

**Agenda Date: 05-12-14
CITY COUNCIL MEMO**

Agenda item: Consider Requests of Mary Santiago, 2895 West Road: 1) Variance to exceed the maximum permitted impervious surface area; and 2) Alteration of a non-conforming structure permit for the construction of a porch addition.

Summary: Mary Santiago is requesting a variance to exceed the maximum permitted impervious surface area by 2% for the construction of a 192 square foot screened porch addition.

- **Ordinance Section 900.10(2) permits a maximum impervious surface area of forty-five (45) percent of the lot area for lots less than 16,500 square feet serviced by municipal water and sanitary sewer with the issuance of a conditional use permit. The applicant proposes an impervious surface area of 47% and is seeking a variance to exceed the maximum permitted impervious surface area by 2.4%.**

The applicant currently has 45.2% impervious surface area on her property. This includes Groveland Homeowner Association (GHA) related impervious surface area consisting of a portion of a parking area and a walkway between the parking area and West Road. This constitutes approximately 300 square feet of impervious surface area.

The applicant is seeking a Permit for the Alteration of a Non-Conforming Structure for the construction of the 192 square foot screened porch addition onto the existing non-conforming home. The proposed porch will encroach four feet, two inches into the required front yard setback which is less than the existing structure encroaches into the required setback.

- **Section 900.06(1) of the City Ordinances permits the alteration of non-conforming structures provided the alteration would not exceed 50% of the existing footprint and not extend into the required setbacks by any distance greater than the existing main building.**

STAFF RECOMMENDATION:

Staff recommends **Approval** for the variance of Woodland Ordinance Code section 900.10(2); to exceed the maximum permitted impervious surface area by 2.4% as presented 2895 West Road.

FINDINGS BASED ON THE REVIEW AND APPROVAL PROCESS IN SECTION 900.14 OF THE ORDINANCE:

Findings:

- a. The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance:

The spirit and intent of the ordinance is to minimize the impact of impervious surface area on the drainage in the city by limiting its percentage on a lot by lot basis. The subject property currently exceeds the maximum permitted percent by 1.2% (103 sq. ft.). The request would increase the non-conformity by adding an additional 192 sq. ft. of impervious surface area for a total percentage of 47.4%.

The proposed increase would be contrary to the spirit and intent of the ordinance if there were an opportunity to remove an equal amount, or more, impervious surface area to maintain or comply with the required impervious surface requirements. Given the amount of impervious surface area on the property that is not controlled by the applicant would allow the percentage to be reduced to the allowable amount. There is not an opportunity for the applicant to comply with the ordinance.

The proposed screened porch alteration would not have a negative impact on any of the goals and standards outlined in the Comprehensive Plan.

- b. The variance request is consistent with the comprehensive plan:

The request is consistent with the Comprehensive Plan in that it maintains the single family nature of the neighborhood.

- c. The proposal puts the property to use in a reasonable manner:

The proposed use puts the property to a reasonable by creating additional, seasonal only, living space which would not increase the existing encroachment.

- d. There are circumstances unique to the property not created by the landowner:

There is approximately 300 square feet of impervious surface area not controlled by the applicant. If this area could be removed, the applicant would no longer require a variance, rather a conditional use permit which has a lower approval threshold.

- e. The variance(s) will not alter the essential character of the locality:

The essential character of the neighborhood would not be impacted by the increase in impervious surface area or the placement of the proposed screened porch

STAFF RECOMMENDATION:

Staff recommends **Conditional Approval** for a Permit for the Alteration of a Non-Conforming Structure for the construction of a 192 square foot porch addition onto an existing non-conforming home as presented at 2895 West Road. The proposed addition will maintain the greatest encroachment of four feet, two inches into the required front yard setback where it attaches to the existing non-conforming home.

- The recommendation is conditioned that the screened porch not be enclosed and remain seasonal only.

