

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: October 15, 2015

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Non-Conforming Use Permit, pursuant to Section 6137 of the County Zoning Regulations, to allow a 110 sq. ft. addition to the first floor to encroach into the side yard setback and a floor area of 2,684 sq. ft. where 2,683 sq. ft. is the maximum floor area allowed, in connection with an addition/remodel project that will include a new second story on an existing single-family residence with a legal non-conforming side setback in the unincorporated North Fair Oaks area of San Mateo County.

County File Number: PLN 2015-00155 (Schwanke/Redmond)

PROPOSAL

The applicant proposes to add a second story, add 110 sq. ft. to the first story, and perform a major remodeling to an existing single-family dwelling. The existing dwelling has a legal, non-conforming left side setback of 4.2 feet where the minimum left side setback is 5 feet. The first floor addition will continue this setback for a length of 10.9 feet and will increase the encroachment into the side setback by 7.5 square feet. The proposal will also result in a floor area that is 1 sq. ft. in excess of the allowable floor area — 2,684 sq. ft. where 2,683 sq. ft. is the maximum allowed. The new second story will conform to the maximum height, daylight plane, and setback requirements. The addition will not impede access to the detached garage in the rear yard. The garage was previously converted to other use without permits. Recommended Condition of Approval No. 9 requires the conversion back to covered parking.

RECOMMENDATION

That the Zoning Hearing Officer approve the Non-Conforming Use Permit, County File Number PLN 2015-00155, by making the required findings and adopting the conditions of approval listed in Attachment A.

BACKGROUND

Report Prepared By: Steven Rosen, Project Planner, Telephone 650/363-1814

Owner: Laura Redmond

Applicant: Steve Schwanke

Location: 543 - 8th Avenue, North Fair Oaks

APN: 060-151-060

Parcel Size: 5,320 square feet

Existing Zoning: R-1/S-73 (Single-Family Residential/5,000 sq. ft. minimum parcel size)

General Plan Designation: Single-Family Residential (15-24 dwelling units/acre)

Existing Land Use: Single-Family Residential

Water Supply: California Water Service Company

Sewage Disposal: Fair Oaks Sewer District

Flood Zone: Zone X (areas of minimal flooding), FEMA Panel No. 06081-C0302E, effective date October 16, 2012.

Environmental Evaluation: Exempt under the California Environmental Quality Act (CEQA), Section 15301, Class 1 (enlargement of an existing structure).

Setting: There is an existing one-story, 1,270 sq. ft. residence, with a detached 468 sq. ft., two-car garage, that has been converted from use as covered parking without permits. The property is relatively flat and is bordered by single-family residential development in a mix of one- and two-story development on all sides.

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan

Staff has reviewed the project for conformance with the visual quality and urban residential subdivision policies contained in the General Plan and has determined that the project is in conformance. The policies applicable to this project include the following:

Policy 4.35 (*Urban Area Design Concept*) calls for the maintenance and improvement of the appearance and visual character of development in urban areas, and that the proposed development contributes to the orderly and harmonious nature of the locality. The neighborhood in which the site is located is developed with single-family houses with detached garages. There is one house in the immediate vicinity that is two stories tall. However, all of the lots may be developed with two-story residences by right in this zoning district. This Use Permit is to allow an addition to the left side

of the house to have the same setback as the existing portion of the house instead of requiring that it be inset by 0.8 feet, or 9.5 inches. This will allow the construction of a left-side wall that is uniform and normal in appearance.

2. Conformance with Zoning Regulations

a. R-1/S-73 Zoning District Regulations

As shown in the table below, the proposed addition/remodel does not comply with portions of the S-73 Zoning District Regulations as follows:

Compliance with S-73 Zoning District Standards		
	Standard	Proposed
Front Yard Setback (Section 6300.4.17)	20 ft. min.	20.6 ft.
Rear Yard Setback (Section 6300.4.17)	20 ft. min.	41.1 ft.
Right Side Yard Setback (Section 6300.4.17)	5 ft. min.	9.06 ft.
Left Side Yard Setback (Section 6300.4.17)	5 ft. min.	4.2 ft.
Lot Coverage Area (Section 6300.4.18)	2,660 sq. ft. max.	2,099 sq. ft.
Building Floor Area (Section 6300.4.19)	2,683.2 sq. ft. max.	2,684 sq. ft.
Building Height (Section 6300.4.20)	28 ft. max.	28 ft.

