

August 7, 2006

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

**Regular Meeting of  
August 15, 2006**

SUBJECT: VARIANCE 06-3

LOCATION: 311 31<sup>ST</sup> STREET

APPLICANT: THOMAS & BARBARA ZONDIROS  
311 31<sup>ST</sup> STREET  
HERMOSA BEACH, CA 90254

REQUEST: VARIANCE TO ALLOW A ZERO FRONT YARD SETBACK RATHER THAN THE  
REQUIRED 7-FEET

**Recommendation**

To direct staff as deemed appropriate.

**Background**

ZONING:	R-1
GENERAL PLAN:	Low Density Residential
LOT SIZE:	2,100 Square Feet
PROPOSED FLOOR AREA:	2,224 Square Feet

The subject property is a 30' x 70' "small lot" located in the Shakespeare Tract that has recently been the subject of two Variances. A Variance was granted by the City Council on appeal on October 12, 2004, for open space and lot coverage and to allow a greater than 100% increase in valuation (148%) while maintaining an existing nonconforming front yard setback of zero feet. When construction did not proceed in accordance with those plans (as it was discovered that the builder had demolished more than what had been permitted under the approved Variance) the project was stopped. Another Variance was considered and granted by the Planning Commission in December, 2005, approving a greater increase in valuation (204%), with the existing foundation and wall within the front yard area as the only portions of the structure to be retained.

The City Council recently adopted amendments to the small lot exceptions in the R-1 zone, which allow lot coverage on small lots to be 70%, and the front yard to count towards open space.

**Analysis**

The project construction has again proceeded in a manner inconsistent with plans, as the nonconforming section of the building (the walls and the floor framing) located in the front yard, have been completely removed, with only the foundation walls remaining. In effect, the project is no longer an addition or remodel, but is essentially a new structure, and therefore, to proceed in accordance with approved plans another Variance is needed to allow the complete reconstruction of the first story portion of the structure that encroaches into the front yard setback area. Otherwise, the proposed project is still the same, resulting in a house containing 2,224 square feet as previously approved, and all other development attributes of the proposed project (setbacks, height, lot coverage, open space, parking location, etc.) have

remain unchanged. (The plans submitted with this application are the approved set, and sheet A 0.2 incorrectly shows the portion of the structure remaining)

The Variances granted for open space and lot coverage are still in effect, since these were not existing nonconforming conditions, but granted as Variances for the new construction portions of the project. The Variances were granted to allow lot coverage of 70.9% rather than 65%, and to allow the project with no open space accessible to the primary living area on the ground floor.

The applicants indicate in the attached correspondence that they never intended to remove the entire wall, stating that it was a misunderstanding by the builder. The construction plans had called for reinforcing and altering the structural framing, not removal.

In order to grant a Variance, the Commission must make the following findings:

1. There are exceptional or extraordinary circumstances, limited to the physical conditions applicable to the property involved.
2. The Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity and zone, and denied to the property in question.
3. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.
4. The Variance is consistent with the General Plan.

The concept of a Variance is that basic zoning provisions are not being changed but the property owner is allowed to use his property in a manner basically consistent with the established regulations with such minor variation as will place him in parity with other property owners in the same zone. Because the circumstances for the original Variances have changed, the Commission should consider the findings based upon this new project. As with any proposed Variance, the Commission should consider the implications of setting a precedent for building exceptions, particularly because the City has newly adopted code provisions that are intended to provide relief for small lot property owners.

The reason for the applicants' request is to complete the construction of a dwelling to suit the needs of their family, with an increased family/living room area on the first story, and three bedrooms and two bathrooms on the second story, including a master bedroom and bathroom suite. The applicants now wish to construct this addition while reconstructing rather than maintaining the existing one-story nonconforming portion of the structure that encroaches into the required front yard. Also the applicant wish to keep the primary living area (the living/family room) on the first floor adjacent to the existing open area in the walk street excess right-of-way in front of the property. The applicant argues that the findings previously made by the Council and the Planning Commission should also apply to this modified request because all the attributes of the site and the resulting project are the same. These include the small lot size, the existing small size of the building, and their desire to maintain the primary living area on the ground floor without providing additional adjacent open space on the property while adding the requisite number of code compliant parking spaces.