FINDINGS BASED ON THE REVIEW AND APPROVAL PROCESS IN SECTION 900.06 OF THE ORDINANCE:

- a. The proposed addition will maintain the greatest encroachment of the existing structure into the required front yard setback where it attaches to the existing non-conforming home. The motion is based on the following findings: **(a) the alteration will enhance the general character of the community; (b) the magnitude of the proposed alteration is consistent with the surrounding area; (c) there will no negative impact on the use and enjoyment of surrounding properties; (d) there is reasonable separation between the proposed alteration and structures on adjoining properties; (e) there would be no effect on the light and visibility available to the adjoining properties; (f) the proposal would not have a negative impact on property values; (g) there are no concerns related to fire safety in regards to the proposal; (h) the size of the lot and the location of the structure creates a unique situation where the alteration of the home must take place on the front side of the home otherwise a variance would be required; and (i) the existing/proposed encroachment would be maintained.**



**Agenda Date: 05-12-14
CITY COUNCIL MEMO
Variance Request**

Agenda Item: Consider Variance Request, Mary Santiago, 2895 West Road

Summary: Copies of the application materials and staff report are attached for the City Council's reference. Notice of the public hearing was published in the Sun-Sailor newspaper on April 17, 2014. The City Council will hold a public hearing at their May 12, 2014 meeting. The Council shall consider the public comments, applicant's comments, application materials, staff report and **must** address city code Section 900.14, Subdivision 5; "Variance Findings", as well as any conditions prior to taking any official action in the form of a motion.

Council Action: Action required by June 2, 2014. Potential motions ...

1. **Approval Motion:** I move the council accept the recommendation of staff and **approve** the application of Mary Santiago for a variance of Woodland Ordinance Code section 900.10(2); to exceed the maximum permitted impervious surface area by 2.4% as presented, based on the following findings:

- a. The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance:

The spirit and intent of the ordinance is to minimize the impact of impervious surface area on the drainage in the city by limiting its percentage on a lot by lot basis. The subject property currently exceeds the maximum permitted percent by 1.2% (103 sq. ft.). The request would increase the non-conformity by adding an additional 192 sq. ft. of impervious surface area for a total percentage of 47.4%.

The proposed increase would be contrary to the spirit and intent of the ordinance if there were an opportunity to remove an equal amount, or more, impervious surface area to maintain or comply with the required impervious surface requirements. Given the amount of impervious surface area on the property that is not controlled by the applicant would allow the percentage to be reduced to the allowable amount. There is not an opportunity for the applicant to comply with the ordinance.

The proposed screened porch alteration would not have a negative impact on any of the goals and standards outlined in the Comprehensive Plan.

- b. The variance request is consistent with the comprehensive plan:

The request is consistent with the Comprehensive Plan in that it maintains the single family nature of the neighborhood.

- c. The proposal puts the property to use in a reasonable manner:

The proposed use puts the property to a reasonable by creating additional, seasonal only, living space which would not increase the existing encroachment.

- d. There are unique circumstances to the property not created by the landowner:

There is approximately 300 square feet of impervious surface area not controlled by the applicant. If this area could be removed, the applicant would no longer require a variance, rather a conditional use permit which has a lower approval threshold.

e. The variance, if granted, will not alter the essential character of the locality:

The essential character of the neighborhood would not be impacted by the increase in impervious surface area or the placement of the proposed screened porch

Subject to the following conditions: _____

2. **Denial Motion:** I move the council **deny** the application Scott Severson for a variance of Woodland Ordinance Code section 900.10(2); to exceed the maximum permitted impervious surface area by 2.4% as presented, based on the following findings:

- a. The variance(s) **will NOT** be in harmony and keeping with the spirit and intent of the zoning ordinance:
- b. The variance(s) **will NOT** be consistent with the comprehensive plan:
- c. In proposal **will NOT** put the property to use in a reasonable manner:
- d. There are **NOT** circumstances unique to the property not created by the landowner:
- e. The variance(s) **WILL** alter the essential character of the locality:

3. **Motion for Additional Time:** I move the Council directs staff to draft written notice stating the City Council will extend the 60-day time limit to take action on the request until August 1, 2014 as permitted by MN Statute 15.99 for the following reason(s) _____.

Note: MN statute 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).

