



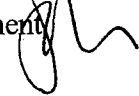

Agenda Item #: 06/1205.13

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH: Geoff Dolan, City Manager 

FROM: Richard Thompson, Director of Community Development 
Eric Haaland, Associate Planner 

DATE: December 5, 2006

SUBJECT: Consideration of Planning Commission Denial of a Variance for Construction of a Deck Approximately 11.5 Feet High within the rear yard setback on the Property Located at 1908 Magnolia Avenue.

RECOMMENDATION:

Staff recommends that the City Council receive and file the decision of the Planning Commission denying the request.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meeting of November 15, 2006, **DENIED** (5-0 vote) a request to approve an accessory structure deck built without a building permit within the rear yard setback of an existing single-family residence. Such a deck is permitted at a height of 2.5 feet, however, the request was for a height of approximately 11.5 feet. The applicant requested the increased deck height based on the downward slope and large width of the site's rear yard. The applicant also felt that the deck height was not detrimental to the surrounding neighbors, and one supporting letter from a neighbor was received.

The Planning Commission acknowledged that the site's rear yard slope is a constraint to maximized use of the property, but recognized that it is not an uncommon condition. The Commission also felt that the height of the deck was visually obtrusive and compromised privacy to neighboring properties just 5 feet away from the structure. An anonymous letter expressed these same concerns. Since it believed that an unusual hardship was not present, surrounding neighbors were negatively affected, and the zoning code's intention was to protect neighbor privacy with respect to rear yard decks, the Planning Commission felt it could not make the required variance findings, and denied the application.

The project public hearing notice was sent to surrounding property owners within 500 feet, however, the Commission received testimony only from the applicant, other than the neighbor letters mentioned above.

ALTERNATIVES:

The alternatives to the staff recommendation include:

1. **REMOVE** this item from the Consent Calendar, **APPEAL** the decision of the Planning Commission, and direct that a public hearing be scheduled.

Attachments:

- Resolution No. PC 06-19
- P.C. Minutes excerpt, dated 11/15/06
- P.C. Staff Report, dated 11/15/06

C: Carolyn Hylander, Applicant

RESOLUTION NO PC 06-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DENYING A VARIANCE FROM SETBACK REQUIREMENTS CONCERNING AN ACCESSORY STRUCTURE DECK EXCEEDING THE PERMITTED HEIGHT WITHIN THE REAR YARD SETBACK ON THE PROPERTY LOCATED AT 1908 MAGNOLIA AVENUE (Hylander)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on November 15, 2006, to consider an application for a Variance for the property legally described as a Lot 237, Tract 14123, located at 1908 Magnolia Avenue in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Variance is Caroline Hylander, the property owner.
- D. The applicant proposes to retain an approximately 11.5 foot tall deck constructed without building permits located within the rear yard setback where a maximum 2.5 foot deck height is permitted.
- E. The requested Variance would grant relief from Section 10.52.050(H) ("Accessory Structures - Decks") regarding the accessory structure deck heights on residential properties.
- F. An anonymous complaint initiated city enforcement regarding the deck. One anonymous letter was received opposing the Variance request. Correspondence from one neighbor supported the Variance request.
- G. The General Plan designation for the property is Single Family Residential. The zoning designation is RS, Residential Single Family, and is located within Area District II
- H. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303 and 15332 based on staff's determination that the project is a minor development within an urbanized area.
- I. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- J. Pursuant to the Manhattan Beach Municipal Code, 10.84.060 B., the following findings must be made regarding the Variance application:
 - 1. Because of special circumstances or conditions applicable to the subject property, including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property.


- 2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.
 - 3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.
- Q. The Planning Commission could not make the required variance findings due to the following determinations:
- 1. While the rear down-sloping condition of the site is substantial, it is a somewhat common condition that numerous properties in the city have had limited use of, due to the accessory structure deck height limit's intention to protect privacy of adjacent neighbors.
 - 2. The height and proximity of the deck with respect to the abutting rear neighbors is obtrusive.


SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **DENIES** the subject Variance.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of November 15, 2006 and that said Resolution was adopted by the following vote:

AYES: Bohner, Cohen, Lesser,
Powell, Chairman Schlager
NOES: None
ABSTAIN: None
ABSENT: None



RICHARD THOMPSON,
Secretary to the Planning Commission


Sarah Boeschen
Recording Secretary

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1 Director Thompson explained the 15-day appeal period and stated that the item will be placed on
2 the City Council's Consent Calendar for their review on December 5, 2006.

3 AT 8:50 a 10 minute recess was taken.

4 **06/1025.4-2 Consideration of a ZONING CODE AMENDMENT and LOCAL COASTAL**
5 **PROGRAM AMENDMENT Regarding the City Council 2005-2007 Work**
6 **Plan Item to Address Mansionization in Residential Zones**

7 Director Thompson recommended that the public hearing be closed and tabled. He commented that
8 the Council expressed a preference for the entire issue to be considered at one time rather than in
9 separate components. He indicated that the Mansionization Committee has planned to be finished
10 with consideration of the issue in January, and the item would then be brought before the
11 Commission at a hearing most likely in February.

12 A motion was MADE and SECONDED (Schlager/Lesser) to **CLOSE** the public hearing and
13 **TABLE** the issue of a Zoning Code Amendment and Local Coastal Program Amendment
14 regarding the City Council 2005-2007 Work Plan Item to address mansionization in residential
15 zones

- 16
- 17 AYES: Bohner, Cohen, Lesser, Powell, Chairman Schlager
- 18 NOES: None
- 19 ABSENT: None
- 20 ABSTAIN: None
- 21

22 Director Thompson pointed out that the item will be renoticed when it is brought back before the
23 Commission probably in February.

24

25 **8. PUBLIC HEARINGS, NEW**

26 **06/1115.3 Consideration of a VARIANCE for Construction of a Deck Approximately**
27 **11.5 Feet in Height, Within the Rear Yard Setback at 1908 Magnolia Avenue**

28
29 Associate Planner Haaland summarized the staff report. He said that the proposal is to approve
30 an existing rear yard deck detached from the main structure which is 11.5 feet in height and
31 approximately 600 square feet in area. He stated that the deck is attached to a separate existing
32 accessory structure for a garage and guest quarters building on the site. He indicated that the
33 request is to allow a setback for the deck of 5 feet from the rear property line, and the actual
34 required rear yard setback is 16.6 feet. He pointed out that the Zoning Code limits accessory
35 structure decks that are located within rear yards to a height of 2.5 feet from local grade. He
36 commented that a previously existing rear deck on the site that was much smaller was approved

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1 under the previous Zoning Code. He said that the deck was subsequently extended to 600 square
2 feet outward toward the rear property line and towards the side. He stated that the site widens
3 and has a substantial downward slope at the rear, which is somewhat common. He commented
4 that the deck does appear to be very high and intrusive to the rear neighboring property. He
5 pointed out that the intent of the Code is to limit the height of decks in rear yards in order to
6 preserve the privacy of the neighboring properties. He said that the deck was built without
7 permits, and an anonymous complaint was received. He indicated that a Code Enforcement
8 action occurred, and staff then received an anonymous letter opposing approval of the Variance
9 request. He said that a letter from another neighbor was received in support of the deck. He said
10 that staff is recommending that the Variance be denied, as staff has not been able to determine
11 that the findings can be made to grant the request.