The applicant also notes that several other older homes on the block have similar nonconforming conditions in their front yards. Staff recently found that 72 percent (28 of 39) of similar lots on the walk street portion of 31<sup>st</sup> Street also have portions of their existing structures that encroach into the front yard, however many of these only partially encroach, and it appears that 30% (12 of 39) including three adjacent properties to the east encroach all the way to the front property line. This area-wide condition is relevant to the finding for neighborhood consistency and arguable, the owner may be denied a property right

(front yard encroachment) currently enjoyed by many others in the vicinity and zone, however, all new projects must comply with front setback requirements.

Below is a discussion of the findings necessary to approve the subject request, including reference to the previous Variance findings for this property:

**Finding 1:** There are exceptional or extraordinary circumstances limited to the physical conditions applicable to the subject property because the lot is considered a "small lot" on a walk street with the only garage access off a narrow 10-foot wide alley at the rear of the property. Because the garage access is limited to the rear of the property, the requirement that 60% of the usable open space be located adjacent to primary living areas cannot be provided adjacent to primary living areas on the ground floor without significantly reducing the buildable area of the project. *This finding was made previously, and is still generally applicable, however, this condition exists for all the lots on this block (i.e. it is not unique to this property) and these small lots are recognized in the code and given exceptions already. In fact, the recent amendments to the code allow the front yard area to count as open space, meaning that if the part of the home that encroaches in the front yard is not reconstructed, it would solve both the setback and open space issues for this property.*

The owner's argument is that if he is required to now set back his building in the front by 7'-0" that he will have to rework his building plans and reduce his floor area by 123 sq. ft. rendering the first floor level with less usable living room and kitchen space. Since the home size is relatively small at 2,224 sq. ft., this reduced floor area is a significant hardship that is directly related to the physical condition of the property (small lot size). Further, the recent code changes for small lots do not provide relief for his particular circumstances.

**Finding 2:** The owners wish to exercise a property right, possessed by others in the neighborhood, to construct a single family home to meet current standards of livability and to be a reasonable size. The Variances to open space and lot coverage were previously found to be necessary for this dwelling to maintain the primary living area on the ground floor without also being forced to significantly reduce the building footprint, and provide parking which is not currently provided. Also it was found that the combined conditions of the small lot and narrow rear alley parking access create an unusual hardship in providing open space that is directly accessible to the primary living area yet contiguous with the walk street, and therefore denies a property right that other similar walk street properties enjoy. *However, this finding was related to an addition/remodel project which has now become essentially a new project and it may not still apply under these circumstances. Now the applicants are asking to build a new project that encroaches into the front yard rather than maintain an existing nonconforming condition. This is not a right possessed by other properties in the neighborhood. In fact, the plans could now be revised (resulting in a smaller living room area) with no encroachment into the front yard, which would still allow for the construction of a reasonably sized home, and also serve to resolve the open space issue.*

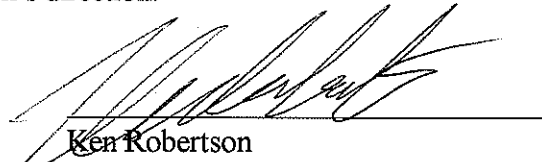
The owner's argument is that with recent code changes for small lots, a typical homeowner in the area may construct a similar home with up to 2,220 sq. ft., but by setting back the front of the home 7'-0", the total floor area of his home will be reduced to only be 2,096 sq. ft. and therefore the Variance is necessary for preservation of a property right possessed by other properties in the same vicinity and zone.

**Finding 3:** The project will not likely be materially detrimental to property improvements in the vicinity and Zone since the project complies with all other requirements of the Zoning Code, and is not

inconsistent with development in the neighborhood since some existing nonconforming structures in the nearby vicinity also have nonconforming front yards.

**Finding 4:** The project is not unusually large or out of scale with other new projects in the neighborhood, and is otherwise in conformance with most of the requirements of the Zoning Ordinance and the General Plan.

