

SUBJECT: VARIANCE 03-4 – RECONSIDERATION OF THE PLANNING COMMISSION DECISION TO DENY A VARIANCE TO ALLOW A GREATER THAN 250 SQUARE FOOT ADDITION ON A PROPERTY CONTAINING THREE UNITS WITH LESS THAN TWO PARKING SPACES PER UNIT.

LOCATION: 1427 MONTEREY BOULEVARD

APPLICANT: WILLIAM FEBBO

Planning Commission Recommendation

To deny the Variance by adopting the attached Resolution.

Background

The applicant is requesting a Variance from the Nonconforming Ordinance to exceed the maximum building expansion allowed with less than two parking spaces per dwelling unit. Up to 250 square feet of building expansion is permitted under the Nonconforming Ordinance when a property contains one parking space per unit. The proposed project currently provides 3 garaged spaces and no guest parking and is required provide 6 spaces as a nonconforming building pursuant to Section 17.44.140 (B) of the Zone Code. The applicant is proposing to provide 4 garaged spaces and 2 guest tandem parking spaces. The Planning Commission considered the Variance request at their November 18, 2003 meeting and voted 4:0 to deny the request because they could not find that the property was extraordinary or unusual relative to lot size, dimensions or topography or that the owner was denied a substantial property right possessed by others in the vicinity and zone. The Commission felt there were sufficient options available to remodel and expand the front unit in compliance with the Nonconforming Ordinance parking requirements.

Project Information

ZONING:	R-3
GENERAL PLAN:	High Density Residential
LOT SIZE:	2,909 Square Feet
EXISTING USE / FLOOR AREA:	Three Units / 2638 Square Feet
PROPOSED ADDITION:	898 Square Feet
PERCENT INCREASE IN VALUATION:	34.5%
EXISTING PARKING:	3 garage spaces, no guest spaces
PROPOSED PARKING:	4 garage spaces, plus 2 guest spaces
REQUIRED PARKING (NONCONFORMING ORDINANCE)	6 spaces

The subject property is currently developed with a single story home on the front part of the lot with a single car garage, and a two-story stacked duplex on the rear with a two-car garage with access to the alley. City records show that the single-story home was constructed in 1931 and was partially

remodeled in 1986. No records are available regarding the original construction date of the apartment in the rear, but it was determined to have legal nonconforming status in 1974 pursuant to Section 17.60 of the Zone Code. In 1984 it was substantially remodeled and expanded pursuant to a Variance granted by the City Council, allowing the expansion despite nonconforming side yards and nonconforming parking. The current use as three units is a nonconforming use in the R-3 zone, as the lot size only permits 2 units. The property is also nonconforming with respect to front and side yard requirements, parking, parking setback requirements, open space, and separation between buildings.¹

Analysis

The proposed project involves adding a second floor and roof deck to the single-story dwelling located in front, and expanding the existing garage to a 2-car garage with a 17-foot setback from the sidewalk. The proposed remodel and addition will bring the property into conformance with the front yard setback except for the front entrance balcony, and while it will increase parking for the front unit and bring it up to code, and increase open space, it will not bring the property into conformance with any of the other nonconforming conditions.

Pursuant to Section 17.52.030 of the Zoning Ordinance regarding additions to nonconforming uses, the buildings on the site may increase up to 50% in valuation, as the existing three units on the property are less than a density of 45 units per acre², and the prior expansions to this nonconforming property are not included in the 50% calculation as they occurred prior to 1989.³ However, the parking is subject to Section 17.44.140(B), which limits expansion of properties containing one space per unit to a maximum of 250 square feet. Therefore, a Variance is being requested to add more than 250 square feet, while maintaining less than two spaces per unit for the property.

The reason for the applicants' request is primarily to make the front dwelling unit more livable as a single family dwelling, and a request to recognize that the proposed changes to the front unit will bring its parking into conformance, while no changes are being proposed to increase or intensify the duplex structure in the rear. The applicant is attempting to achieve parity with other dwellings in the area in terms of livability, while maintaining as much of existing structure as possible. The intent of a Variance is to create parity with other properties in the vicinity and to avoid creating a unique or special privilege.

In order to grant a Variance, the Commission or City Council on appeal 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 applicant is making this request because of the unique nonconforming condition of the property which has been used as three units since the 1930's . This existing condition limits design options available to the applicant for improving the front house while maintaining the existing uses and structures on the back part of the property.