12
13 In response to a question from Commissioner Cohen, Chairman Schlager commented that the
14 neighbor who wrote the letter in support is across 21st Street from the subject property and
15 does not have a direct view of the applicant's house.

16
17 **Caroline Hylander**, the applicant, said that the view into the neighbor's yard with the existing
18 deck is not much greater than before the deck was rebuilt because the height of the retaining wall
19 was also increased. She said that both rear neighbors have indicated that they do not object to the
20 deck. She said that the deck improves the aesthetics of the rear yard. She commented that she
21 saved for three years in order to build the deck and would be devastated to lose it. She said that
22 there was no malicious intent in building the deck, and it only impacts two neighbors.

23
24 In response to a question from Commissioner Lesser, **Ms. Highlander** stated that she did not use
25 a licensed general contractor to build the deck in order to save money.

26
27 Chairman Schlager commented that he has visited the site, although he did not enter into the rear
28 yard. He said that the deck is obtrusive, as it provides complete views into the windows of the
29 neighbors to the rear. He indicated that even if the current neighbors do not object to the deck,
30 someone else may move into one of the properties who finds it obtrusive.

31
32 Chairman Schlager opened the public hearing.

33
34 There being no one wishing to speak regarding the issue, Chairman Schlager closed the public
35 hearing.

36
37 Commissioner Powell, said that it is difficult to make the necessary findings for approving the
38 Variance that the property includes unusual or special circumstances; that granting the request
39 does not create a detriment to the neighboring properties; and that the request would not be

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1 granting a special privilege. He indicated that the sloped topography is not an unusual
2 circumstance and is fairly common for the area. He said that there is not an undue hardship
3 placed on the property owner by denying the request, as there were other options for changing the
4 deck such as terracing. He indicated that there is substantial detriment to the neighbors in the
5 reduction of privacy and open space, and staff received a letter opposing the deck which resulted
6 in the Code enforcement action. He said that approving the request would be granting a special
7 privilege, as no other property owners in the City would be permitted to build such a deck. He
8 said that the problem could have been rectified by going through the City's permit process and
9 identifying other alternatives. He said that he feels he has no other choice than to deny the
10 request.

11
12 Commissioner Cohen said that the Commissioners are confined to making decisions that are
13 based on Code requirements, and the regulations must be followed regardless of empathy for the
14 applicant in order to be fair to all residents. She indicated that the applicant had other options to
15 bring the deck into compliance. She commented that she cannot make the finding that the
16 property has unusual or exceptional circumstances, and other property owners with similar
17 topography would most likely want to make the same use of their property. She said that she
18 finds the privacy issues are a detriment to the neighbors, and the intent of the height regulations
19 for decks is to promote and respect privacy. She indicated that there are no special circumstances
20 to warrant the ability to grant the request. She indicated that she would deny the request based on
21 the requirements of the Code.

22
23 Commissioner Bohner indicated that the applicant's situation is unfortunate, but the request does
24 not meet the requirements for a Variance as specified by the Code. He said that he would deny
25 the application.

26
27 Commissioner Lesser indicated that he recognizes that the applicant is sorry for her actions;
28 however, he also does not feel the findings can be met for granting the Variance. He commented
29 that he is sorry that more property owners do not feel that they can come to City Hall to review
30 sketches with staff, and staff does try to explain the Code to applicants so that they can have a
31 better idea of the requirements. He said that he also would deny the application.

32
33 Chairman Schlager said that he empathizes with the applicant; however the Commissioners have
34 an obligation to follow the Code. He said that the request does not meet the exceptions provided
35 by the Code for granting a Variance, and he would deny the application.

36
37 A motion was MADE and SECONDED (Powell/Bohner) to **ADOPT** the draft Resolution to
38 **DENY** a Variance request for construction of a deck approximately 11.5 feet in height, within the
39 rear yard setback at 1908 Magnolia Avenue

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AYES: Bohner, Cohen, Lesser, Powell, Chairman Schlager
NOES: None
ABSENT: None
ABSTAIN: None

Director Thompson explained the 15-day appeal period and stated that the item will be placed on the City Council's Consent Calendar for their review on December 5, 2006.

DIRECTOR'S ITEMS None

PLANNING COMMISSION ITEMS

Commissioner Bohner commented that four of the Commissioners have attended an ethics training course. He indicated that the presentation was very enlightening regarding the duties with which the Commissioners and local officials must comply. He said that they learned about factors that should be taken into consideration for issues and in ruling on certain matters.

Commissioner Powell commented that the training was along with planning commission and city council members from other cities and was taught by the city attorney for Hermosa Beach.

Chairman Schlager commented that he was unable to attend the training, as he was unable to be in town. He indicated that he will attend the training on another scheduled date.

Commissioner Powell stated that he attended the most recent meeting of the Mansionization Committee as an observer, and it was exciting to listen to the participants carefully analyze the issues. He stated that all aspects of the community were represented. He commended Commissioner Lesser and all members of the Committee for their efforts.

In response to a comment from Commissioner Cohen, Director Thompson pointed out that there is information regarding the entire history of the bulk/volume standards on the City's web site. He pointed out that many buildings that appear to be new actually were built before the current Ordinances were in effect.

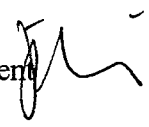
TENTATIVE AGENDA: December 13, 2006

ADJOURNMENT

The meeting of the Planning Commission was **ADJOURNED** at 9:45 p.m. in the City Council

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development 

BY: Eric Haaland AICP, Associate Planner

DATE: November 15, 2006

SUBJECT: Variance for Construction of a Deck Approximately 11.5 Feet High within the rear yard setback on the Property Located at 1908 Magnolia Avenue (Hylander)

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT THE PUBLIC HEARING, CONSIDER** the request, and **DIRECT** Staff as determined to be appropriate.