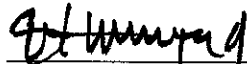
Staff will return with a resolution based on the Commission's direction.



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Ken Robertson  
Senior Planner

CONCUR:



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Sol Blumenfeld, Director  
Community Development Department

Attachments

1. Applicant's request
2. Location Map
3. Photographs
4. Previous Variance approval

FAB95\CD\PC\2006\08-15-06\VAR311.DOC

**Date:** 7-25-06

**From:** Tom Zondiros

**To:** Community Development Department  
City of Hermosa Beach  
Civic Center  
1315 Valley Drive  
Hermosa Beach, California 90254

**Att:** Sol Blumenfeld/Planning Commission  
Director Community Development Department

**Phone:** 310-318-0235

**Fax:** 310-937-6235

**Re :** 311 31<sup>ST</sup> Street

**Subject:** Variance request to waive the seven foot set back requirement  
On the "Small Lot"

RECEIVED

JUL 25 2006

COM. DEV. DEPT.

Mr. Blumenfeld,

Thank you for taking the time to meet with me to discuss the possible options regarding our project. On resolution No. 05-72 we received a variance to allow the existing front wall to remain in place which encroached on the front yard area. The note on the plans referring to this wall indicate to "Re-inforce and alter per new construction plan and structural drawings". Unfortunately the entire wall was removed as our builder John Kinsey felt it was necessary in order to properly build the wall. We never intended to remove the entire wall. My wife worked for two years and we have been in front of the Planning Commission twice and the City Council twice regarding this front wall. The importance of having the wall remain was discussed many times and well known throughout the neighborhood that this wall had to remain. There was an apparent misunderstanding between our builder John Kinsey and the building inspector as to the extent of the reinforcing and altering that was going to be done to this front wall. The facts are that John Kinsey is an excellent builder who has built dozens of homes in the area and the inspector is also excellent and professional. There was simply a misunderstanding which resulted in the entire wall being removed. We take full responsibility for this error and obviously regret that this has happened. We just want to put the wall back in the original location.

E-Mail Zondiros@Sbcglobal.net  
2401 W. 208<sup>th</sup> Street, Suite C-8, Torrance, CA 90501  
PHONE 310-320-2558 FAX 310-320-2664  
Lic. # 766708-A

Please keep the following in mind when making your decision. The structure we are building is exactly the same as what has been approved. We are making no change to the approved drawings. Our home is a total of 2,224 SF the smallest house currently under construction in Hermosa Beach. It would be redundant at this point to reiterate all of the reasons we are requesting the variance of the front yard set back since we have been in front of the Planning Commission and City Council four times regarding this project. All conditions remain the same so we have attached a copy of Resolution No. 05-72 in which the Planning Commission state that all four of the required findings in order to approve the variance request could be made.

In other words, the City Council and the Planning Commission could make the findings in the past and we are building the exact same structure, and the same family is going to move into this 2,224 SF house with the same two kids. Nothing has changed.

One unique fact that has recently been noticed by the planning Department is that 79% of the existing properties in this area currently encroach into the front yard area. The two properties directly West, and the two properties directly East of our property, also encroach into their front yard areas.

We look forward to your decision so we are able to resume construction of our home in the greatest City in America, We have a great builder, a great inspector and your Department has been very helpful. Thankyou.

Sincerely,



Tom Zondiros

EXISTING PORTION OF HOUSE IN  
EASEMENT TO REMAIN.  
RE-INFORCE AND ALTER PER NEW  
CONSTRUCTION PLAN AND  
STRUCTURAL DRAWINGS.

