

August 7, 2009



John Osborne
1831 NE 199th Street
Shoreline, WA 98133

Re: Administrative Variance Request for 555 5th Ave West, file no. bld09-00139

Dear Mr. Osborne:

The City has reviewed your Administrative Variance Request to locate a 12" diameter chimney pipe within the approved sun angle set back. On June 29th, 2009 the request was approved by the Planning Director. For your records I have enclosed a copy of my staff report, including attachments. Should you have any further questions, please let me know.

Sincerely,
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

A handwritten signature in black ink, appearing to read "Sean LeRoy", with a long horizontal line extending to the right.

Sean LeRoy
Planner



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Eric Shields, AICP, Planning Director
From: Sean LeRoy, Planner
Date: June 29, 2009
Subject: Osborne Variance Exception, 555 5th Avenue

RECOMMENDATION

Pursuant to Zoning Code Section 120.12, I recommend approval of the proposed remodel to the lower and upper levels of an existing single family residence at 555 5th Avenue.

BACKGROUND DISCUSSION

Proposal:

John Osborne on behalf of the property owner, George Osborne, is requesting approval of a variance exception to locate a 12" diameter chimney pipe within the approved sun angle set back (see "History" below as well as associated attachments).

Remodel existing single family residence

The proposal includes adding a fireplace on the north side of the structure (lower and upper floor), including associated and applicable vents and chimneys. The fireplace work will not increase the existing footprint but will result in a 12" (diameter) pipe protruding above the roofline (see attached drawings for more information). Two smaller pipes are part of the proposal as well, however, they will not be located within the approved sun angle, and are therefore not part of this variance request.

History:

In 2002, the existing single family home was approved under a zoning permit for which a variance was granted for setbacks, shoreline and sun angle requirements. A subsequent building permit was secured in 2003 and finalized in 2005. The original variance included a reduction of the north setback from 5' to 2.5', a reduction of the rear property line set back from 10' to 6', a reduction of the high water line setback from 47.5' to 42' and a reduction of the required sun angle setback of 45 degrees to an average of 65 degrees.

Analysis:

According to the Kirkland Zoning Code section 120.12, the Planning Director may approve a modification of an existing structure that would ordinarily require a variance without going through the formal variance process if the following criteria are met:

1. The request complies with the criteria in KZC 120.20; and
2. The gross floor area of the structure is expanded by less than five percent; and
3. The Planning Director determines that the change or alteration will not have significantly more or different impact on the surrounding area than does the present development.

Criteria

- 1. The variance will not be materially detrimental to the property or improvements in the area of the subject property or to the City in part or as a whole.**

The granting of the variance will not have a detrimental effect on the property, neighboring properties and / or the City as a whole. First, the impact under the consideration is the 12" chimney pipe which will protrude above the highest existing roofline on the north side of the structure, to the minimum height necessary or no more than 36". Second, though the pipe will extend into the approved sun angle setback, because of its size (12" in diameter) it will not be materially detrimental. Finally, the applicant has secured written approval of the proposed chimney work from the neighbor to the north (see attachment).

- 2. The Variance is necessary because of special circumstances regarding the size, shape, topography or location of the subject property or the location of a pre-existing improvement on the subject property that conformed to the zoning code in effect when the improvement was constructed.**

The site's constraining size – 30' wide – necessitates this present request for an Administrative Variance. Though the original variance allowed for the structure to encroach into the required 45 degree sun angle set back, such approval leaves little room for an ancillary improvement such as a fireplace and chimney. If the applicant were to adhere to the approved sun angle set back, the chimney would be rendered useless and therefore unable to properly vent the gases produced by the fireplace. The applicant, understanding the variance criteria, has proposed the minimum functioning height for the 12" diameter chimney pipe, no more than 36" above the highest existing roofline.

3. The variance will not constitute a grant of special privilege to the subject property, which is inconsistent with the general rights that this Code allows to other property in the same area and zone as the subject property.

The variance does not constitute a grant of special privilege for the Applicant, as the improvement is fully consistent with the normal use and function of a single-family residence.

4. The gross floor area of the structure is expanded by less than 5%.

The proposed project will not result in the expansion of the foot print of the existing home; neither will gross floor area be increased.

5. The Planning Director determines that the change or alteration will not have significantly more or different impact on the surrounding area that does the present development.

