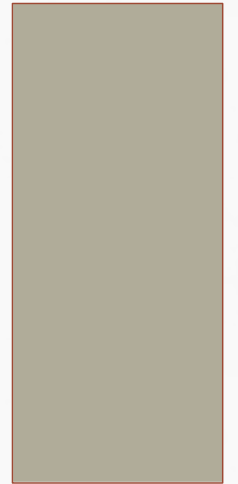


# SETBACK EXCEPTIONS FOR HISTORIC BUILDING PRESERVATION

CODE TEXT AMENDMENT



# PROPOSED CODE AMENDMENT

- 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.

# PROPOSED CODE AMENDMENT

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

# PROPOSED CODE

- A. Where an existing recorded lot does not meet the current minimum lot area and/or width/depth requirements and the lot contains a legally built and existing structure that meets the definition of a historic structure under the Code (structure built in whole or in part over 75 years prior to the date of proposed work on the structure or that is listed on the National Register of Historic Places or the Midway City Historic Register), the structure may be structurally reinforced to preserve the historic structure and appearance of the building provided the structural changes do not increase the existing footprint of the structure that is currently nonconforming by more than one (1) foot in any direction. Nothing in this section shall limit a conforming addition to a historic structure.

# PROPOSED CODE

- B. Procedure: Before applying for a building permit, an owner seeking to structurally reinforce a historic building on a small lot under this section shall apply for and obtain a recommendation from the Midway City Historic Preservation Committee and forward its recommendation to the Planning Director, who is the City's land use authority for building permit decisions.



# 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.