Variance Application

City of Woodland

20225 Cottagewood Road

Deephaven, MN 55331

952-474-4755

www.cityofwoodlanmn.org



Applicant is (circle one) Owner Developer Contractor Architect Other _____

Property address for which variance is requested 2895 WEST ROAD

Applicant (individual or company name): Mary Santiago

Contact for Business: NA Title: NA

Address: NA City: _____ State: _____ Zip: _____

Wk Phone: Cell 612.267.9863 Hm Phone: 952.473.1902

Email address: SNARE52@aol.com Fax: _____

Present use of property: single family

Property acreage: _____ Acres 8600 Square Feet

Existing Variances: Yes X No _____

If yes, please explain setbacks

Describe Request: Build New _____ Add On X Remodel _____ Replace _____

What is the Variance being requested for: impervious surface

Variance for:

	Required	Proposed
Side Yard	_____ feet	_____ feet
Front Yard	_____ feet	_____ feet
Rear Yard	_____ feet	_____ feet
Lake setback	_____ feet	_____ feet
Building height	_____ feet	_____ feet
Structure height	_____ Feet	_____ feet
Wetland	_____ feet	_____ feet
<u>X</u> Impervious Cover	<u>45%</u> sq ft	<u>47%</u> Sq ft
Shoreland	_____ feet	_____ feet
Massing	_____ volume	_____ volume
Other	_____ feet	_____ feet

If other, please explain

MAKING YOUR CASE FOR THE GRANT OF A VARIANCE

STATE LAW: Minnesota Statutes 462.357 controls the grant of variances to established zoning codes. Before a variance can be granted the Applicant must establish to the satisfaction of the City that: A) Strict enforcement of the applicable code would cause a practical difficulty because of circumstances unique to the individual property under consideration, and, B) the grant of the requested variance will be in keeping with the spirit and intent of the ordinance.

"Practical Difficulty" as used in connection with the granting of a variance means: 1) the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls; 2) the plight of the landowner is due to circumstances unique to the property not created by the landowner, and 3) the variance, if granted, will not alter the essential character of the locality.

NOTICE: Simple inconvenience of a landowner or occupant, including self-created situations, are not considered a practical difficulty under Minnesota case law.

Economic considerations alone shall not constitute a practical difficulty if reasonable use of the property exists under the ordinance. (MN Statutes 462.357)

If you have difficulty in establishing a practical difficulty please consider alternatives to your construction plans that may remove the need for a variance.

The Applicant must respond fully and in detail to each of the following questions and data requests or the Application may be rejected as incomplete.

Establishing that the requested variance will be in keeping with the spirit and intent of the Zoning Code:

The requested variance, if granted, will be in keeping with the spirit and intent of the City Zoning because:

Proposal seeks to upgrade existing structure in keeping with stated goals of the City.

Establishing Practical Difficulty:

1. The landowner's (Applicant's) property cannot be put to a reasonable use if used under conditions allowed by the official controls because:

Proposed use is reasonable, but lot size prevents compliance with ordinance.

2. The plight of the landowner (Applicant) is due to circumstances unique to the property not created by the landowner property because:

The amount of non-conforming impervious surface is associated with a use other than that of property ^{owner}.

3. The variance, if granted, will not alter the essential character of the locality because:

Proposed addition increasing amount of impervious surface would maintain existing setbacks.

Establishing the variance, if granted, will not adversely impact the rights of others:

Describe the effect of the variance, if granted, on neighboring properties and on the neighborhood in general:

Proposed addition would have a positive impact on the neighborhood

Describe the effect of the variance, if granted, on supply of light and air to adjacent properties.

None

Describe the effect of the variance, if granted, on traffic congestion in the public street.

None

Describe the effect of the variance, if granted, on the danger of fire.

None

Describe the effect of the variance, if granted, on the danger to public safety.

None

Describe the effect of the variance, if granted, on established property values in the surrounding area.

Proposed addition would not have a negative impact on property values.

Describe the effect of the variance, if granted, on the impairment of the public health, safety or welfare.

None

Applicant(s) have determined that the following approvals may be necessary from other regulatory bodies:

LMCD # 952-745-0789

Watershed District # 952-471-0590

Applicant's Acknowledgement & Signature(s)

This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name, and I am the party whom the City should contact about this application. The applicant certifies that the information supplied is true and correct to the best of his/her knowledge.

The undersigned also acknowledges that she/he understands that before this request can be considered and/or approved, all required information and fees, including any deposits, must be paid to the City, and if additional fees are required to cover costs incurred by the City, the City has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees.