The addition will not have a significantly more or different impact on the surrounding area, because the proposal will have little impact on the scale or aesthetics of the existing home and is in character with the existing homes along 5th Avenue West.

Enclosures:

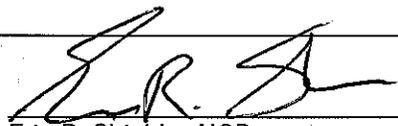
1. Request for variance from applicant
2. Site plans, floor plans and elevation plan

Review by Planning Director:

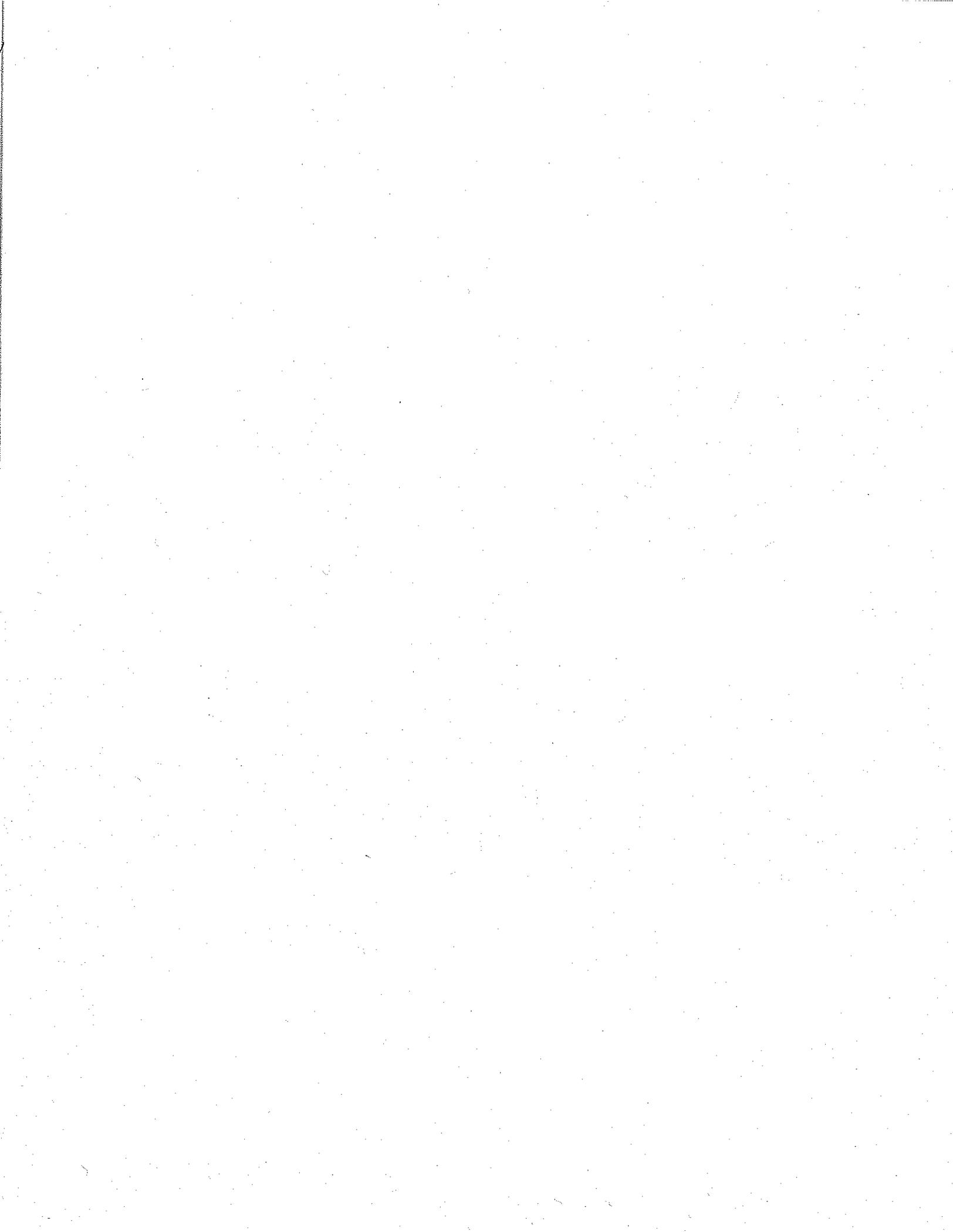
I concur

I do not concur

Comments:


