

October 7, 2003

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
October 14, 2003**

SUBJECT: DISCUSSION OF BOARD OF APPEALS

Recommendation:

That the City Council direct staff as deemed appropriate.

Background:

On September 23, 2003, the City Council considered background information on the role of the City's Board of Appeals generally and specifically in connection with a property wall dispute between 627 and 633 2nd Street. Staff provided information on the jurisdiction of the Board of Appeals relative to issuance of permits and the administrative provisions of the Building Code. The Council determined that it would review determinations of the Building Official when the Official determines that matters are not appealable to the Board of Appeals. Staff has previously determined that the subject wall is not within the jurisdiction of the Board of Appeals. The issue before Council is whether the property owner at 627 2nd Street is entitled to file an appeal of Staff's determination that the wall is legal and not subject to the Building Code.

Analysis:

The Board of Appeals is empowered to hear matters within its jurisdiction (i.e. matters regulated by the Building Code and not subject to the administrative provisions of the Code.)¹ Appeals are generally taken to the Board by an architect or builder experiencing difficulties complying with the building official's interpretation of the code in the design or construction of a structure.² This practice was addressed at length during the discussion of September 23.

In this instance, Staff has determined that the wall between 627 and 633 2nd Street is not appealable to the Board. The reasons are set forth in both the September 23rd staff report and the accompanying report of the City Attorney. Both are attached for your reference.

Council may affirm or reverse this determination. If Council reverses this determination, Mr. Janken will be able to file an appeal with the Board.

Conclusion:

The City's Board of Appeals functions pursuant to its authority under the Building Code and has operated no differently than Boards in other cities. The procedural changes requested by Council may have the effect of bringing more items before the Board. However, the appeals must still pertain to activities which are regulated by the Building Code and fall within the Board's authority.

Sol Blumenfeld, Director
Community Development Department

Concur:

Stephen R. Burrell,
City Manager

Notes:

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1. **15.04.020 Board of Appeals , City of Hermosa Beach Municipal Code.**
105.1 General : In order to hear and decide appeals of orders, decisions or determinations made by the Director of the Community Development Department relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The Director of the Community Development Department shall be an ex officio member of and shall act as secretary to said board but shall have no vote upon any matter before the board. The Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Director of the Community Development Department.
105.2 Limitations of authority . The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.
105.3 Quorum meetings . Three (3) members of said board shall constitute a quorum. The board shall elect one of its members to act as chairman.
Not less than three (3) days prior to a meeting of said board, written notice shall be given to each member personally, or by registered mail, provided, however, that any meeting of said board shall be legal for any purpose if the written consent of all members of said board to such meeting is executed and filed in the records of such board. Such board shall have the right, subject to such limits as the Council may prescribe by resolution, to employ at the cost and expense of said city such practicing architects, competent builders, attorneys and structural engineers as said board in its discretion may deem reasonable and necessary to assist in its investigation and in making its findings and decisions. (Ord. 99-1192 §1 (part), 6/22/99; Ord. 95-1142 §1 (part), 1995: prior code § 7-2.1)
 2. The Board has no authority to engage in enforcement of the code, which is specifically delegated to the building official in Chapter 1 of the Building Code.

Attachments:

1. City Attorney report, September 23, 2003
2. Staff Report, September 23, 2003
3. Permit and Construction Process Diagrams

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