An incomplete application will delay processing and may necessitate a re-scheduling of the review time frame. The application time line commences once an application is considered complete when all required information and fees are submitted to the City. The applicant recognizes that he/she is solely responsible for submitting a complete application being aware that upon failure to do so, the staff has no alternative but to reject it until it is complete or to recommend the request for denial regardless of its potential merit.

A determination of completeness of the application shall be made within 15 business days of the application submittal. A written notice of application deficiencies shall be mailed to the applicant within 15 business days of application.

I am the authorized person to make this application and the fee owner has also signed this application.

Applicant's Signature: Mary Santiago Date: 4/2/14

Signature: _____ Date: _____

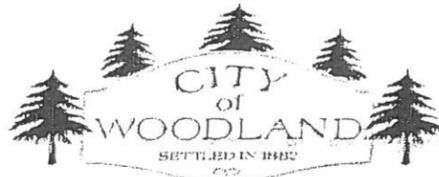
Owner's Acknowledgement & Signature(s)

I am / we are the fee title owner of the above described property. I / we further acknowledge and agree to this application and further authorize reasonable entry onto the property by City Staff, Consultants, agents, and City Council Members for purposes of investigation and verification of this request.

Owner's Signature: Mary Santiago Date: 4/2/14

Owner's Signature: _____ Date: _____

Note – Both signatures are required, if the owner is different than the applicant, before we can process the application, otherwise it is considered incomplete.



DATA PRIVACY ADVISORY

In accordance with Minnesota State Statute 13.04, Subd. 2, "Rights of subjects of data", we would like to inform you that your request for a permit or license from the City of Woodland or any of its departments may require you to furnish certain private or confidential information.

You are notified that:

- 1) The information that you furnish will be used to determine your qualifications for a permit, approval or license requested.
- 2) You may refuse to supply data, but refusal may require that the City deny the permit, approval or license.
- 3) The information you provide may be shared with other local, state or federal agencies to the extent necessary to process the permit, approval or license.
- 4) If your requested permit, approval or license requires Council action, the information may become public. A copy of your application, permit, approval or license will be placed in your public property file.
- 5) You have certain rights under Minnesota Statute, Section 13.04 to review private data on yourself.
- 6) Your full name is required to process this application or permit.

Applicant:

NAME: Mary Elizabeth Santiago
First Middle Last
 Address: 2895 WEST ROAD
Woodland MN 55391 952.473.1902
City State Zip Phone

I understand my rights as stated above

Mary Santiago 4/2/14
Applicant Signature Date

Owner:

NAME: same
First Middle Last
 Address: _____
City State Zip Phone

I understand my rights as stated above

Mary Santiago 4/2/14
Owner Signature Date

City of Woodland

20225 Cottagewood Road
Deephaven, MN 55331
952-474-4755
www.cityofwoodlandmn.org

Alteration of Non-Conforming Structure Ordinance. 90.05

Date Received: _____

Property Address 2895 WEST ROAD
Property Owner's Name Mary Santiago
Property Owner's Mailing Address: Same
Phone: 952.413.1902 Fax: _____

Applicant Other Than Property Owner (developer, contractor, designer):
Address: _____ City: _____
Phone: _____ Fax: _____ State: _____ Zip: _____
Email address: _____

What is the current nonconforming setback: front yard
How close would the proposed alteration be to any structure on the adjoining property 30'
What effect would the proposed alteration have on light and site lines available to the adjoining property
None

Can the proposed alteration be located elsewhere on the property? Yes _____ No
If yes, where _____
Property Lot Area: 8600 sq Existing % of Impervious Cover: 45%
Existing Variance, Special Use Permit or Alteration of Nonconforming Structure: Yes No _____
If yes, please explain front yard setback

Describe Alteration: Build New _____ Add on Remodel _____ Replace _____
Reason for Alteration of Non-conforming Structure: Explain reason for request and any special conditions that apply to the structure or land in question which are unique to the subject property:
To add to enhancement and enjoyment of existing structure.

ADVANCE SURVEYING & ENGINEERING CO.

5300 S. Hwy. No. 101 Minnetonka, MN 55345 Phone (952) 474 7964 Fax (952) 225 0502 WWW.ADVSUR.COM

SURVEY FOR: **MARY SANTIAGO**

SURVEYED: March, 2014

DRAFTED: March 5, 2014

REVISED: March 26, 2014, to show proposed porch.

