

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

**Regular Meeting of  
January 13, 2004**

SUBJECT: VARIANCE 03-4, APPEAL – APPEAL OF PLANNING COMMISSION DENIAL OF A VARIANCE TO THE LOT COVERAGE REQUIREMENT, RESULTING IN 71% LOT COVERAGE RATHER THAN THE MAXIMUM 65%, IN ORDER ALLOW AN ADDITION AND REMODEL, AND CONVERSION OF A DUPLEX TO A SINGLE-FAMILY DWELLING AT 259 31<sup>ST</sup> STREET

APPELLANT: A. JONATHAN SCHWARTZ

**Planning Commission Recommendation**

To deny the Variance by adoption of the attached resolution.

**Background**

The applicant is requesting a Variance from the maximum lot coverage requirement of 65% to accommodate a proposed remodel of a property at 259 31<sup>St</sup> Street. The proposed project is currently 3% over the maximum lot coverage allowance. The Planning Commission considered the Variance request at their October 21, 2003 meeting and the majority voted 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 home without exceeding lot coverage requirements.

**Project Information**

ZONING:	R-1
GENERAL PLAN:	Low Density Residential
LOT SIZE:	2,100 Square Feet
EXISTING USE / FLOOR AREA:	Duplex / 1935 Square Feet
PROPOSED ADDITION:	233 Square Feet
PROPOSED USE / FLOOR AREA:	Single Dwelling / 2,168 Square Feet
PERCENT INCREASE IN VALUATION:	44%
EXISTING PARKING:	2 spaces plus 1 guest
PROPOSED PARKING:	2 garage spaces, plus 1 guest
EXISTING LOT COVERAGE	68%

The subject property is currently developed with a two-story stacked duplex, with a two-car garage with access to the alley. The current use as two units is a nonconforming use in the R-1 zone. The property is also nonconforming with respect to front and side yard requirements, open space, lot coverage and parking.<sup>1</sup>

Remodel of the property by the current owner initially commenced with a permit issued in March 1997 for reroof, restucco and replacement of windows, but upon inspection, it was observed that substantial interior and exterior alterations were proceeding without proper building permits. The owner was issued a stop-work-order and advised to submit plans for review. Subsequently the matter was referred to the Planning Commission for approval of a nonconforming remodel with an addition of 250 square feet. The Planning

Commission approved the nonconforming remodel project in September 1997.<sup>2</sup> The duration of project construction was a concern for the neighborhood and the matter was referred for report to the City Council in September 1997.

### **Analysis**

The proposed project involves eliminating one of the units by removing the first floor kitchen and connecting this floor with the second floor with an exterior spiral stair. Also, the garage will be relocated and reconstructed closer to the alley allowing the addition of 175 square feet of floor area on the first floor for an additional bedroom and bathroom, and the addition of a master bath on the second floor above a portion of the new garage. The proposed remodel and addition will bring the property into conformance with the Zoning Ordinance with respect to use because of the elimination of one unit, and bring the property into compliance with parking requirements. The nonconforming front and side yards will remain, and the project will remain nonconforming to small lot open space requirements. The project as designed causes lot coverage is to be increased by 58.5 square feet (approx 3%) to accommodate the relocated garage and master bathroom. This means that the project will be a total of 6% over the allowable lot coverage. Therefore, a Variance is required from the lot coverage requirement.

The reason for the applicants' request is primarily to make the dwelling more livable as a single family dwelling with a master bathroom adjacent to the master bedroom, and upgraded bathroom facilities on the first level to include a bathtub. The applicants desire to construct this addition while maintaining as much of the existing structure as possible, since it was recently remodeled. Staff has discussed other options with the applicants to avoid this Variance request, such as removing the front stairway access to the second floor in order to compensate for the increased lot coverage, or reconfiguring the floor plan. The removal of the front stair and replacing it with an interior stairway, also removes the second front door access to make the project more consistent with a typical single family home, and less likely to become an illegal second unit in the future. The applicants, however, are choosing to pursue the Variance because these options reduce the project floor area and require constructing a conventional stair in the building, decreasing the size of the existing first floor living room, proposed to become a recreation room.

