

**RESOLUTION NO. 02-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DENYING A VARIANCE TO ALLOW A 2.8 REAR YARD RATHER THAN THE REQUIRED 5 FEET AND GREATER THAN 65% LOT COVERAGE TO ALLOW AN AS-BUILT CONDITION FOR A TWO UNIT CONDOMINIUM PROJECT NEAR COMPLETION AT 22 CULPER COURT**

The Planning Commission does hereby resolve and order as follows:

Section 1. An application was filed by Dan Mellilo owner of property at 222 Culper Court, seeking approval of a Variance from the rear yard setback requirement of the R-3 zone, to allow a 2.8 foot rear yard rather than required 5 feet and a Variance from the Lot Coverage requirement of the R-3 zone to allow the lot coverage of the building to exceed the maximum allowed 65%.

Section 2 The Planning Commission conducted a duly noticed de novo public hearing to consider the application for a Variance on November 19, 2002, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

Section 3 Based on the evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The Planning Commission approved the construction of a 2-unit condominium project on the subject property at their meeting of January 16, 2001. The design, approval, and subsequent construction of the project were based on a survey that contained incorrect information regarding the depth and overall square footage of the lot. Consequently, upon submittal of the final map containing the correct lot boundary information, it was discovered that the building had been constructed too close to the rear property line, and because the lot area was less than the original survey, the building was constructed to contain more than the maximum 65% lot coverage.

2. The original survey incorrectly depicted the depth of the property along the north side property line to be 57.09 feet and at the south side property line as 42.7 feet. The correct dimensions are 55.08 feet along the north and 41.24 feet along the south side property line. The design and layout of the building on the site, including the City's approval was based on the original survey, and the building was constructed consistent with the plans. The lot size based on the original survey was 2,894 square feet, it is now shown to actually be 2,770 square feet. Subsequent to the City's discovery of this discrepancy, the surveyor (Denn Engineers) submitted a survey with the new building identified. It shows the rear of the building with a 2.8 foot setback rather than the required 5 feet. Based on this information, the City cannot proceed with approval of the final map.

3. The applicant is seeking Variances to remedy the situation caused by the surveyor error in order to avoid the hardship of demolishing a portion of the building. The building has been constructed with a 2.8 foot setback to the property line, and with a lot coverage that calculates to be 67% due to the decreased lot size. Given that the building steps along the angled rear property line this deficient setback is

1 not continuous but steps along the rear line of the building. The basis for the request is that the project  
2 was constructed pursuant to approved plans, and pursuant to the information available at the time of  
3 construction. Further, the applicant argues that resulting impact is not significant given the unique situation  
4 that, despite this error, a 5foot clearance is available to the top of the retaining wall on the adjacent  
5 property to the east which would otherwise appear to be the property boundary line. Also, the this  
6 retaining wall abuts a common driveway for a large condominium development which is similar to an alley.  
7 If considered an "alley" the setback requirement would be 3-feet.

8 Section 4. Based on the foregoing factual findings, the Planning Commission makes the  
9 following findings pertaining to the application for a Variance:

10 1. Exceptional circumstances do not apply to the property or circumstances of this case, as the  
11 reason for the building being constructed out of compliance with the setbacks and lot coverage  
12 requirements of the R-3 zone have no connection to the physical characteristics or conditions of the  
13 property, and are instead due to faulty information provided by the surveyor.

14 2. The Variance is not necessary for the enjoyment of a substantial property right possessed by  
15 other properties in the vicinity as other remedies are available for the project, such as demolition and  
16 reconstruction or purchase of neighboring property and a lot line adjustment.

17 Section 5. Based on the foregoing, the Planning Commission hereby denies the subject Variance  
18 :

19 Section 6. Pursuant to the Code of Civil Procedure Section 1094.6 any legal challenge to the  
20 decision of the Planning Commission, after a formal appeal to the City Council, must be made within 90  
21 days after the final decision by the City Council.

22 AYES:

23 NOES:

24 ABSENT:

25 ABSTAIN:

26 CERTIFICATION

27 I hereby certify that the foregoing Resolution P.C. 02- is a true and complete record of the action  
28 taken by the Planning Commission of the City of Hermosa Beach, California at their regular meeting of  
29 November, 2002.

\_\_\_\_\_  
30 Ron Pizer, Chairman

\_\_\_\_\_  
Sol Blumenfeld, Secretary

\_\_\_\_\_  
Date

varr222deny