Daylight Plane: Section 6300.4.21 defines buildable space in the S-73 Zoning District. It is the volume described by measuring 16 feet vertically from the side setback lines and then inward at an angle of 45 degrees until the maximum height of 28 feet is reached. Features such as dormers or gables may extend out of this area no more than 20 feet in continuous or cumulative length on each side provided that they measure no more than 24 feet in height. Chimneys may extend outside of this volume up to a height of 36 feet.

The proposal conforms to this section. The main mass of the house falls within the building envelope because the second story is set back 5.5 feet from the left side property line and 9 feet from the right side property line. The dormers projecting from the left side of the house would measure 19 feet in length and be 23.25 feet high. The dormer projecting from the right side of the building would be 9 feet in length and 23.5 feet high. The chimney would be 32.75 feet high.

b. Off-Street Parking Standards

Single-Family residences with two or more bedrooms are required to provide two covered off-street parking spaces. This house was built with a conforming two-car detached garage in the rear yard accessed by a driveway along the right property line. The garage was

converted to other uses without permits. Condition of Approval No. 9 (Attachment A) requires that the garage be converted back to covered parking and that the garage and driveway be kept clear for use as vehicle parking and access. The condition requires that the plans associated with this project indicate that the garage will be converted back to two-car covered parking and that this be done prior to final approval of the building permit. The pending building permit, BLD 2015-00641, will need to be revised to include this work.

c. Zoning Non-Conformities Regulations

A major repair, remodel, or upgrade is defined as a project in which the value of the work exceeds 50% of the value of the structure. Section 6135(5.b) requires that residential non-conforming structures undergoing major repair be made to conform to the zoning regulations currently in effect when the non-conformity exceeds 50%. The value of the work proposed for this project exceeds 50% of the value of the structure. The non-conformity does not exceed 50% of the required 5-foot setback because the structure, as permitted, has a setback of 4.2 feet.

Section 6135(4) states that non-conforming structures may only be enlarged such that the enlargement conforms with the zoning regulations currently in effect. The proposed enlargement would not conform to the current setback requirement.

Section 6137 of the County Zoning Regulations allows, upon issuance of a use permit, exceptions to the provisions of the Non-Conformities Chapter which would restrict the enlargement of a non-conforming structure. See the previous table for details on the non-conforming aspects of the proposed project and the use permit findings below.

3. Conformance with Use Permit Findings

As previously stated, Section 6137 of the County Zoning Regulations allows the non-conforming enlargement of a legal structure which does not conform with the zoning regulations currently in effect upon the issuance of a use permit. Records show that the house was built legally in 1949 with a non-conforming left side setback of 4.2 feet. Therefore, the structure is a legal, non-conforming structure. Since the proposed addition to the first floor will not comply with current setbacks and since the entire addition/remodel will exceed the floor area limit, a non-conforming use permit is required.

The following findings, as required by Section 6137, must be made in order to approve a use permit for the proposed project:

- a. **That the establishment, maintenance, and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood.**

The project parcel is not located within the Coastal Zone and, therefore, poses no risk to coastal resources. The project will not cause any development off of the parcel. The approval of the use permit would result in the construction of an addition to the first floor only that continues the existing non-conforming setback and a floor area 1 sq. ft. in excess of that allowed by the Zoning Regulations. These exceptions to the S-73 Zoning District standards would not be detrimental because the extension of the existing non-conformity would be confined to the first floor only and the extra eight-tenths of a foot of floor area would be imperceptible. The new second floor conforms to both the setback standard and the daylight plane standard.

B. ENVIRONMENTAL REVIEW

This project is exempt under Section 15301(e), Class 1 (additions of up to 10,000 sq. ft. to existing structures) of the California Environmental Quality Act (CEQA). The project is an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and is not environmentally sensitive.

C. REVIEWING AGENCIES

Building Inspection Section
Department of Public Works
Menlo Park Fire Protection District
Geotechnical Section

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Plans
- D. Photographs

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2015-00155 Hearing Date: October 15, 2015

Prepared By: Steven Rosen
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. This project is exempt under Section 15301(e), Class 1 (additions of up to 10,000 sq. ft. to existing structures) of the California Environmental Quality Act (CEQA). The project is an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and is not environmentally sensitive.