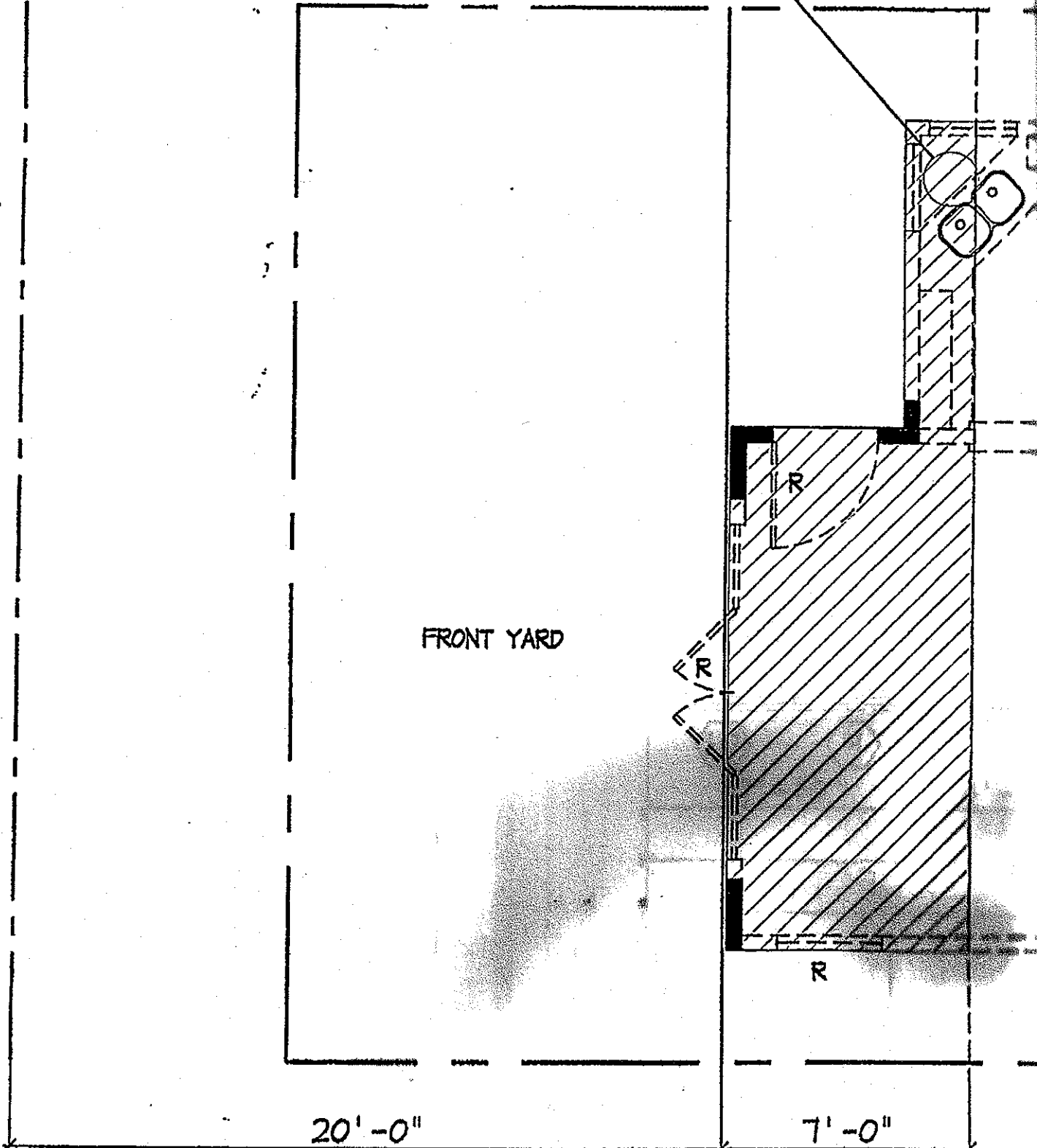
CL OF 31st STREET - WALK STREET

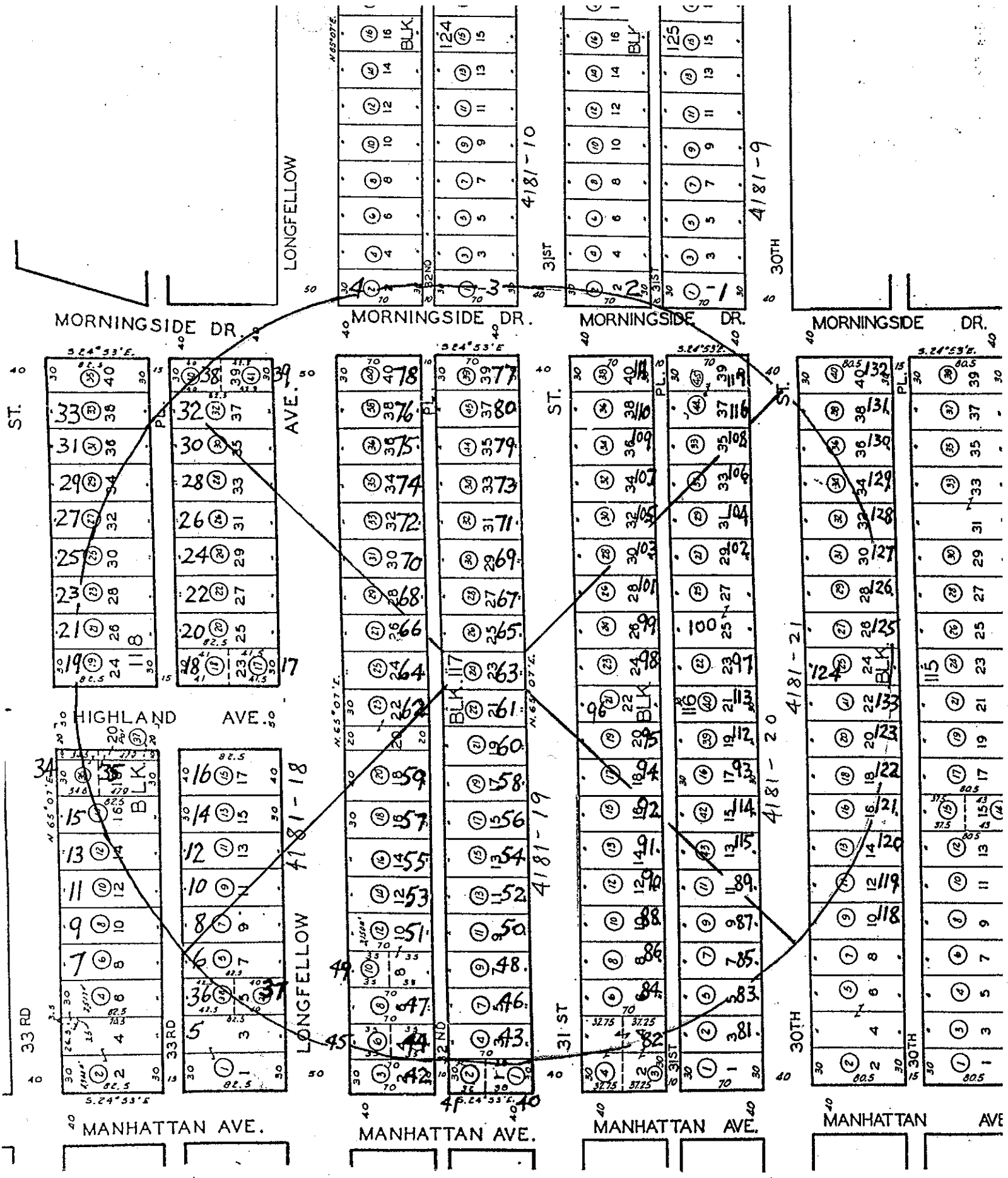
FRONT YARD

20'-0"

7'-0"

-9-





ADDRESS: 311 31<sup>ST</sup> STREET



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RESOLUTION NO. 05-72

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A VARIANCE TO THE LOT COVERAGE AND OPEN SPACE REQUIREMENTS, AND MAXIMUM ALLOWABLE VALUATION INCREASE FOR A NONCONFORMING STRUCTURE IN ORDER TO ALLOW AN ADDITION AND REMODEL OF AN EXISTING SINGLE-FAMILY DWELLING, RESULTING IN 70.9% LOT COVERAGE RATHER THAN THE MAXIMUM 65%, A 214% VALUATION INCREASE RATHER THAN THE MAXIMUM 100%, AND PROVIDING NO OPEN SPACE DIRECTLY ADJACENT AND ACCESSIBLE TO A PRIMARY LIVING AREA AT 311 31<sup>ST</sup> STREET, LEGALLY DESCRIBED AS LOT 23, BLOCK 117, SHAKESPEARE TRACT**