At the Commission hearing the applicants indicated that based on the 1997 approved plans, they believed they could add 58.5 square feet in compliance with allowable lot coverage. The assumption is based on incorrect project data shown on the 1997 plans, which noted that the project was 58.94 square feet under the 65% lot coverage allowance. The actual lot coverage at the time, as verified by current plans, was 68%, so the difference actually benefited the applicant in 1997 when the original remodel was approved. The difference in calculation results partly from a bay window projection that was noted "to be removed" on the plans but was never removed. This accounts for over 1/3 of the lot coverage in question, and the balance of the disputed coverage is located in existing exterior stairs.<sup>3</sup> Whether the applicant was apprised of the extent of lot coverage in 1997, however, is not in itself grounds for approval of a Variance.

A Variance is not intended to be a grant of a special privilege, but a means to ensure that there is parity with surrounding properties. In order to grant a Variance, the Commission or the 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 small lot size, and the existing condition of the building, which creates unique design problems since it was originally built as a stacked duplex. These conditions limit design options available to the applicant while maintaining the existing structure.

Discussion of findings:

**Finding 1:** The lot is considered a “small lot” under the R-1 development standards, as it is 2100 square feet. This means the lot already qualifies for the small lot exception, which allows open space to be provided on decks. So the small lot condition, which exists on this entire block (38 lots have the same dimension) is not really exceptional or unusual and, further, because these small lots are recognized in the code, the property is already given some relief from development standards.

The existing condition of the structure may be somewhat unusual, since it is historically a duplex that may be difficult to convert to a single dwelling. This condition exists on 7 other lots on this block. However, as noted, the existing building is nonconforming to several development standards, and thus is afforded several benefits by being allowed to maintain these nonconformities that may not be available to other properties in the same situation, and it not available to properties with new construction.

In summary it is questionable whether these circumstances may be considered exceptional and extraordinary, and the Commission did not make this finding.

**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 Variance to lot coverage is necessary for this dwelling to reach a size that the applicant finds comfortable and to add a master bath without also being forced to significantly reconfigure or remodel the existing structure. 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 lot coverage requirement is so restrictive that it is denying the applicant this right.

The Commission did not make this finding, and to the contrary found that the existing structure containing nearly 2,000 square feet is not out of parity with surrounding buildings, and further, options are available to comply with the lot coverage requirement and still meet the applicant’s general objectives.

**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.

**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.

The City Council must adopt the required findings as described above or make similar findings. If the Variance is approved, Staff recommends that it be conditioned on the recording of a deed restriction to limit the use of the property to one dwelling unit (given that the applicant is maintaining separate exterior access to each floor and a wet bar on the ground floor).

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Ken Robertson  
Senior Planner

CONCUR:

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Sol Blumenfeld, Director  
Community Development Department

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Stephen R. Burrell  
City Manager

Attachments

1. Proposed Resolution to Sustain the Commission Decision
2. Planning Commission Resolution and Minutes
3. Applicant's discussion of Variance findings
4. Location Map
5. Zoning Analysis
6. Photographs
7. Correspondence

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<sup>1</sup> *Front Yard:* 0 rather than required 7 feet (10% of lot depth)

*Side Yard:* 1.5 feet on the west side rather than the required 3 feet (10% of lot width), including a bay window that projects to the property line.

*Open Space:* Complies with the total requirement for small lot exception of 300 square feet, as a total of 500 square feet is available on the roof deck (380) and excess yard areas on the ground (120), but does not comply with the requirement that 60% be located adjacent to primary living areas, as 120 square feet is available on ground rather than 180 square feet.

*Lot Coverage:* currently 68% rather than the required 65%

*Parking:* one space per unit plus one guest rather than two spaces per unit.

<sup>2</sup> Pursuant to Section 17.44.140 of the Zone Code, the Commission approved allowing a 250 square foot addition to the duplex while maintaining the nonconforming use and nonconforming parking (one space per unit).

