

October 19, 2005

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

**Regular Meeting of
October 25, 2005**

VARIANCE 05-1 - RECONSIDERATION OF THE PLANNING COMMISSION DECISION TO ALLOW THE CONSTRUCTION OF AN 1,828 SQUARE FOOT NEW SINGLE-FAMILY DWELLING ON A "HALF-LOT" WITH VARIANCES FROM GARAGE SETBACK, GUEST PARKING, REAR YARD AND OPEN SPACE STANDARDS -- 249 26TH STREET.

Planning Commission Recommendation

To sustain the decision to approve the requested Variances for the guest parking, garage setback, rear yard and open space by adopting the attached resolution.

Background

At the September 20 meeting the Planning Commission approved the subject Variances by a vote of 3:2, based on the findings as set forth in the attached Planning Commission resolution due to the exceptionally small lot size and the half-lot condition.

Property Information

ZONING:	R-2
GENERAL PLAN:	Medium Density Residential
LOT SIZE:	1,350 Square Feet
PROPOSED DWELLING UNIT SIZE:	1,828 Square Feet

The subject lot is a substandard sized "half-lot" with frontage on the street and no alley access. The lot is currently developed with a single-family dwelling that contains approximately 1,400 square feet, and is nonconforming to parking as it contains only a substandard one-car garage.

Analysis

The applicant is requesting Variances from the development standards noted below in order to allow the construction of a 1,828 square-foot home with two bedrooms, a family room, 3 bathrooms, and roof deck for the following reasons:

1. Parking Setback: The proposed setback from the sidewalk is 5 feet, rather than the required 17 feet pursuant to Section 17.44.090(C). The applicant states that if required to provide the 17-foot setback the entire ground floor would essentially be devoted to parking, and significantly reduce usable floor area for the dwelling.
2. Guest Parking: The applicant is proposing no guest parking rather than the one required pursuant to Section 17.44.020(A). This is related to the parking setback issue, as the 17-foot setback normally provides the location for at least one guest space. However with garage and floor plan modifications, it is possible to provide an outdoor guest space to the side of a two-car garage. A guest space to the side of the garage would help relieve neighborhood-parking concerns, and could be included as part of the Variance from the parking setback requirement of 17-feet.
3. Rear Yard: The applicant is requesting a Variance from Section 17.14.020 which otherwise requires a 5-foot rear yard setback at the ground floor. This Variance is to allow the stairway providing access to the upper floors to encroach to within three feet of rear property line at the ground floor and thus only impacts a portion of the rear yard at the ground (approximately 7-foot wide). The remaining 17-foot section of the

building complies with the 5-foot setback. The upper floors are setback 3-feet at the rear, consistent with the requirements for the R-2 zone.

4. Open Space: The applicant is proposing to use 150 square feet of the 492 square foot roof deck area towards the open space requirement. The other 150 square feet is provided on a second floor deck adjacent to the second floor living area. Section 17.14.080(E) specifically limits the amount of open space that can be counted on a roof deck to 100 square feet. Therefore, the plans as submitted provide 250 square feet of qualifying open space, and the project is 50 square feet short of the required 300 square feet.

The different Variances bring up different issues with respect to the required findings and impacts upon the neighborhood. The Variances regarding parking setback, and the ground floor rear yard relate directly to the physical characteristics of the property (the substandard lot depth) and the fact that older and more recent projects in the neighborhood provide garage setbacks of 5-feet or less, or provide parking with access from the alley. However, the arguments for the Variance to guest parking requirement and the open space requirement are not as compelling since these standards can be met with changes to the floor plan while still allowing the construction of a reasonably sized living space.

In order to sustain the Planning Commission approval and grant the requested Variances, the Council 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(s) are 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 Variances 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 Variances are consistent with the General Plan

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.

The Planning Commission majority made the following findings:

Finding 1: The lot is exceptionally small (1,350 square feet), and unusual in that it is only one of 10 half lots that front directly onto a street in this portion of the City, and is the only such half-lot on this block. The lot size and dimensions force a complying garage to be accessed from the street only, not allowing the property to take advantage of the alley, which has lesser setback requirements.

Finding 2: The Variances are necessary for the enjoyment of a substantial property right possessed other properties in the vicinity, and to construct a reasonably sized dwelling. Varying from the parking setback and rear yard requirements is necessary to enjoy a property right possessed by neighboring properties, in order to construct usable floor area on the ground floor, and to find a suitable location for stairway access. The Variances from guest parking and open space are also needed since modifying the project plans to meet zoning requirements results in a ground level comprised entirely of parking and stair access which has less utility than other properties in the vicinity and zone.

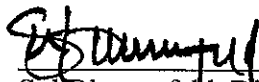
Finding 3: The Variances from parking setback, guest parking, rear setback and open space are not materially detrimental to neighboring properties as a new moderate sized home can be constructed consistent with development in the neighborhood. The lack of guest parking may potentially impact surrounding residents who rely on limited available public parking, however, the proposal improves on the current situation in which no usable parking is available on this property.


Finding 4: The construction of a single-family home in this location with these variations from development standards is consistent with the General Plan.

In summary, the Planning Commission agreed with the applicant that the requested Variances are necessary because the subject lot is very small (45' deep by 30' wide) and is essentially half the size of the typical lots in the area. This exceptionally small lot size limits the potential for building a home consistent with existing and new homes in the area and a reasonable lower level floor plan. Further, the Commission felt the above findings could be made for relief from the garage setback, guest parking, rear yard and open space requirements, to support the applicant's effort to achieve parity and improve the existing parking situation on the property, without detrimental impacts in the neighborhood.¹


Ken Robertson
Senior Planner

CONCUR:


Sol Blumenfeld, Director,
Community Development Department


Stephen R. Burrell
City Manager

Notes:

1. The applicant provided a schematic floor plan to Planning Commission showing that a complying 17-foot setback eliminates any use other than parking and stair access on the ground floor, and results in a house of about 1600 square feet with no family room and one less bathroom. The applicant argued that he is seeking parity with neighboring properties to build a larger dwelling, containing a family room and 3 bathrooms and indicates that the proposed project is predicated on receiving all of the proposed Variances.

