

State of California
California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

December 12, 2014

ITEM: *6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirements for Subsurface Disposal System Use – Eric Gordon, 6727 Mount Baldy Road, Mount Baldy, San Bernardino County, APN 0353-322-20

DISCUSSION:

On October 27, 2014, David Ballinger of Am/Pac and Associates, Inc., contacted staff, on behalf of Eric Gordon, requesting approval to connect a two-story detached garage with a bonus room and bathroom to an existing 1,500-gallon septic tank-subsurface disposal system at the above-referenced site. Mr. Gordon owns the property which currently has a detached 2-bedroom, 1-bath house located at the site. An existing subsurface disposal system is utilized for the discharge of domestic waste from the house. The property is less than one acre in size (11,104 sq. ft. or 0.25 acre gross). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic wastes.

Mr. Gordon has constructed a two-story detached garage. The proposed garage will include a bonus room with a bathroom which will be connected to the existing 1,500-gallon septic tank-subsurface disposal system that serves the existing home.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region.

In adopting the minimum lot size requirements (MLSR), the Board recognized that it was appropriate to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSR were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of a tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments.

The Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSR address these circumstances. The MLSR distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSR. However, the MLSR state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development. The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows. The proposed garage with a bathroom on Mr. Gordon's property would be a freestanding structure. As such, the project as a whole (the existing house and detached garage) must now be considered a "new" development to which the one-half acre minimum lot size requirement applies. Mr. Gordon's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. Gordon's request for an exemption from the minimum lot size requirements.

Mr. Gordon purchased the property which originally had 2 small cabins on the lot. The detached garage with bonus room and bathroom replaced one of the smaller cabins. Mr. Gordon is asking for temporary use of a bathroom in the detached garage while he works on his property. Mr. Gordon has assured staff that he will not convert the detached garage into a livable structure at this time. In the future Mr. Gordon intends to replace the septic system with an alternative disposal system that will comply with the Regional Board's Basin Plan water quality objective of 10 mg/L for total inorganic nitrogen. Until then, the detached garage will not be used as a second dwelling. Mr. Gordon is asking to connect the detached garage structure temporarily to the existing 1,500-gallon septic system.

RECOMMENDATION:

Approve Mr. Gordon's request for a temporary exemption from the minimum lot size requirements based on the limited possible uses of the detached garage with a bonus room and a bathroom, with the condition that the structure cannot be permitted as a second dwelling unit until an approved alternative disposal system has been approved and installed to serve the property.

Comments were solicited from the following agencies:

San Bernardino County Environmental Health Services – Jessica Ballesteros
AM/PAC and Associates, Inc. – David Ballinger