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<sup>3</sup> Several iterations of the project resulted in the project exceeding maximum allowable lot coverage by 6.2%. The current plans include front stairs (70 sq. ft.) and spiral stairs (31 sq. ft.) which contributes to the excess lot coverage. Pursuant to Section 17.04.040 "**Lot coverage**" means:

1. that portion of a lot covered by the area within the foundation of the main building and all accessory buildings and structures,
2. the area covered by cantilevers projecting from a building, and
3. the area covered by decks and stairs more than thirty (30) inches above grade as defined in Section 17.04.040.

The following shall not be included when calculating lot coverage:

1. the area covered by architectural projections, eaves, and unenclosed balconies (i.e. balconies open on at least two sides and which may be under another balcony) that project five (5) feet or less from the face of a building,
2. non-structural stairs, patios, walkways, and planters which establish finish grade, and fences and walls.

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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 FROM LOT COVERAGE  
REQUIREMENTS AT 259 31<sup>ST</sup> STREET LEGALLY DESCRIBED  
AS LOT 19, BLOCK 117, SHAKESPEARE TRACT**

The City Council does hereby resolve and order as follows:

Section 1. An application was filed by A. Jonathan Schwartz owner of real property located at 259 31<sup>st</sup> Street in Hermosa Beach, seeking a Variance from Section 17.08.030(J), Permissible Lot Coverage in the R-1 Zone, to allow an addition and remodel, and conversion of a duplex to a single-family dwelling, resulting in 71% lot coverage rather than the maximum 65%.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for a Variance on October 21, 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. The applicant filed an appeal of the Commission's decision.

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, and the record of decision of the Planning Commission the City Council makes the following factual findings:

1. The subject lot is zoned R-1 and contains 2100 square feet with a dimension of 30' X 70'. This is the typical lot size for this block, which is a walk street, and is considered a small lot pursuant to the R-1 zoning standards, which provides an exception to open space requirements for small lots.

2. The subject property is currently developed with a two-story stacked duplex, with a two-car garage with access to the alley. The current use as two units is a nonconforming use in the R-1 zone. The property is also nonconforming with respect to front and side yard requirements, open space, lot coverage and parking summarized as follows:

*Front Yard:* 0 rather than required 7 feet (10% of lot depth)

*Side Yard:* 1.5 feet on the west side rather than the required 3 feet (10% of lot width), including a bay window that projects to the property line.

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3. The proposed project involves eliminating one of the units by removing the first floor kitchen and connecting this floor with the second floor with a spiral stair. Also, the garage will be relocated and

1 reconstructed closer to the alley allowing the addition of 175 square feet of floor area on the first floor for  
2 an additional bedroom and bathroom, and the addition of a master bath on the second floor above a portion  
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7 lot coverage to be increased by 58.5 square feet (approx 3%) to accommodate the relocated garage and  
8 master bathroom. Therefore, a Variance is required from the lot coverage requirement.

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10 4. The applicant is proposing a 233 square foot expansion, resulting in an increase of valuation of  
11 44% as combined with a 1997 expansion and remodel project.

12 Section 6 Based on the foregoing factual findings, and the record of decision of the Planning  
13 Commission, the City Council makes the following findings pertaining to the application for a Variance:

14 1. There are not exceptional or extraordinary circumstances relating to the property because the lot  
15 is typical in size, topography and shape for the neighborhood. While the lot is small (2100 square feet with  
16 dimension of 30' X 70', this small lot condition exists on this entire block (38 lots have the same  
17 dimension). Further, because these small lots are recognized in the code; the property is already given  
18 some relief from development standards relating to open space. The existing condition of the structure,  
19 historically a duplex, is not unusual since this condition exists on 7 other lots on this block.

20 2. The Variance is not necessary for the enjoyment of a substantial property right possessed by other  
21 properties in the vicinity as the existing structure already contains almost 2,000 square feet, and thus the  
22 owner enjoy a property right which is in parity with surrounding development. Further, reasonable  
23 alternatives are available to the applicant to modify the plan to provide the additional square footage  
24 desired in order enlarge the home, and still comply with the lot coverage requirement.

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

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

28 AYES:

29 NOES:

ABSTAIN:

ABSENT:

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

ATTEST:

APPROVED AS TO FORM:

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CITY CLERK

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CITY ATTORNEY

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ATTEST:

APPROVED AS TO FORM:

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CITY CLERK

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CITY ATTORNEY

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