Eric R. Shields, AICP

7/22/09
Date



Sean LeRoy
Planner, City of Kirkland
123 Fifth Ave
Kirkland WA 98033

6-22-09

RE: Administrative Variance for exterior chimney for permit application No. BLD 09-00139

Dear Sean,

We are requesting an *Administrative Variance* from original variance granted when this single family home located at 555 Fifth Ave. W. secured its building permit in 2003. *Use Zone Chart for Zone WDII Section 30.25, note 5* reads "Each portion of a structure must be setback from the north property line by a distance equal to or greater than the height of that portion of the structure above the north property line minus five feet" (protecting the "sun angle"). During the original permitting & variance process it was decided this requirement could be changed so a reasonable structure could be build and the 45° angle was modified to an approximately 67° angle.

Per the relevant sections of KZC 120.12 & 120.20 please note the following:

1. The addition of a single twelve inch diameter (round) stainless steel chimney pipe extending from the main level of the home (North side) to a point no more than three feet above the roof (or less per minimum height requirements of 2006 IRC) with approximately twelve feet of pipe visible outside the existing structure will not be "*materially detrimental to the property or improvements in the area of the subject property or to the City in part or as a whole*" because:
 - a. This minor change will have an extremely limited impact on the scale or aesthetics of the existing building.
 - b. The change is so minor, its impact on the neighborhood will be negligible.
2. "*The variance is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of a preexisting improvement on the subject property that conformed to the Zoning Code in effect when the improvement was constructed*" because the lot width of the subject property (thirty feet) is so narrow it makes the application of Zoning Code standards intended for much wider lots extremely problematic when changes are proposed that will significantly increase the value of the home. These were the same considerations in play when the original variance was secured.
3. Because this minor change will have little impact on the scale or aesthetics of the existing building and is fully in character with existing neighborhood along the water on Fifth Ave. N. "*The variance will not constitute a grant of special privilege to the subject property which is inconsistent with the general rights that this code allows to other property in the same area and zone as the subject property*".
4. The addition of a metal chimney will not change the gross floor area of the structure.
5. The addition of a metal chimney will not have a "*significantly more or different impact on the surrounding area than does the present development*" because this minor change will have little impact on the scale or aesthetics of the existing building and is fully in character with existing houses along the water on Fifth Ave. N.

Attachment 1

6. There is no reasonable way to add a fireplace to this house without placing the chimney pipe outside the building (on the North side) for a distance of approximately twelve feet because:
 - a. The lot is so narrow (thirty feet) that the house is also extremely narrow (twenty-two feet three inches).
 - b. The value of waterfront homes in Kirkland is specifically dependent on the view of Lake Washington (especially on the living main level) and on having unobstructed windows showcasing that view.
 - c. Therefore, the location of the fireplace must be where the design has placed it, creating the need for an exposed chimney.
 - d. To do this any other way would "*result in an unreasonable and unusual hardship*".

7. The property primarily impacted by this chimney pipe (557 Fifth Ave N. located directly adjacent to the structure on the North side of the house) is owned by Marie Yesland and she has no objection to this addition of a chimney pipe on the North side of the house as described above (see attached letter).

8. All other elements of the work included in building permit application No. BLD 09-00139 will be within the parameters established for the original building permit for the original project in 2003.

Thanks for your assistance with this matter. I am looking forward to your timely response to our request. Included with this letter is a check in the amount of \$1,049.00 as you indicated would be required to administer this request.

Yours,



John L. Osborne
Property Owner's Representative
1831 North 199th Street
Shoreline WA 98133

For:
George R. Osborne
Property Owner
PO Box 97010
Kirkland WA 98033

Mr. Sean LeRoy
Planner, City of Kirkland
123 Fifth Ave
Kirkland WA 98033

6-15-09

RE: Administrative Variance for exterior chimney (permit app. No. BLD 09-00139)

Dear Mr. LeRoy,

I own the house located at 557 Fifth Ave N. Kirkland WA, located directly adjacent to and on the North side of the 555 Fifth Ave. N. Kirkland WA.

