

May 9, 2005

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

**Regular Meeting of
May 17, 2005**

SUBJECT: DETERMINATION OF THE LEGALITY OF A NONCONFORMING RESIDENTIAL BUILDING

LOCATION: 1236 3RD STREET

APPLICANT: MARIANNE G. HILL (FOR PATRICIA SHAW)
1236 3RD STREET
HERMOSA BEACH, CA 90254

REQUESTS: DETERMINATION OF WHETHER DETACHED ACCESSORY LIVING QUARTERS CAN BE MAINTAINED AS A LEGAL NONCONFORMING USE ON THE PROPERTY.

Recommendation

To direct staff as deemed appropriate and staff will return with a resolution based on the Commission's direction.

Background

LOT SIZE 4224 (48' X 88')

ZONING: R-1

GENERAL PLAN: Low Density Residential

BUILDING AREA (MAIN HOUSE): Approx. 900 Square Feet

AREA OF BUILDING IN QUESTION: Approx. 288 Square Feet

The subject property contains a one story single family home with a two-car garage in front and a detached accessory shed structure in the rear. The main house was constructed in 1928, in accordance with permit No. 212. The age of the accessory structure is unclear, but it is shown on the 1957 Sanborn Map. The rest of the property is also in essentially the same configuration as shown on the Sanborn Map, with the exception of the single car garage, which was enlarged to a two-car garage in 1978 for which the then owner obtained a variance (BZA 154-263) which also allowed a roof deck, retaining wall and new entry stairway.

The applicant is requesting a determination that the detached accessory structure in the rear be declared legal for use as "accessory living quarters" to accommodate a live-in nurse. The applicant does not intend to use the structure for a separate dwelling unit with a full kitchen, and is willing to place a deed restriction on the property to limit its use as accessory living quarters only.

Staff inspected the property on September 15, 2004 and found the building and floor layout consistent with the submitted plans. The 288 square foot "accessory living quarters" contains a "playroom" (12'-6" X 14'-6") with a wet bar, small refrigerator, and a microwave oven. A small wall heater provides heat. At the time of inspection, the "playroom" contained a bed, television, and

personal effects including clothing and decorations. The wet bar area contained pots, pans, silverware, dishes and other cooking/eating equipment. No significant building code violations were noted other than the proximity to the property line of a habitable space with windows.

The Zoning Ordinance defines “guest houses” and “accessory living quarters” as: “living quarters within a main building for the use of persons employed on the premises, or for temporary use by guests of the occupants of the premises. Such quarters shall have no kitchen facilities and shall not be rented or otherwise used as a separate dwelling unit. Guest houses and accessory living quarters are subject to the issuance of a conditional use permit and are not allowed in accessory buildings.” Accessory living quarters are allowed in the R-1 zone subject to a conditional use permit.

Given that the Zoning Ordinance does not allow accessory living quarters outside the main building, the existing condition on the property cannot be approved with a conditional use permit. The applicant is requesting, however, that the City recognize its long-term prior use as accessory living quarters and deem it legally nonconforming.

Analysis

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.” When it can be shown that the dwelling unit in question was constructed prior to January 1, 1959, in accordance with then applicable laws, and the use of the dwelling has been continuous, the unit *shall* be declared legally nonconforming. The Commission *may* also validate that conditions are legally nonconforming for a building constructed after January 1, 1959, based on the evidence presented. Section 17.60.060, also gives the Planning Commission the authority to “negotiate with a property owner concerning the property premises on behalf of the property owner in exchange for the validation.”

The evidence available to staff included the records in the building permit file as noted above, the Sanborn Map which provides a legal record of the physical character of a property for insurance purposes, and L.A. County tax records. Based on the permit records, as noted, no evidence exists that building permits were applied for or obtained to allow a construction of a “playroom” or “accessory living quarters” nor for any of the plumbing, electric or mechanical components therein. However, it is clear the detached structure has existed on the property since 1957 or earlier based on the Sanborn map.

The applicant purchased the property in September of 2004, with the understanding that the rear structure could continue to be used as accessory living quarters to accommodate a live-in nurse. To support the argument that the structure has been historically used as accessory living quarters she has submitted testimony from a “handyman” and a contractor that the style of improvement within the structure are of a vintage from the 1950’s or 1960’s. Also, staff has spoken with the neighbor to the rear that stated that the structure has been used as living quarters since the 1970’s. The applicant is willing to record a deed restriction, to limit the use of the structure for accessory living quarters only with the current wet bar in order to prevent its use as a separate dwelling unit.

In summary, the issue in this case is that there is no city record with respect to the use of this detached structure, which was built some time before 1957. Inspections of the premises, including

the electrical and mechanical work, seem to support the argument that the use of the building for living quarters likely goes back to the 1950's, which would be consistent with the provision of Chapter 17.60 as it has been in use since prior to 1959. Given this long-term history, and the willingness of the applicant to continue to limit the use of the structure as a "guest house" or "accessory living quarters" without a full kitchen, the Commission may want to consider this as a legal nonconforming use, and validate its continued use with a deed restriction. A deed restriction gives the City an added enforcement tool should this owner or any future owner attempt to rent this as a separate rental unit with a full kitchen. The Commission may also want to require that the owner obtain a permit for the existing wall heater or upgrade it if necessary.

If not declared legal as accessory living quarters, the structure will have to removed, or altered into a permitted accessory building such as a bathhouse or storage unit. Required alterations would include bringing it into compliance with current setback requirements.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld
Community Development Director

Attachments

1. Building Permit Chronology
2. Photos
3. Sandorn Map
4. Applicant submittal including plans

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