

January 7, 2004

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

**Regular Meeting of
January 20, 2004**

SUBJECT: DETERMINATION OF THE LEGALITY OF A NONCONFORMING
RESIDENTIAL BUILDING AT 2050 MANHATTAN AVENUE PURSUANT
TO SECTION 17.60 OF THE ZONE CODE.

APPLICANT: R. TARIK HIJAZI AND LESLEY WRIGHT

Recommendation:

Direct staff as deemed appropriate.

Background:

LOT SIZE 3,024 square feet

ZONING: R-1

GENERAL PLAN: Medium Density Residential

BUILDING AREA: 1,192 square feet per Assessors records. It is not clear whether the building addition in question is included within the above building area because no plans are available.

The applicants are requesting the validation of an existing room addition as a legal nonconformity and authorization for it to remain. The room addition is attached to the rear of a residence at 2050 Manhattan Avenue. The subject property contains a two-story single-family residence and a detached garage. The property is zoned R-1, permitting one dwelling unit with required 3.64' side yard and 5.0' rear yard. The property is located on the east side of Manhattan Avenue and slopes steeply up towards Circle Drive. A series of property line retaining walls separate the subject property from adjacent properties to the north, south and east.

Analysis:

Chapter 17.60 of the Zoning Ordinance (*Determination of Legality of Nonconforming Residential Buildings*) gives a property owner the opportunity to request validation of current conditions which otherwise violate zoning or current building and safety requirements, "...when city records and actual property use conflict." The Commission may validate that these conditions are legally nonconforming if the evidence warrants such determination. The kind of evidence the Commission has previously used in approving legal determinations includes: county assessor information, building permits and plans, Residential Building Reports, and the Sanborn Map. Also, Section 17.60.020 provides that, when it can be shown that dwelling units constructed prior to January 1, 1959 were constructed in accordance with then applicable laws, that said dwelling is not substandard within the intent and meaning of state law (Assembly Bill No. 475), and that if the use of said dwelling has been consistent since January 1, 1959, then the residential dwelling unit or units shall be declared legally nonconforming.

The City initiated an investigation of the matter in response to an inquiry by a neighbor. Staff found that a room addition encroaches into the rear setback. The room addition is less than one foot from the rear property line in violation of the rear yard setback requirement of five feet. The complainant indicated that the addition had been constructed approximately 10 years ago, but was recently reported in

connection with the sale of the property. The new owners have corrected the building code violations and are seeking to correct the zoning violations through a legal determination.

In reviewing the property building permit history, staff could find no record that the addition was created legally under a building permit. The following provides a summary of staff's findings in connection with the subject property:

- The Sanborn Maps (which provide a building record from the publishing date) show a house and detached garage on the lot without the subject room addition. The maps are dated 1927, and have been updated periodically until the mid-1950's.
- Building records indicate that a single family residence was constructed on the lot in 1936 (see attached Residential Building Report). A permit for alterations was issued in 1942 and a permit for a "patio wall" in 1946. Permits were also issued in 1968 for sandblasting of the residence, 1987 for redwood decking and electrical and plumbing alterations, 1998 for concrete steps, and February of 2002 for new electrical circuits, outlets and lighting fixtures. Also, in January of 2002, a demolition permit was issued to remove a temporary patio cover.
- The microfiche of plans for the 1987 permit only show the front half of the property and do not show the room addition in question.
- Ms. Jean Williams, the owner at the time the code enforcement action was initiated, indicate by letter that her mother had the "den" addition constructed in 1948 (see attached letter dated 9/29/01). There is no record of a permit being issued for a den addition in 1948 or after. There is only the record of a permit for the patio wall in 1946, two years before Ms. Williams' mother bought the house. Ms. Williams letter acknowledges that she "...covered the walls with pine... and reinforced the roof [of the addition] internally..." without permits in 1995 (letter of 9/29/01). Various improvements within the addition indicate new work such as new electrical wiring and upgraded windows and doors.
- The adjacent properties to the south and the south-east which are of similar vintage have nonconforming conditions relating to building proximity to the property line which may indicate that the yard condition was not considered with the original property construction permits.

The applicant argues the following:

- The addition was constructed under permit No. 2164 issued on 8/3/39. Staff cannot verify that Permit No. 2164 was for the room addition. (See attached permit record).
- The owner supplied correspondence from long time neighbors that the addition was constructed in the 1930's.
- A photo from the adjacent property to the north indicates the addition in question. The adjacent owner indicates the photo was taken in the 1950's. A current photo from the same location is provided to verify the addition in question.
- A 1075 Residential Building Report indicates that there are "no building or zoning violations".

Conclusions:

The above information indicates that:

1. The original building addition was constructed prior to 1959, the cutoff date for legal determination pursuant to Section 17.60 of the Zone Code. Staff can find no clear record that the room addition was constructed legally under a building permit.

2. The room addition may have been constructed legally under permit No 2164 as argued by the applicant, but this is not confirmed by the permit, which does not provide any indication of what it is issued for.
3. Some of the alterations to the addition were done without required permits, but have since been corrected and inspected for code compliance.
4. The applicants have submitted two photographs which show that the addition has existed for at least 50 years. The first apparently shows the room addition in 1953 and the second shows the current view from the same angle.
5. Mr. Jeffrey Rhind, on behalf of the family trust owning the house next door to the subject property, has submitted a letter expressing support for allowing the room addition to remain. In the letter, the original owners will confirm that the addition has existed for over 50 years.
6. The City's permit records show conflicting information for the original permit numbers and permit issuance dates. The original permit record for the residence is dated 1936, while another "unknown" permit dated 1939 are both identified in the records. These permits may be consistent with a sequence of construction that involved the original structure and the addition in question at a later date.
7. Adjacent properties to the south, east and north have nonconforming structures of similar vintage, which also encroach into required yards, which possible may be due to a general survey error.

Although it appears that the room addition has existed in some form for over 50 years, the evidence available is ambiguous as to whether it was legally constructed. If the Commission concurs with this conclusion, then the addition would be deemed illegal and not eligible for validation as a legal nonconforming building. In addition, some of the changes to the structure in recent years were not done under permits, and are therefore not legal.

If the Commission determines that the records are unclear regarding the legality of the original structure, it may consider other evidence, including testimony from the applicants and neighbors, in order to determine whether the addition is a legal nonconformity. If the Commission determines that the building addition was lawfully created, staff will return with a resolution confirming the legal determination at the next Commission meeting.

Sol Blumenfeld, Director
Community Development

Attachments:

1. Photos
2. Sanborn Map Showing Building Footprints on Property
3. Site plan from 1987 building permit
4. Code Enforcement Report (includes chronology) with Correspondence
5. Residential Building Report Showing Building Permit History

6. Applicant Submitted Materials:

- Letter and Application
- Photos showing past and present views of addition

B95/cd/pc/2004/1-20-04/Legal2050manhattan