The Planning Commission does hereby resolve and order as follows:

Section 1. An application was filed by Thomas and Barbara Zondiros, owners of the property located at 311 31<sup>st</sup> Street seeking Variances to allow an addition and remodel of an existing legal nonconforming single-family residence resulting in 70.9% lot coverage rather than the 65% maximum, a 214% valuation increase rather than the 100% maximum, and no open space directly adjacent and accessible to a primary living area rather than the required 180 square feet.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for the Variances on December 7, 2005, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission.

Section 3. Based on the evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The lot is considered a "small lot" under the R-1 development standards, as it is 2100 square feet.

2. The Variance to the maximum allowable valuation increase of 100% for a nonconforming structure is needed because the proposed expansion and remodel results in a 214% increase in valuation. Pursuant to Chapter 17.52 of the Zoning Ordinance, the maximum allowable valuation increase for an expansion and remodel of an existing nonconforming structure is 100%.

3. The Variance to lot coverage is needed because the proposed addition causes lot coverage to be increased by 296 square feet (approximately 14%) to accommodate an enlarged garage, resulting in 70.9% lot coverage rather than the required 65% maximum.

4. The Variance to open space is needed because the proposed open space will not be directly adjacent and accessible to a primary living area rather than having 180 square feet directly adjacent and accessible to a primary living area.

1            Section 4. Based on the foregoing factual findings, the Planning Commission makes the  
2 following findings pertaining to the application for a Variance to allow an addition and remodel of  
3 an existing legal nonconforming single-family residence resulting in 70.9% lot coverage rather  
4 than the 65% maximum, a 214% valuation increase rather than the 100% maximum, and no open  
5 space directly adjacent and accessible to a primary living area rather than the required 180 square  
6 feet.

7            1. There are exceptional or extraordinary circumstances limited to the physical conditions  
8 applicable to the subject property because the lot is considered a "small lot" on a walk street with  
9 the only garage access off a narrow 10-foot wide alley at the rear of the property. Because the  
10 garage access is limited to the rear of the property, the requirement that 60% of the usable open  
11 space be located adjacent to primary living areas cannot be provided adjacent to primary living  
12 areas on the ground floor without significantly reducing the buildable area of the project.

13            2. The owners wish to exercise a property right, possessed by others in the neighborhood, to  
14 construct a single family home to meet current standards of livability and to be a reasonable size.  
15 The Variances to open space and lot coverage are necessary for this dwelling to maintain the  
16 primary living area on the ground floor without also being forced to significantly reduce the  
17 building footprint, and provide parking which is not currently provided. The Variance from the  
18 maximum valuation increase for nonconforming structures is needed in order for the dwelling to  
19 reach a size that is comparable to other dwellings in the neighborhood. The property fronts on a  
20 walk street that effectively provides open space and is a desirable feature enjoyed by other  
21 properties with a walk street orientation. The combined conditions of the small lot and narrow rear  
22 alley parking access create an unusual hardship in providing open space that is directly accessible to  
23 the primary living area yet contiguous with the walk street, and therefore denies a property right that  
24 other similar walk street properties enjoy.

25            3. The project will not likely be materially detrimental to property improvements in the  
26 vicinity and Zone since the project complies with all other requirements of the Zoning Code, and is  
27 not inconsistent with development in the neighborhood.

28            4. The project is not unusually large or out of scale with other new projects in the  
29 neighborhood, and is otherwise in conformance with most of the requirements of the Zoning  
Ordinance and the General Plan.

Section 5. Based on the foregoing, and since the Planning Commission can make all 4  
required findings as required by Section 17.54.020 of the Zoning Ordinance, the Planning  
Commission hereby approves the requested Variances from the lot coverage and open space  
requirements, and maximum valuation increase subject to the following conditions of approval.