APPLICANT /OWNER

Caroline Hylander
1908 Magnolia Ave.
Manhattan Beach, CA 90266

LOCATION

<u>Location</u>	1908 Magnolia between 18 th St. & 20 th St. (See Site Location Map).
<u>Legal Description</u>	Lot 237, Tract 14123
<u>Area District</u>	II

LAND USE

<u>General Plan</u>	Low Density Residential				
<u>Zoning</u>	RS, Residential Single-Family				
<u>Land Use</u>	<table><tr><td><u>Existing</u></td><td><u>Proposed</u></td></tr><tr><td>2,540 sq. ft. SFR</td><td>No Change</td></tr></table>	<u>Existing</u>	<u>Proposed</u>	2,540 sq. ft. SFR	No Change
<u>Existing</u>	<u>Proposed</u>				
2,540 sq. ft. SFR	No Change				
<u>Neighboring Zoning/Land Uses</u>	RS/ Single Family Residences				

PROJECT DETAILS

	<u>Proposed</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	7,400 sq. ft. (appr. 61'x122')	4,600 sq. ft. min
Building Floor Area:	2,540 sq. ft.	5,050 sq. ft. max.
Height	2 stories	26 ft. max.
Parking:	2 enclosed spaces	2 enclosed spaces
Vehicle Access	1 Magnolia driveway	N/A
Setbacks		
Front (east)	20 ft. (appr.)	5 ft. min
Rear (southwest)	5 ft. (deck)(*)	16.6 ft. min
Sides	5/4 ft. min.	5 ft. min.

(*) – Accessory structure decks greater than 30” in height subject to full rear setback.

BACKGROUND

The subject site contains an existing 2-story single family residence with a rear detached garage/guest quarters building and a pool. A relatively small rear deck attached to the guest quarters building, approved in 1987, was located approximately 10 feet clear of the rear property line. The property slopes downward toward the rear causing the rear edge of that deck to be roughly 10 feet above grade. The current zoning code, adopted in 1991, subsequently prohibited accessory structure decks more than 30” high within the rear yard setback (Section 10.52.050(H)). The applicant recently extended the nonconforming deck to be within approximately 5 feet of the rear property line across more than half the width of the site without building permits. A complaint received by the city’s Code Enforcement Officer prompted the property owner to submit a variance application to gain approval of the new deck construction violating zoning code regulations.

DISCUSSION

The submitted plans show a new 600 square foot wooden pool deck replacing an approximately 200 square foot deck at the rear of the property. The rear edge of the deck measures 40 feet long, 11.5 feet high, and 5 feet clear of the rear property line. A wood railing with built-in planter boxes is located at the deck perimeter. Attached photos indicate the abutting neighbor’s rear yard grades to step down even lower than the applicant’s grade making the deck floor roughly 15 feet above their yards.

The purpose of the deck is to make use of the large down-sloping area at the rear of site by creating some level pool deck area for chairs and tables, etc. A relatively large amount of this lot’s area is difficult to use due to the substantial slope and greater width at the rear of the lot. Typical conforming methods of providing such a pool deck surface under these circumstances would be to:

- Reduce the size of same wood deck to be 16.6 feet (full rear setback) clear of the rear property line. This would mean narrowing the deck by 11.6 feet; or,
- Terrace the rear grade upward by building 6' maximum height retaining walls beginning at the rear property line. Assuming the existing property line walls belong to the neighbors (no survey submitted), it appears that 3 walls may be necessary to raise the grade to the pool deck level. This method would probably result in less reduction in the proposed usable pool deck surface.

In order to grant the variance request, Section 10.84.060(B) of the zoning code requires that the Planning Commission must make required findings as follows:

1. Because of special circumstances or conditions applicable to the subject property, including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property.
2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.
3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.

The applicant's attached material states that variance approval is appropriate for the following reasons:

- A smaller nonconforming deck was previously existing.
- The sloped rear area is otherwise unusable.
- A previous rear setback requirement was as small as 5 feet.
- No views are obstructed.
- The rear neighbors are not negatively impacted.
- The deck is a logical use of property.

Staff has received one letter from a neighbor supporting the variance request stating that it is not detrimental to the neighborhood and improves neighbors' privacy. This neighbor is located one lot northwest of the subject property.

Staff's review of the plans and photos for the project and has not been able to determine that the required variance findings can be made for the following reasons:

- While the rear down-sloping condition of the site is substantial, it is a somewhat common condition that numerous properties in the city have had limited use of, due to the accessory structure deck height limit's apparent intention to protect privacy of adjacent neighbors.
- The height and proximity of the deck with respect to the abutting rear neighbors below appears extremely obtrusive. The attached photos give some perspective of how the deck sits very high and very close to the downhill neighbors.
- An anonymous verbal complaint was received by city staff initiating the pending code enforcement action, and an attached anonymous written comment in opposition to the request has been received in response to the public hearing notice,

Staff has provided the attached draft resolution denying the variance request in the case that, after conducting the public hearing, the Planning Commission determines that the required findings cannot be made.

ENVIRONMENTAL REVIEW

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15303 and 15332.

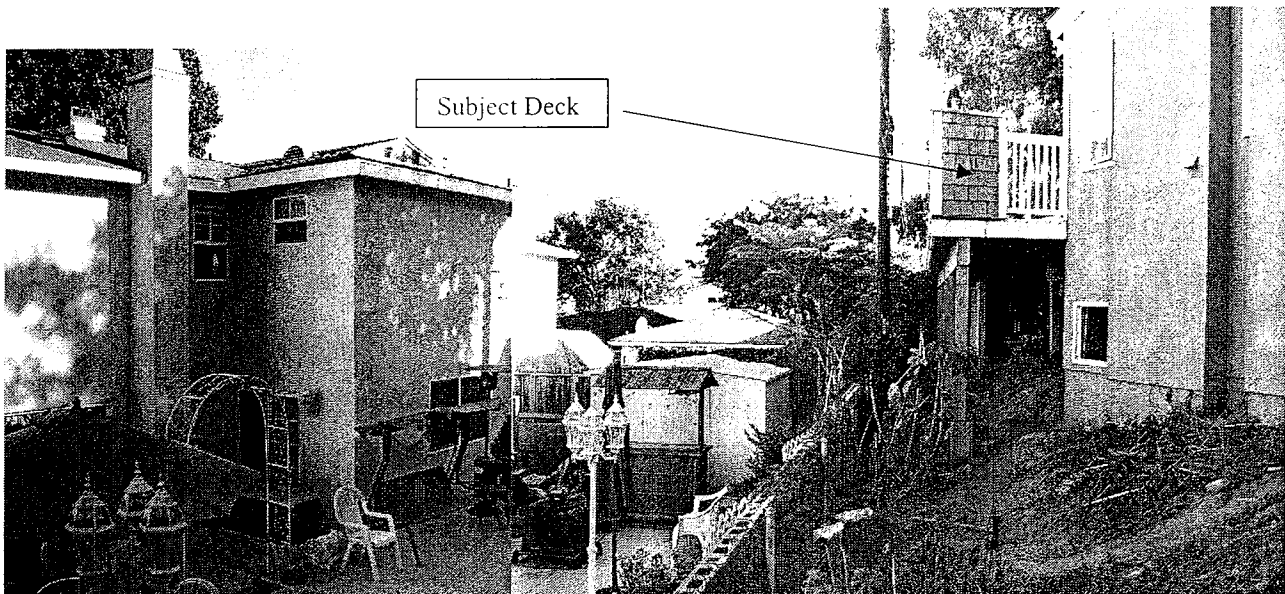
Attachments:

