



Agenda Item #: 06/0905.14

Staff Report City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Geoff Dolan, City Manager 

FROM: Richard Thompson, Director of Community Development 
Angelica Ochoa, Assistant Planner 

DATE: September 5, 2006

SUBJECT: Consideration of Planning Commission Approval of an Amendment to a Variance to Allow an Addition and Remodel to Existing 3-Story Single Family Residence and To Allow a 5' 6" Setback for a Building Wall, Located at 214 21st Street

RECOMMENDATION

Staff recommends that the City Council **RECEIVE and FILE** this report.

FISCAL IMPLICATION

There are no fiscal implications associated with the recommended action.

BACKGROUND

At the public hearing of July 26, 2006, staff presented to the Planning Commission a request for an amendment to a variance to allow an addition and remodel to an existing three-story residence and to maintain a 5 foot 6 inch setback instead of the required 8 feet for the building wall portion over 25 feet in height at 214 21st Street. The site is zoned Residential Medium (RM) and is located within Area District III on two unequal portions of two half lots, with vehicular access off of 20th Place and a 3 foot pedestrian easement through an adjacent property off of 21st Street. The applicant is seeking approval for the variance amendment and relief from the additional setback requirement.

After receiving public testimony and discussing that the project met the required findings at its regular meeting of August 9, 2006, the Planning Commission **ADOPTED** Resolution No. PC 06-10 (4-1-0), approving the subject application.

DISCUSSION

The applicant is seeking an amendment to an original variance approval granted in 1979 which requires that the 18-foot useable open area on the westerly side of the property be maintained. The amendment would consist of the construction of a single car oversized garage with two levels of living area above. In addition, the applicant requests relief from a required 8-foot setback requirement for building walls which exceed 25-feet in height. The proposed building setback would only maintain a 5 foot 6 inch setback.

Municipal Code Section 10.12.030 (F)(1) of Title 10 requires that lots greater than or equal to 35 feet wide must increase the side yard setback by three feet in addition to the required side yard setback. The width of the subject property is 60 feet wide and therefore this requirement applies. A 5 foot setback is required for the portion of the building wall under 25 feet in height and an 8 foot setback is required for the portion over 25 feet in height.

At the public hearing of July 26, 2006, public testimony was received from several neighbors. The property owner most affected by the development and who lives directly to the west opposed the granting of relief from the additional setback requirement. The neighbor felt their view, light and ventilation would be limited by the new construction. Other comments received at the public hearing consisted of consideration of uniqueness of properties, bulk of new buildings and allowing remodeling of homes that have existing non-conformities.

However, the Planning Commission did not feel that the opposing issues would impair the view or limit ventilation on the adjoining neighbor since the project was providing more than the required open space at the rear. The Commission felt that the preservation of older homes and granting relief from development regulations should be considered to encourage less bulk and mass of new buildings. For this reason, the Planning Commission supported (4-1-0) the amendment to the variance and granted relief from the additional required setback on the west side. (Exhibit B).

Staff presented the attached resolution at the Planning Commission meeting of August 9, 2006 (Exhibit C) addressing the required Variance findings. The Planning Commission (4-1-0) adopted Resolution No. 06-10 (Exhibit A) taking into consideration the following:

- a) that the substandard lot size, nonconforming setbacks and unusual lot configuration constituted a hardship and special circumstance
- b) that the proposed addition would provide an additional setback at the rear yard of 11.5 feet, create less bulk by adding less than the maximum allowable living area and maintain a total separation of 8.5 feet between buildings instead of 6 feet as is typical in this area.
- c) that the request would not grant a special privilege since the proposed project was providing more than the required setback at the rear and at the building wall portion under 25 feet.
- d) and that the resolution specifically include a condition that the subject site maintain a 5 foot 6 inch setback on the west side yard and 11.5 feet at the rear yard and that no new construction shall be built in any of these areas.