Attachments

1. Proposed Resolution
2. Planning Commission Minutes/Resolution
3. Applicant letter/alternate floor plan
4. Location Map/Aerial Photo
5. Zoning Analysis/Height Calculation
6. Photographs

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RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF HERMOSA BEACH,
CALIFORNIA, SUSTAING THE PLANNING COMMISSION DECISION
TO APPROVE VARIANCES TO THE GUEST PARKNG, PARKING
SETBACK, REAR YARD, AND OPEN SPACE REQUIREMENTS AT 249
26TH STREET LEGALLY DESCRIBED AS THE SE 45-FEET OF LOT 15,
BLOCK 112, SHAKESPEARE TRACT**

The City Council does hereby resolve and order as follows:

Section 1. An application was filed by Robert J. Beste, owner of the property located at 249 26th Street seeking Variances to allow the construction of a new dwelling with less than required parking setbacks, a rear yard of 3 feet rather than 5 feet, no guest parking rather than the required one guest space, and less than required open space.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for the Variances on September 20, 2005, and based on the testimony and evidence, both written and oral, that was presented to and considered by the Commission, the Planning Commission voted 3:2 to approve the requested Variances.

Section 3. On September 27, 2005, 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 notice public hearing to review and reconsider the decision of the Planning Commission on October 25, 2005, at which the record of the decision of the Planning Commission and testimony and evidence, both written and oral, was presented to and considered by the City Council.

Section 5. Based on the evidence received at the public hearing, and record of decision of the Planning Commission, the City Council makes the following factual findings:

1. The property is zoned R-2, and is a substandard sized "half-lot" containing 1,350 square feet with dimensions of 30-feet wide by 45-feet deep. The lot has frontage on 26th Street, but because it is a half lot does not have access to the alley to the rear.

2. The applicants are proposing to demolish the existing nonconforming single-family dwelling that contains a one-car garage, and construct a three level single-family dwelling containing approximately 1,878 square feet.

Section 6. Based on the foregoing factual findings, the City Council makes the following findings pertaining to the application for a Variance:

1 1. There are exceptional or extraordinary circumstances applicable to the property involved
2 since the lot is relatively small (1,350 square feet) compared to surrounding properties, and unusual
3 in that is only one of 10 half lots that front directly onto a street in this portion of the City, and is the
4 only such half-lot on this block. The lot size and dimensions force a complying garage to be
5 accessed from the street only, not allowing the property to take advantage of the alley, which has
6 lesser setback requirements. These factors impact the ability for the applicant to provide the guest
7 parking, parking setback, rear setback and open space.

8 2. The Variances to the guest parking, parking setback, rear yard requirement and open space
9 requirement are necessary for the enjoyment of a substantial property right possessed other
10 properties in the vicinity, and to construct usable floor area on the ground floor, and to provide a
11 reasonable floor plan in order to achieve parity with surrounding development.

12 3. The Variances are not materially detrimental to neighboring properties as a new moderate
13 size home would be constructed consistent with development in the neighborhood.

14 4. The Variances for parking setback and rear yard will allow the construction of a project
15 that is not unusually large or out of scale with other projects in the neighborhood, and is otherwise
16 is consistent with the density standards of the General Plan.

17 Section 7. Based on the foregoing, and since the City Council agrees with the Planning
18 Commission and can make all 4 required findings as required by Section 17.54.020 of the Zoning
19 Ordinance, the City Council hereby sustains the Planning Commission decision to approve the
20 requested Variances from guest parking, parking setback rear yard and open space requirements
21 subject to the following **conditions of approval.**

- 22
- 23 1. **The development and continued use of the property shall be in conformance with**
24 **submitted plans received and reviewed by the Commission at their meeting of**
25 **September 20, 2005.**
 - 26 2. **The Variances for this property are specifically limited to the guest parking,**
27 **parking setback, rear yard, and open space requirements as specified, and**
28 **applicable to the situation and circumstances that result relative to the proposed**
29 **project and is not applicable to the development of future structures or any future**
expansion.

PASSED, APPROVED, and ADOPTED this day of , 2005,

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

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY

F:\B95\CD\CC\VARR249-26th-approve all.DOC

August 22, 2005

Hermosa Beach Planning Department
1315 Valley Drive
Hermosa Beach, CA 90254

RECEIVED

OCT 17 2005

COM. DEV. DEPT.

Re: The Beste Residence (New House)
249 26th Street
Hermosa Beach, CA 90254

We are submitting architectural plans for a new, 1828 square foot house, to be constructed on a 30-foot wide by 45-foot deep (half) lot. The existing house of approximately 1418 square feet is to be demolished. The owners, Rob and Carleen Beste and their two children, currently live in the existing house.

The 1350 square foot lot is much smaller than standard Hermosa Beach lots, and does not abut an alley. Therefore, we are requesting a variance to allow the following:

- A) Garage doors to be set back five feet from the front property line, and elimination of the guest parking requirement.
- B) Allow a two-foot intrusion into part of the five-foot rear setback on the ground floor level.
- C) An increase in the amount of allowable open space on the roof deck, from 100 square feet to 150 square feet.

The project meets the following criteria:

1. Exceptional Circumstances:

The lot is only half the size of the other lots in the area. Forcing this project to provide the same parking as the surrounding full-sized lots would require almost the entire ground level to be used for parking, eliminating any useful habitable space on that level.

2. Substantial Property Rights:

If the ground floor were to be completely devoted to parking, there would be no opportunity to have any useful yard space at the ground level. In addition, the size of the resulting house would be very small, approximately 1500 square feet, with only two bedrooms. This is hardly enough room for even a small family, and is less than 100 square feet larger than the existing house. As the cost of a new house will be approximately \$500,000, that 100 square feet would be prohibitively costly. Most other new houses in the area are about 3000 to 4000 square feet in size.

3. Public Welfare:

The house, as designed, would be similar to the surrounding newer houses in terms of bulk, lot coverage, and use of space. The planned construction of two full-sized garage parking spaces, instead of the existing single substandard space, would effectively remove two cars from the street (the existing garage is too small to be used for a standard car).