Location Map
Draft Resolution No. PC 06-
Zoning Code excerpt
Applicant Material and Plans
Neighbor Letters

c: Carolyn Hylander, Applicant

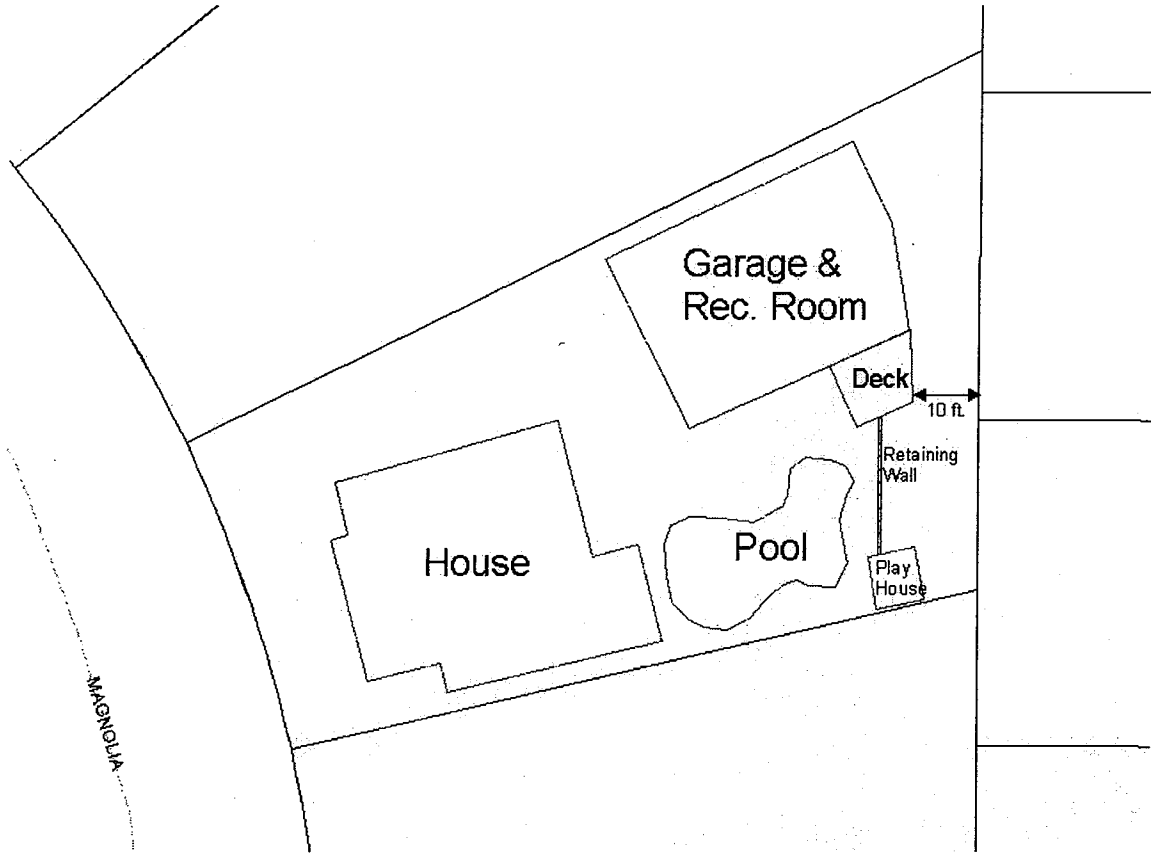
1908 Magnolia Ave.

Vicinity Map



Previous/Approved Development

1908 Magnolia Ave.



RESOLUTION NO PC 06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DENYING A VARIANCE FROM SETBACK REQUIREMENTS CONCERNING AN ACCESSORY STRUCTURE DECK EXCEEDING THE PERMITTED HEIGHT WITHIN THE REAR YARD SETBACK ON THE PROPERTY LOCATED AT 1908 MAGNOLIA AVENUE (Hylander)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on November 15, 2006, to consider an application for a Variance for the property legally described as a Lot 237, Tract 14123, located at 1908 Magnolia Avenue in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Variance is Caroline Hylander, the property owner.
- D. The applicant proposes to retain an approximately 11.5 foot tall deck constructed without building permits located within the rear yard setback where a maximum 2.5 foot deck height is permitted.
- E. The requested Variance would grant relief from Section 10.52.050(H) ("Accessory Structures - Decks") regarding the accessory structure deck heights on residential properties.
- F. An anonymous complaint initiated city enforcement regarding the deck. One anonymous letter was received opposing the Variance request. Correspondence from one neighbor supported the Variance request.
- G. The General Plan designation for the property is Single Family Residential. The zoning designation is RS, Residential Single Family, and is located within Area District II
- H. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303 and 15332 based on staff's determination that the project is a minor development within an urbanized area.
- I. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- J. Pursuant to the Manhattan Beach Municipal Code, .10.84.060 B., the following findings must be made regarding the Variance application:
 1. Because of special circumstances or conditions applicable to the subject property, including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions, strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property.

2. The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.
3. Granting the application is consistent with the purposes of this title and will not constitute granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.

Q. The Planning Commission could not make the required variance findings due to the following determinations:

1. While the rear down-sloping condition of the site is substantial, it is a somewhat common condition that numerous properties in the city have had limited use of, due to the accessory structure deck height limit's intention to protect privacy of adjacent neighbors.
2. The height and proximity of the deck with respect to the abutting rear neighbors is obtrusive.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **DENIES** the subject Variance.

SECTION 3. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of November 15, 2006 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

10.52.050 Accessory structures.

A. Timing. Accessory structures shall not be established or constructed prior to the start of construction of a principal structure on a site, except that construction trailers may be placed on a site at the time site clearance and grading begins and may remain on the site only for the duration of construction.

B. Location. Except as provided in this chapter, accessory structures shall not occupy a required front, side, or building separation yard.

Exceptions.

1. Ornamental accessory structures may be located in the front yard of a site if they do not exceed 42 inches in height.
2. One flagpole may be located in the front yard of a site if it does not exceed 15 feet in height.
3. One decorative lamp post may be located in the front yard of a site if it does not exceed 8 feet in height.
4. Architectural screen walls may be located in the front yard of a site pursuant to Section 10.12.030(P).
5. One basketball hoop/post may be located in the front yard of a site if it does not exceed 13 feet in height.

Mechanical equipment and storage buildings shall be prohibited beyond the front building line of the principal structure on a site. No accessory uses shall be permitted off-site.

