

**28.92.130 Minor Zoning Exceptions for Errors in Zoning Information Reports****A. Purpose.**

A Minor Zoning Exception is a method of resolving a discrepancy or error in a Zoning Information Report (ZIR) prepared by the City pursuant to Section 28.87.220 of this Code. If a discrepancy or error in a ZIR involves one or more of the zoning violations specified in Subsection B, the property owner may request a Minor Zoning Exception to obtain relief from the zoning standard up to the maximum amount of relief specified for the particular zoning standard, subject to the findings specified in Subsection C.

In order to qualify, the discrepancy or error in the ZIR must involve a failure of City staff to properly identify a zoning violation, or a mischaracterization of the legality or illegality of an existing improvement on the real property, that is related to the relief requested. A decision on a requested Minor Zoning Exception is an administrative action of the Community Development Director, or the Director's designee, without public notice or hearing. In order to grant a Minor Zoning Exception, the Community Development Director or his or her designee must make the findings specified in Subsection C.

**B. Unpermitted Improvements Eligible for Minor Zoning Exceptions.**

If a discrepancy or error in a ZIR involves one of the unpermitted improvements listed below, the property owner may request a Minor Zoning Exception:

**1. Unpermitted Alterations to Properties with Legal Nonconforming Buildings.**

The following unpermitted additions or alterations to existing structures that are legal nonconforming as to setbacks, open yard area, residential density, or distance between buildings are eligible to apply for a Minor Zoning Exception, subject to the findings specified in Subsection C:

**a. Conversion of an Encroaching Garage or Carport to Other Parking.**

Where a carport or garage encroaches into any setback or required open yard or does not meet the minimum separation between buildings, the conversion of the carport to a garage or the garage to a carport may be granted a Minor Zoning Exception, provided the proposed garage or carport meets minimum interior dimensions of 20 feet by 20 feet or an exception from that standard is approved by the Public Works Director or designee.

**b. Conversion of an Encroaching Garage to Another Use.** The conversion of a garage that encroaches into a setback to a use other than parking (such as storage, workshop, bedroom, or similar) may be granted a Minor Zoning Exception, subject to the finding specified below in Section 28.92.130.C.2.a.

**c. Encroaching First Story Windows.** If a building encroaches into an interior or rear setback, the addition of new windows to, or the enlargement or relocation of existing windows on, the first story of the encroaching wall may be granted a Minor Zoning Exception.

d. **Exterior Alterations in the Front Setback.** If a building encroaches into the front setback, exterior alterations (i.e., windows, doors, skylights, façade changes, etc.) to the portion of the building that encroaches within the front setback may be granted a Minor Zoning Exception.

e. **Encroaching Ground Floor Additions.** If a building encroaches into an interior setback, a ground floor addition that encroaches into the same interior setback may be granted a Minor Zoning Exception, so long as the total square footage of the addition does not exceed 250 square feet and the addition does not result in a new residential unit or an increase in residential density.

f. **Alterations to Roof Height.** If a structure encroaches into a setback, alterations to the roof height of the portion of the structure that is within a setback may be granted a Minor Zoning Exception as long as the alteration does not increase the building height of the portion of the building within the setback by more than one foot.

g. **Cantilevered Architectural Features and Chimneys.** New or altered cantilevered architectural features (such as cornices, canopies, bay windows or eaves) that are at least three feet above adjacent grade or finished floor (whichever is higher) and which do not provide additional floor area within the building) or chimneys that encroach no more than an additional two feet into a setback may be granted a Minor Zoning Exception. However, no cantilevered architectural feature or chimney shall be located closer than three feet from any property line, except roof eaves, which may be located as close as two feet from any property line.

h. **Uncovered Balcony in the Front Setback.** An uncovered balcony within the front setback that does not provide additional floor area within the building and which does not extend more than an additional two feet into the front setback may be granted a Minor Zoning Exception. However, no balcony shall be located closer than 3 feet from the front property line.

i. **Addition of an Encroaching Landing or Front Porch.** In the front setback, a covered or uncovered front porch and any associated steps, not extending above the finished floor level of the ground floor, and not exceeding six (6) feet wide by four (4) feet deep may be granted a Minor Zoning Exception, as long as it is no closer than three (3) feet from the front lot line. In the interior setback, an unenclosed, uncovered, entrance landing and outside steps not extending above the finished floor level of the ground floor may be granted a Minor Zoning Exception to encroach an additional three (3) feet into a setback. However, no entrance landing shall be closer than two (2) feet from the interior property line, and the size of the landing and steps may not exceed the minimum area required by the building code.