In addition, replacing the existing house, which is in very poor condition and has many non-conformities, would be a benefit to the neighborhood.

4. General Plan:

The planned house would be in conformance with all aspects of the general plan, and would be a great improvement over the existing conditions. The house would be somewhat less "bulky" than surrounding new houses on full lots, and would provide a higher percentage of open space than a full-lot house.

North Hermosa Half-Lots:

249 26 th Street	Our project.
123 27 th Street	1 garage space, no guest space, no open space.
317 28 th Street	1 garage space, no guest space, house was expanded and roof deck was added with a variance allowing reduced parking and reduced garage setback.
247 29 th Street	1 garage space, no guest space, no open space.
215 Longfellow	1 garage space, no guest space, no open space.
235 33 rd Street	No parking, no open space.
229 34 th Street	1 garage space, no guest space, no open space, 2 units.
225 34 th Street	2 garage spaces, no guest parking, house has had a very large addition and remodel with a variance allowing reduced parking and reduced garage setback.
224 35 th Street	2 garage spaces, no guest space, no open space.
230 35 th Street	2 garage spaces, no guest space, no open space.
2650 Hermosa Ave	2 garage spaces, 2 (short) guest spaces (but driveway is too steep). Provides open space only on the roof, built with a variance allowing reduced rear yard setback.

Additional Background

The existing house was built in 1930, and has been altered and expanded since then. Many parts of the house do not meet current building or zoning codes. Because of the small size of the existing house, and the small size of the garage, the garage is now used for bicycles and general storage. The new house would have adequate storage space, a full-sized garage, and additional room for bikes and beach gear.

Similar Parcels

There are only 10 other half-lot houses that do not have alley access in the North Hermosa Beach area:

Four houses have two parking spaces.

Five houses have one parking space.

One house has no parking.

No house meets the current parking requirements or garage setback requirements.

No house meets the current open space requirements.

Seven of the houses were built between 1910 and 1960, and do not appear to have been altered significantly since. Most are in fair to poor condition.

Two houses have been extensively expanded, and both received variances that reduced the garage setbacks and the number of required parking spaces.

One house is six years old, and received a setback variance to allow extra room for driveway parking. However, the driveway is only 15 feet long, has substandard headroom, and is so steep that many cars can not use either the garage or the driveway. This house does not have any open space adjacent to the living areas; it has only a roof deck.

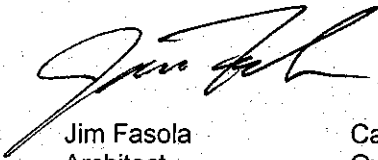
Summary

Apparently, the current garage and guest parking codes were developed for use on full-sized lots. Every half-lot development has received some sort of parking-related variance, and there is not a single example of a half-lot house that meets the current parking requirements. Allowing our project to be built as designed would provide greatly improved parking for the owners, remove two cars from the street, and would be a much more reasonable development, considering the size of the lot.

In addition, allowing us to use 150 square feet of open space on the roof is appropriate for our lot size. The open space requirement also seems geared for full lots, and is not appropriate for half-lot houses. Again, none of the existing half-lot houses come close to providing the current open-space requirement.

The granting of a variance for these issues is vital to the ability to construct a reasonable house on this lot. We hope that the Planning Staff and Planning Commission agree with our reasoning regarding these issues. If you wish to ask us any questions regarding our research or data, please feel free to contact us.

