

October 7, 2004

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

**Regular Meeting of
October 19, 2004**

SUBJECT: DETERMINATION OF THE LEGALITY OF AN EXISTING GARDEN ROOM
AND CONTINUATION OF NONCONFORMING REMODEL 04-2

LOCATION: 1085-1087 MONTEREY BOULEVARD

APPLICANT: TOM PARKS
1085-1087 MONTEREY BOULEVARD
HERMOSA BEACH, CA 90254

REQUESTS: DETERMINATION OF THE LEGALITY OF AN EXISTING GARDEN ROOM
AND APPROVAL OF A ROOF DECK ADDITION TO AN EXISTING DUPLEX
WITH A NONCONFORMING SIDE YARD RESULTING IN THE EXTENSION
OF AN EXISTING NONCONFORMING SIDE YARD

Recommendation

To direct staff as deemed appropriate.

Background

| | |
|-------------------------------|--------------------------|
| LOT SIZE | 4,296 square feet |
| EXISTING FLOOR AREA | 1,940 square feet |
| PROPOSED DECK ADDITION | 189 square feet |
| PERCENT INCREASE IN VALUATION | 2.8 % |
| ZONING | R-3 |
| GENERAL PLAN | High Density Residential |
| ENVIRONMENTAL DETERMINATION | Categorically Exempt |

The Planning Commission continued this item from the June 15, 2004 meeting to address the issue of whether or not the existing garden room was legally permitted, and requested that the applicant submit an application for a concurrent legal determination for the garden room. The existing garden room was built on the north property line rather than having the required 4.3 feet side yard.

The rest of the building is setback 3 feet from the north property line. The existing parking may also be nonconforming as well, but not enough information was noted on plans. Since the project only involves providing a roof deck, it is subject to building valuation limitations and is not limited by the amount of on-site parking under Section 17.44.140 (C) of the Zoning Ordinance relating to expansion of nonconforming buildings.

The proposed deck is the subject of a current code enforcement case because it was built without permits.

Analysis

Legal Determination

Chapter 17.60 of the Zoning Ordinance 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, based on the evidence presented, may validate that these conditions are legally nonconforming.

The evidence available to staff is limited to the records in the building permit file and the Sanborn Map which provides a legal record of the physical character of a property for insurance purposes. The permit records show evidence that a building permit (No. 4101) was issued for a “patio” on July 22, 1948. However, the Sanborn Map (dated 1957) shows no evidence of the enclosed patio.

The applicant purchased the property in 1996 with the understanding that the garden room was a legally permitted part of the existing duplex. To support this argument the applicant has submitted statements from the grandson of the prior owners and neighbors, and photographs dating back to 1963 that show the garden room fully constructed. The statement from Mark Presley, grandson of the prior owners, indicates that the garden room has been used for social family functions since the 1950’s.

Therefore, given the anecdotal information supplied by the applicant and neighbors indicating that the garden room has been in continuous use since the 1950’s, and the City’s permit record showing that a permit was issued for a “patio” on July 22, 1948, there is some evidence to support the applicant’s contention that the use was lawfully established prior to 1959 as required under Chapter 17.60 (Legal Determination) of the Hermosa Beach Zone Code. This assumes that the term “patio” actually refers to an enclosed patio or garden room. Staff has attached a resolution for approval of the project if the Commission finds that it qualifies under the provisions for a legal determination.

Nonconforming Remodel

Chapter 17.52 of the Zoning Ordinance requires Planning Commission approval when an expansion of a nonconforming building extends an existing nonconforming side yard. Pursuant to Section 17.52.030.B (Expansion, Remodeling, and Alteration of Nonconforming Buildings) of the Zoning Ordinance, existing nonconforming side yards may be continued and extended subject to Planning Commission approval.

The applicant is requesting an after-the-fact approval for a previously constructed un-permitted roof deck of 189 square feet. The proposed roof deck will have the same nonconforming setback of 3 feet that the main building has on the north side yard. The Planning Commission has previously approved numerous additions to nonconforming structures which resulted in the extension of existing nonconforming side yards. The proposed roof deck addition complies with the 30-foot height limit. There is no increase in livable floor area proposed as part of this project. Both the proposed roof deck addition and the second floor deck addition permitted in 1996 result in a 2.8% increase in valuation.

Though the applicant submitted a survey that shows the deck as being below the height limit as built, the actual plans do not label the critical height point or property corner point elevations. Staff has done a height calculation based on the survey and believes the plans can be revised as a condition of approval because the deck is below the height limit of 30 feet.

Planning staff issued a memo to both the Building Division of the Community Development Department and the Public Works Department for review of the subject project. The comments provided by the Building Division and Public Works Department will not significantly affect the proposed deck addition.

Based on visual inspection by staff, the nonconforming side yard is not an unusual condition given the age of the subject dwelling, and the amount of expansion is minimal. The project is therefore consistent with Chapter 17.52 of the Hermosa Beach Zone Code.

CONCUR:

Scott Lunceford
Planning Associate

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Proposed Resolution
2. Applicant Correspondence and Photographs
3. Location Map
4. Photographs
5. Permit Records
6. Height Calculation
7. Valuation Worksheet

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