1.        **The development and continued use of the property shall be in conformance with  
submitted plans received and reviewed by the Planning Commission at their  
meeting of December 7, 2005.**

VOTE: AYES: Allen, Hoffman, Kersenboom, Perrotti, Pizer  
NOES: None  
ABSTAIN: None  
ABSENT: None

CERTIFICATION

I hereby certify that the foregoing Resolution P.C. 05-72 is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California at their regular meeting of December 7, 2005.



Ron Pizer, Chairman



Sol Blumenfeld, Secretary

December 7, 2005

Date

VARR311

August 4, 2006

Community Development Department  
Planning Division  
City Hall  
1315 Valley Drive  
Hermosa Beach, CA 90254

RECEIVED  
AUG 9 2006  
COMM. DEV. DEPT.

Re: Public Notice  
311 - 31<sup>st</sup> Street, Hermosa Beach

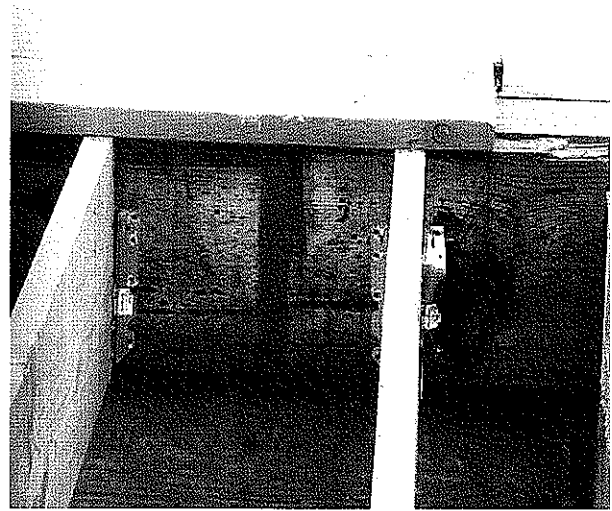
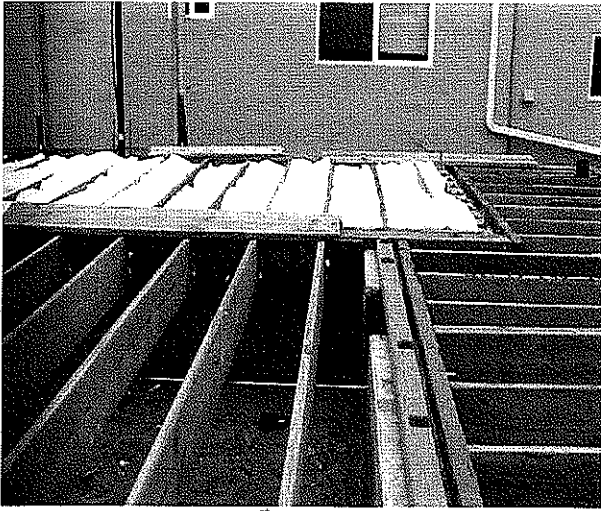
To Whom It May Concern:

We the undersigned residents of Hermosa Beach, having received the Public Notice regarding property located at 311 - 31<sup>st</sup> Street, Hermosa Beach, wish to respond with the following.

Our position is that the Planning Commission of the City of Hermosa Beach deny a variance to allow a zero foot front yard setback rather than the required seven feet at 311 31<sup>st</sup> Street, legally described as Lot 23, Block 117, Shakespeare Tract.

Thank you,

*Robert J. Topek TTE*  
*Mary Jane Topek TTE*  
Robert J. & Mary Jane Topek Trust  
330 - 30<sup>th</sup> Street  
Hermosa Beach, CA 90254-2309



June 19, 2006 – 311 31<sup>st</sup> St. – Some insulation has been added to floor joists. Plans show joists mounted to a sill plate, they are installed with hangers. Below, none of the original wood framework remains.





June 19, 2006 – All old framing has been removed from foundation at 311 31<sup>st</sup> St. – red tag is posted.