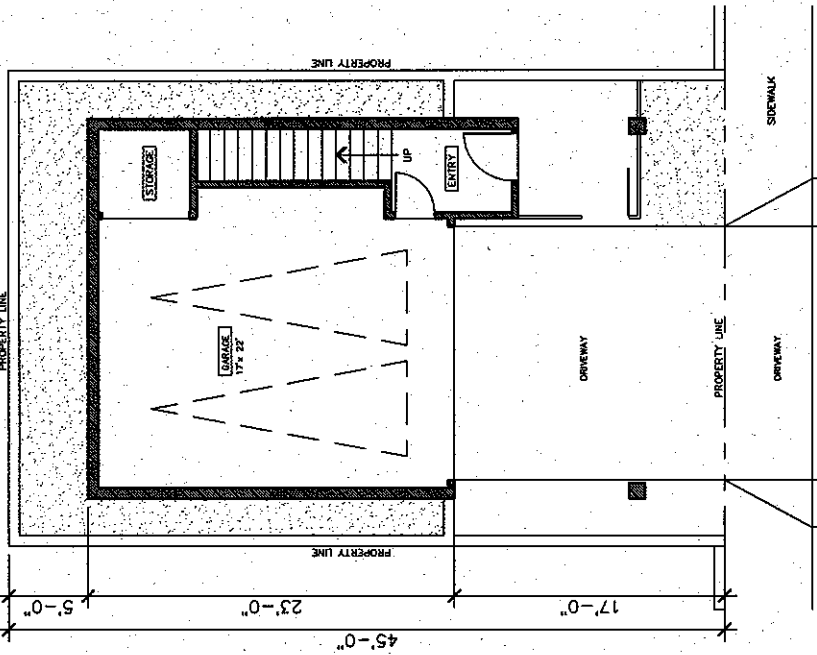
Sincerely,



Jim Fasola
Architect

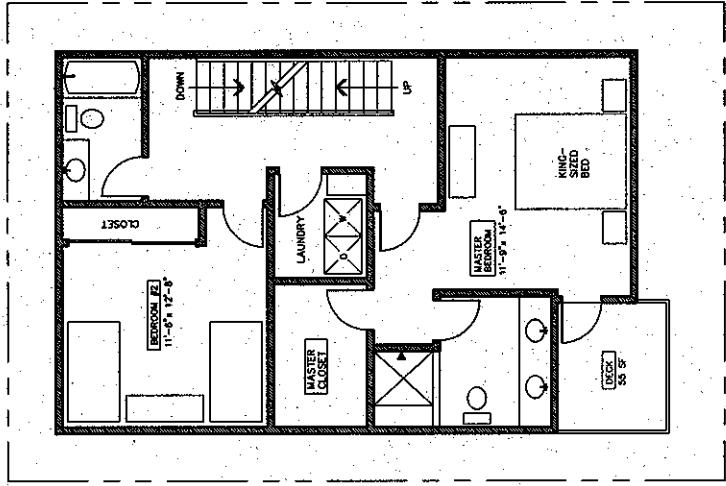
Carleen and Rob Beste
Owners

Attachments



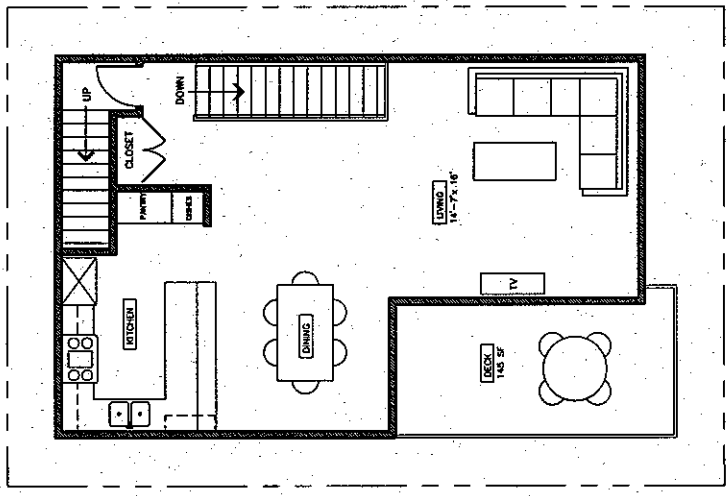
GROUND FLOOR
100 S.F. HABITABLE AREA

These floor plans depict a house that would meet the 17-foot garage setback requirement and meet the current open space requirements.

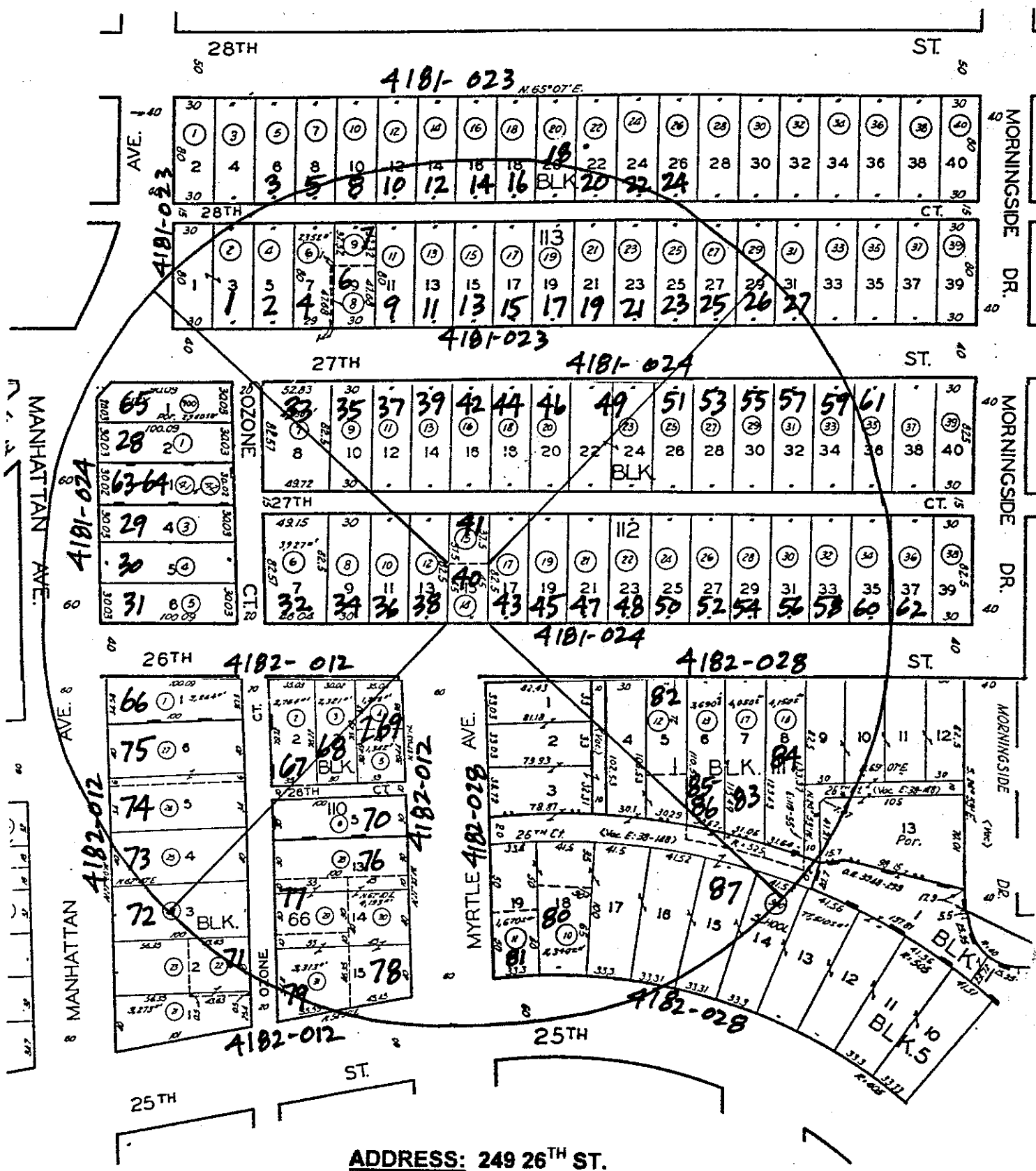


MIDDLE LEVEL
790 S.F. HABITABLE AREA

Note that the house has only two bedrooms and two bathrooms. The total size is about 1600 square feet, but 100 feet of that is entry area on the first floor and is not very usable.



