

November 6, 2003

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

**Regular Meeting of  
November, 12, 2003**

SUBJECT: DISCUSSION OF BOARD OF APPEALS

**Recommendation:**

That the City Council receive and file this report.

**Background:**

On October 14, 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 2<sup>nd</sup> Street. Following the discussion of the property line wall dispute, the City Council requested additional information on the operations of the Board of Appeals. The following provides an overview of the Board's operations.

**Analysis:**

The Board of Appeals is empowered to hear matters within their jurisdiction (matters regulated by the Building Code and not subject to the administrative provisions of the Code).<sup>1</sup> The Board is composed of persons with expertise in construction; it meets periodically in response to requests to consider an appeal.<sup>2</sup> Appeals are generally taken to the Board during plan check or during the course of construction 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.<sup>3</sup>

At its October 14, 2003 meeting, the City Council discussed the procedure that should be employed in the event that an appeal is filed that the Director believes is not within the jurisdiction of the Board. The Council directed that the Director will continue to make initial determinations on whether a matter is appealable to the Board (i.e. regulated by the Building Code and not subject to the administrative provisions of the Code). In the event of an adverse determination, an owner or builder may elect to appeal the matter to the City Council. The Council may affirm or reverse the Director's determination. If the Council determines that the appeal is within the Board's jurisdiction, the appeal will be processed.

At present, the appeal is processed in a manner similar to appeals to the Planning Commission and the City Council. The City charges an appeal filing fee of \$191. The current fee is well below the filing fee in other jurisdictions.<sup>4</sup>

The appellant provides the appeal in writing and may include plans or other relevant material for the Board's consideration. The Board generally meets on the second Monday of each month or at alternative meeting date acceptable to the Board, provided an application is on file in the Community Development Department at least seven (7) working days prior to the meeting. There are five Board members and three are required for a quorum.

The Board agenda is posted at the meeting location 72 hours prior to the hearing. The Community Development Department prepares a staff report and provides any other relevant documentation for the hearing. A minimum of 72 hours prior to the hearing, the staff report is distributed by hand to the board members which includes any correspondence by the appellant. A hearing is conducted in the City Council chambers and the Board makes a determination on the matter. At the Board's discretion, it may employ at City cost, architects, competent builders, attorneys and structural

engineers which in its discretion it deems reasonable and necessary to assist in its investigation and in making its findings and decisions. A copy of the Board’s determination is provided to the applicant in writing.

**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. All appeals must pertain to activities which are regulated by the Building Code and fall within the Board’s authority. Since fees have not been updated in many years, staff recommends that Council consider increasing the application fee consistent with other South Bay cities to cover associated costs.

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Sol Blumenfeld, Director  
Community Development Department

Concur:

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Stephen R. Burrell,  
City Manager

**Notes:**

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 duplicate copy to Director.  
**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.
2. The Board has met ten times over the last ten years (ten times more than many other South Bay cities).
3. 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.
- 4.

<b>Board of Appeals Application Fees in Adjacent Cities</b>	
<b>City</b>	<b>Application Fee</b>
City of Redondo Beach	<b>\$400</b>
City of El Segundo	<b>\$250</b>
City of Manhattan Beach	<b>\$465</b>
City of Hermosa Beach	<b>\$191</b>

**Attachments:**

1. Application
2. New Permit and Construction Process Diagrams