2. **“As-built” Addition or Expansion of Hardscape, Landscape or Site Improvements.** The “as-built” addition or expansion of the following hardscape, landscape, or site improvements that encroach into setbacks, required open yard area, or the minimum distance between buildings may be granted a Minor Zoning Exception, subject to the findings specified in Subsection C:

- a. Decks with a total area of not more than 200 square feet, attached to a main building, and not extending above the finished floor level of the ground floor;
- b. Fountains, ponds, and similar water features;
- c. Trash enclosures; and,
- d. Decorative features, mailboxes, flagpoles, sculptures. The cumulative area of such features shall not exceed 50 square feet in the front yard or cover more than 20% of open yard. However, the exceptions under this paragraph 2 are not available to allow the encroachment of BBQs, exterior fireplaces, or raised fire pits into setbacks.

3. **“As-built” Detached Accessory Buildings.** An “as-built” detached accessory building that encroaches into an interior or rear setback may be granted a Minor Zoning Exception if it satisfies all of the following criteria and subject to the findings specified in Subsection C:

- a. The floor area of the building is not more than 120 net square feet; and
- b. The accessory building is not a separate residential unit; and
- c. The building was constructed prior to August 1, 1975; and
- d. The building is not located within the front yard or required open yard or outdoor living space.

4. **Oversized Accessory Buildings.** Accessory building(s) or garage(s) which exceed the size limits established by Section 28.87.160.C of this Code by no more than 100 square feet and were built prior to August 1, 1975 may be granted a Minor Zoning Exception, provided the accessory building meets the open yard and building height standards of the Zoning Ordinance and subject to the findings specified in Subsection C.

5. **Additions Exceeding the Maximum FAR.** Additions of floor area to a residence that exceeded the maximum allowed Floor to Lot Area Ratio (FAR) in effect at the time the errant ZIR was prepared may be granted a Minor Zoning Exception, if the additional floor area is contained within the volume of the legally permitted building (i.e., a loft, cellar, etc.) and subject to the findings specified in Subsection C.

### **C. Findings.**

1. In order to grant a Minor Zoning Exception, the Community Development Director or his or her designee must make all of the following five (5) findings:

- a. A material discrepancy or error has occurred in the preparation of a Zoning Information Report regarding the subject property and the discrepancy or error directly involves the zoning standard from which relief is sought.

b. Substantial evidence has been provided that indicates the improvement for which relief is sought existed in its current form on the site prior to January 1, 1980 or, in the case of accessory structures, August 1, 1975.

c. The Minor Zoning Exception does not involve the permanent removal of a significant component or a character defining element from a historic resource, potential historic resource, or an un-surveyed building located in a Demolition Review Study Area which is more than 50 years old.

d. Any as-built additions that are uniform extensions of the legal non-conforming portion of the building and are generally no closer to the property line in question than the legal non-conforming portions of the building.

e. The improvement is located in general compliance with the Single Family Design Board's Good Neighbor Guidelines.

2. The following additional findings shall be made, if applicable to the requested Minor Zoning Exception:

a. For improvements in the required open yard or minimum distance between buildings, the site will maintain adequate yard areas to provide light and air, separation of buildings, and privacy and enjoyment of occupants.

b. For garage conversions, the number and configuration of parking space(s) required at the time of the conversion is provided on site.

c. For improvements that increase the height of the building, the final height of the altered building complies with the maximum building height and building story limitations for the applicable zone.

d. For improvements within the front setback, the height and location shall comply with the corner lot and driveway sight line standards established by the Public Works Director.

#### **D. Conditions.**

In granting a Minor Zoning Exception, the Community Development Director, or the Director's Designee, may prescribe conditions necessary to minimize potential adverse impacts on neighboring properties that relate to the requested Minor Zoning Exception and are proportionate to the potential impacts on neighboring properties.

#### **E. Decisions.**

A decision on the Minor Zoning Exception request pursuant to this Section is final and effective when the decision is made.