

November 22, 2019

Lauren Anderson
Mercer Island Community Planning & Development

RE: Mercer Island Residence: Setback Deviation Request permit 1908-009
Site Address: 2035 81st Ave SE

Dear Ms. Anderson;

We received your plan review comments regarding the front yard setback for the above listed permit stating that in your most recent planner meeting you and your fellow planners made the interpretation that *"the front yard setback is measured 20 feet from the access easement, not the property line."* Per MICC 19.02.020 (C)(4) we are sending this letter to officially request a front yard setback deviation for this project.

Per Section 19.06.110(C) (which allows for a setback deviation in order to increase the protection of the critical areas on site) we are requesting the reduction of the front yard setback from 20' from the edge of easement to 10' from the edge of easement.

A deviation may be granted to projects meeting the following requirements:

Per sections 19.06.110 (C)(2)(b); (c) & (d) The granting of the deviation will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated; will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property; and is consistent with the policies and provisions of the comprehensive plan and the development code:

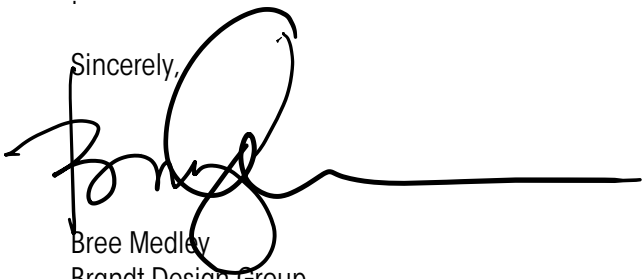
- There is an existing house on site with a footprint that does not conform with the prescribed 20' setback from the easement and would require a deviation to be built as-is. The footprint of that house steps along the easement with an average setback from the easement of 15' with the closest portion being 11' from the easement. The majority of the proposed footprint will conform with a 20' setback; the only portion of the building that is proposed to be in the reduced setback area is the garage. The proposed house, even with the setback deviation, will therefore be less materially detrimental to the public welfare and will not at all alter the character of the neighborhood. By allowing the garage to be located 10' from the easement, it will minimize the amount of lot coverage in conformance with MICC 19.02.020(F)(3).
- It should be noted that the easement in questions serves one other single-family house. The fire marshal has already approved a setback of 10' from the easement, which suggest that the proposed setback deviation will not be materially detrimental to either public welfare nor the neighboring property.
- The proposed garage location is in a similar location at the (E) carport and would not create an obstruction nor impede the development on adjacent properties
- The easement and the proposed house are below the city street which allows them to be screened from the street with vegetation (that the City controls) and both sit below the level of the street; neither one has any kind of negative impact to the street and therefore the additional measure of requiring that the house be set back 20' from the edge of the easement is unnecessary in this instance.
- Per sections 19.06.110 (C)(2)(e) The basis for requesting the deviation is not the direct result of a past action by the current or prior property owner;

- The existing building was built in 1955, which is after the neighboring building that is served via the private road /easement. The current building was likely built to meet the setbacks as designated in 1955 with an easement in place.
- Per sections 19.06.110 (C)(2)(f) & (g) The setback deviation is associated with the approval of development of a single lot or subdivision that is constrained by critical areas or critical area buffers; The building pad resulting from the proposed deviation will result in less impact to critical areas or critical area buffers;
 - As you will see from our application, we are utilizing the foundation of the existing house as a portion of our site excavation strategy and the “bench” created by the lower floor of the existing house as a portion of our construction staging for the project. We have also designed the house to sit on that flat bench so as to reduce the amount of invasive excavation and import. If we are required to meet a 20’ front yard setback from the easement the following would occur, all of which run counter to the code itself and/or the intent of the code;
 - Steep Slope Impacts: Per MICC 19.07.100(A) we are installing a soil stabilization shoring wall in conjunction with the building foundation. A 20’ setback would require the proposed building move to the north, which in turn would require the soil stabilization wall to move to the north, this shift would minimize the amount of (E) pad we could utilize for the foundation and require the stabilization wall to be drilled well into the undisturbed portion of the site which also happens to be part of a steep slope.
 - Critical Areas Impact: If we were to push the building to the North towards the slope, we would also need to push the building down into the earth in order to meet the height requirements as designated in MICC19.02020(E). This would also limit the ability to develop the house to the allowable GFA as provided MICC19.02.020(D). In addition to these limitations, a lower building pad would create a greater amount of excavation as well as the need to then import a great deal of non-native soil and place it uphill of the wall and therefore over the native vegetation and topography of the site. Our current design is in keeping with the Critical Area Best Management Practices as well as the city’s Low Impact Development BMP’s, while the net result of requiring a 20’ front yard setback would force the project to be out of compliance with those Practices.
 - Tree Impacts: By utilizing the existing foundation and building pad to minimize excavation, we have minimized the impact to significant and exceptional trees as prescribed in Sections 19.10.060 and 19.10.080. If we have to meet the 20’ front yard setback, the house would push further into the driplines and root systems of the trees we wish to save. This could have a dire impact on several big trees on the property and therefore runs counter to the language and intent of Section 19.10.

In conclusion, we believe we have met the requirements of section 19.06.110(C) that allows for a setback deviation in order to increase the protection of the critical areas on site and would request our front yard deviation be approved. We recognize the importance of setbacks in order protect the street/public from large and overbearing houses, however we feel that the minimal street presence impact of a reduced 10’ front yard setback given the nature of this particular site and in conjunction with the proposed design easily outweigh the negative impacts to the critical areas and trees that would come with a 20’ front yard setback

We appreciate your time in consideration of our requested front yard setback deviation. Please feel free to reach out with any questions or if you would like to further talk through our request.

Sincerely,



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