



PLANNING COMMISSION STAFF REPORT

APPLICATION: Variance V2016-02

AGENDA ITEM: PH-1

PREPARED BY: Teresa Santilena
Assistant Planner

MEETING DATE: July 13, 2016

SUBJECT: Variance V2016-02 - Continued
207 South Magnolia Avenue

REQUEST: Allow a trash enclosure that was previously constructed without the required approvals to encroach into the front yard and side yard setbacks. A 16'-2" front yard setback is proposed in lieu of 25', and a 0' side yard setback is proposed in lieu of 6'5" as required by Monrovia Municipal Code Section 17.12.030. This property is located in the RM2500 (Residential Medium Density) zone.

APPLICANT: Edwin K. Miedema II
207 South Magnolia Avenue
Monrovia, CA 91016

BACKGROUND: The applicant is seeking the approval of a variance to maintain a 105 square foot accessory structure, built without approval, on his property (see attached letter from the owner). The subject accessory structure does not meet minimum zoning standards as it encroaches into the required front and side yard setbacks. The home is located in the RM2500 (Residential Medium Density) zone.

This item was originally scheduled to be heard at the June 15, 2016 Planning Commission meeting. However, due to an error in the notice that was sent to the surrounding properties, the item was continued for one month.

SUBJECT PROPERTY: The subject property is located on the west side of South Magnolia Avenue, between Linwood and Palm Avenues. The lot measures approximately 65 feet wide and 154 ½ feet deep, for a total lot area of approximately 10,042 ½ square feet. Los Angeles County Assessor information indicates that the 2,388 square foot house was originally built in 1907 and was later legally converted into 4-units with a detached 4-car garage. Therefore, the City recognizes this property as a multifamily use.

Like the subject property, all surrounding properties are zoned RM2500. The property to the north is improved with a 5-unit multifamily development. To the south is the Monrovia Gospel Hall church. Across the street to the east is a single-family residence, and to the west, behind the subject property is a 2-unit multifamily development.

DISCUSSION/ANALYSIS: In February 2015, the City of Monrovia received a complaint that a trash bin was being stored in the driveway within the front yard setback of the subject property. Upon investigation of the complaint, the City's Code Enforcement

Division issued a warning to the applicant, advising him to speak with Planning Staff regarding the proper location and screening of trash receptacles. At that time, the applicant was advised of the regulations set forth in Monrovia Municipal Code (MMC) Section 17.12.040(H) requiring trash collection areas to be enclosed or screened from view. He was also advised of MMC §17.12.030, which establishes the minimum front and side yard requirements for accessory structures. Additionally, the applicant was told that the most appropriate location for the trash bin would be behind the existing driveway gate, which is in line with the front face of the building.

In January 2016, it was brought to the attention of the Monrovia Code Enforcement Division that the applicant had constructed a large enclosure in the driveway of the subject property to screen the trash bin. According to the definitions set forth in MMC Section 17.04.080, a structure is defined as:

Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground.

Further, MMC §17.12.030(E)(1) requires accessory structures to be set back a minimum of 25' from the front property line, and MMC §17.12.030 (E)(2)(c), establishes the following side yard setback requirements: "Accessory structures located less than 80 feet from the front property line must be set back the same distance from the property line as a main structure." In this case, the minimum side yard setback requirement is 6'-5". Accordingly, based on the requirements of the MMC, a 25' front yard setback is required, and a 6'-5" side yard setback is required. However, the subject enclosure is setback 16'-2" from the front property line and 0' from the side property line.

Additionally, because this is a multifamily property, MMC §2.56.030(D)(1)(b) also grants the Development Review Committee the authority to review and approve new structures, specifically the placement of trash enclosures. Based on the purview authorized by the Code, front yards are not a location that would be considered appropriate for trash enclosures.

Variance

The applicant must obtain a variance in order to keep the accessory structure that does not meet minimum zoning code standards. In order to approve a variance, the Commission must find that there are special circumstances applicable to this property related to the size, shape, topography, location or surroundings of the property, which makes strict application of the Zoning Ordinance a deprivation of privileges enjoyed by other property owners in the same zone. MMC Section 17.52.100 establishes the following findings required for granting such variance. If one of these finding cannot be met, then the variance must not be granted.