C. Maximum Height. The maximum height of an accessory structure shall be 12 feet, subject to the provisions of this subsection. Additional height shall be permitted, as provided in Section 10.60.060; Exceptions to height limits. For the purpose of this Section, height shall be determined by a weighted averaging of the local grades taken around the perimeter of the accessory structure.

Exceptions.

1. The maximum height of any portion of an accessory structure which has a minimum 3 in 12 roof slope, and has a single roof ridge-line located at approximately the center of the structure, may be 15 feet.
2. The maximum height of any portion of an accessory structure containing a guest house or accessory living quarters, as defined in this Title, constructed directly above a garage, may be 22 feet, when said portion is not located within a required yard, or when it takes vehicle access from an alley and is located at least 3 feet from all property lines.

D. Relation to Property Lines. An accessory structure, any portion of which is located within a required rear yard, shall be located on a rear or interior side property line, or shall be not less than 3 feet from said property line(s) (See Section 10.64.110; Aisle Dimensions, for exceptions applicable to detached alley-accessed garages). Building projections within the required setback area as prescribed in this Section are permitted in accordance with Section 10.60.040; Building projections into required yards or open space.

Exception: Where a fence, wall, or retaining wall is located on an interior side or rear property line, the setback for an accessory structure to the property line may be between zero and three feet, providing there is zero clearance between said fence, wall or retaining wall and accessory structure.

E. RS District. In an RS district, the total gross floor area of accessory structures more than 4 feet in height that are not attached to a dwelling shall not exceed 900 square feet or 12 percent of lot area, whichever is more.

F. (Reserved)

G. Swimming Pools and Hot Tubs.

1. A swimming pool or hot tub and related equipment may occupy a required rear yard or side yard but shall not be within 5 feet of a property line.

Exception: A swimming pool or hot tub and related equipment may be located within 5 feet of a property line provided it complies with the locational criteria of subsection D, stated above, and is located within a structure having a solid roof, solid walls, and, with no openings within 5 feet of

said property lines.

2. All pools and hot tubs shall be fenced, as required by Title 9, Chapter 48 of the Municipal Code.

H. Decks. No deck more than 30 inches or more in height shall be located in a required yard.

I. In RPD District. The location of accessory structures shall comply with the requirements of the RPD permit.

J. Separation. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings on the same lot shall not be less than 10 feet. (Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1842, Amended, 08/15/91; Ord. No. 1860, Amended, 10/29/92; Ord. No. 1891, Amended, 01/06/94)

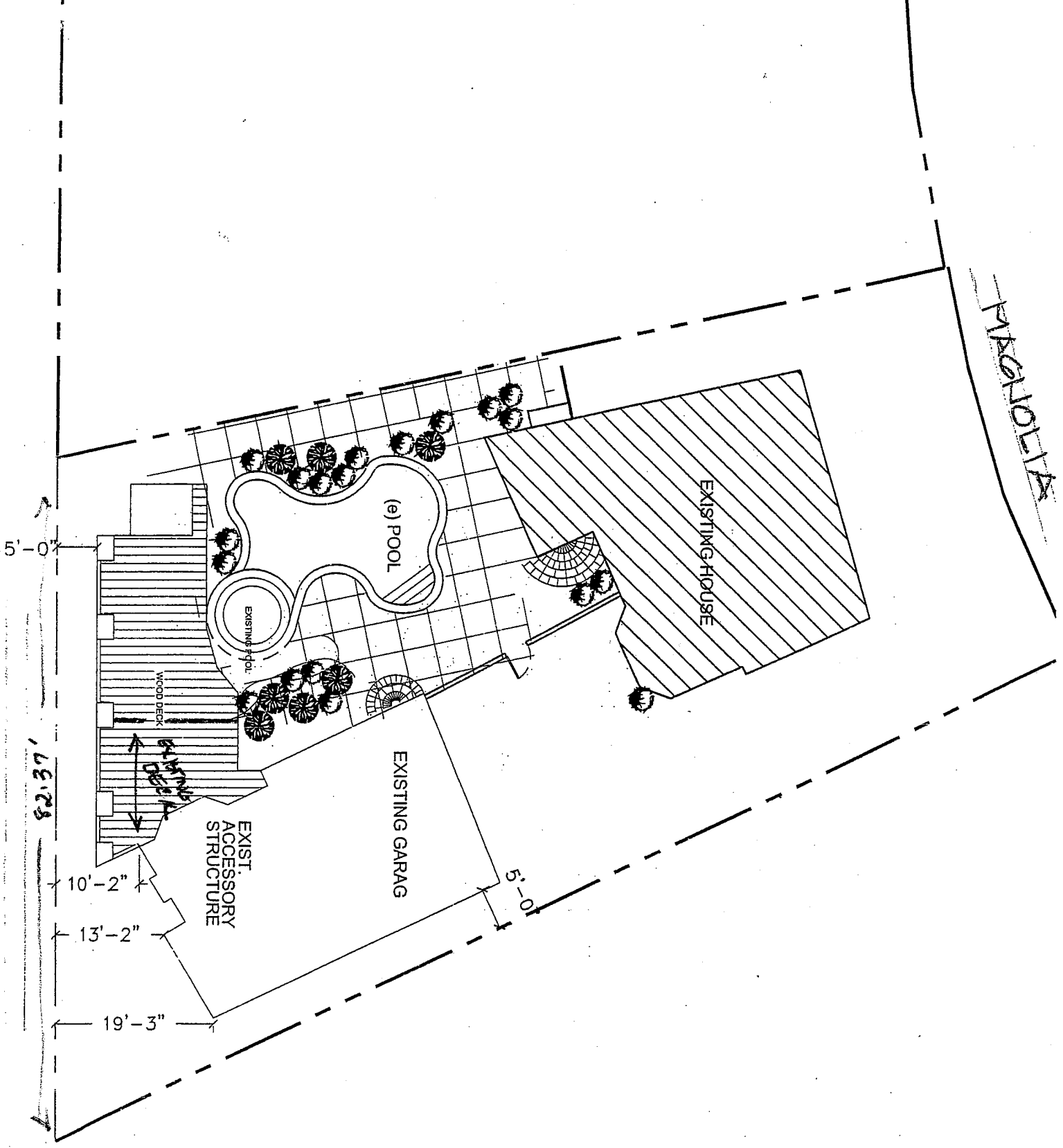
DESCRIPTION:

DECK – Located at the rear of the property. One third of deck was already existing and permitted. The owner continued the deck from the existing deck to the other side of the property. The load-bearing posts are 5 feet from the property line and the deck cantilevers over the back hill and is 10 ft. 4 inches above the bottom of the hill. The deck has a railing between 3 ft. square planter boxes. The deck is a very attractive addition to the property. It was built to have space for chaise lounges around the pool (already permitted and built according to code).