ALTERNATIVES

The alternatives to the staff recommendation include:

- **RECEIVE** and **FILE** the Planning Commission's decision of **APPROVAL**
- **APPEAL** the decision of the Planning Commission and schedule the subject item for a public hearing

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- Attachments:
- A. Resolution No. PC 06-10 (available electronically)
 - B. Final Planning Commission Minutes excerpts; 07/26/06 (available electronically)
 - C. Draft Planning Commission Minutes excerpts; 08/09/06 (available electronically)
 - D. Planning Commission Staff Report and attachments; 07/26/06 and 08/09/06 (available electronically)

cc: Doug Smith, Property Owner
Blair Smith, Project Draftsman
Bunny Srour, Applicant Representative

RESOLUTION NO. PC 06 -10

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO A VARIANCE TO ALLOW AN ADDITION AND REMODEL TO AN EXISTING THREE-STORY SINGLE FAMILY RESIDENCE AND TO ALLOW A 5 FOOT 6 INCH SETBACK FOR A BUILDING WALL OVER 25 FEET IN HEIGHT AT 214 21ST STREET

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 July 26, 2006, to consider an application for an Amendment to a Variance for the property legally described as the North Manhattan Beach Sub No. 2 SE 38.5 FT of Lot 5 and SE 45 FT of Lot 6, Block 7, Los Angeles County in the City of Manhattan Beach.
- B. At the July 26, 2006 meeting, the Commission directed staff to prepare a 'Draft' Resolution for review at the August 9, 2006 Planning Commission meeting.
- C. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- D. The applicant for the Variance is Doug Smith, property owner.
- E. The applicant proposes to construct a new oversized one car garage on the first floor and addition and remodel of living area at the second and third floors on the westerly side of the existing three-story structure. Additionally, the applicant is requesting relief from the required west side yard setback of 8 feet for the portion of the proposed building wall over 25 feet in height.
- F. The parcel is 2,498 square feet, two unequal portions (29.99'x38.41' and 30' x 44.94') of two original full size lots (30'x 90'), and is legal nonconforming for the required area (minimum 2,700 square feet) located in the "RM" zone, Area District III.
- G. The property fronts on the south side of 20th Place between Ocean Drive on the west and Highland Avenue on the east. The majority of the properties within this neighborhood are three stories in height and have projections onto the alley (20th Place).
- H. The Variance application includes 976 square feet of new living area on the second and third floors and an oversized one car garage of 484 square feet on the first floor. The building wall portion over 25 feet in height will maintain a west side yard setback of 5 feet and 6 inches where the required setback is 8 feet. The building wall portion under 25 feet in height will comply with the required side yard setback of 5 feet.
- I. Section 10.12.030 (F)(1) of the Manhattan Beach Municipal Code contains a provision which requires properties that are more than 35 feet wide to increase the width of a required interior side or rear yard adjoining a building wall by three feet over the basic requirement. The subject property has a 60 foot wide frontage on 20th Place.
- J. The General Plan designation for the property is Medium Density Residential. The General Plan encourages development solutions tailored to each neighborhood's unique characteristics.



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- K. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15061, (b) (3) based on staffs determination that the project is a minor development and will not have a significant impact on the environment.
- L. 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.
- M. Pursuant to the Manhattan Beach Municipal Code, 10.84.060 B., the Planning Commission made the following findings 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, *since the lot is substandard in lot size (2,498 square feet) due to two unequal portions of two full lots and has non-conforming setbacks of front, west side and rear yards.*
 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, *since the proposed addition will reduce the bulk of the building by adding less than the maximum allowable living area, the additional setback at rear yard will increase light and ventilation for the adjoining neighbors, and maintaining only a 5 foot 6 inch setback at the building wall over 25 feet in height will provide a total separation of 8 ½ feet between structures on the west side rather than 6 feet as is typical in this area.*
 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, *since the proposed project will maintain a 5 foot 6 inch setback on the west side yard and 11.5 feet at the rear yard setback whereas the required is only 5 feet.*
- N. This resolution upon its effectiveness constitutes an Amendment to the Variance for the subject property and supersedes the prior Variance approved in 1979 (Resolution No. 79-8).

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Variance subject to the following conditions:

1. The project shall be in conformance with the plans submitted to, and approved by the Planning Commission on July 26, 2006.
2. With the exception of the approved 5 foot 6 inch setback for the building wall portion over 25 feet in height and the proposed Amendment to the Variance for the addition and remodel, all other work shall be developed in compliance with all applicable development Regulations of Title 10 of the Manhattan Beach Municipal Code.
3. The applicant must file a change of address off of 20th Place since the property fronts and takes vehicular access from 20th Place as part of the plan check process.
4. An appropriate merger document shall be recorded for the site as required by the Community Development Department prior to issuance of a certificate of occupancy.