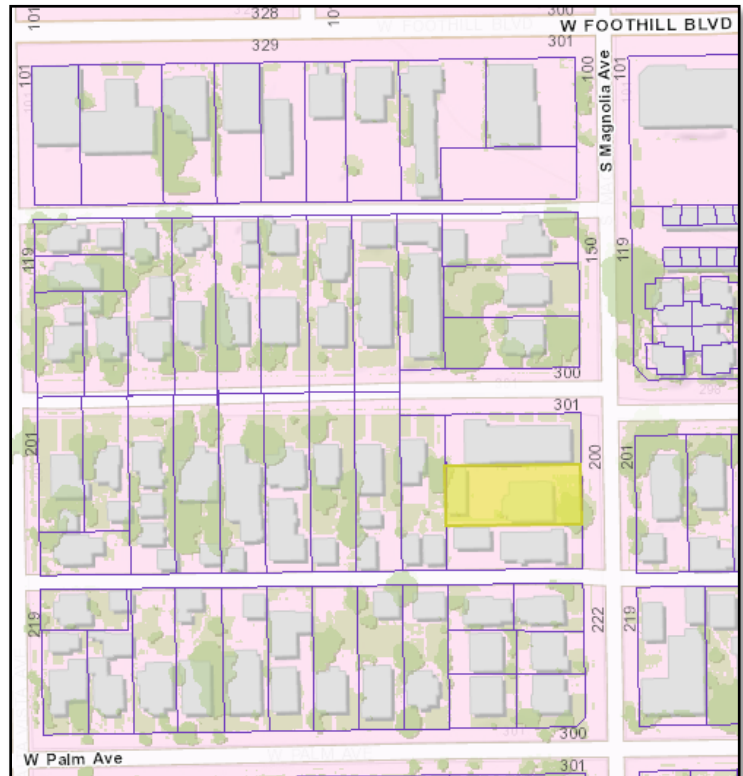
- (A) Variances from the terms of this title shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
- (B) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges

inconsistent with the limitations upon other properties in the vicinity and zone in which much property is situated.

- (C) A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this chapter shall not apply to conditional use permits.

The subject request was reviewed by the Development Review Committee (DRC) on April 13, 2016. At the meeting, the DRC recommended denial of the variance because findings (A) and (B) could not be met.

There are no special circumstances applicable to this property, including size, shape, topography, location or surroundings, and denial of the variance would not deprive the subject property of development privileges that could be enjoyed by other properties in the vicinity and under the identical zoning classification. The subject property is 65' wide and 154.5' deep and has an approximate lot area of 10,042 square feet. The parcel meets the minimum lot area of 10,000 square feet required for a parcel in the RM (Residential Medium Density) zone. Furthermore, as shown in the Los Angeles County Assessor Map, the subject parcel is larger than every other residential parcel on the same side of the street from Foothill Boulevard to Palm Avenue. The rectangular lot is relatively flat and is does not contain any topography that would prohibit a trash enclosure from meeting the requirements of the Monrovia Municipal Code.



Further, variance finding (B) requires that the granting of a variance shall not constitute a grant of special privileges inconsistent with the limitations currently placed upon surrounding properties. On April 13, 2016, the DRC determined that granting this variance request would be a grant of special privileges, as properties surrounding the subject parcel are subject to MMC §17.12.040(H) requiring outside trash and garbage collection areas to be enclosed or screened and MMC §17.12.030, which establishes the minimum front and side yard requirements for accessory structures. Given the size of the parcel and the location of the existing structures, there is ample space outside of the front and side yard setbacks to locate the trash enclosure. If granted, Variance No. V2016-02 would constitute a grant of special privileges inconsistent with the limitations currently placed upon surrounding properties.

Conclusion

Staff and the DRC recommend denial of the variance. There are no unique characteristics with the property that would warrant granting this variance. Granting this variance would

constitute a grant of special privileges as construction of accessory structures within the required front and side yard setbacks is prohibited within the Municipal Code. Construction began and was completed without appropriate City approvals after Staff had communicated to the owner that the trash bin should be stored behind the existing driveway gate. Staff is unable to recommend approval of this request because two of the three required municipal code findings cannot be met.

RECOMMENDATION: Staff recommends denial of Variance V2016-02. If the Planning Commission concurs with this recommendation then, following the public hearing, the following actions would be:

1. The Planning Commission finds that the custodian of records for all other materials that constitute the record of proceeding upon which this decision is based is the Planning Division Manager. Those documents are available for public review in the Planning Division located at 415 South Ivy Avenue, Monrovia, California, 91016.
2. The Planning Commission in the exercise of its independent judgment hereby makes the findings for denial listed on attached Data Sheet No. 3 for Variance V2016-02, which are incorporated herein by this reference.
3. The Planning Commission denies Variance V2016-02 subject to the recommendations in the Staff Report, all of which are incorporated herein by this reference.

MOTION:

Deny Variance V2016-02 pursuant to the recommendations in the Staff Report.



DATA SHEET 3

Findings

Variance V2016-02

207 South Magnolia Avenue

VARIANCE

As required by Section 17.52.100 of the Monrovia Municipal Code and provisions of Section 65906 of the California Government Code, the decision for denying Variance No. V2016-02 to allow a trash enclosure to encroach into the front and side yard setbacks on the property located at 207 South Magnolia Avenue is based on the following findings:

- A. Special circumstances applicable to the property, including size, shape, topography, and/or location deprive the property the privileges enjoyed by other property in the vicinity and under identical zoning classifications. *The subject property is 65' wide and 154.5' deep and measures approximately 10,042 square feet total. The subject property meets the minimum lot area of 10,000 square feet for a parcel in the RM (Residential Medium Density) zone and is larger than every other residential parcel on the same side of the street from Foothill Boulevard to Palm Avenue. The subject property is a rectangular lot that is relatively flat and is does not contain any topography that would prohibit a trash enclosure from meeting the setback requirements of the Monrovia Municipal Code (MMC). The subject property is located within a residential zone and is oriented facing a dedicated street. The size, shape, topography, and location of the subject property do not prevent the property owner from constructing a trash enclosure outside of the front and side yard setback areas. There are no special circumstances applicable to this property related to its size, shape, topography, location or surroundings that would make denial of the variance a deprivation of privileges enjoyed by other property owners in the vicinity and same zone. Accordingly, the Planning Commission cannot make this finding.*
- B. If granted, the Variance shall not constitute a grant of special privileges inconsistent with the limitations currently placed upon surrounding properties. *Properties surrounding the subject parcel are subject to MMC §17.12.040(H) requiring outside trash and garbage collection areas to be enclosed or screened, MMC §17.12.030(E)(1) requiring accessory structures to be set back a minimum of 25' from the front property line, and MMC §17.12.030 (E)(2)(c), which establishes a 6'-5" side yard setback requirement for this property by stating that "Accessory structures located less than 80 feet from the front property line must be set back the same distance from the property line as a main structure." Given the size of the parcel and the location of the existing structures, there is ample space outside of the front and side yard setback areas to locate the trash enclosure. Additionally, because this is a multifamily property, MMC §2.56.030(D)(1)(b) also grants the Development Review Committee the authority to review and approve new structures, specifically the placement of trash enclosures. Based on the purview authorized by the Code, front yards are not a location that would be considered appropriate for trash enclosures. If granted,*

Variance No. V2016-02 would constitute a grant of special privileges inconsistent with the limitations currently placed upon surrounding properties. Accordingly, the Planning Commission cannot make this finding.



DATA SHEET 4

Surrounding Land Uses

V2016-02

207 South Magnolia Avenue

Property Description:

The subject property is located on the west side of South Magnolia Avenue, between Linwood and Palm Avenues. The lot measures approximately 65 feet wide and 154 ½ feet deep, for a total lot area of approximately 10,042 ½ square feet, and is improved with a 2,388 square foot multifamily dwelling and a detached 4-car garage.

Zoning

Subject site: RM2500 (Residential Medium Density)

Surrounding pattern:

north: RM2500 (Residential Medium Density)

south: RM2500 (Residential Medium Density)

east: RM2500 (Residential Medium Density)

west: RM2500 (Residential Medium Density)

Land Use

Subject site: Multifamily Residence

Surrounding pattern:

north: Multifamily Residence

south: Church (Monrovia Gospel Hall)

east: Single-family Residence

west: Multifamily Residence

Environmental Determination: Categorical Exemption Class 1

Applicable Ordinance Regulations: MMC 17.52.100 Planning Commission Authority for Variance

April 27, 2016

To: Development Review Committee

From: Ed Miedema

Re: Variance V2016-XX - 207 S. Magnolia Ave.

I am compelled to request a major variance to provide a trash screen located 16' from the sidewalk and 24' from the curb, in line with the neighbor's set-back, so as not to stand out like an outbuilding, and provides a buffer between the two properties. The prior findings identified my screen as an "accessory structure" contemplates a building or structure. The variance sought here involves a fence or screen. No special privilege will result.

It is important to note, the Linwood property consists of five units - 4 - one bedroom, and 1-two bedroom and by law can accommodate up to 14 adults. 207 South Magnolia Ave. consists of 4- one bedroom units with maximum capacity of 8 adults that is a total of 22 adults on two residential sized lots.

Trailer parks have more space for people than we do on this corner, and by law should require parking for 20 or more vehicles.

Furthermore, due to lack of over site has allowed over development to occur.

1. Oversized patio built to property line without consideration for water run-off, allowing tenants to distribute trash, cigarette butts, cat food, etc. to be transferred from 302-310 Linwood to 207 South Magnolia every time they use the hose.

2. Then, they added on an awning without regard to the basic requirements concerning a permit, or even the safety of the inhabited units of 302-310 Linwood who are complaining of exhaust fumes from vehicles using the driveway at 207 South Magnolia Ave.

Tenants at 302-310 Linwood state they have polluted air coming from air conditioning systems that draw air from the patio area. They also complain about the windows and doors must be closed because of this debilitating condition.

It is apparent that these problems are not fixing themselves.

People of wisdom would think of the health and safety of the occupants first. Then consider the environment and maintenance issues associated with improper trash disposal and determine a course of action, that will provide permanent solutions and resolve conflict between what would normally be reasonable people that are living in a safe, non-polluted environment.

The way it is working now if my tenants use the driveway at 207 South Magnolia Ave. the tenants at 302-310 Linwood Ave. feel justified dumping trash in my yard that includes my trash receptacle as well as sweeping or washing trash that falls on their patio into my yard.

Since 207 South Magnolia is a larger lot, working within our established set-backs, 16' and 24', the trash screen does not inhibit the ingress or egress of traffic in anyway. There is no practical means of access for a trash truck to retrieve my tenant's refuse in the rear

of their homes. The receptacle must be maintained in the front and the screen sufficiently mitigates the placement there.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ed Miedema", written over a horizontal line.

Ed Miedema

