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## Memorandum

**DATE:** July 30, 2019  
**TO:** Zoning Administrator  
**FROM:** Kevin Canning, Contract Planner  
**SUBJECT:** August 1 Agenda Item #1 – PA19-0050 – Staff Report Addendum

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The subject application was continued at the request of the applicant to August 1<sup>st</sup> from the July 18<sup>th</sup> meeting in order to allow further input from the immediately adjacent neighbor. On July 15<sup>th</sup>, the neighbor had expressed concerns regarding the proposal but was not able to attend and speak at the July 18<sup>th</sup> public meeting.

This memorandum is intended to provide the Zoning Administrator information regarding a follow up meeting between the applicant and the adjacent neighbor.

On July 26, the applicants (Wendy Acquin and Paul Reimer) and the neighbor (Sharon McCubbin) who lives at 19082 Ervin Lane met with the assigned planner at County offices. Staff discussed findings regarding the existing fence/wall along the common property line, which the applicant seeks to replace with an 8-foot block wall (height as measured from neighbor's property). The following points were made:

- The existing fence, including the 13-inch high block base (that also serves as a retaining wall), is entirely located on the applicant's property, based upon a July 2017 survey submitted by the applicant (attached).
- In a response to staff, the applicant clarified their request regarding the desired height for this new wall. Rather than a minimum 8-foot wall (again, height as measured from neighbor's property), their desire was to replace and match the height of the existing fence.
- Based upon staff's inspection of the fence from the neighbor's property (which the applicant was not able to do), the maximum height of a replacement wall would be between 7 feet 2 inches and 7 feet 3 inches.
- Because they had not been allowed onto the adjacent property, they had requested a maximum 8-foot height because they were unsure of the measurement from the neighbor's side of the existing fence.

The neighbor (McCubbin) expressed concern for possible damages to hardscape, pool equipment, raised planters and landscaping on her property during the course of construction. Staff informed her that the applicants, or the applicant's contractor, would be responsible for the repair of any damages.

Various options were discussed resulting in agreement on the following new condition of approval:

Prior to the issuance of a grading or building permit, the applicant shall submit an acknowledgement in a manner meeting the approval of the Planning Division Manager, signed by the applicants and by Sharon McCubbin the neighbor at 19082 Ervin Lane that McCubbin has received a preconstruction survey of the existing condition of the improvements along and adjacent to the common property line. The purpose of the survey is only to establish a baseline of preconstruction conditions against possible damages to improvements on the McCubbin property during construction activities. The parties (applicants and McCubbin) may also enter into any other agreements regarding property access and/or limitations thereto that are deemed appropriate or beneficial to the two parties for the duration of the construction of the proposed wall. The County will not be a party to the survey or any agreements contained within it and is only requesting it as a demonstration of the continued cooperation expressed during the meeting of August 1, 2019.

Based upon the meeting with the concerned parties on August 1, 2019, Staff recommends that the Zoning Administrator takes the following action on Planning Application PA19-0050:

- a) Receive staff report and public testimony as appropriate;
- b) Find that the proposed project is Categorically Exempt (Class 3 – New Construction or Conversion of Small Structures) from the provisions of CEQA pursuant to Section 15303 of the CEQA Guidelines; and,
- c) Approve Planning Application PA19-0050 to allow:
  - a. A Variance to permit a sideyard setback of 5 feet 1 inch for a bathroom expansion; and,
  - b. A Use Permit to allow to a rear yard property line fence to be a maximum height of 9 feet and a west side property line fence to be a maximum height of 7 feet 3 inches
  - c. Both Variance and Use Permit approvals subject to the attached Findings and Revised Conditions of Approval.

Staff will also be available to respond further at the hearing.

#### ATTACHMENTS

1. Recommended Findings
2. Revised Recommended Conditions of Approval
3. Staff Report dated July 18, 2019 (including Findings and Previous Conditions)
4. McCubbin correspondence
5. Survey of common property line
6. Photos of McCubbin side yard area