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5. That the subject property maintain a 5 foot 6 inch setback on the west side yard and a 11 foot 6 inch setback at the rear yard for useable open space and no construction shall encroach in these areas.

Public Works

6. No discharge of construction wastewater, building materials, debris, or sediment from the site is permitted.
7. Sidewalk, driveway, curb and gutter repairs or replacement must be completed per Public Works Specifications. See City Standard Plans ST-1, ST-2, and ST-3.
8. All displaced and damaged sidewalk or driveway approaches must be repaired.
9. Residential properties must provide an enclosed storage area for refuse containers. These areas must be constructed to meet the requirements of M.B.M.C. 5.24.030. The area must be shown in detail on the plans before a permit is issued.
10. Erosion and sediment control devices BMPs (Best Management Practices) must be implemented around the construction site to prevent discharges to the street and adjacent properties. BMPs must be identified and shown on the plan. Control measures must also be taken to prevent street surface water from entering the site.
11. Plan holder must have the plans rechecked and stamped for approval by the Public Works Department before the building permit is issued.

Fire Department

12. Contractor's plans and permit required by Manhattan Beach Fire Department for fire sprinkler consideration.

Building Department

13. Per Building Department, two sets of stairs must be provided from the 3rd Floor, that one be located one half the longest diagonal of that floor apart to meet minimum exiting out of that floor or justify that the bottom level meets Section 220 of the 2001 CBC for Basement qualifications.

Procedural

14. This Resolution shall become effective when all time limits for appeals have been exhausted as provided in MBMC Section 10.100.030.
15. Approval of this Variance shall comply with Manhattan Beach Municipal Code (MBMC) Section 10.84.090 (A).
16. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code Section 711.4(c), the project is not operative, vested or final until the required filing fees paid.
17. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

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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 **August 9, 2006** and that said Resolution was adopted by the following vote:

AYES: Bohner, Cohen, Lesser, Powell

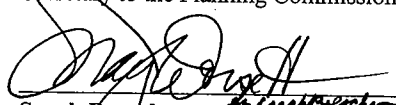
NOES: Chairman Schlager

ABSTAIN:

ABSENT:



RICHARD THOMPSON,
Secretary to the Planning Commission


Sarah Boeschen
Recording Secretary

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- 1 NOES: None
- 2 ABSENT: None
- 3 ABSTAIN: None

4

5 **AUDIENCE PARTICIPATION** None

6

7 **BUSINESS ITEMS**

8

9 **PUBLIC HEARINGS**

10

11 **06/0726.1 Consideration of an AMENDMENT to a VARIANCE to Allow an Addition**
12 **and Remodel to an Existing Three-Story Single Family Residence and to**
13 **Allow a 5'6" Setback for a Building Wall over 25' in Height, at 214 21st**
14 **Street**

15

16 Assistant Planner Angelica Ochoa summarized the staff report. She stated that the proposed
17 Amendment is to allow an addition and remodel to the second and third floors and to add a new
18 oversized one-car garage at the first floor of an existing three-story single family home. She
19 commented that the request is also to allow a 5'6" setback on the west side of the property
20 instead of the required 8 feet for the portion of the building wall that exceeds 25 feet in height.
21 She indicated that the proposed new construction would be located on the west 12 feet of the lot
22 with approximately 8 feet of the building wall portion exceeding 25 feet in height. She indicated
23 that the subject lot is 60 feet in width, and the Code requires any portion of a building wall over
24 25 feet in height to be set in an additional 3 feet beyond the required setback for lots over 35 feet
25 in width. She stated that the lot consists of two unequal portions of two full lots which created
26 non-conforming setbacks at the front, rear and east sides in addition to the lot size being less than
27 the required minimum 2,700 square feet.

28

29 Assistant Planner Ochoa indicated that the prior Variance approved in 1979 permitted a second-
30 story addition with a condition that the west 18 feet remain open, which is the location proposed
31 for the new construction. She said that a building permit was also approved in 1989 for
32 construction of a basement. She indicated that the BFA (buildable floor area) with the proposed
33 addition would be less than the allowable, and the project does meet the requirements for open
34 space. She said that an additional enclosed parking space is proposed, which would help to
35 alleviate parking congestion in the alley. She commented that the height limit is 30 feet, and the
36 majority of properties in the area are three stories. She stated that staff received a letter in
37 opposition to the project from the adjacent neighbor to the west that expressed concerns
38 regarding the increase in building height; the reduction of light, privacy and view from their
39 property; and noncompliance with the 8 foot setback requirement for the portion of building wall
40 over 25 feet.