LEGAL DESCRIPTION:

Lot 42, Block 1, Methodist Lakeside Assembly in Woodland, Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

1. Showing the length and direction of boundary lines of the above legal description. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct, and that any matters of record, such as easements, that you wish shown on the survey, have been shown.
2. Showing the location of existing improvements we deemed important.
3. Setting new monuments or verifying old monuments to mark the corners of the property.
4. Showing and tabulating hard cover area and the area of the lot for your review and for the review of such governmental agencies that may have jurisdiction over hard cover requirements.
5. It should be noted, that this survey was completed under "snow conditions" and we cannot be certain that all items were found due to the snow cover. If you are aware of any items that we may have missed, we could come back, if requested, and locate them after you have expose them or wait until the snow and ice has melted.
6. We were not provided any easement documentation. This survey does not purport to show easements, if any.

STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes 1/2" ID pipe with plastic plug bearing State License Number 9235, set, unless otherwise noted.

CERTIFICATION:

I hereby certify that this plan, specification, report or survey was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer and Licensed Land Surveyor under the laws of the state of Minnesota.

Signature: *James H. Parker* Typed Name: James H. Parker Reg. No.: 9235

Date: March 26, 2014

EXISTING HARDCOVER

HOUSE - 1,824 SQ. FT.
 DECK - 414 SQ. FT.
 BITUMINOUS DRIVE - 1,120 SQ. FT.
 BITUMINOUS PARKING - 282 SQ. FT.
 PAVER WALK/STEPS - 229 SQ. FT.
 RETAINING WALL - 19 SQ. FT.

TOTAL HARDCOVER - 3,888 SQ. FT.

LOT AREA - 8,606 SQ. FT.

COVERAGE - 45.2%

PROPOSED HARDCOVER

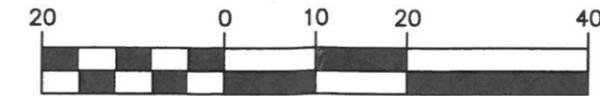
HOUSE - 1,824 SQ. FT.
 DECK - 414 SQ. FT.
 BITUMINOUS DRIVE - 1,120 SQ. FT.
 PROPOSED PORCH - 192 SQ. FT.
 PAVER WALK/STEPS - 229 SQ. FT.
 RETAINING WALL - 19 SQ. FT.

TOTAL HARDCOVER - 3,798 SQ. FT.