For the Use Permit, Find:

2. That the establishment, maintenance, and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood in that the project parcel is not located within the Coastal Zone, and in that the extension of the existing non-conformity would be confined to the first floor only, while the new second floor would conform to the setback, daylight plane, and maximum height standards.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. The approval applies only to the proposal as described in this report and materials submitted for review and approval by the Zoning Hearing Officer on October 1, 2015. Any changes or revisions to the approved plans shall be submitted for review by the Community Development Director to determine if they are consistent with the intent of and in substantial conformance with this approval.
2. This use permit is valid for one (1) year in which time a building permit shall be issued. An extension may be granted upon written request at least sixty (60) days prior to expiration and payment of applicable extension fees.

3. The applicant shall apply for a building permit and shall adhere to all requirements from the Building Inspection Section, the Department of Public Works and the respective Fire Authority.
4. No site disturbance shall occur, including any grading until the building permit has been issued.
5. No trees are permitted for removal as part of this permit. If any trees are required to be removed, a separate tree removal permit and process are required and then only those trees approved for removal shall be removed.
6. To reduce the impact of construction activities on neighboring properties, comply with the following:
 - a. All debris shall be contained on-site; a dumpster or trash bin shall be provided on-site during construction to prevent debris from blowing onto adjacent properties. The applicant shall monitor the site to ensure that trash is picked up and appropriately disposed of daily.
 - b. The applicant shall remove all construction equipment from the site upon completion of the use and/or need of each piece of equipment which shall include but not be limited to tractors, back hoes, cement mixers, etc.
 - c. The applicant shall ensure that no construction-related vehicles shall impede through traffic in the public right-of-way. All construction vehicles shall be parked out of the public right-of-way or in locations which do not impede safe access along the public right-of-way. There shall be no storage of construction vehicles in the public right-of-way.
7. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m. weekdays and 9:00 a.m. to 5:00 p.m. Saturdays. Said activities are prohibited on Sundays, Thanksgiving and Christmas (San Mateo Ordinance Code Section 4.88.360).
8. During construction, the project, where applicable, shall adhere to the San Mateo Countywide Stormwater Pollution Prevention Program "General Construction and Site Supervision Guidelines," including:
 - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30. Stabilizing shall include both proactive measures, such as the placement of hay bales or coir netting, and passive measures, such as revegetating disturbed areas with plants propagated from seed collected in the immediate area.
 - b. Storing, handling, and disposing of construction materials and wastes properly, so as to prevent their contact with stormwater.

- c. Controlling and preventing the discharge of all potential pollutants, including pavement cutting wastes, paints, concrete, petroleum products, chemicals, wash water or sediments, and non-stormwater discharges to storm drains and watercourses.
 - d. Using sediment controls or filtration to remove sediment when dewatering the site and obtaining all necessary permits.
 - e. Avoiding cleaning, fueling, or maintaining vehicles on-site, except in a designated area where wash water is contained and treated.
 - f. Delineating with field markers clearing limits, easements, setbacks, sensitive or critical areas, buffer zones, trees, and drainage courses.
 - g. Protecting adjacent properties and undisturbed areas from construction impacts using vegetative buffer strips, sediment barriers or filters, dikes, mulching, or other measures as appropriate.
 - h. Performing clearing and earth-moving activities only during dry weather.
 - i. Limiting and timing application of pesticides and fertilizers to prevent polluted runoff.
 - j. Limiting construction access routes and stabilizing designated access points.
 - k. Avoiding tracking dirt or other materials off-site; cleaning off-site paved areas and sidewalks using dry sweeping methods.
 - l. The contractor shall train and provide instructions to all employees and subcontractors regarding the construction best management practices.
 - m. The approved erosion and sediment control plan shall be implemented prior to the beginning of construction.
9. The garage shall be converted back to use as two-car covered parking prior to final approval of the building permit. The applicant shall resubmit building permit plans that show this. The driveway shall be kept clear of all tents, temporary structures, and other debris.

Building Inspection Section

- 10. Prior to pouring any concrete for foundations, written verification from a licensed surveyor must be submitted which will confirm that the required setbacks as shown on the approved plans have been maintained.
- 11. A site drainage plan will be required. This plan must demonstrate how roof drainage and site runoff will be directed to an approved disposal area.

12. Sediment and erosion control measures must be installed prior to beginning any site work and maintained throughout the term of the permit. Failure to install or maintain these measures will result in stoppage of construction until the corrections have been made and fees paid for staff enforcement time.
13. All drawings must be drawn to scale and clearly define the whole project.
14. Walls closer than 5 feet to the property line are required to be fire rated.