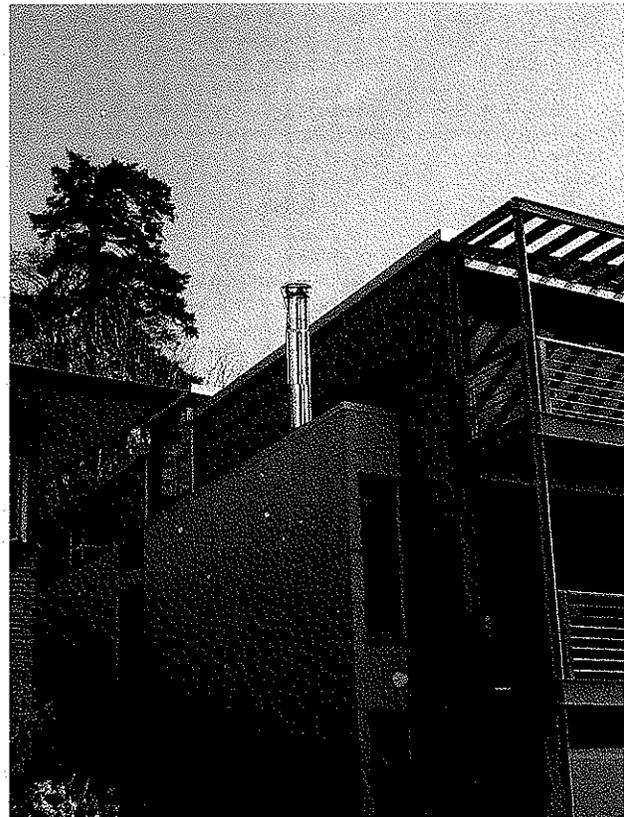
The ten inch (inside dimension) round stainless steel "Metalbestos Ultra-Temp" chimney pipe will extend three feet above the roofline per table R1001.1 of the 2006 International Residential Code. It is the intent of this Administrative Variance request to keep the elevation of the highest point of the chimney stack as low as possible, that point being ultimately determined by the City of Kirkland.

I reviewed the mock up shown below of the intended 12" (outside dimension) chimney pipe that will be visible from my home and have no objections to this fireplace and chimney installation.