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1
2 In response to a question from Commissioner Bohner, Assistant Planner Ochoa indicated that
3 staff is recommending that the proposal be approved except for the 5'6" setback along the west
4 side of the property. She commented that staff is recommending that the setback not be
5 permitted because the proposed addition must comply with the additional 3 foot setback
6 requirement above 25 feet, because the lot is 60 feet in width.

7
8 Director Thompson indicated that staff found it difficult to meet the required findings for
9 approving the Variance for the setback because of the potential impact to the neighbors.

10
11 In response to a question from Commissioner Lesser, Director Thompson commented that the
12 Commission should use the current Code and required findings in evaluating whether to modify
13 the 1979 Variance. He indicated that the Commission should also consider that the justification
14 for approval of the previous Variance was that the western portion of the property remain open.
15 He commented that development patterns were different when the prior approval was granted,
16 and the Commission should consider the current conditions and patterns of the neighborhood.

17
18 Commissioner Powell commented that the notice listed the address of the project as 214 21st
19 Street; however the property actually fronts off of 20th Place. He indicated that a letter from the
20 neighboring property owners to the west indicated that they originally disregarded the notice
21 because they thought the construction would occur on the other side of the property and would
22 not impact them. He suggested that other neighboring residents could possibly have been
23 similarly confused by the address listed on the notice, and future notices for projects with similar
24 circumstances should also list the street on which the property fronts.

25
26 Director Thompson commented that it is a unique situation. He said that he would hope any
27 neighbors who received the notice and were unable to identify the site would inquire to staff to
28 receive further information.

29
30 In response to a question from Commissioner Bohner, Director Thompson indicated that staff is
31 satisfied that the project was properly noticed to the neighbors.

32
33 In response to a question from Commissioner Lesser, Director Thompson commented that in his
34 experience a Variance request has never been granted for a this type of setback.

35
36 **Elizabeth Srouer**, representing the applicant, indicated that the property address of 214 21st Street
37 has existed for many years and precedes the applicant's ownership of the property. She
38 commented that historically there have been issues regarding lot boundaries and non-conforming
39 setbacks in the neighborhood which is an older part of the City. She indicated that the section of
40 the Code which requires an additional 3 foot setback for lots wider than 35 feet generally does

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1 not apply to the beach area, and they feel it should not apply to the subject property. She said
2 that meeting the setback requirement would definitely compromise the living space of the third
3 floor. She stated that the proposed design adheres to a standard of development that is very
4 attractive and compatible with the adjacent properties. She indicated that the existing home
5 would not be demolished except for the west side, and the proposed remodel encourages the
6 retention of the original structure. She pointed out that development patterns today are very
7 different than in 1979 with the current trend of building out lots to the maximum allowable. She
8 said that the applicant wishes to add living area and retain the rear yard and have the ability to
9 park his van in an enclosed space.

10
11 **Ms. Srour** commented that one purpose of a Variance procedure is to allow some flexibility
12 when addressing the application of the City's standards and to consider the complexities
13 hardships and difficulties for unique lots. She indicated that the subject property is unique in that
14 it has an irregular configuration. She pointed out that the lots in the area are typically 30 feet by
15 90 feet, and the subject lot is only 45 feet deep on the west side. She indicated that a standard
16 house on a lot 45 feet deep would be 35 feet long, and they are proposing 27 ½ feet of building
17 length. She pointed out that 12 foot of the rear yard would be retained, and the requirement is for
18 5 feet. She indicated that the placement of the original structure is skewed on the lot, which
19 creates concerns on the northeast corner and the front setback. She pointed out that the subject
20 structure is over 1,000 square feet less than is permitted on the site; the height is less than is
21 permitted; the setback is greater on the west side than is typical; the design is compatible with the
22 area; and the proposal would help to improve the street parking. She commented that the
23 proposal does address the goal of the Council to allow for existing homes to be remodeled. She
24 indicated that they feel the proposal is a very reasonable compromise between the Code
25 requirements, what is necessary for the community, and the uniqueness of the property.

26
27 In response to a question from Commissioner Bohner, **Ms. Srour** indicated that there would be 8
28 ½ feet of separation between the subject building face and the adjacent home to the west, and 6
29 feet of separation between buildings is standard in the beach area for half lots. She pointed out
30 that the building would also not be built out to the maximum permitted length. She indicated
31 that they feel 8 ½ feet of separation between buildings is greater than is typical in the beach area,
32 and they do not feel the proposal would compromise the livability, property value, or
33 development of the adjacent property to the west.