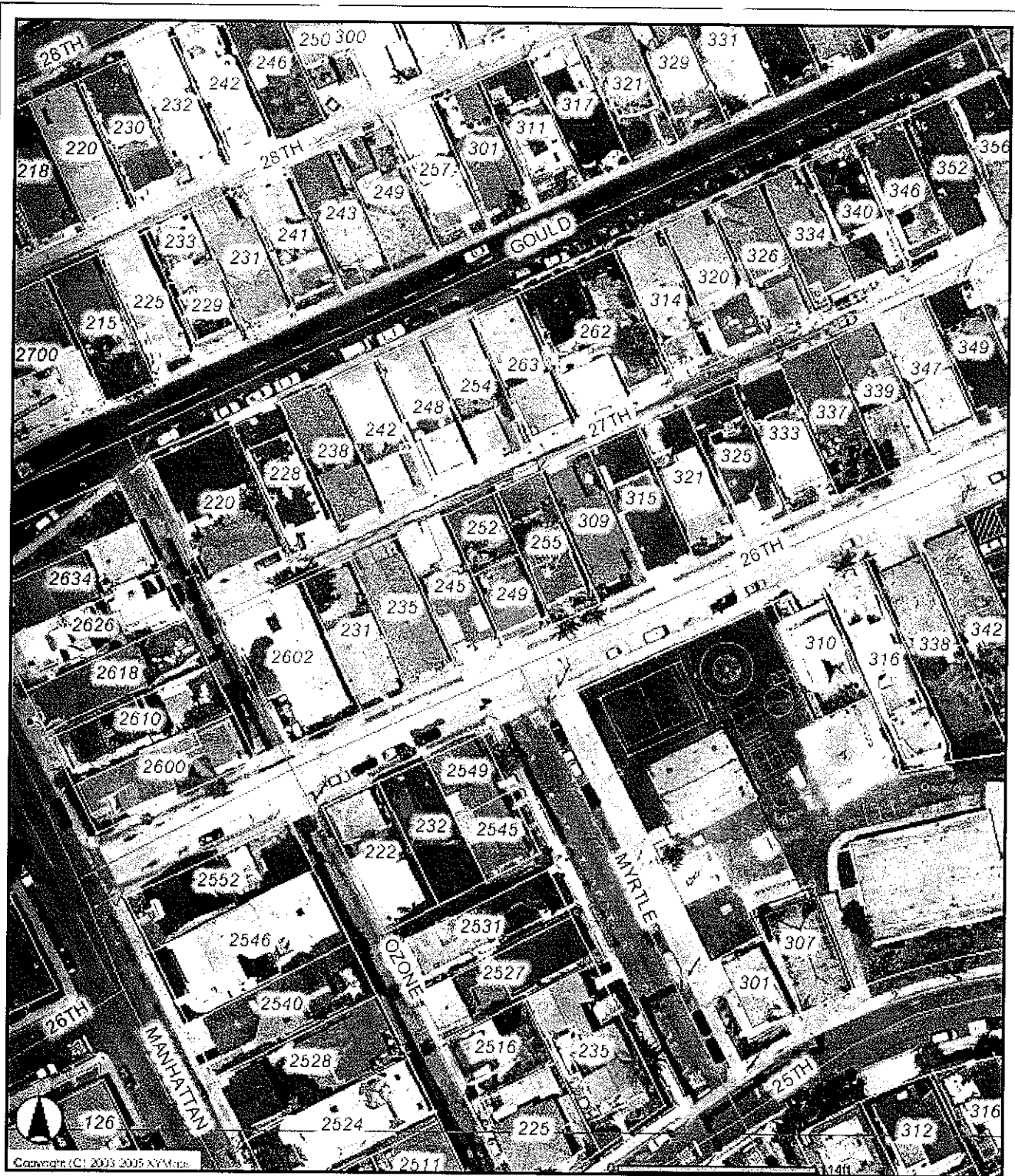
UPPER LEVEL
710 S.F. HABITABLE AREA



ADDRESS: 249 26TH ST.

SCALE 1" = 100'

8



249 26th Street

ZONING CHECK LIST

ADDRESS 249 26th St.

ZONE R-2

OWNER/ARCHITECT Beste / Fasola

GENERAL PLAN MD

PROJECT TYPE New SF (Variance)

COASTAL ZONE YES X NO

DATE 9.13.05

*IF YES, A COASTAL PERMIT IS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE.

ITEMS CHECKED NEED CORRECTION

___ 1) ALLOWABLE DENSITY 1 EXISTING DENSITY 1 PROPOSED 1

___ 2) ALLOWABLE BUILDING HEIGHT _____ EXISTING _____ PROPOSED 25'

MAXIMUM HEIGHT INFORMATION PROPERLY SHOWN ON ROOF PLAN/ELEVATIONS:

X PC ELEVATIONS NO CRITICAL POINT MAX AND PROPOSED yes DISTANCES TO C.P.'S yes

___ 3) NO. OF STORIES EXISTING 2 PROPOSED 2 + basement

___ 4) MAXIMUM LOT COVERAGE 65% EXISTING _____ PROPOSED 64%

___ 5) REQUIRED FRONT YARD SETBACK 5' EXISTING _____ PROPOSED 5'

___ 6) REQUIRED REAR YARD SETBACK, 1ST FL. 5' 2ND FL. 3' EXISTING _____ PROPOSED 3' 3' *Variance needed*

___ 7) REQUIRED SIDE YARD SETBACK 3' EXISTING _____ & _____ PROPOSED 3' & 3'

MULTIPLE ROW DWELLINGS YES _____ NO _____ IF YES:

REQUIRED SIDE-YARD _____ EXISTING _____ PROPOSED _____

___ 8) REQUIRED PARKING SPACES STANDARD 2 GUEST 1

EXISTING SPACES STANDARD _____ GUEST _____

PROPOSED SPACES STANDARD 2 GUEST 0 *Variance needed*

___ 9) PARKING SPACES MINIMUM SIZE:

STANDARD INSIDE GARAGE 8.5x20 EXISTING _____ PROPOSED 8.5x20

GUEST SPACE(S) OUTSIDE NA EXISTING _____ PROPOSED _____

___ 10) GARAGE OR PARKING SETBACK REQUIRED 17' EXISTING _____ PROPOSED 5' *Variance needed*

___ 11) MIN. GARAGE DOOR/CEILING CLEARANCE 7' EXISTING _____ PROPOSED 7'

___ 12) TURNING AREA REQUIRED 23' EXISTING _____ PROPOSED 23' +

___ 13) DRIVEWAY:

REQUIRED WIDTH 9' EXISTING _____ PROPOSED 16'

MAXIMUM SLOPE 12.5% EXISTING _____ PROPOSED MAX 12% O.K.

