



Planning & Development Services Dept.

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ADMINISTRATIVE ORDER#000025 041701
CODE INTERPRETATION

CODE SECTION: 20.30.280, 20.50.090

ISSUE:

A home-owner in Richmond beach has property that has been surveyed. His house extends over the property line, into the public right-of-way. He wants to build a second story on his house. Can he:

build up from the existing perimeter of the house and foundation per 20.50.090, meeting a minimum 10-foot setback from the street?
build up from the property line?

DECISION:

The structure is non-conforming in that it lies across a property line. Any expansion would increase the degree of non-conformity under code section 20.30.280-C6, because it would be enlarging part of a structure that is already over a property line, making the non-conformity worse. The important fact is that the non conformity in this case is that the structure is over the property line. This fact is what causes the interpretation that any expansion would not be possible. This is consistent with the purpose of the Development Code to "prevent the overcrowding of land". If a structure is "over the property line"(either the established property line or a line established through and adverse possession), any increase in area or height would be considered an increase in the nonconformity, and therefore, would not be permitted.

If the structure is over a street property line and lies partially within the right-of-way, the non-conformity must be brought into conformance by: 1) Modification of the structure, or 2) A Street Vacation (Type L permit) before any expansion can be done to the structure.

If the structure lies over a neighboring property line, the non-conformity must be brought into compliance by: 1) Modification of the structure, or 2) A lot line adjustment or merger.

Other "modifications to nonconforming structures" within the property lines should be judged on the merits of each case.

ADDITIONAL INTERPRETATION:

1. "Ownership parcel" (that area of land that has a separate tax ID number) is preferred to establish the "property line" and the "lot" of a development application. If an application for a permit is within this area, we need do nothing more.

2. But, an "Ownership parcel" may include one or more "Lots of Record". If an owner seeks to use anything other than the "ownership parcel" as the area for development, additional action will be required. Those actions may include establishing a new ownership parcel or parcels and/or other protections to safeguard the city and future owners. If other than an "ownership parcel" is suggested, staff should seek guidance from the Director.

3. If a structure crosses over the line of an "ownership parcel" (again, that area of land that has a separate tax ID) thereby encroaching on another "ownership parcel" we then encounter possible Building Code and Development Code violations. We should not approve any permits for developments of this nature.

4. If a structure encroaches over the line of a "lot of record" it is not a problem if it is within the boundaries of and "ownership parcel" than includes all of the "lots of record".

Director Approval Date: 4/17/01 by Tim Stewart

NON-CONFORMING STRUCTURES – Structure over Property Line