34
35 In response to a question from Commissioner Cohen, **Ms. Srour** indicated that no public parking
36 spaces would be lost as a result of the proposal.

37
38 Commissioner Powell pointed out that the 3 foot setback requirement is standard in the beach
39 area for lots that are 30 feet wide; however the subject property is required to have a 5 foot
40 setback with an additional 3 foot setback for the portion of the building over 25 feet in height

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1 because it is 60 feet wide. He indicated that the existing structure is currently legally
2 nonconforming on the east side where it only has a 3 foot rather than the required 5 foot setback.
3 He indicated that the spirit of the Code requirement is to require additional setbacks because of
4 the added bulk for larger structures on wider lots, particularly with three levels.
5

6 **Ms. Srour** indicated that the subject lot cannot be built out as can other wide lots because it has a
7 very shallow configuration. She said that the only method by which to eliminate the
8 nonconforming setbacks is to demolish the existing home and build a new structure, which is an
9 unfair burden to place on the property owner.
10

11 Commissioner Powell indicated that the issue is that the proposed setback would allow an
12 additional encroachment for a structure that is already nonconforming.
13

14 **Ms. Srour** commented that the property could be built out to 4,000 square feet, and the proposed
15 structure is 2,960 square feet. She also stated that the setbacks and open space that would be
16 provided also should be taken into account.
17

18 **Blair Smith**, a resident of 25th Street in Hermosa Beach, indicated that he encouraged his brother
19 to retain his existing home rather than build a new home. He indicated that the proposed
20 addition is being requested in order to allow additional living space; to change the existing
21 narrow staircase; and to add garage space. He indicated that they feel meeting the setback
22 requirement on the west side of the structure would drastically reduce the living area on the top
23 level. He commented that meeting the requirement would reduce the size of the room on the
24 upper level from 12 feet to 9 feet wide, and it would not be very cost effective to put money into
25 a remodel for such a small room. He commented that the intent of the Code requirement for the
26 additional setback is to reduce the impact of the bulk of structures to neighboring properties. He
27 pointed out that they have taken other measures to reduce the appearance of bulk including
28 placing a deck in the middle of the structure. He pointed out that homes will be built to the west
29 of the neighboring home in the future will most likely be built to the maximum allowable height
30 and square footage. He stated that they do not feel that the proposed addition would greatly
31 affect the light that reaches the neighboring property to the west, and the amount of light would
32 not be any different with an additional 3 foot setback. He indicated that the bulk that would
33 result from their addition would be than would result from new construction.
34

35 In response to a question from Commissioner Cohen, Director Thompson indicated that it is
36 unlikely that new construction on the subject property could be built out to the 4,000 square foot
37 maximum allowable on the site, and homes are typically built up to 15 or 20 percent of the
38 maximum.
39

40 In response to a question from Commissioner Cohen, **Mr. Smith** indicated that they feel the

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1 impact to the neighbors would be greater if the existing structure were torn down and a new
2 home was built to the maximum allowable. He commented that the large rear yard as proposed
3 also allows more open space.

4
5 Commissioner Lesser asked whether the room on the upper level could be switched with the
6 position of the deck in order to meet the Code requirements.

7
8 **Mr. Smith** said that his design was intended to change the existing structure of the home as little
9 as possible in order to stay within the 50 percent valuation rule for remodels.

10
11 **Doug Smith**, the applicant, said that he would like to improve his property to provide extra space
12 to entertain and to have a garage for his van and equipment. He stated that the cars drive fast up
13 and down the street, and he wants to park his van in an enclosed area to avoid the possibility of
14 an accident. He said that he would also like to build a stairway to allow easier access to the
15 second and third levels. He stated that he feels strict compliance with the building Code on his
16 property would cause him an unnecessary hardship due to the unique layout of his lot and would
17 deny him his property rights that others in the neighborhood enjoy of having a 3 foot setback. He
18 indicated that he does not feel the setback as proposed would have a negative impact to his
19 immediate neighbors to the west because of the 8 ½ foot separation between the structures, which
20 is greater than others in the neighborhood.

21
22 Chairman Schlager opened the public hearing.