Discussion of findings:

Finding 1: The subject lot is only 29 feet wide, and is located in an area, which is dominated by wider lots (40 feet or more) containing nonconforming apartment buildings and multi-family structures which also exceed existing density requirements of the zone. For example, the block contains apartment complexes of 24, 18, 7 and 6 units all located on larger lots or assembled lots. Some newer condominium projects are also located nearby, typically on 40-foot wide lots. Therefore, the small width of the lot, and existing condition of the structures are somewhat unique and unusual for this block, as it has historically contained a duplex in the rear for rental purposes, and an owner occupied one-story home in front. However, there are several other lots in the general vicinity in the same zone with a 29-foot lot width, and as an example the 29-foot wide lot neighboring to the north contains a new 2-unit condominium.

In summary, while it may be arguable the existing circumstances could be considered as exceptional and extraordinary, it is not a strong case given that several other properties contain older nonconforming structures that exceed current density requirements and other properties are similar in size. Based on these facts the Commission found that this property was not unusual.

Finding 2: The owner wishes to exercise a property right to add on to an existing single-family home to meet basic standards of livability and to be a reasonable size. The Variance is necessary for this dwelling addition to exceed 250 square feet, and thus to reach a size that the applicant finds comfortable without also being forced to significantly reconfigure or remodel the existing structures on the property. Supporting such a finding depends on whether the ability to meet the applicant's preferences for livability or a certain size home is considered a substantial property right, and whether the parking standards applicable to this expansion, which limit it to 250 square feet, is so restrictive that it is denying the applicant this right. Further, it should be considered whether maintaining a nonconforming duplex rental for generating income is a substantial property right, since the property can be redeveloped with two conforming units.

The Commission considered the small size of the dwelling (1,008 square feet), which is out of parity with standard size dwellings in the area and throughout the City, and the limited options for complying with parking requirements in making this determination. However, the parking problem is also related to the nonconforming use as three units, and could be resolved by converting the rear duplex to a single-family dwelling, and with that option the parity the applicant is attempting to achieve could be reached without a variance. Also, the Commission did not find parity to be a critical issue given that the owner is currently enjoying a substantial property right with over 2500 square feet, and 3 separate units, that already exist on the property.

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 does not involve a major expansion. Further the proposed parking will significantly improve the nonconforming condition.

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

If the Council decides to approve the Variance it must adopt findings as described above or make similar findings. If the Variance is approved it would require a condition that the proposed stairway that encroaches into the public right-of-way be eliminated, and that a signed and wet-stamped survey be provided.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld, Director
Community Development Department

Stephen R. Burrell
City Manager

Attachments

1. Resolution to sustain the Commission's decision
2. Planning Commission Resolution and Minutes
3. Applicant's discussion of Variance findings
4. Location Map
5. Zoning Analysis
6. Photographs

var1427Monterey

¹ *Front Yard*: 0 rather than required 2 feet

Side Yard: 2.1 and 2.2 feet on the south side rather than the required 3 feet (10% of lot width), including a fireplace encroachment to closer than 30" to the property line on the north side.

Parking: three spaces existing rather than the required 6 spaces plus 2 guest spaces one space per unit plus one guest rather than two spaces per unit.

Parking Setback: 2 feet instead of 3 feet on the alley; 14 feet instead of 17 feet on the street.

Open Space: 324 square feet is available at grade between the units, which is well below the total of 900 square feet for 3 units. Also, no open space is adjacent to primary living levels.

Separation between buildings: 5 feet rather than 8 feet.

² Pursuant to Section 17.52.030 of the Zoning Ordinance regarding additions to nonconforming uses, the buildings on the site may increase up to 50% in valuation, as the existing three units on the property are less than a density of 45 units per acre, and the prior expansions to this nonconforming property are not included in the 50% calculation as they occurred prior to 1989. The density on the property, 3 units on 2,909 square feet, calculates to 44.9 units per acre. Pursuant to Section 17.52.030(A)2b the expansion would not be permitted if the residential density exceeded 45 units per acre.

³ Section 17.52.030 A2, the 50% increase in valuation is based on the replacement cost of the structure as of October, 1989.

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RESOLUTION NO. 03-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HERMOSA BEACH, CALIFORNIA, SUSTAINING THE PLANNING
COMMISSION DECISION TO DENY A REQUESTED VARIANCE
TO ALLOW A GREATER THAN 250 SQUARE FEET ADDITION ON
A PROPERTY CONTAINING THREE UNITS WITH LESS THAN
TWO PARKING SPACES PER UNIT AT 1427 MONTEREY
BOULEVARD**

The City Council does hereby resolve and order as follows:

Section 1. An application was filed by William Febbo owner of real property located at 259 1427 Monterey Boulevard in Hermosa Beach, seeking a Variance from Section 17.44.140(B), to allow a greater than 250 square foot expansion to a property with less than two parking spaces per dwelling unit.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for a Variance on November 18, 2003, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission. Based on the evidence, the Commission could not make the necessary findings for a Variance and denied the requested Variance.