Yours,



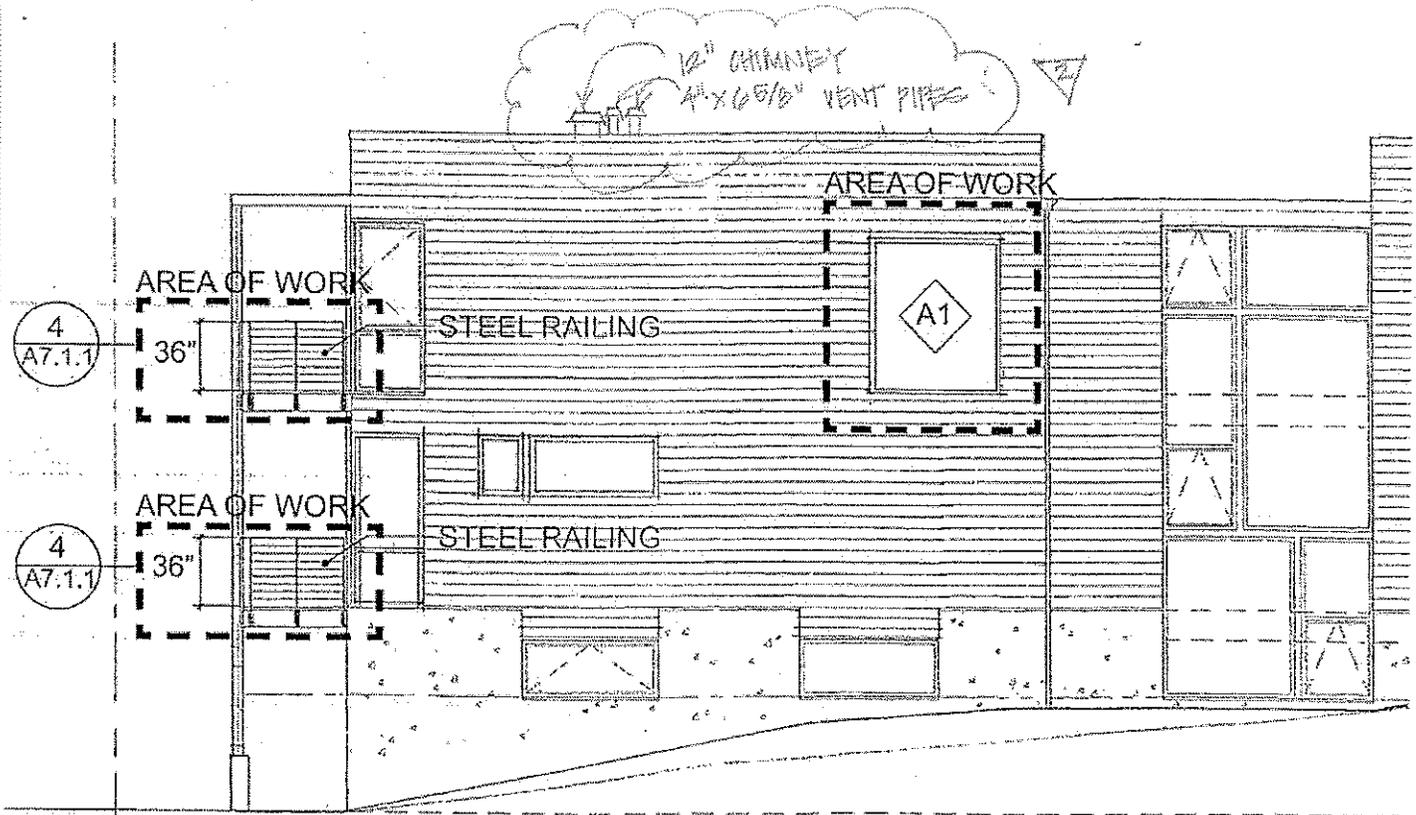
Marie Yesland



RECEIVED

JUL 22 2009

AM
PLANNING DEPARTMENT
BY _____ PM



6 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

21 JULY 2009

OSBORNE RESIDENCE
555 5TH AVENUE WEST
DETAIL 5/A1.1

PERMIT NO.: BLD 09-00139

REVIEW COMMENT RESPONSE

STOCK & ASSOCIATES
architecture interiors

Stock & Associates, Inc.
109 Bell Street
Seattle, Washington 98121

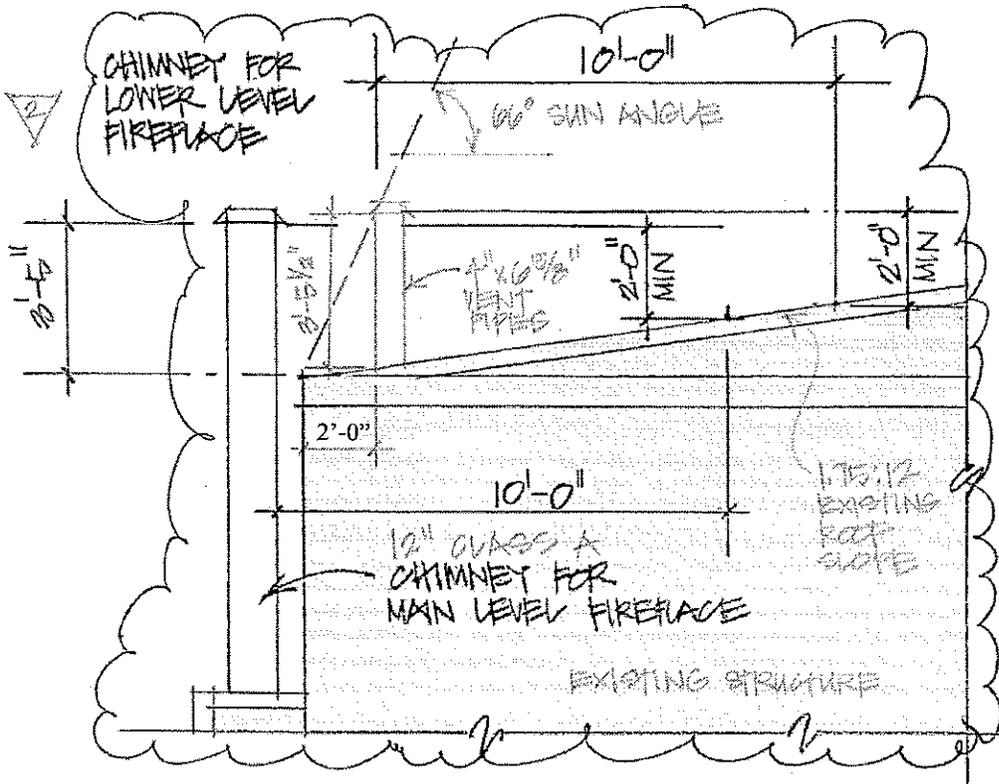
Tel: 206.443.0494
Fax: 206.443.0495
www.stockandassociates.com