DESCRIPTION OF FINDINGS FOR A VARIANCE:

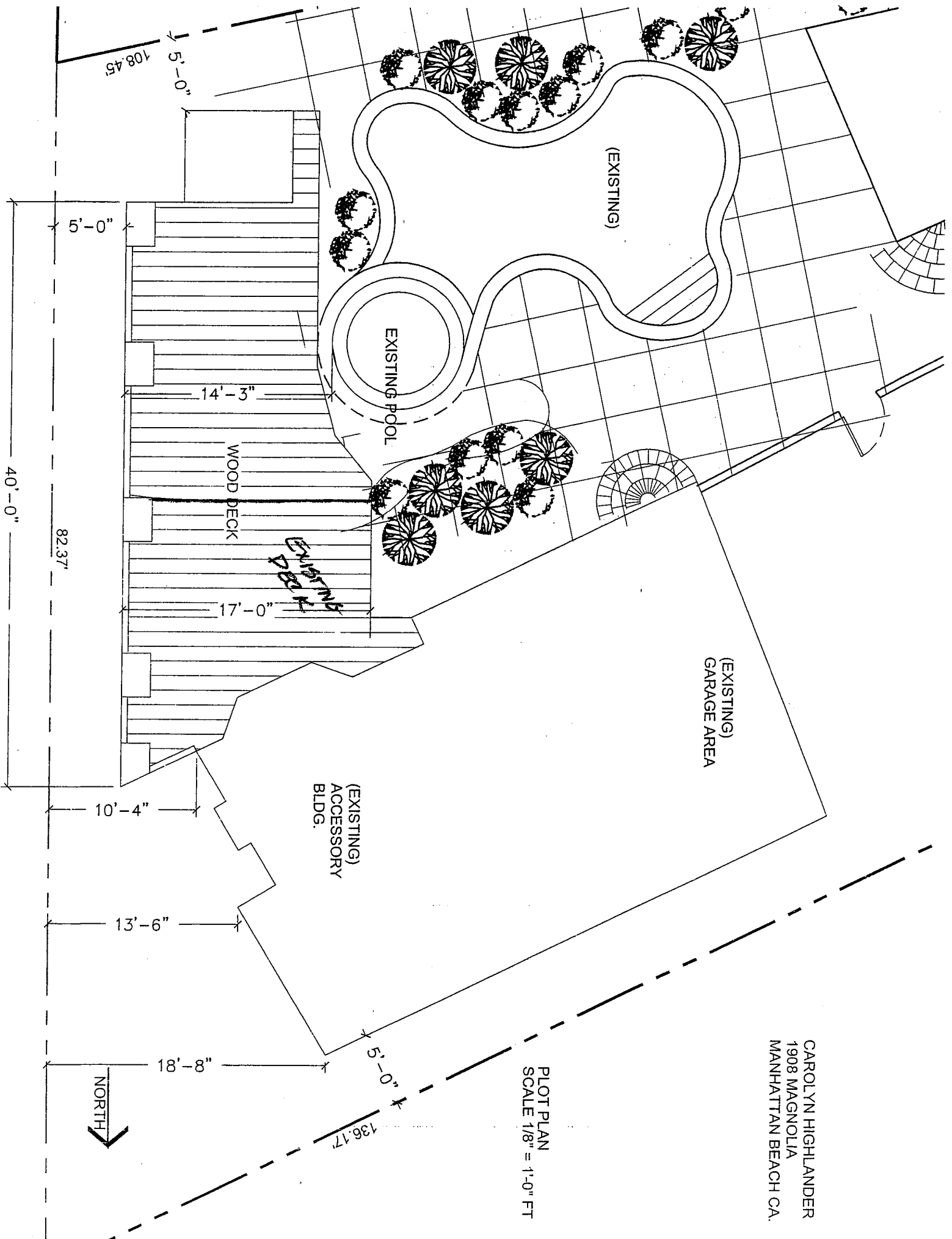
1. To begin with 1/3 of the deck was already in place and permitted. The property is located on a hill and a good portion (approximately 15 ft. x 82.37 ft.) was unusable. It is located on Magnolia Ave. which is a circular street, consequently it is a pie-shaped property (it gets wider at the back). The deck is over a slope which was virtually unusable property, and behind the existing retaining wall. The owner wished to use the property in some way and the most logical way was to add deck to the existing deck. The deck makes good use of the usable property. When I began building the deck I told the contractor to build 5' away from the property line because that was what the set-back was for the rest of the property. I was unaware of the 6-12' setback that has since been mentioned to me. Just to mention it, the first person I talked to told me a 6' setback and the second person I talked to told me a 10-12' setback.
2. There are two properties that have mutual property lines with the rear of 1908 Magnolia – neither property has been affected in ANY way. No views have been obstructed. The deck is far enough above adjacent properties to not disrupt any activities the families may enjoy. The deck is extremely solid so it poses no danger, even during an earthquake. I have since talked to the property owners and they are fine with the deck as it is.
3. The deck that was built is consistent with the property and looks to be a logical and useful addition to the backyard of the property. It has no impact on anyone else but the property owner. There is no reason that the deck should not remain.