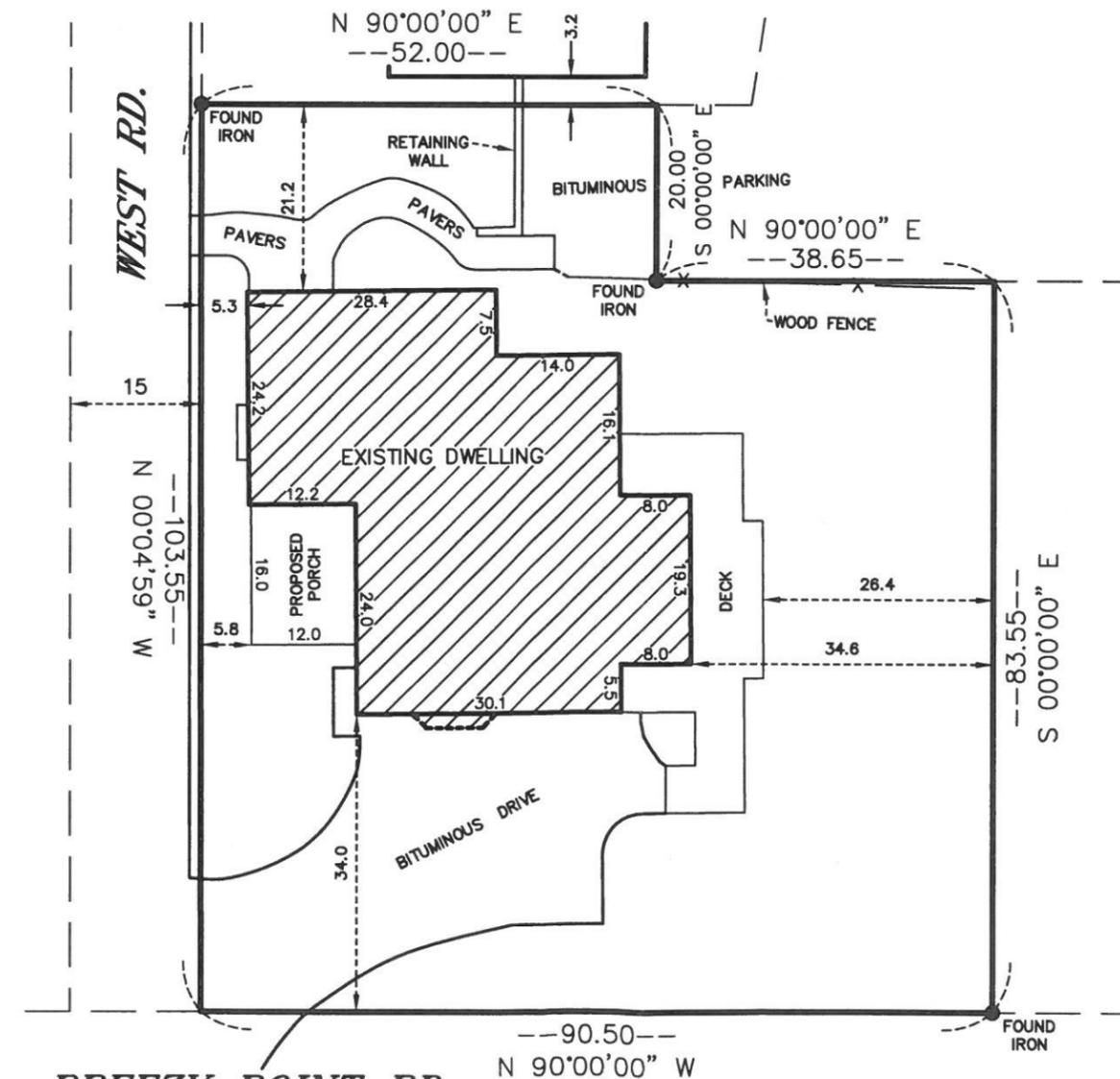
LOT AREA - 8,606 SQ. FT.

COVERAGE - 44.1%

GRAPHIC SCALE



(IN FEET)



BREEZY POINT RD.

DWG. NO. 140062 WP PROPOSED

Matters Considered. In granting or denying the permit, the Council may consider the following matters:

- (a) Whether the alteration maintains or enhances the general character and welfare of the community.
- (b) The magnitude and extent of the proposed alteration.
- (c) The resulting impact on the use and enjoyment of surrounding properties and other properties in the community.
- (d) The need for the proposed alteration in order to permit adequate use of the property.
- (e) The proximity of the proposed alteration to any structure on the adjoining property.
- (f) The effect of the proposed alteration on the light and visibility available to the adjoining property.
- (g) The extent of vegetation or other screening on the subject property and the adjoining property.
- (h) The effect on the property values of the subject property and the surrounding properties.
- (i) Matters of fire safety.
- (j) The ability to locate the proposed alteration elsewhere on the property.
- (k) Any unusual characteristics of the property related to the requested alteration.
- (l) The extent to which the existing structure is non-conforming.
- (m) Any other matters which may be relevant to the alterations being requested.

Applicant's Acknowledgement & Signature(s)

This application should be processed in my name, and I am the party whom the City should contact about this application. The applicant certifies that the information supplied is true and correct to the best of his/her knowledge.

The undersigned also acknowledges that she/he understands that before this request can be considered and/or approved, all required information and fees, including any deposits, must be paid to the City, and if additional fees are required to cover costs incurred by the City, the City has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees.

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Applicant's Signature: Mary Santiago Date: 4/2/14

Applicant's Signature: _____ Date: _____

Owner's Acknowledgement & Signature(s)

The owner further acknowledges and agrees to this application and further authorizes reasonable entry onto the property by City Staff, Consultants, agents and Council Members for purposes of investigation and verification of this request.

Owner's Signature: Mary Santiago Date: 4/2/14

Owner's Signature: _____ Date: _____

Note – Both signatures are required, if the owner is different than the applicant, before we can process the application, otherwise it is considered incomplete.