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- **“Initial Submissions”**: Compliant submissions received no later than by end of day Monday of the week prior to the meeting, which are not integrated by reference or exhibit in the Staff Report, will be appended at the end of the Staff Report. The Staff Report is linked to the case number on the specific meeting agenda.
- **“Secondary Submissions”**: Compliant submissions received after the Initial Submission deadline up to 48-hours prior to the Commission meeting are contained in this file and bookmarked by the case number.
- **“Day of Hearing Submissions”**: Compliant submissions after the Secondary Submission deadline up to and including the day of the Commission meeting will be uploaded to this file within two business days after the Commission meeting.

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SECONDARY SUBMISSIONS

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All materials in response to a Recommendation Report or additional comments which were received by the Commission Executive Assistant electronically no later than 48 hours prior to the Commission meeting AND which do not exceed ten (10) pages including exhibits are included in this file.

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Supplemental Response from Applicant / Appellant

In RE: 3565 KNobhill Drive, Sherman Oaks, CA	ASSESSORS PARCEL No.: 2274-007-004 Order Number: A-4206226 Case Number: 732379 DBS-180069-DCP Hearing Date: September 26, 2019 Hearing Time: 4:30 PM Hearing Location: Marvin Braude San Fernando Valley Constituent Services Center 6262 Van Nuys Boulevard, Room 1B Van Nuys, CA 91401
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SUMMARY:

Appellant requests reversal of the decision of the Assistant Zoning Administrator on the grounds that the decision fails to follow California law including the Building Code, Zoning Code and fails to exercise appropriate discretion granted to the Zoning Administrator for Adjustments and Slight Modifications. This summary is based upon the Appeal and all facts, law, reasoning and exhibits submitted in support thereof as well as all documents and arguments in the underlying applications, appeals and the City record on the matter from 2011 to the present time.

RELEVANT LAW:

The exercise of appropriate discretion is required by the Los Angeles Municipal Code as follows:

Section 12.28A- Adjustments. The Zoning Administrator shall have the authority to grant adjustments in the Yard, area, Building line and height requirements of Chapter 1 of this Code. An adjustment shall not be permitted for relief from a density (Lot area per unit) or height requirement, excluding fences and hedges, if the request represents an increase of 20 percent or more than what is otherwise permitted by this Code. A request for an increase of 20 percent or more shall be made as an application for a variance pursuant to Section 12.27 of this Code, except as may be permitted by other provisions of Chapter 1 of this Code.

Section 12.28B- Slight Modifications - Authority of Zoning Administrator. **The Zoning Administrator shall have the authority to grant slight modifications in the yard and area requirements of Chapter 1 of this Code where circumstances make the literal application of the yard and area requirements impractical.** Slight Modifications from the yard and area requirements shall be limited to:

1. deviations permitting portions of buildings to extend into a required yard or other open space a distance of no more than 20 percent of the width or depth of the required yard or open space only when the request is filed incidental to another application or appeal within the jurisdiction of the Zoning Administrator; and

2. **deviations of no more than ten percent from the required lot area regulations.** In those cases, the procedures for notice, hearing, time limits and appeals shall be the same as those applicable to the underlying application or appeal.

In granting a slight modification, a Zoning Administrator **may impose conditions** related to the interests addressed in the findings set forth in Subdivision 4. of Subsection C. below.

ARGUMENT:

Both the Los Angeles Department of Building and Safety and the Zoning Administrator serving in an appellate capacity have erred in failing to exercise appropriate discretion to allow a garden shed to remain in the same location and condition that it has been in since a 2013 settlement with the City involving both Building Code and Zoning Code issues. The present appeal is brought to the City to avoid litigation with the City on a matter, hardly worthy of City attention that is well within the discretion of the Zoning Administrator.

There are a number of issues on appeal including, most notably, the failure of the city to honor its 2013 express agreement with the Homeowner allowing the Homeowner to keep the shed in its current location, at the current size and without any plumbing or electricity. The Homeowner has honored its obligations under that agreement and the City, by the present enforcement action is seeking to breach its agreement. The existence of this settlement agreement is established by the City's own records noting that the previously identified condition both as to the "size" (B&S Issue) and "location" (Zoning Issues) was "in compliance" and the file was thereafter closed. It should be noted that as part of this settlement agreement the Homeowner was required to reduce the footprint of the shed from 8x12 to 8x8 and that the homeowner did so in reliance upon this settlement agreement and representation that this would end the discussion about the shed in its entirety. The Commissioner's summary of the evidence presented at the hearing fails to include the parole evidence of the settlement agreement mentioned in the appeal and identified above and simply denies relief on the grounds that the agreement is "not contained in the city files" when it is – and assumes that the agreement was verbal ignoring entirely the enforceability of verbal contracts. This is reversible error.