Section 3. On November 25, 2003, the City Council, pursuant to Section 2.52.040, initiated review and reconsideration of the decision of the Planning Commission.

Section 4. The City Council conducted a duly noticed public hearing to consider the appeal on January 13, 2003, at which testimony and evidence, both written and oral, and the record of decision of the Planning Commission was presented to and considered by the City Council.

Section 5. Based on the evidence received at the public hearing, the City Council makes the following factual findings:

1. The subject lot is zoned R-1 and contains 2,909 square feet with a dimension of 29.09' in width X 100' in depth.

2. The subject property is currently developed with a single story home on the front part of the lot with a single car garage, and a two-story stacked duplex on the rear with a two-car garage with access to the alley. City records show that the single-story home was constructed in 1931 and was partially remodeled in 1986. No records are available regarding the original construction date of the apartment in the rear, but it was determined to be a legal two units in 1974. In 1984 it was substantially remodeled and expanded pursuant to a Variance granted by the City Council, allowing the expansion despite nonconforming side yards and nonconforming parking. The current use as three units is a nonconforming use in the R-3 zone, as the lot size only permits 2 units. The property is also

1 nonconforming with respect to front and side yard requirements, parking, parking setback requirements,
2 open space, and separation between buildings, summarized as follows:

3 *Front Yard:* 0 rather than required 2 feet

4 *Side Yard:* 2.1 and 2.2 feet on the south side rather than the required 3 feet (10% of lot width),
5 including a fireplace encroachment to closer than 30” to the property line on the north side.

6 *Parking:* three spaces existing rather than the required 6 spaces plus 2 guest spaces
7 one space per unit plus one guest rather than two spaces per unit.

8 *Parking Setback:* 2 feet instead of 3 feet on the alley; 14 feet instead of 17 feet on the street.

9 *Open Space:* 324 square feet is available at grade between the units, which is well below the total
10 of 900 square feet for 3 units. Also, no open space is adjacent to primary living levels.

11 *Separation between buildings:* 5 feet rather than 8 feet.
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14 3. The proposed project involves adding a second floor and roof deck to the single-story
15 dwelling located in front, and expanding the existing garage to a 2-car garage with a 17-foot setback
16 from the sidewalk. The proposed remodel and addition will bring the property into conformance with
17 the front yard setback except for the front entrance balcony, and while it will increase parking for the
18 front unit and bring it up to code, and increase open space, it will not bring the property into
19 conformance with any of the other nonconforming conditions.

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21 4. Pursuant to Section 17.52.030 of the Zoning Ordinance regarding additions to
22 nonconforming buildings, a building may increase up to 50% in valuation. However, the parking is
23 subject to Section 17.44.140(B), which limits expansion of properties containing one space per unit to a
24 maximum of 250 square feet. Therefore, a Variance is being requested to add more than 250 square
25 feet, while maintaining less than two spaces per unit for the property.

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27 5 The applicant is proposing an 898 square foot expansion to the front dwelling unit, resulting
28 in an increase in valuation of 34.5%.
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30 Section 6. Based on the foregoing factual findings, and the record of the decision of the
31 Planning Commission, the City Council makes the following findings pertaining to the application for a
32 Variance:

33 1. There are not exceptional or extraordinary circumstances relating to the property because
34 the lot is typical in size, topography and shape for the neighborhood and the same vicinity and zone.
35 The lot width of 29 feet, while smaller than the majority of lots on the same block, and slightly smaller
36 than typical 30-foot wide lots throughout the vicinity, is similar in size and width to other 29-foot lots in
37 the vicinity. Also, the difference in width of these 29-foot wide lots is not exceptional or extraordinary
38 as compared to the typical lot width of 30-feet in the vicinity.

39 2. The Variance is not necessary for the enjoyment of a substantial property right possessed
40 by other properties in the vicinity as the existing improvements on the property already consist of three
41 dwelling units for a total of 2,638 square feet structure, and thus the owner enjoys a property right
42 which is in parity with surrounding development. Further, reasonable alternatives are available to the

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applicant to modify the project in order to comply with the parking requirement, which would allow expansion to the front dwelling unit.

Section 7. Based on the foregoing, the City Council hereby sustains the Planning Commission decision to deny the requested Variance.

PASSED, APPROVED and ADOPTED this 13th day of January, 2004, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

PRESIDENT of the City Council and MAYOR PROTEM of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

_____ CITY CLERK _____ CITY ATTORNEY

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