Department of Public Works

15. Prior to the issuance of the Building permit or Planning permit (for Provision C3 Regulated Projects), the applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed project and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off of the property shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state. Recommended measures shall be designed and included in the improvement plans and submitted to the Department of Public Works for review and approval.
16. Prior to the issuance of the Building Permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.

Menlo Park Fire Protection District

17. Install a NFPA 13-D fire sprinkler system under a separate fire permit since the remodel-alteration-renovation exceeds 50% of the existing floor area. Provided plans illustrate an existing floor area at 1,460 sq. ft. with an area added and or renovated totaling 2,920 sq. ft. resulting in a total renovation at 200% of the existing floor area. Fire sprinkler system to comply with Menlo Park Fire Protection District Standards.
18. Residential fire sprinkler shall have an interior alarm, activated by the flow switch that is audible in all sleeping areas.
19. Fire flow data to be provided at time of deferred submittal for the fire suppression system.
20. Install smoke detectors in each sleeping area and the area outside sleeping areas. Install carbon monoxide detector outside sleeping areas. Smoke and carbon monoxide detectors shall be hardwired and interconnected for alarm.

21. The applicant shall provide at least 4-inch tall with 1/2-inch stroke illuminated address numbers. The address shall be visible from the street and contrasting to its background. Address numbers shall be maintained.
22. Approved plans and approval letter must be on site at the time of inspection.
23. Final acceptance of this project is subject to field inspection.

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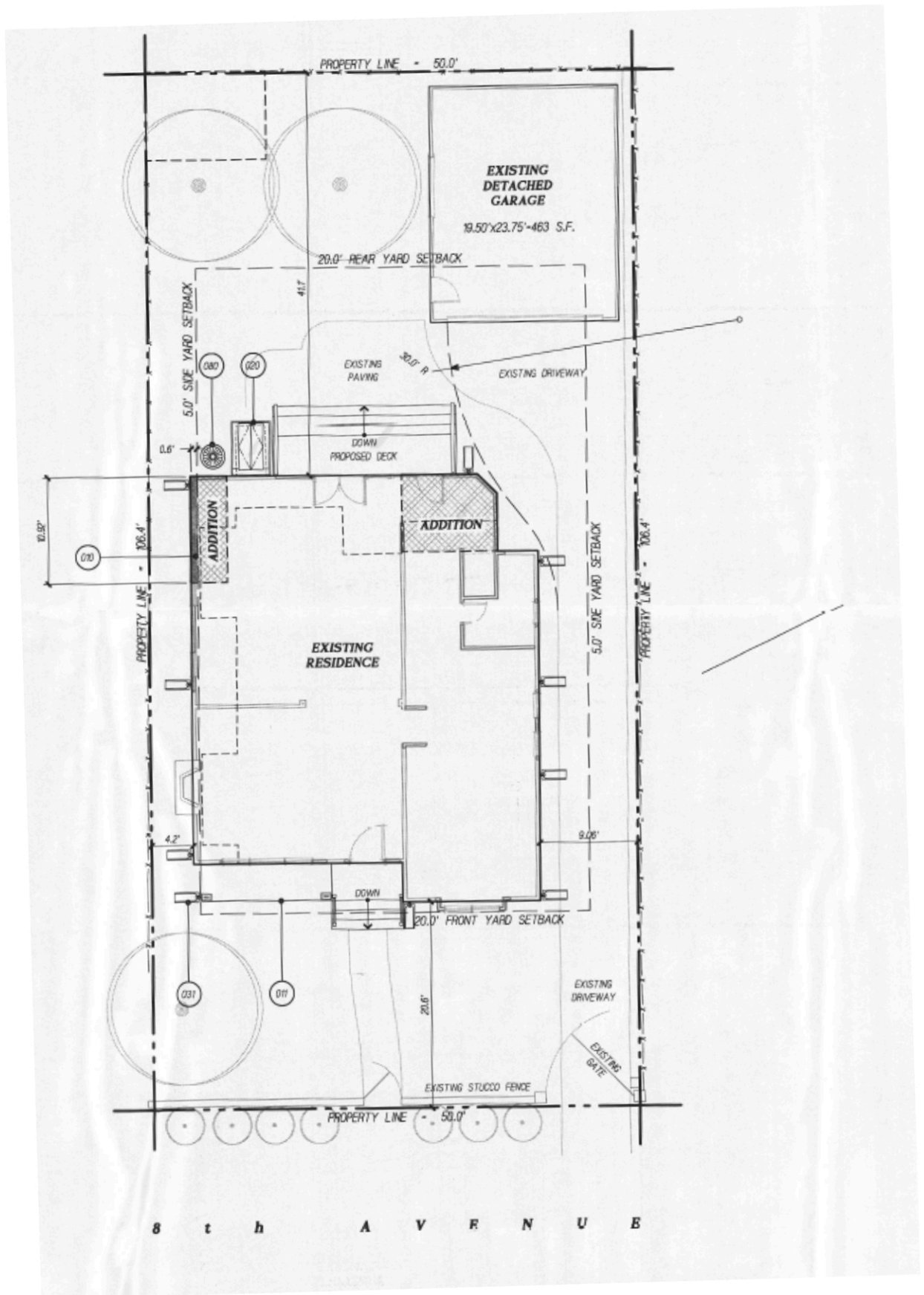