MINIMUM CLEARANCE 7' EXISTING _____ PROPOSED 9'

- 14) REQUIRED USABLE OPEN SPACE 300 sq ft EXISTING _____ PROPOSED 250 sq ft *Subject of Variance*
 MINIMUM DIMENSION REQUIRED 7x7 EXISTING _____ PROPOSED 18'2" x 8'2"
 MAXIMUM COVERAGE ALLOWED 50% EXISTING _____ PROPOSED 6
 MINIMUM ADJACENT TO PRIMARY LIVING AREA (R-2, R-3 OR R-1 SMALL LOT) OR MINIMUM
 REQUIRED ON GRADE (R-1 & R-1A) 100 EXISTING _____ PROPOSED 150
- 15) MINIMUM DISTANCE BETWEEN BUILDINGS: NA
 MAIN BUILDINGS _____ EXISTING _____ PROPOSED _____
 MAIN BUILDING AND ACCESSORY _____ EXISTING _____ PROPOSED _____
- 16) ARCHITECTURAL ENCROACHMENTS INTO REQUIRED YARDS:
 MINIMUM EAVE SETBACK 30" EXISTING _____ PROPOSED 30"
 MINIMUM BAY WINDOW SETBACK 3' EXISTING _____ PROPOSED 3'
 MINIMUM COLUMNS/CHASES ETC. SETBACK _____ EXISTING _____ PROPOSED _____
 MINIMUM FIREPLACE SETBACK _____ EXISTING _____ PROPOSED _____
- 17) MAXIMUM STAIRWAY/BALCONY FRONT SETBACK ENCROACHMENT 2'
 EXISTING _____ PROPOSED 2' (3' clear from pt)
- 18) STAIRWAY IN SIDEYARD: ABOVE 1ST LEVEL YES _____ NO X
 EXTEND IN BOTH DIRECTIONS YES _____ NO X?
 MAXIMUM HEIGHT 4' EXISTING _____ PROPOSED 3'10" OK
- 19) PERIMETER WALLS/FENCES --LOT TYPE:
 INTERIOR X CORNER _____ REVERSED CORNER _____
 FRONT HEIGHT MAXIMUM 42" EXISTING _____ PROPOSED 42" may
X SIDE HEIGHT MAXIMUM 6' EXISTING _____ PROPOSED not clear
X REAR HEIGHT MAXIMUM 6' EXISTING _____ PROPOSED 5' planter / fence?
- X 20) CHIMNEY/VENTS PROJECTION ABOVE HEIGHT LIMIT
 FLAT ROOF _____ SLOPED ROOF _____
 MAXIMUM PROJECTION ABOVE ROOF min clearance of UBC EXISTING _____ PROPOSED (3' + 2' cap)
 CHIMNEY BULK: MAX DIMENSION _____ EXISTING _____ PROPOSED _____ *need to add notes to verify = min clearance of UBC*
- 21) SOUND TRANSMISSION INSULATION BETWEEN WALLS (CONDOMINIUMS)
 MIN. S.T.C. RATING BETWEEN FLOORS _____ PROPOSED _____
 MIN. S.T.C. RATING BETWEEN COMMON WALLS _____ PROPOSED _____
 NO PLUMBING FIXTURES IN COMMON WALLS _____

22) NONCONFORMING REMODEL STRUCTURE: ^{NA} (PARKING MINIMUM SPACE SIZE: 8 1/2 FT. W x 18 FT. D)
 MAX. EXPANSION (PERCENTAGE VALUATION) BY RIGHT _____ PROPOSED _____
 ONE PARKING SPACE PER DWELLING UNIT MAX. EXPANSION _____ PROPOSED _____
 LESS THAN 1 PARKING SPACE PER UNIT MAX. EXPANSION _____ PROPOSED _____
 MAXIMUM DEMOLITION _____ PROPOSED _____

23) REVIEW CARD FILE AND MASTER FILE ^{NA}
 OPEN PERMITS YES _____ NO _____
 CODE ENFORCEMENT ACTION PENDING YES _____ NO _____
 OPEN COMPLAINTS YES _____ NO _____
 PREVIOUS ADDITION TO NONCONFORMING REMODEL NO _____ YES _____ IF YES, % _____

24) CORNER VISION CLEARANCE ^{NA} YES _____ NO _____

25) SCREENED TRASH FACILITY YES NO _____

26) SIGNED DOCUMENTS CONNECTED WITH DISCRETIONARY APPROVAL ^{NA}

	<u>NEEDED</u>	<u>RECEIVED</u>
ACCEPTANCE OF CONDITIONS AFFIDAVIT	_____	_____
NOTICES OF PENDING CONSTRUCTION AFFIDAVIT	_____	_____
CC & R'S FOR RECORDATION	_____	_____
ASSUMPTION OF RISK IF SUMP PUMP	_____	_____

27) HISTORIC LANDMARK OR RESOURCE ? NO
 NOMINATED _____ DESIGNATED _____ CERTIFICATE OF APPROPRIATENESS _____

* 28) ***IF A COASTAL APPROVAL FOR THIS PROJECT IS REQUIRED, 2 SETS OF CONCEPTUAL PLANS AND A COASTAL PERMIT APPLICATION NEEDS TO BE SUBMITTED TO THE CITY AFTER ZONE CHECK APPROVAL. CONTACT PLANNING STAFF FOR INFORMATION (310) 318-0242.**

