



August 19, 2020

***Draper City Planning Division
Administrative Interpretation***

RE: Larkin Porch Interpretation

This letter is in regards to a question that has arisen regarding the legal nonconforming status of the Larkin Residence located at 965 East Canyon Breeze Lane (Subject Property), and whether the construction of a porch on the front of the home will increase the degree of nonconformity. The property is located within the RA2 (Residential Agricultural, 20,000 square foot lot minimum) zone. The property has the Tax ID number of 34-05-176-027, and is Parcel A in the Dorobiala, Nemanic, and Pierson Minor Subdivision.

According to the Salt Lake County Assessor's Office, the home on the property was built in 1973, which predates the incorporation of Draper City in 1978. Canyon Breeze Lane is a private roadway which is contained within a 60-foot wide easement across all the properties along the lane. While the width of the physical lane improvement varies, the asphalt width of Canyon Breeze Lane in front of the subject property is 23-feet in width. The property line for the subject property extends 34-feet into the easement for Canyon Breeze Lane. The existing home on the subject property is located 16-feet 11.5-inches from the Canyon Breeze Lane easement and 47-feet 11.75-inches from the asphalt improvements.

Draper City Municipal Code (DCMC) Section 9-27-150(I) requires the minimum setback for buildings on a private right-of-way to be measured from the boundary of the private right-of-way. This means the minimum front setback is measured from the edge of the 60-foot easement for Canyon Breeze Lane, not the location of the existing asphalt improvements. The home's existing 16-foot 11.5-inch setback is considered legal nonconforming. The RA2 zone has a minimum front yard setback of 30-feet per DCMC Section 9-10-090, Table 9-10-3.

9-27-150: PRIVATE RIGHTS OF WAY:

I. Setbacks: Minimum setback requirements shall apply to all buildings fronting, siding or rearing on any private right of way and shall be measured from the boundary of the private right of way nearest the building and its extension through the applicable lot. This requirement shall not apply to lots abutting but not accessing the private right of way.

DCMC Section 9-27-140(F) requires any deck or patio that is covered with a roof or enclosed on two or more sides to comply with the minimum setback standards for the zone. This means that the covered porch is required to comply with setback standards and the minimum 30-foot front setback is measured to the foundation of the porch, not to the existing house.



9-27-140: LOTS AND YARDS:

F. Setback; Decks And Patios: Any part of a deck or patio covered with a roof or enclosed on two (2) or more sides, or which exceeds three feet (3') in height at any point above finished, shall conform to applicable yard setback requirements.

The applicant is proposing to remove and replace an existing covered walkway equaling roughly 75 square feet in size. The roof overhang creating the covered walkway is located on the front of the home. The proposed covered porch will be roughly 10' by 20' in size, or 200 square feet, and will have a setback of 9-feet 2-inches from the Canyon Breeze Lane easement. This will mean it is located 38-feet 2-inches from the edge of asphalt. Per DCMC Section 9-6-050(B) a nonconforming structure may be repaired and maintained as long as the degree of nonconformity is not increased. DCMC Section 9-6-050(C) allows for additions to nonconforming structures provided that the addition conforms to code requirements and does not increase the degree of nonconformity.

9-6-050: NONCONFORMING STRUCTURES:

B. Maintenance And Repair: A nonconforming structure may be maintained. Repairs and structural alterations may be made to a nonconforming structure within the existing footprint thereof; provided, that the degree of nonconformity is not increased.

C. Enlargement And Expansion: Any expansion of a nonconforming structure that increases the degree of nonconformance is prohibited, except as provided in this subsection:

1. The initial determination of whether a proposed expansion increases the degree of nonconformity shall be made by the zoning administrator. (Ord. 394, 8-7-2001)

2. A structure which is nonconforming as to height, area, or yard regulations may be added to or enlarged upon authorization by the appeals and variance hearing officer; provided, that the appeals and variance hearing officer, after a hearing, finds the expansion to be compatible with the neighborhood and not detrimental to the community, as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, and the availability of adequate public facilities and services. (Ord. 815, 4-1-2008, eff. 7-1-2008)

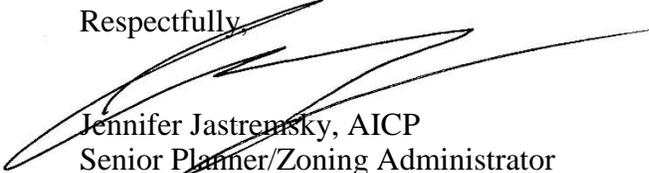
It is the Zoning Administrators position that the Larkin Residence is a legal nonconforming structure and the proposed covered porch will increase the degree of nonconformity by reducing the homes setback from the Canyon Breeze Lane right-of-way easement from 16-feet 11.5-inches to 9-feet 2-inches and is therefore prohibited by DCMC Section 9-6-050(C).

DCMC Section 9-6-050(C)(2) allows the Appeals and Variance Hearing Officer to authorize the increase in degree of nonconformity by way of height, area, or yard regulations. An application by the applicant to request an increase in degree of nonconformity has already been obtained by the City. There are a couple other options available to you if you believe this interpretation has been made in error. You may also seek a text amendment in order to change the code, or you may appeal this determination. An appeal is subject to DCMC Section 9-5-180 and 9-6-140 and shall be made within 14 days of the decision which is appealed. Applications for all options can be found on the city's website.



If you have further questions, please contact me at jennifer.jastremsky@draper.ut.us or at 801-576-6328.

Respectfully,


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Cc File