

June 9, 2003

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
June 17, 2003**

SUBJECT: APPEAL OF DIRECTOR'S DECISION -- INTERPRETATION OF REQUIRED OPEN SPACE AND LOT COVERAGE REQUIREMENTS IN CONNECTION WITH REMODEL OF A SINGLE FAMILY DWELLING -- 916 3RD STREET

Recommendation:

That the Planning Commission direct staff by minute order as deemed appropriate.

Background:

The property owner is proposing to remodel a single family dwelling, located in the R-1 zone and utilize an area that encroaches into the back yard below the proposed finished grade. The purpose of the encroachment is to maximize the amount of additional floor area for storage while minimizing the impact on the back yard. The owner proposes that the finished floor level of the basement be lowered enough to create code complying headroom and that the basement extend beyond the building footprint into the rear yard. The rear yard elevation will consequently be raised approximately 3'-0", bringing it level with the finished first floor level. (Please see attached plans). A new patio deck will be constructed above the proposed basement extension.

Analysis:

The issues to consider in connection with the appeal are whether the encroachment violates open space and lot coverage requirements for the zone. In order to comply with open space and lot coverage requirements, all yards and open space must be "free of obstructions or structures from the ground to the sky". (Code Sections 17.04, 17.46.020, 17.08.030 B, C, D, E, J, K (1) & (4), L). The Commission must determine whether the encroachment of a below grade structure satisfies the requirement that the open space is "free and clear from the ground to the sky". The Commission must also determine whether the below grade extension of the house violates the lot coverage requirements. Lot coverage is defined as all of the following: "that portion of a lot covered by the area within the foundations of the main building and all accessory buildings and structures; the area covered by cantilevers projecting from a building; and the area covered by decks and stairs more than thirty inches above the grade as defined in Section 17.04.040." The proposed basement extension will not extend *thirty inches above grade*, however it extends *the foundation of the main building* and the area "covered" must be considered in the lot coverage calculation pursuant to the above definition.

It is important to note that other below grade structures have been prohibited within required yards. For example, within the R-1 zone, a below grade pool or spa is considered an "accessory structure" and is prohibited in the front, side or rear yard setback, however a pool is obviously permitted in required open space. (Code Section 17.08.020 B and 17.14.080 D and 17.16.080 D). The proposed extension complies with rear yard setback requirements but will be located within required open space.

It is arguable that the proposed finished grade of the basement roof represents "unaltered grade" as defined in Section 17.040. The existing backyard patio has been previously graded and the surrounding property line retaining wall elevations and grades are close to the elevation of the existing finished floor level of the house. (Please see attached plan and survey relative to the proposed

elevation of the grade). If the proposed finished grade of the basement roof represents the “unaltered grade” elevation (the elevation prior to grading for the patio), then one can argue that the area above the basement extension qualifies as open space since it will be free and clear of obstructions from the ground level to the sky as stipulated by the Code.

It is also arguable that if an area qualifies as ground level open space it should also be exempt from lot coverage calculations. However, the above definition of lot coverage specifically includes “that portion of a lot covered by the area within the foundations of the main building and all accessory buildings and structures”. Thus, it may be useful to consider the purpose of the lot coverage regulation in making a determination about this issue. If the intent of regulating lot coverage is to minimize the visible coverage of a lot with a building, then the proposed project basement does not violate the regulation and should not be considered as contributing to coverage of the lot. The intent of the definition of lot coverage seems to be related to the above-ground condition.

The Commission may consider that the proposed basement extension complies with the open space requirement but that it does not comply with the lot coverage requirement. If the below grade structure is considered to meet the requirement for open space, but not lot coverage, the owner will be required to reduce the building footprint. This will negate the purpose of the basement extension and the appeal request which relates to maximizing the building area.

The owner’s representative has indicated that there is ambiguity in the Code relative to the above issues which merit special consideration relative to the specific conditions of the site and that unaltered grade is consistent with the finished elevation of the proposed basement extension roof. He also notes that the project will comply with all yard setback requirements and that lot coverage is unaffected since the project extension is less than 6’ in height. This last point is only relevant to the Building Code requirement for determining whether a portion of a building qualifies as a basement and not lot coverage or open space requirements under the Zone Code.

Sol Blumenfeld, Director
Community Development Department

Attachments:
1. Correspondence
2. Plans

Notes

Relevant Code Sections:

1. *Open space* is defined as an area which are from ground to sky free and clear of any obstructions or obstacles. Minor obstacles such as entryway over-hangs eaves may encroach into open space areas
2. *Required R-1 open space*: a minimum of four hundred (400) sq. ft. of usable open space with a minimum dimension of 10’. Twenty five percent of this open space may be provided in balconies or decks; minimum dimension of 10’.
3. *Lot coverage* is defined as that portion of a lot covered by the area within the foundations of the main building and all accessory buildings and structures; the area covered by cantilevers projecting from a building; and the area covered by decks and stairs more than thirty inches above the grade as defined in Section 17.04.040.
4. *Grade* at any point on a lot is determined based on existing corner point elevations, taking into consideration significant variations relative to adjacent properties. In cases where there is significant variations in elevations between adjacent properties at corner points, the point of measurement shall be established based on the elevation at the nearest public improvement or an alternative point within 3 horizontal feet that represents existing unaltered grade.
5. *Yard regulations*: every required front, side and rear yard shall be open and unobstructed from the ground to the sky.
6. *Front Yard* is defined as a line separating the lot from the street.
7. *Rear Yard* is defined as a lot line which is opposite and most distant from the front lot line
8. *Side yard* is defined as lot boundary not on the front or the rear lot lines.
9. Areas excluded from *lot coverage* are architectural projections, eaves and unenclosed balconies open on at least two sides from the face of the building.