane M. Lythgoe, as agent or authorized representative of Steven B. Heiner

AGENDA ITEM: Code Text Amendment to add Section 16.13.130: Limited Setback Exceptions for Historic Building Structural Reinforcement

ITEM: 7

Lane M. Lythgoe, as agent for Steven B. Heiner (who resides at 271 North Center Street, Midway), is proposing a code text amendment to add Section 16.13.130: Limited Setback Exceptions for Historic Building Structural Reinforcement, that would specify setback exceptions for historical structures and would allow historic building owners the ability to structurally reinforce their structures if the current footprint of the structure is nonconforming to the current setback codes.

While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other comparable historic buildings which met the requirements.

BACKGROUND:

The Midway Municipal Code regulates setbacks and establishes minimum setback requirements in all zones.

Mr. Heiner resides at 271 North Center Street, which is located in the R-1-15 zone. Mr. Heiner's residence consists of a single story cottage with detached garage located on a .15 acre lot.

Under existing code, lots as small as .15 acre are not permitted and main dwellings in the R-1-15 zone require a minimum setback of thirty (30) feet both front and rear. While both Mr. Heiner's

lot and residence do not meet code, both the lot and structure preexist 1961 and the first zoning regulations in Midway so continue as legal nonconforming.

Mr. Heiner seeks to renovate and enlarge the residence and has employed Mr. Lythgoe as his architect. Mr. Heiner advises he seeks to preserve the historic appearance and structure of the residence. Mr. Lythgoe advises that to preserve the historic structure, including the pot rock, the masonry structure would need to be reinforced with 10 inch by 10 inch vertical beams, which would in turn increase the footprint of the structure by 10 inches. As a legal nonconforming structure, the structure may not be made more nonconforming without authorization under the Code.

Section 16.13.170 of the Midway City Code, Exception to Front and Side Setback Requirements, currently provides:

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings on are on the same side of the street and are located within 150 feet of each other. However, no dwelling shall be located closer than 20 feet from the street.

This language does not apply to the applicant as the dwelling is closer than 20 feet from the street.

Accordingly, the applicant requests that Midway City amend its code to provide an avenue for historic homes on nonconforming small lots the ability to reinforce the structures to preserve the historic nature and appearance of the structure when the modification will not increase the footprint of the structure by more than the depth of the support, and in no event more than one foot in any direction.

The Applicant has not supplied proposed language for the code text amendment, nor provided details as to the proposed location of the structure and how the designs for the structure will affect the current setbacks. Staff will seek to obtain this information prior to the Planning Commission meeting.

Code text amendments fall under the category of a legislative action. Therefore, the City Council has broad discretion regarding the proposal.

DISCUSSION:

- It appears the requested application is limited to an existing recorded lot which does not meet the current minimum lot area and/or width requirements.
- It appears the requested application is limited to a nonconforming lot containing an existing dwelling that is legal nonconforming and would fall under the Protection of Older Buildings for Historic Preservation Provisions of the Code (Chapter 12.06).

- It appears the requested application is limited to structural changes to provide structural support, only, and which do not increase the footprint of the structure by more than the depth of the structural support and in no event more than one foot in any direction.
- While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other comparable historic buildings which meet the same requirements.

POSSIBLE FINDINGS:

- The proposed amendment would allow the applicant to expand his dwelling while theoretically preserving the historic masonry and pot rock by permitting structural supports outside of the existing footprint of the dwelling. However, the dwelling, which is currently nonconforming with front and rear setbacks, would be made even more nonconforming in an amount equal to the depth of the added structural support.
- Restricting application to legally nonconforming, historic structures on small lots should limit applicability of such provision.
- Midway City has an interest in preserving historic structures, as evidenced by the Protection of Older Buildings for Historic Preservation Provisions of the Code.
- Consider making any such provision subject to review and recommendation by the Historic Preservation Committee, with final approval to rest with the Planning Director.

ALTERNATIVE ACTIONS:

1. Recommendation of Approval. This action can be taken if the Planning Commission finds that the proposed language is an acceptable amendment to the City’s Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings
2. Continuance. This action can be taken if the Planning Commission would like to continue exploring potential options for the amendment.
 - a. Accept the staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again.

3. Recommendation of Denial. This action can be taken if the Planning Commission finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings
 - c. Reasons for denial