X 29) ADDITIONAL COMMENTS
Variance under consideration by Planning Commission

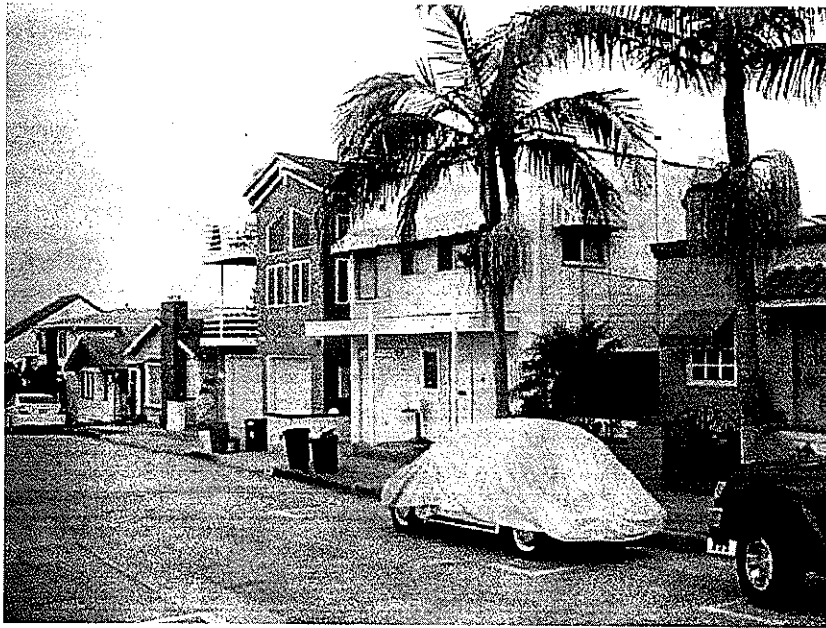
**R-2/R-3 height calculation template
USE FOR R-2, R-2B, R-3 ZONE ONLY**

Address: 165 Manhattan

Elev. Pt. A	109.65	
Elev. Pt. B	110	
Length A-B	45	
Length A-AB'	3	
	<i>Elev. AB':</i>	109.673333
Elev. Pt. C	112.31	
Elev. Pt. D	110.69	
Length C-D	45	
Length C-CD'	3	
	<i>Elev. CD':</i>	112.202
Length AB'-CD'	30	
Length AB'-CP1	3	
	<i>Elev. CP1:</i>	109.9262
Height Limit	30	
Max. Hgt. @ CP1:	139.9262	



249 26th St.



12. VAR 05-1 -- Variance to allow the construction of an 1,828 square-foot new single-family dwelling on a half-lot with a 5-foot garage setback from the street rather than 17 feet; with no guest parking; a 3-foot rear setback rather than 5 feet; and greater than 100 square feet of required open space on the roof deck at 249 26th Street.

Staff Recommended Action: To approve the requested garage setback and rear yard, and direct staff as deemed appropriate regarding the requested relief from the guest parking and open space requirements.

Senior Planner Robertson advised that the subject property is zoned R-2; that it contains 1,350 square feet; that it is a substandard sized half lot, with frontage on the street and no alley access; and stated that the lot is currently developed with a single-family dwelling that contains approximately 1,400 square feet, which is nonconforming to parking, as it contains only a substandard one-car garage. He advised that the applicant is requesting these Variances in order to allow the construction of a house containing 1,828 square feet, with two bedrooms, a family room, 3 bathrooms and a roof deck. He noted that the applicant is requesting variances from the provisions of the Zoning Ordinance; advised that the first Variance deals with parking setback; stated that the proposed setback from the sidewalk is 5 feet rather than the required 17 feet; and explained that the applicant states if required to provide the 17-foot setback, the entire ground floor would essentially be devoted to parking and that this would significantly reduce the useable floor area for the dwelling.

Senior Planner Robertson advised that the second part of the Variance is from guest parking; noted that the applicant is proposing no guest parking rather than the one required pursuant to the Zoning Code; explained that this Variance is related to the parking setback issue, as the 17-foot setback normally provides a location for at least one guest space; however, he noted it is possible with garage and floor plan modifications to provide an outdoor guest space on either side of the two-car garage. He stated that a guest space to the side of the garage would help relieve neighborhood parking concerns and could be included as part of the Variance from the parking setback requirement of 17 feet.

With regard to the rear yard, Senior Planner Robertson advised that the applicant is requesting to allow a stairway access to the upper floors to encroach within 3 feet of the rear property line at the ground floor, that this would only impact a portion of the rear yard at the ground; stated that the remaining 17-foot section of the building complies with the 5-foot setback; and that the upper floors are set back 3 feet at the rear, which is consistent with the requirement for the R-2 Zone.

Senior Planner Robertson noted that the fourth part of the Variance relates to open space; stated that the applicant is proposing to use 150 square feet of the 492-square-foot deck area towards the open space requirement; and noted that the other 150 square feet is provided on a second floor deck adjacent to the second floor living area. He stated that the Zoning Code limits the amount of open space counted on a roof deck to 100 square feet; and that the plans as submitted provide 250 square feet of qualifying open space. The project is currently 50 square feet short of the total required open space.

In order to grant these variances, Senior Planner Robertson advised that the Commission must make the following findings:

- 1) There are exceptional or extraordinary circumstances limited to the physical conditions applicable to the property involved;
- 2) The Variances are 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 Variances 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; and
- 4) The Variances are consistent with the General Plan.

Senior Planner Robertson advised that staff believes the findings can be made in order for the applicant to achieve some parity with neighboring properties; that findings can be made to support the Variances related to the parking setback and the rear yard; however, he indicated that staff does not feel as comfortable with the findings for relief from the guest parking requirement or from the open space requirement because the plan could be modified to meet those standards without significantly compromising the design or the effort to achieve parity.

Chairman Pizer opened the public hearing.