MAGNOLIA



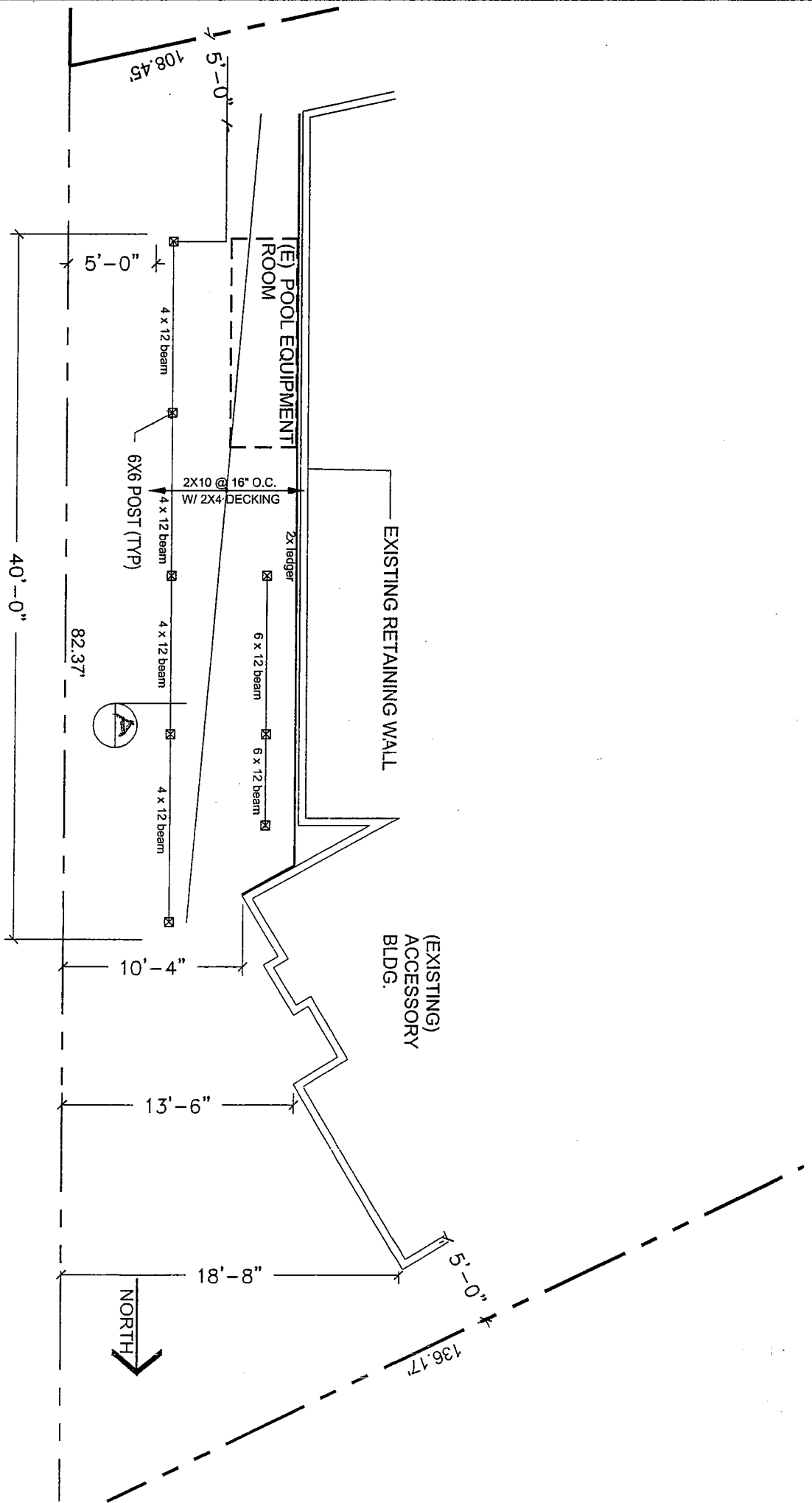
CAROLYN HIGHLANDER
1908 MAGNOLIA
MANHATTAN BEACH CA.

PLOT PLAN
SCALE 1/16" = 1'-0" FT



CAROLYN HIGHLANDER
 1908 MAGNOLIA
 MANHATTAN BEACH CA.

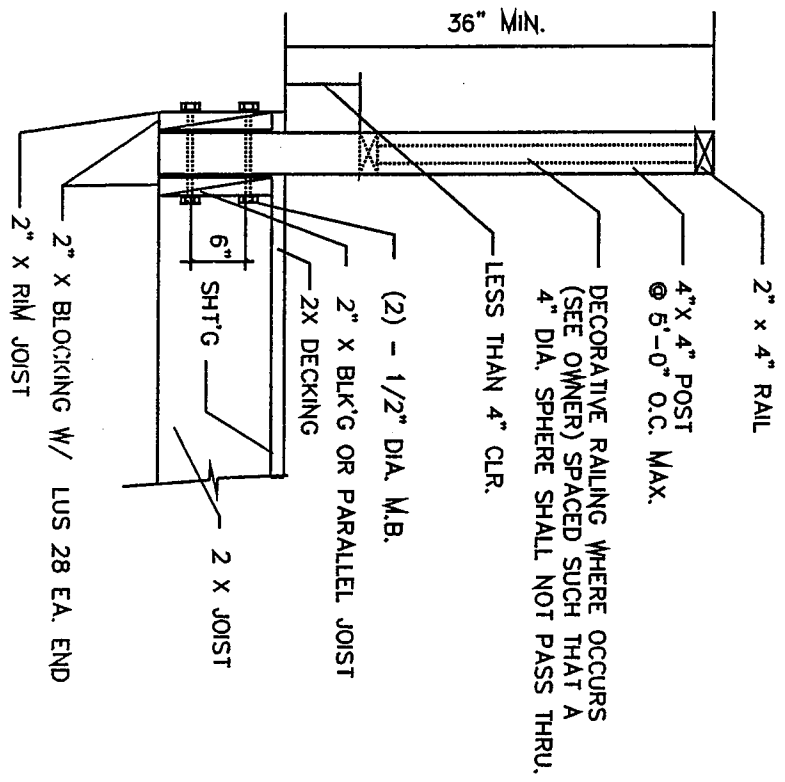
PLOT PLAN
 SCALE 1/8" = 1'-0" FT



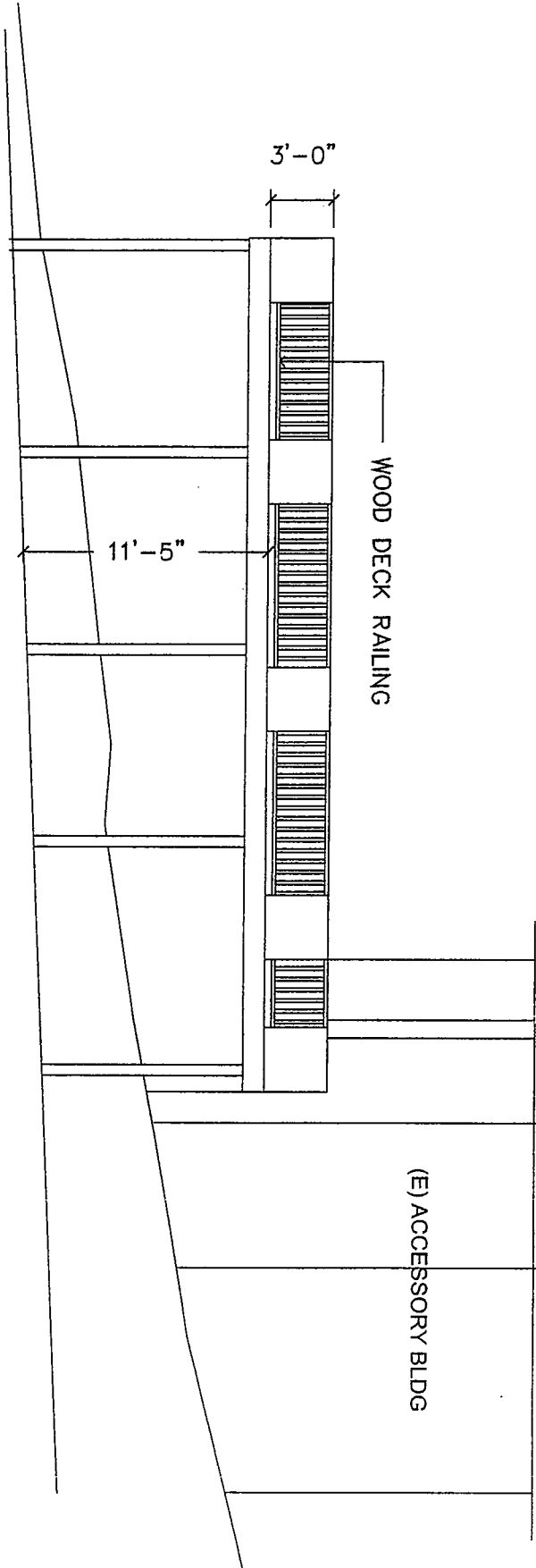
DECK FRAMING PLAN
 1/8" = 1'-0"

CAROLYN HIGHLANDER
 1908 MAGNOLIA
 MANHATTAN BEACH CA.