San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



San Mateo County Planning Commission Meeting

Owner/Applicant:

Attachment:

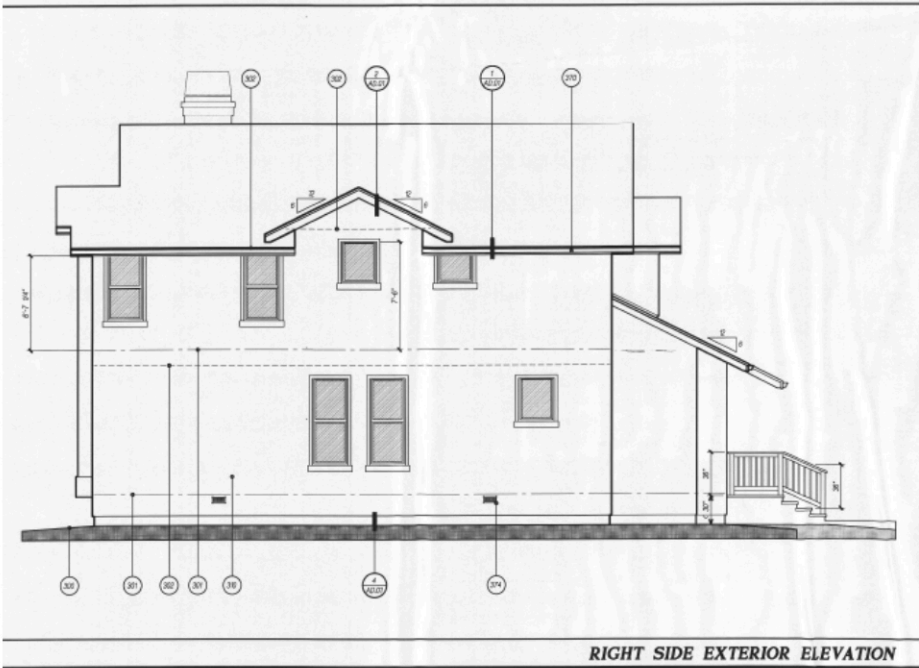
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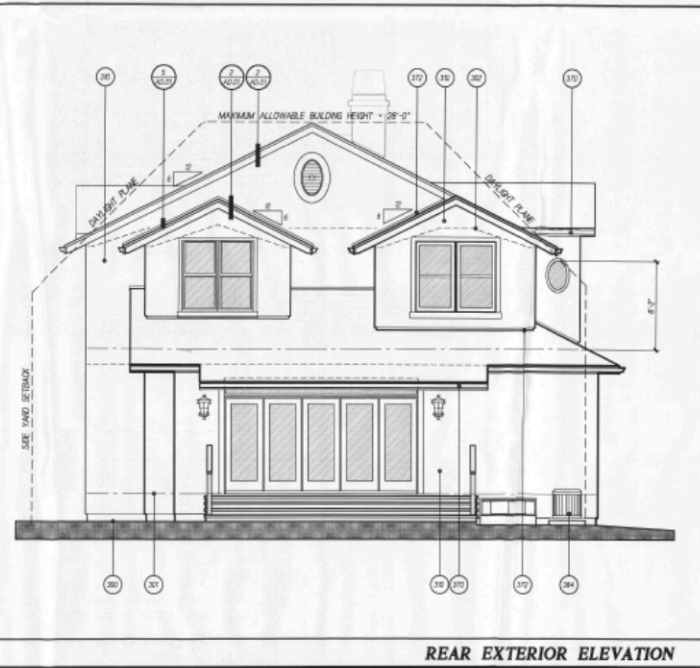
LEFT SIDE EXTERIOR ELEVATION



