



September 25, 2020

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

RE: Burrows Addition Interpretation

This letter interprets Draper City Municipal Code as it pertains to an addition onto a legal nonconforming accessory garage located at 1191 East 13200 South (Subject Property), and analyzes whether the construction of additional square footage on the existing second story 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 28-32-426-053.

The applicant began constructing a second story addition onto his legal nonconforming accessory garage in July 2020. The city received a complaint on July 29, 2020 voicing concerns about the addition and its proximity to the north property line. After investigating, the Building Official found that no building permit had been obtained for the work, and the Zoning Administrator made an informal determination that the work appeared to increase the degree of non-conformity and would not be allowed. The property owner has requested this interpretation in order to verify if the addition violates code.

The applicant originally obtained a building permit for the accessory garage structure on October 27, 2006 and began construction shortly thereafter. The construction was never completed, and the permit expired. The applicant requested the building permit be reinstated in 2015, with a new permit issued on June 22, 2015. The Zoning Administrator at that time determined because the accessory garage was half built the permit application was vested under the 2001 Zoning Code, which was in effect at the time the original building permit was issued.

The 2001 Draper City Municipal Code (DCMC) Section 9-10-040 allowed accessory structures to be located on a rear yard property line subject to certain restriction, as follow:

2001 DCMC Section 9-10-040(A) Development Standards

(3) An accessory building may be located on a side or rear property line provided water runoff does not infringe onto adjoining property and:

(A) The building roof does not overhang the property line;

(B) The building is constructed of fire resistant materials which conform to applicable building code requirements; and

(C) The building is not located within ten (10) feet of any dwelling or main building located on an adjoining lot or parcel.



On August 7, 2007, the City Council modified DCMC Section 9-10-040(A) requiring a 10-foot minimum setback from rear and side property lines for accessory structures.

The accessory garage is two stories. The first floor is located 2-foot from the north property line and has a wall height of 9-feet and a first story roof peak of 13-feet. The second story is a partial story and does not cover the entire footprint of the first story. It is 9-feet away from the north property line. The proposed addition would extend the second story walls to the north, and create an 8-foot by 12-foot addition. This addition would be 2-feet from the north property line.

DCMC Section 9-6-050 allows a nonconforming structure to be maintained and repaired. It also allows the enlargement and expansion of a structure if it 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)

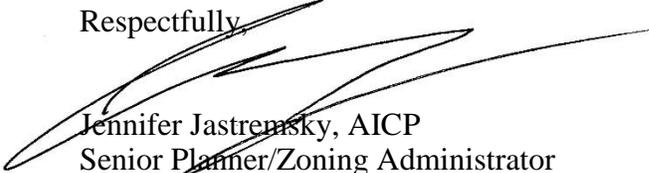
The second story of the structure is legally nonconforming as it does not comply with minimum accessory building setbacks of 10-feet. The proposed addition will extend the square footage of the existing second story bringing the structure wall from 9-feet away from the boundary line to 2-feet away from the boundary line. It is the Zoning Administrators position that the addition to the accessory structure would increase the degree of nonconformity 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 upon making a finding that the expansion is compatible with the neighborhood and no detrimental to the community. 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,


Jennifer Jastremsky, AICP
Senior Planner/Zoning Administrator
Community Development Department

Cc File