Attachment 2

RECEIVED

JUL 22 2009

AM
PLANNING DEPARTMENT PM
BY _____



5 CHIMNEY TERMINATION

SCALE: 1/4" = 1'-0"
OSBORNE RESIDENCE
555 5TH AVENUE WEST
DETAIL 5/A7.11

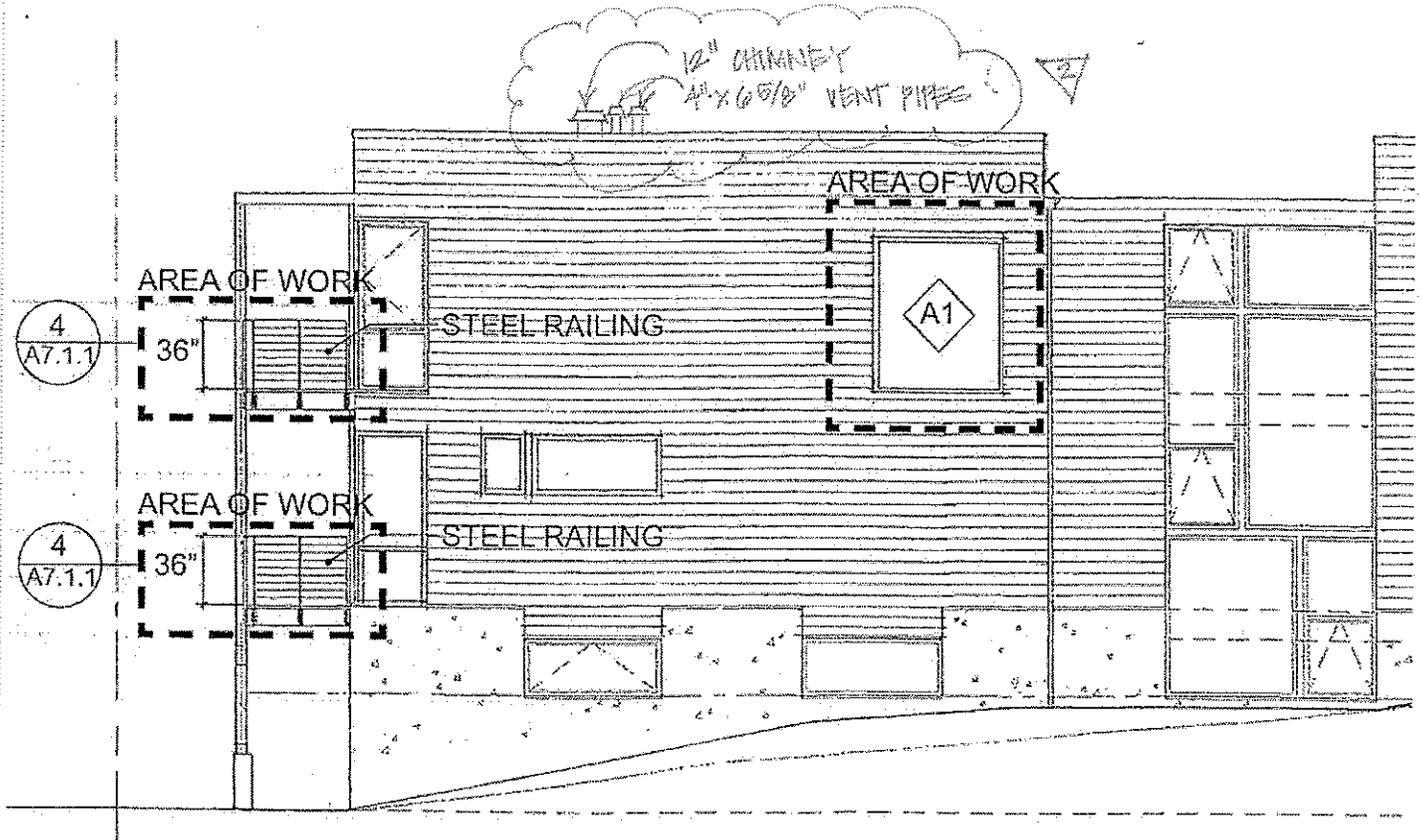
21 JULY 2009
PERMIT NO.: BLD 09-00139
REVIEW COMMENT RESPONSE