FRONT EXTERIOR ELEVATION



RIGHT SIDE EXTERIOR ELEVATION



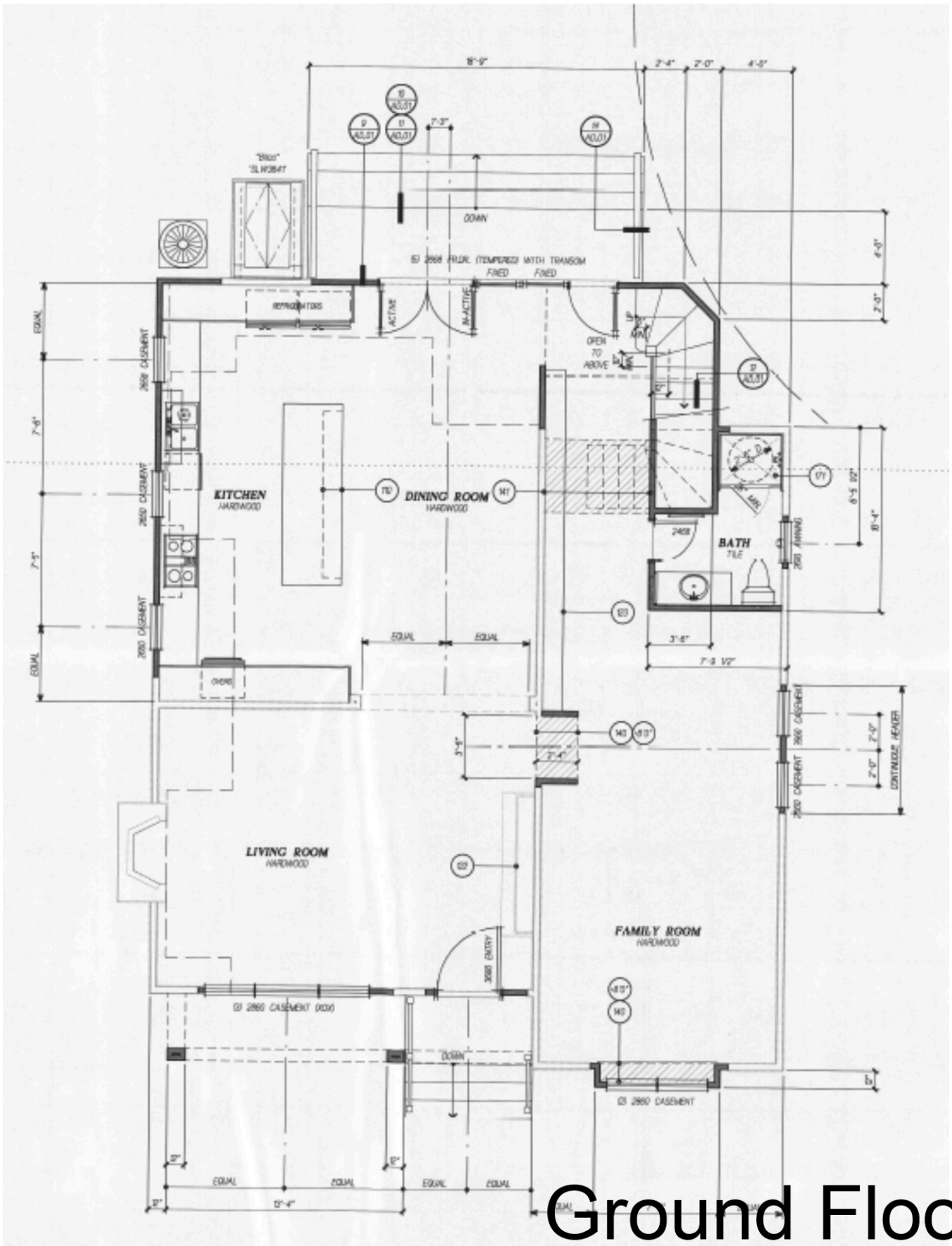
REAR EXTERIOR ELEVATION

San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



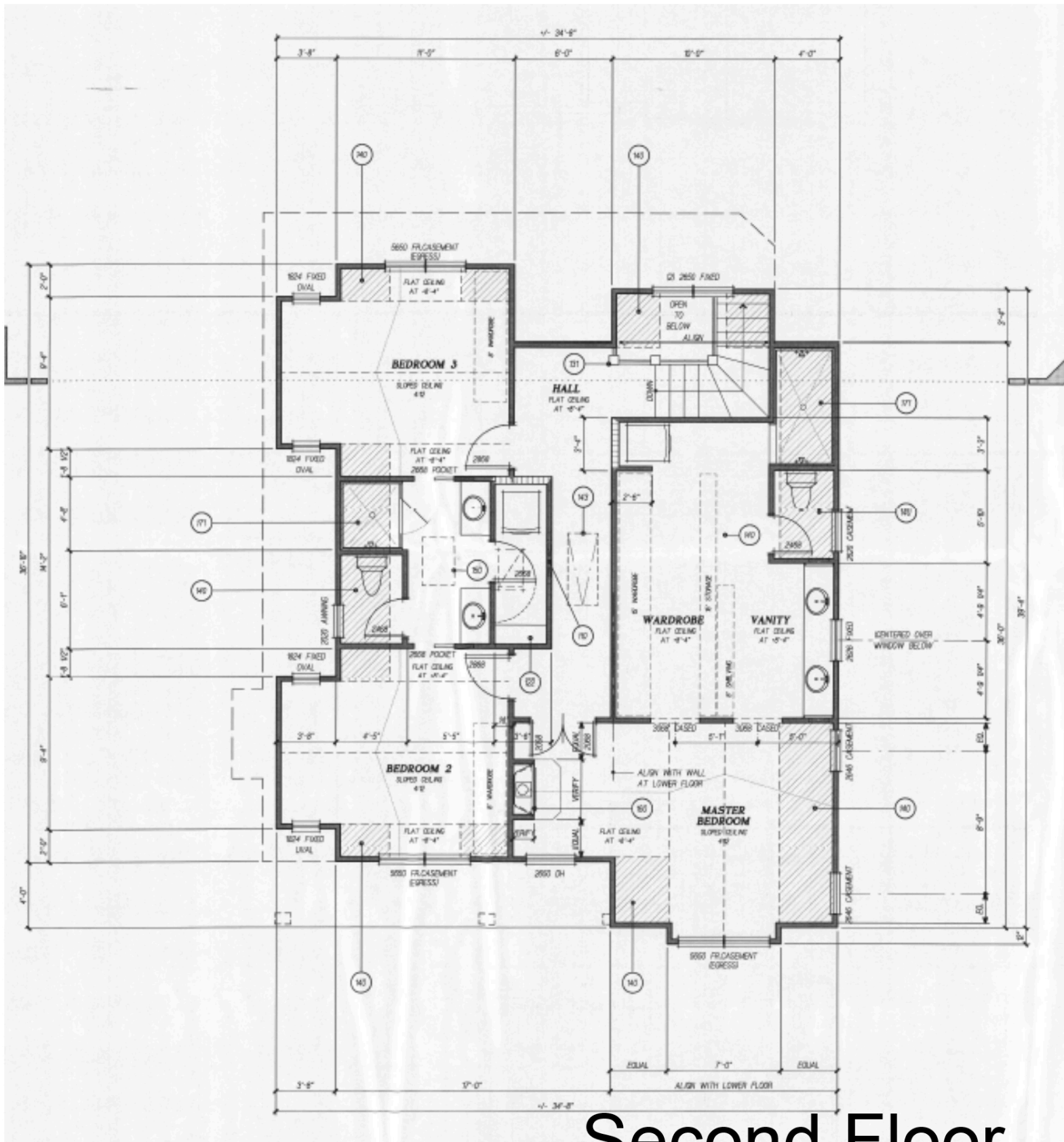
Ground Floor

San Mateo County Planning Commission Meeting

Owner/Applicant: _____

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File Numbers: _____



Second Floor

San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



FRONT OF HOUSE BEHIND HEDGE

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant:

Attachment:

File Numbers:



San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



**OBSTRUCTED DRIVEWAY AND
CONVERTED GARAGE**

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____