In addition, even outside of the settlement agreement, the position of the shed on the flat lot on the inside of a hairpin turn makes any application of zoning rules relating to front or back or side illogical and subject to massive interpretation and discretion. Interpretation of the code requires such mental gymnastics to come to any conclusion as to whether the code is applicable and assuming it is, to what extent that any decision here is replete with inappropriate and improper speculation and conjecture that no violation can be said to exist. Furthermore, given the intent of the Code to ask someone in the appellate chain of reason to do the right thing and exercise discretion in a manner that is consistent with the interests of the neighborhood, the following factors should be considered:

1. The shed is located on the back half of the portion of the lot in which it sits.
2. The shed meets and exceeds the prevailing setback in the neighborhood with respect to the street.
3. The shed is of a style and condition appropriate for the neighborhood.
4. Even if the interpretation of the code were so distorted so as to find a setback violation despite the nearly zero prevailing setback in the neighborhood, the "deviation" necessary under LAMC §12.28.B.2 would be far less than the 10% permitted. Specifically, if the prevailing setback is 3 feet and the actual setback of the shed is 3 feet there is a 0% deviation necessary to allow the

shed to exist in its current position. (Note: this is the reason the City allowed the shed to remain under the 2013 settlement)

5. Since the City seems to admit that the shed DOES qualify for exemption under the B&S Code (see. Hearing File P7/242 History ¶1 citing LAMC §91.101.5) it is no more of a structure than any of the fences, walls or other non-structures routinely accepted by the City in this neighborhood and throughout the City and it should be permitted to remain.
6. The Homeowner has offered to accept and continues to offer conditions on the deviation including the shed remaining in its current position, no plumbing and no electrical. There is no need for these conditions as there has been no effort to add such facilities to the shed but they would not be opposed were they to be made part of any order requiring B&S to permit the shed under LAMC §12.28.B.2.
7. The shed blocks no view of anything but the back of our garage from any adjacent property including the sole complaining neighbor – who brings this claim purely as retribution for a 2013 parking dispute. Any assertions as to any alleged property line dispute are disputed and are irrelevant to the present matter and should be disregarded.
8. The shed is not easily visible from the street or any other property.
9. The remaining facts, arguments and evidence arguments asserted in the Appeal and the underlying appeal are all incorporated herein for jurisdictional purposes.

Finally, if the ultimate goal of the City and the South Valley Area Planning Commission is to ensure that property within the City of Los Angeles is put to its highest and best use, certainly interpreting a rule in a manner which, according to one building and safety representative would prevent even a beach chair from being placed in this side yard should be abhorrent to every sitting member of the counsel. The proposed use is reasonable, is supported by numerous neighbors and constitutes a 0% deviation from the Code. Failure of B&S and the ZA to so interpret the code and exercise available discretion in this instance is an abuse of discretion meriting an overturning of the ZA decision. The Commission should issue an order requiring the exercise of discretion consistent with the existing use.

Respectfully Submitted.

Jeffrey A. Cohen
Appellant / Owner



1 Showing Compliance with Prevailing setback of more than 3 feet

3.5 feet on close end 10 feet on far end – average setback Approx. 6.5 Feet.

EXHIBIT 1

Los Angeles Department of Building and Safety

Code Enforcement Information: 3565 N KNOBHILL DR

Date Received: 12/8/2011
Description: CONSTRUCTION DONE WITHOUT PERMITS OR INSPECTIONS
Inspector: JACK MATTILLO
Phone: (213)252-3928
Status: CLOSED



Order Information

Order Number	Order Type	Effective Date	Issued By	Phone
3009726	ORDER TO COMPLY	5/17/2012	JACK MATTILLO	(213)252-3928

Code Violation Information

Violation	Date in Compliance
The approximate 8 x 12 foot construction of a Detached Structure in the Required Yard was/is constructed without the required permits and approvals.	10/16/2013



PAMELA BENYAS REITER, PH.D.
3572 Summerfield Dr.
Sherman Oaks, California 91423

To whom it May Concern:

We live at 3572 Summerfield Dr. directly across the street from the Cohens at 3565 Knob Hill Dr. Our back deck overlooks their property and we have a direct view of their yard.

We have never had a problem with the size, shape, location, color or even the existence of their shed.

We have lived here for 31 years and we have never found the shed to interfere with our entertaining, being outside or anything pertaining to it.

I find our neighborhood to be a very cozy & nurturing one and it is why we have never moved.

Sincerely,

Dr. Pamela Benyas

Knobhill Drive
Sherman Oaks, CA 91423

April 6, 2019

Undine Petrulis, Project Planner
6262 Van Nuys Boulevard, Room 351
Van Nuys, CA 91401
Undine.petrulis@lacity.org

Re: 3565 Knobhill Drive
Case Number: DIR-2018-3554-BSA

Dear Undine,

I am a homeowner on Knobhill in the immediate vicinity of the subject property and I have a direct line of site to the property in question from the front of my home. I walk and drive by the area of the shed located on the side yard of the home and have never considered it to be an eyesore. The color, size, height and shape of the shed is appropriate for the neighborhood. The position of the shed does not appear to block any views of the surrounding properties. I know several of the neighbors on the street with direct views to the property and I have not heard of any issue or concern regarding the shed from such neighbors.

Based on the above, I am in support of the City allowing the shed to remain in the location where it has been for many years as it is an appropriate use of the area and a good solution to the limited storage available to the homeowners.

Sincerely,

Concerned Neighbor

DAY OF HEARING SUBMISSIONS

The following submissions by the public are in compliance with the Commission Rules and Operating Procedures (ROPs), Rule 4.3c. Please note that “compliance” means that the submission complies with deadline, delivery method (hard copy and/or electronic) AND the number of copies. The Commission’s ROPs can be accessed at <http://planning.lacity.org>, by selecting “Commissions & Hearings” and selecting the specific Commission.

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