

October 4, 2004

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

**Regular Meeting of
October 12, 2004**

SUBJECT: VARIANCE 04-2, APPEAL – APPEAL OF PLANNING COMMISSION DENIAL OF VARIANCES TO LOT COVERAGE REQUIREMENT AND MAXIMUM ALLOWABLE VALUATION INCREASE FOR A NONCONFORMING STRUCTURE TO PERMIT AN ADDITION AND REMODEL OF AN EXISTING SINGLE-FAMILY DWELLING, RESULTING IN 70.9% LOT COVERAGE RATHER THAN THE MAXIMUM 65% AND A 148.1% VALUATION INCREASE RATHER THAN THE MAXIMUM 100%

APPELLANT: THOMAS & BARBARA ZONDIROS, 311 31ST STREET

Planning Commission Recommendation

Deny the appeal by adoption of the attached resolution.

Background

The subject property is currently developed with a one-story single family dwelling, with a one-car garage with access to the alley. The applicant is requesting a Variance from the 65% maximum lot coverage requirement and the maximum allowable 100% valuation increase for a nonconforming structure to accommodate a proposed expansion and remodel of a property at 311 31st Street. The proposed project is currently 3% over the maximum lot coverage allowance. The Planning Commission considered the Variance request at their August 17, 2004 meeting and voted unanimously to deny the request because they could not find that the property was extraordinary or unusual relative physical conditions 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 and valuation limits for nonconforming structures.

Project Information

ZONING:	R-1
GENERAL PLAN:	Low Density Residential
LOT SIZE:	2,100 Square Feet
EXISTING FLOOR AREA:	956 Square Feet
PROPOSED ADDITION:	1,268 Square Feet
PROPOSED FLOOR AREA:	2,224 Square Feet
PERCENT INCREASE IN VALUATION:	148.1%
EXISTING LOT COVERAGE:	56.8%
PROPOSED LOT COVERAGE:	70.9%
EXISTING PARKING:	1 garage space
PROPOSED PARKING:	2 garage spaces and 1 guest

EXISTING NONCONFORMING CONDITIONS

FRONT YARD:	0 Feet rather than required 7 feet (10% of lot depth).
PARKING:	One space rather than two spaces plus one guest.
OPEN SPACE:	Does not comply with the requirement that 60% be located adjacent to primary living areas ¹ .

Analysis

The applicants are proposing to construct a second-story addition of 1,268 square feet to the existing residence. The project also entails remodeling 634 square feet of existing livable floor area. The expansion will increase the living area of the house from 956 square feet to 2,224 square feet. The nonconforming front yard will remain. Also, the proposed project will remain nonconforming to small lot open space requirements. The proposed enlarged garage and driveway will cover the existing open space area in the rear yard, and the applicants propose to replace this area with a second story deck and a roof deck with a combined usable open space area of 340 square feet. The proposed open spaces still do not comply with the requirement that 60% be located adjacent to primary living areas, as the second story deck is adjacent to the proposed master bedroom and the roof deck is not directly adjacent to any living area. The expansion and remodel results in a 148.1% increase in valuation and the maximum allowable valuation increase for an expansion and remodel of an existing nonconforming structure is 100%. Therefore, a Variance is required.

The garage is proposed to be enlarged and moved closer to the alley to accommodate two parking spaces. Combined with an enlarged driveway to provide adequate area for a parallel guest parking space, the proposed garage eliminates the existing nonconforming parking condition and brings the property into compliance with current parking requirements. However, the proposed addition causes lot coverage to be increased by 296 square feet (approximately 14%) to accommodate the enlarged garage. 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 to suit their needs, 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 wish to construct this addition while maintaining as much of the existing structure as possible, and keep the primary living area (the living/family room) on the first floor adjacent to the existing open area abutting the walk street encroachment at the front of the property. Staff has discussed other options with the applicants to avoid the need for a Variance, such as a building a completely new residence given that the proposed project more than doubles the existing structure valuation, or scaling down the expansion below the 100% maximum.

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. "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."² In order to grant a Variance the City Council must make the following four 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 argues that because of the small lot size, the existing small building size, and the desire to maintain the primary living area on the ground floor it is not possible to comply with development standards 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 property may be somewhat unusual, in that it is located 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 reducing the buildable area of the project. If the primary living area is provided on the second floor, then the required open space can be provided on decks, but the applicants believe that reversing the floor plan (providing primary living areas upstairs and bedrooms downstairs) negatively impacts the unique character of the walk street by closing off the property to it with more private bedroom space. However, these conditions exist for all the properties on this walk street and are not unique to this property relative to the other walk street properties. Also, the existing building is nonconforming to current development standards, and thus is afforded some benefits by being allowed to maintain these nonconformities that may not be available to other properties in the same situation, and is not available to properties with new construction.

In summary it is questionable whether these circumstances could be considered as exceptional and extraordinary.

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. They argue that the Variances to lot coverage and valuation increase are necessary for this dwelling to reach a size that the applicants find comfortable and to maintain the primary living area on the ground floor without also being forced to significantly reconfigure the existing structure. Supporting such a finding depends on whether the ability to meet the applicants’ preferences for livability or a certain size home is considered a substantial property right, and whether the lot coverage and valuation increase requirements are so restrictive that they are denying the applicants this right, and whether these rights can be achieved through alternative methods such as building a new house.

Making this finding is difficult given that new construction or alterations to the project plans would make it possible to meet the applicants’ general objectives and still comply with the lot coverage requirement and eliminate the need for a Variance.

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 Zone Code, and is not inconsistent with development in the neighborhood.

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 the Zoning Ordinance and the General Plan.

The City Council must adopt the required findings as described above or make similar findings.

CONCUR:

Scott Lunceford
Associate Planner

Sol Blumenfeld, Director
Community Development Department

Stephen R. Burrell
City Manager

Attachments

1. Resolution Sustaining Commission Decision
2. Planning Commission Resolution and Minutes
3. Applicant Correspondence
4. Location Map
5. Zoning Analysis
6. Photographs
7. Correspondence

Footnotes

1. Complies with the total open space area requirement for small lot exception of 300 square feet with a total of 374 square feet is available in the rear yard. Section 17.08.030 –“Exceptions for Small Lots: Lots of 2100 square feet or less in area shall be allowed a minimum of three hundred (300) square feet of usable open space with minimum dimensions of seven (7) feet in length and width, and all of the required usable open space may be provided on balconies or decks provided that at least sixty percent (60%) of usable open space is directly accessible to primary living areas (living rooms, family rooms, and kitchen and living room or family room combinations). and located on the same floor level as the accessible primary living area."
2. Longtin's California Land Use, 2nd Edition, 1987, Chapter 3, Part G, "Variances and Conditional Use Permits"