Jim Fasola, project architect, expressed his belief these Variances are necessary because the lot is half the size of all the lots in the neighborhood; and without the setback variance, he explained that the garage and parking would take up all but 2 feet of the buildable area on the bottom floor. He stated that almost all the houses on this street have a 5-foot setback for the garage. He explained that putting the guest parking space on the side of the entry or the side opposite the entry would set up an illegal condition because the width of the garage plus the side yard would cause a vehicle to block the only entry into the house. He stated the only way this would work is by putting it on the opposite side, ending up with basically a 3-foot wide walkway, about 30 feet long, to the door in the back. He added that the entire front area of the lot would be paved with concrete; and added that the guest space would be the minimum size in width. He stated that the plans currently allow for a pretty substantial storage area in the garage and that if they were to provide the guest parking space, there would not be any storage space inside the garage, believing this may cause a car to be parked on the street or in the guest parking space. In addition, he stated they would end up with a curb cut that is 26 feet wide and almost the entire width of the park area. He expressed his belief that there is adequate parking on 26th Street.

With regard to the open space, Mr. Fasola stated they are proposing 150 square feet off the main living areas and a 500-square-foot roof deck, believing this is just the buildable size of the lot; stated that if they were to provide 200 square feet, it would take up an enormous part of the buildable area of the house, which is modestly proposed at 1,800 square feet. He expressed his belief the open space, the parking, and setback requirements were set up for a full sized lot; advised that he studied 10 similar sized lots in the area and found that every single one has substandard parking and substandard open space. He distributed photographs of those properties to the Commission; and added that most of those only have one parking space. He reiterated that every single half lot developed in the last 30 years has had a variance for parking and that none of these meet the current open space requirement. He mentioned the only new house that has been built on a half lot in this area had 300 square feet of open space on the roof and zero off the

main living spaces; and expressed his belief that what they are proposing is far and above what any other house in the area has been able to achieve on a half lot. He added that he believes this proposal is in parity with what other neighbors have in this area. He advised that there are two other lots that received Variances on lots significantly bigger, noting that a variance was granted in 2000 for 3 tandem spaces.

Carleen Beste, applicant, explained that in order to remain in this community, it is essential to provide a larger living area for her family; stated that in designing this house, they have attempted to develop a plan that kept within the spirit of the code set up for full lots; and advised that they are proposing a modest 2-bedroom house. She stated that all the variances are important to help make this a functional place for her family.

Allen Carter, 252 27th Court, stated that his house sits on the other half of this half lot, the house behind the subject house; expressed his belief that granting these Variances will have a negative impact upon his privacy and the peace and tranquility he currently enjoys. He questioned if granting the 3-foot back easement will provide adequate space for emergency services to access his home and property. He stated that when he added the 99-square-foot addition to his house, he purposely proposed what was allowed by code, believing it is an equitable decision for all involved; and he urged the Commission to deny the Variances. He stated that these half lots are not designed to accommodate larger homes. He addressed his concern with losing his privacy because of the roof deck and addressed his concern with the noise coming from the spa equipment.

John Nesbit, resident, stated that parking is limited on this street; noted that there are approximately 12 houses on 26th Street; and stated that one house recently constructed meets the City's codes for parking. He expressed his belief three Variances for a half lot is excessive; noted his concern with the open space on the roof and the noise coming from the roof deck; and he stated that the third parking space should be required.

Marie Rice, 301 25th Street, one block south of this residence, stated that parking on 26th Street is problematic and that ingress/egress on 26th Street is very difficult; and expressed her belief guest parking should be provided for this project.

Mr. Fasola pointed out that the applicant is not seeking anything special on the roof deck; clarified that the half lots he studied were those fronting on the streets; and stated that there is a much different setback restriction criteria for those homes off the alley than there is with homes facing the front streets.

Ms. Beste advised that directly across the street from her home is the north lot of the school; explained that there's no residential housing on half of that block going east and almost the entire block headed south from her house down Myrtle, noting that parking is adequately available in this area. She added that currently, the fence of the neighbor sharing this lot is 2 feet from the back of her house; and pointed out that this request creates a bit of an improvement to the conditions that currently exist.

Mr. Fasola expressed his belief the most they will be able to get in parking on a lot this size is for two full-sized cars.

There being no further input, Chairman Pizer closed the public hearing.

Commissioner Perrotti stated that he could make the findings for the parking and rear yard setback; but stated that he could not make the findings for the guest parking or the open space, noting staff's explanation that the guest parking can be created without significant modification to the plan.

Vice-Chairman Hoffman expressed his belief lot size is not an unusual characteristic and that it should not qualify for a Variance nor can he make any of the required findings to support the other variance requests; and explained that this City has a small lot ordinance that gives certain exemptions to property owners trying to develop on a smaller lot like this, providing parity with other small lot developments in the area and in compliance with the Zoning Ordinance.

Commissioner Allen stated that he could support the Variance for a parking setback, but expressed his belief too many Variances are being requested for this small lot.

Commissioner Kersenboom stated that he is able to make the findings to support the Variances because of the small lot, noting that the applicant is attempting to make this a livable house for the family.

Director Blumenfeld advised that staff has received a City Attorney interpretation with respect to a Subdivision Ordinance, which interpretation reflects an ability for the City to grant a variance based upon the size of a lot; and he noted for Vice-Chairman Hoffman that this interpretation is based upon existing case law.

Given the City Attorney's interpretation and the size of this lot, Chairman Pizer stated that he could support the Variances for the garage and rear yard setback.

RECESS AND RECONVENE

Chairman Pizer recessed the meeting at 9:17 P.M. and reconvened the meeting at 9:22 P.M.

Chairman Pizer reiterated that he can make the findings for the garage setback, the rear yard setback, and the guest parking; and stated that there should be some consideration for a variance on the open space.

Commissioner Allen revised his comments, stating that he could support the Variance for the parking setback and the guest parking.

MOTION by Commissioner Perrotti to **APPROVE** the draft resolution, approving the Variances for the parking setback and rear yard requirements; and to **DENY** the Variances for the guest parking and open space. The motion died due to the lack of a second.

MOTION by Chairman Pizer, seconded by Commissioner Kersenboom, to **APPROVE** the Variances for the garage setback, rear yard setback, guest parking, and to modify the open space per the applicant's request. The motion carried as follows:

AYES: Allen, Kersenboom, Pizer
NOES: Hoffman, Perrotti
ABSTAIN: None
ABSENT: None