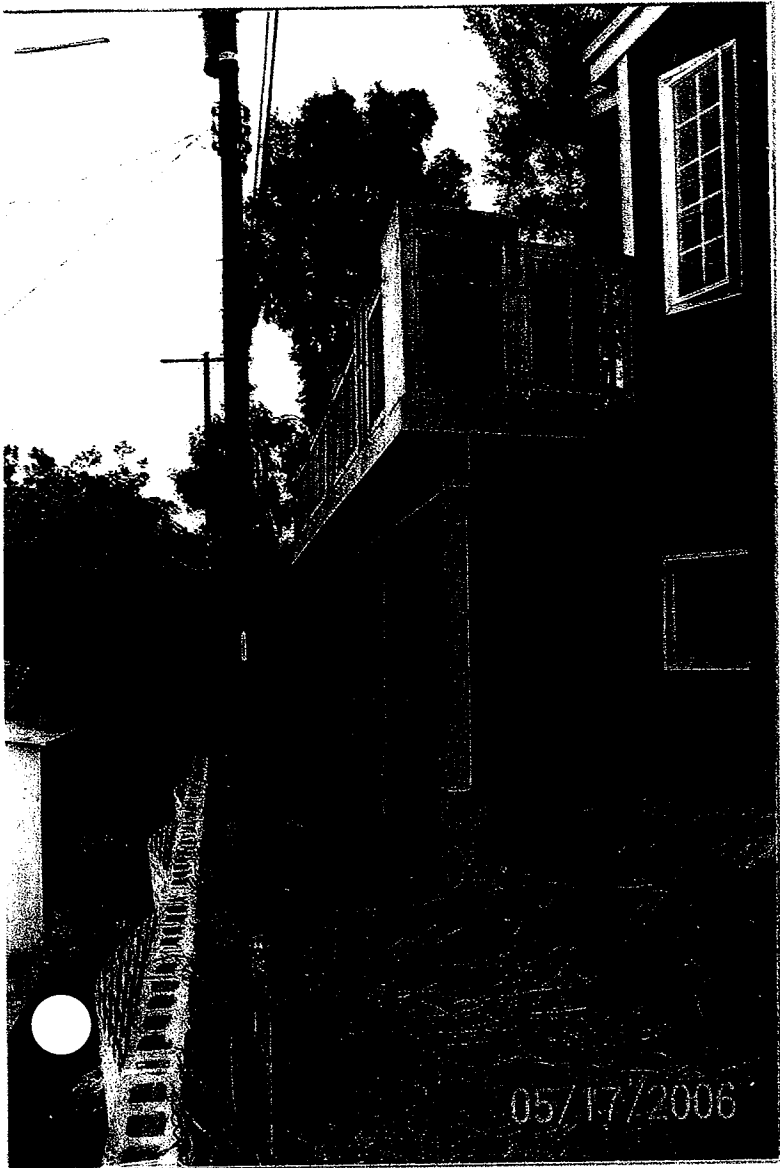


DETAIL A



EAST SIDE ELEVATION
SCALE 1/8" = 1'-0"

CAROLYN HIGHLANDER
1908 MAGNOLIA
MANHATTAN BEACH CA.



05/17/2006





October 29, 2006

Planning Commission of the City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, Ca. 90266

Attn: Eric Haaland ✓
Richard Thompson

Subject: Carolyn Hylander
1908 Magnolia Avenue
Manhattan Beach, Ca. 90266
Lot 237, Tract 14123

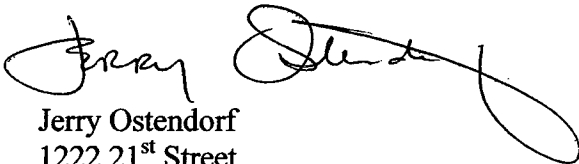
I am writing in support of the construction on the above referenced property. I am a neighbor in close proximity of the Hylander property. The expansion of the existing deck has enhanced the usage of the property and has not in anyway encroached on or jeopardized the safety of any neighboring properties.

In fact, the remodeled deck has actually afforded more privacy and safety to the neighboring properties. The elevation of the property requires some kind of construction to maximize the usage of the land. The Hylanders simply took an existing deck and improved its safety by expanding it and reinforcing the footings and decking. The newly refurbished deck is still setback several feet from the neighboring property lines.

As a property owner in the area I am familiar with the odd shaped lots sizes in the neighborhood and we have all had to be creative in order to maximize the use of our very expensive parcels of land. The Hylanders have done an outstanding job maximizing their space while continuing to afford their neighbors privacy and safety.

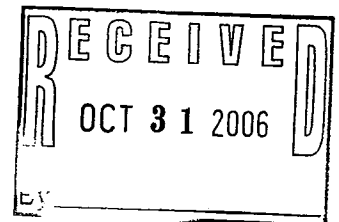
I support the deck construction at 1908 Magnolia Avenue, Manhattan Beach.

Sincerely,



Jerry Ostendorf
1222 21st Street
Manhattan Beach, Ca. 90266
(310) 545-6113

cc: Carolyn Hylander



TO:ERIC HAALAND CASE: CAROLYN HYLANDER, 1908 MAGNOLIA AVE

PROJECT DESCRIPTION: CONSTRUCTION OF DECK APPROX 11.5 FT HIGH,
WITHIN THE REAR YARD SETBACK WHERE A MAX HEIGHT OF 2.5 FT IS
PERMITTED

I AM AGAINST THE KEEPING OF THE DECK OUTSIDE AND BEYOND
PROPERTY LINE GUIDELINES.

IT IS A DEFINITE SAFETY HAZARD TO THE SURROUNDING HOUSES AND
PEOPLE THAT LIVE IN THOSE HOUSES.

IT IS ALSO A TOTAL DISREGARD FOR CITY ORDINANCES AND A CASE
WHERE ONE THINKS THEY ARE ABOVE THE LAW.

SIGNED:
ANONYMOUS

