

November 9, 2005

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

**Regular Meeting of
November 15, 2005**

SUBJECT: DETERMINATION OF THE LEGALITY OF NONCONFORMING RESIDENTIAL BUILDINGS

LOCATION: 668-674 4th STREET

APPLICANT: MR. & MRS. KARL PARKER
2703 WEST 178TH STREET
TORRANCE, CA 90504

REQUESTS: DETERMINATION THAT THE 5TH AND 6TH DWELLING UNITS ON THE PROPERTY ARE LEGAL NONCONFORMING DWELLING UNITS.

Recommendation

Direct staff as deemed appropriate.

Background

LOT SIZE	4600 (40' x 115')
ZONING:	R-2
GENERAL PLAN:	Medium Density Residential
BUILDING AREA (668, 668A, 670):	Approx. 1100 Square Feet (550 square feet each unit) plus 160 square foot rumpus room on first floor (160 square feet)
BUILDING AREA (672):	Approx. 380 Square Feet (one story)
BUILDING AREA (674A and 674)	Approx. 480 Square Feet (200 first floor, 280 second floor)

The areas noted above are only estimates as plans submitted are not very well developed, and not to the scale, and only include floor plan information for the two story building that contains units 674 and 674A.

The subject property contains three structures, a two-story in the front, and a one and two-story in the back. The building fronting on 4th Street (668, 668A & 670 4th) contains two dwelling units of approximately 550 square feet each constructed sometime in 1960-61 (the permit record is incomplete). These units are built above a four-car garage that also contains a storeroom and a rumpus room with a bath. The area in dispute (668A: the rumpus room) which does not have a kitchen, is being occupied as a separate rental. The use as a separate rental is inconsistent with Affidavit 4372 filed February 10, 1961, which allowed a rumpus room with shower and lavatory – no separate rental.

The buildings at the rear of the lot, 672 & 674 4th Street were built in 1924 and contain a 380 square foot unit in the one-story building to the west, and a 280 square foot unit on the second floor of the building to the east, and a small “storage room and bathroom” of 200 square-feet on the first floor,

installed by permit in 1951. This first floor area in dispute (known as 674A) also contains a kitchen, and is being used as a separate rental.

The 1957 Sanborn Map shows the buildings at the rear of the lot to be one two-story and one one-story single dwelling unit. A hand written note on the map at the front of the lot indicates “668-670 Duplex”. A letter in the file dated March 2, 1960 from then Chief Building Inspector Bud Trott reads; “Mr. Bernard E. Newman has made application ... to erect a two-family dwelling at 668-670 4th Street. There now exists on the property a two-family dwelling”. A page from a planning commission meeting dated March 14, 1960, addressing a Parking Determination in conjunction with the proposal to build a duplex in the front of the property also notes the existence of a duplex at the rear of the property.

The file contains an affidavit, filed by a prior owner in February 1961, allowing them to add a rumpus room with a shower and lavatory to the main building at 668-670 4th Street. The affidavit specifies that “said installation will be used solely for accessory uses and not for an additional dwelling unit, rented room, or for sleeping purposes.”

A note in the file dated 5/19/71 indicates that the rumpus room was being used as a sleeping room. The case was settled when the City received an affidavit from Mrs. Parker on June 24, 1971. The same condition was found in the same location in November of 1972. This was remedied by the removal of some plumbing and gas lines in December of 1972.

The origins of the disputed unit in the rear building (674A) are not well documented. There is a reference to a “storage room with bathroom” below the legal unit in 1951, but specific dates as to when the kitchen was installed and how long it has been used as a dwelling are absent from the record. There is no record of a code enforcement action concerning this unit.

The property is currently zoned R-2. Pursuant to current zoning requirements only two dwelling units would be allowed due to the lot size. Therefore the current use (whether 4 units or 6 units) is nonconforming. The current minimum size for a dwelling unit is 600 square feet for a one-bedroom unit.

Staff inspected the property on November 9, 2004 and found the “unit” known as 668A contained a single room used as both bed and living room, with a small bathroom connected via door way. The room contained a small “mini-fridge” with a small microwave oven on top of it. There was no “wet-bar” or kitchen-type counter. The “unit” identified as 674A contained a small living/bedroom (10’ 7” X 10’ 3”) a small kitchen (7’ x 12’ 7”) which contained a small countertop/cabinet unit with a sink and waste grinder, a full sized refrigerator/freezer, and a four-burner gas stove/oven. One must proceed through the kitchen to reach the bathroom, (7’ x 9’ 11”) which contained a small shower stall, a sink and a commode.

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.” The Commission, based on the evidence presented, may validate that these conditions are legally nonconforming. The applicant has taken several months to supply the information attached which includes incomplete floor plans, a

statement of their history of owning and renting the property, and an assortment of private purchase, insurance, rental and tax documents, as well as a 1969 letter from the City referring to 3-units at 674 4th Street.

The Parker's purchased the property in 1965 with the understanding it contained 6 rental units, based on the various purchase and escrow documents. In 1969 the Parker's obtained a building permit (9565) for electrical work on the rear units, and the City apparently did not dispute that it was three units at that time, but the letter or permit have no reference to the front units. IN 1971 after a fire the City conducted an inspection of front building, and notified the Parker's of the illegal use of the "rumpus room" (668A), pursuant to the affidavit recorded by the prior owners. The Parkers then rented the rumpus room for several years as part of the upper unit 670, but later rented out the room separately.

Based on the record, there is clearly no reason to make 668A a legal separate unit. Not only was it never permitted, the Parker's have not kept it in continuous use a separate rental, and the 1961 affidavit clearly prohibits it from being a separate rental. The consequences of making this unit legal would be that the City would be authorizing the continued use of a rumpus room with no kitchen as a legal unit despite the Affidavit from 1961 prohibiting such use. If not declared legal, the owner should be required to remove the bathroom and disconnect all plumbing to prevent the recurrent illegal use.

However, the record is less clear regarding the other unit in dispute (674A), which was permitted as a separate storage room and bathroom, apparently with separate access. At some unknown time later a kitchen was added to make this a somewhat habitable unit. The private records of the Parker's, which are somewhat corroborated by the 1969 inspections done by the City, seem to indicate that it has been in continuous use as a separate unit, and may meet the criteria for a legal determination.

Given the record staff believes it may be appropriate to consider granting a determination that the fifth unit, known as 674A is a legal dwelling, but to re-affirm that the use of 668A be limited to a rumpus room, and that the bathroom used to support its use a rental be removed to prevent its recurrent illegal use.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld
Community Development Director

Attachments

1. Building Permit Cards
2. Current tax assessor's roll data
3. Photos
4. Sanborn Map

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