



King County
Department of Development and Environmental Services
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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: August 8, 2001

TO: Building Services Division Staff
Chris Ricketts
Jim Chan
Pam Dhanapal
Ken Dinsmore

Land Use Services Division Staff
Joe Miles
Greg Borba
Lisa Pringle

Caroline Whalen, Deputy Director
Harry Reinert, Special Projects Manager
Tim Barnes, Prosecuting Attorney's Office

FM: Lisa Pringle, Co-Chair

Present: Tim Barnes (PA), Greg Borba, Jim Chan, Pam Dhanapal, Ken Dinsmore, Lisa Pringle, Harry Reinert, John Sage

Issue: (This is a continuation of the discussion from the July 25 RRC meeting).

- 1. If only a portion of a structure is across a line defining a required setback, is the entire structure non-conforming, or is only the portion of the structure within the required setback non-conforming?**
- 2. If non-conforming uses may be modified (reference K.C.C. 21A.32.055), may any portion be modified, or only those portions outside of a required setback?**
- 3. If the expansion of a non-conforming use is limited to 10 percent, project-wide, in each of the building square footage, impervious surface, parking, or building height (reference K.C.C. 21A.32.065), may the 10 percent expansion involve a portion of the structure within a required setback, or is the 10 percent expansion restricted only to portions of the structure outside of any required setbacks?**

Discussion:

An applicant has an existing single story carport/garage/shop that extends five feet into a required street setback. The applicant wishes to demolish and completely reconstruct the structure in exactly the same building footprint but adding a second story.

The first determination that needed to be made was whether or not the entire structure is non-conforming or just the portion within the required setback.

K.C.C. 21A.06.800 states: "Nonconformance; any . . . structure established in conformance with . . ." (emphasis added).

The discussion centered around the fact that the definition did not say structure or portion of structure.

The next question was whether or not the structure can be "modified" (and what does modified mean).

K.C.C. 21A.32.055 states: "Modifications to a nonconforming use, structure, or site improvement may be reviewed and approved by the department . . . provided that:

- A. The modification does not expand any existing nonconformance; and
- B. The modification does not create a new type of nonconformance."

The group discussed the differences between a modification and an expansion and which would apply to the specific situation.

The final question relates to K.C.C. 21A.32.065 and where the 10% expansion is allowed. Is it allowed on the portion of the building within the required setback on only the portion outside the setback?

K.C.C. 21A.32.065 states: "Expansions of nonconforming uses, structures . . . A nonconforming use, structure . . . may be expanded . . . provided that:

1. The expansion shall conform to all other provisions of this title, except that the extent of the project-wide conformance in each of the following may be increased by up to 10 percent:
 - a. building square footage, . . .
 - b. building height"

Conclusion:

The group determined that the entire structure is non-conforming as it does not seem correct to have a building partially conforming and partially non-conforming.

The group then determined that a "modification" to a structure is internal change where an expansion increases square footage, heights, etc. Thus, the specific case would be classified as an expansion.

Finally, the group determined that any portion of the building outside the setback can be modified or expanded, subject to the setbacks, etc. for the zone. The portion inside the setback can be expanded per K.C.C. 21A.32.065.