STOCK & ASSOCIATES
architecture.interiors
Stock & Associates, Inc.
109 Bell Street
Seattle, Washington 98121
Tel: 206.443.0494
Fax: 206.443.0495
www.stockandassociates.com

RECEIVED

JUL 22 2009

AM _____ PM
PLANNING DEPARTMENT
BY _____



6 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

21 JULY 2009

OSBORNE RESIDENCE
555 5TH AVENUE WEST
DETAIL 5/A1.1

PERMIT NO.: BLD 09-00139

REVIEW COMMENT RESPONSE

STOCK & ASSOCIATES
architecture.interiors

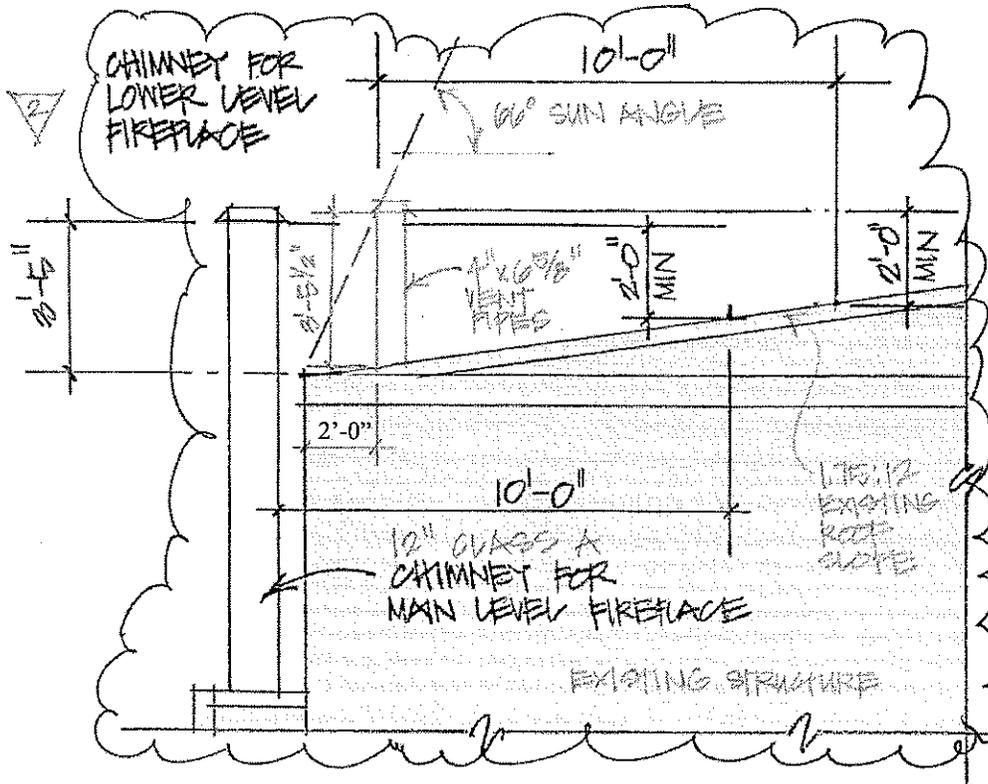
Stock & Associates, Inc.
109 Bell Street
Seattle, Washington 98121

Tel: 206.443.0494
Fax: 206.443.0495
www.stockandassociates.com

RECEIVED

JUL 22 2009

AM _____ PM
PLANNING DEPARTMENT
BY _____



5

CHIMNEY TERMINATION

SCALE: 1/4" = 1'-0"

21 JULY 2009

OSBORNE RESIDENCE
555 5TH AVENUE WEST
DETAIL 5/A1.11

PERMIT NO.: BLD 09-00139

REVIEW COMMENT RESPONSE

STOCK & ASSOCIATES
architecture.interiors

Stock & Associates, Inc.
109 Bell Street
Seattle, Washington 98121

Tel: 206.443.0494
Fax: 206.443.0495
www.stockandassociates.com