23
24 **Jill Tallman**, a resident of the 200 block of 20th Place, said that although they support the current
25 development patterns in the City, they request that the Commission deny the subject Variance
26 request for a reduced setback to the west. She indicated that the applicant already enjoys the
27 benefit of having a double wide lot, and the additional setback is not necessary to maintain the
28 square footage or visual appearance of an addition. She commented that additional square
29 footage could be obtained on the north of the proposed addition rather than encroaching on the
30 west side. She indicated that no similar variance request has been granted in the past. She said
31 that their view, light, and breeze will be severely diminished if the property is built as proposed,
32 particularly from their dining room and kitchen area. She pointed out that the setback of the
33 existing structure currently encroaches on the east side. She stated that the additional square
34 footage obtained without the encroachment by either reducing the size of the outside proposed
35 patio deck area or by expanding on the north side.

36
37 In response to a question from Commissioner Lesser, **Ms. Tallman** indicated that she would
38 prefer for the existing home to be torn down and a new home built rather than the proposed
39 addition. She commented that they are not opposed to the addition of square footage but only to
40 the encroachment into the setback.

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1
2 **Stephen Tallman**, a resident of the 200 block of 20th Place, said that it is the case that larger
3 homes will be built on the property to the west of their lot in the future, and they want to attempt
4 to protect their view of the sky and breeze as best they are able.

5
6 **Charles Mau**, stated that the views of property owners end at their property line. He commented
7 that all homes would need to be torn down in order to provide residents a full view of the sun.
8 He commented that the only time the sunlight of the property to the west might be impacted is
9 during part of the summer months. He commented that not everyone may be pleased with the
10 appearance of construction, but homes are built to realize the property owner's dream.

11
12 **Major Abagnon**, a resident of the 200 block of 20th Street, stated that the uniqueness of the
13 subject lot and the unique size needs to be taken into consideration.

14
15 **Linda Abagnon**, commented that their neighbors also have an odd sized lot which will be torn
16 down in the future, and she would support their request for a Variance in order to allow them
17 space to build. She commented that if she lived to the west of the subject lot, she would prefer
18 for the existing home to be remodeled as proposed rather than torn down and rebuilt.

19
20 **Ben Schlimie**, a resident of the 100 block of 20th Street, indicated that the proposal is a request to
21 disregard a Code requirement, and he does not want to presume the reasoning behind enacting
22 the regulation. He indicated that there are many non-conforming features on the property, and
23 the request would result in an additional privilege to the owner. He said that rebuilding on the
24 property and eliminating the nonconforming features might help the view of one neighbor but
25 could be a detriment to another neighbor.

26
27 **Mr. Tallman**, clarified that they are not opposed to the Variance request for remodeling the first
28 and second levels and are only requesting that the Variance not be granted for the encroachment
29 of the portion over 25 feet. He said that they would support the addition of a garage on the
30 property.

31
32 **Ms. Srour** said that the proposal does address the issue of bulk within the interior of the lot
33 where it is most relevant. She indicated that they do believe the findings can be made to grant
34 the Variance request.

35
36 In response to a question from Commissioner Cohen, **Doug Smith** stated that the room proposed
37 on the third level would be used as a den.

38
39 Chairman Schlager closed the public hearing.

40

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1 Commissioner Powell said that he supports a preservation ordinance to provide incentives for
2 remodeling of older homes rather than reconstruction. He commented, however, that the subject
3 home is not the original structure in terms of age or the configuration. He indicated that the
4 home originally was a single story 952 square foot home; was increased to 1,604 square feet in
5 1979; and is currently 1,984 square feet of BFA. He said that the proposal would bring the home
6 to 2,980 square feet. He said that a new house built on the lot would be required to provide the 5
7 foot setbacks on the west and east side and to provide the additional 3 foot setback to the extent
8 that the walls exceed 25 feet in height. He pointed out that the reason for the condition of the
9 Variance in 1979 that the 18 foot open space setback requirement be maintained was in order to
10 reduce building bulk. He said that he does not see that there are extraordinary circumstances
11 which create a great hardship regarding the lot size or topography, except possibly for the skewed
12 position of the house on the lot. He indicated that there has been testimony by the neighboring
13 property owners that they are concerned with losing their light, ventilation, view, and privacy as a
14 result of the proposal. He indicated that he feels more concern may have been raised by
15 neighboring property owners if there was further reference on the notice regarding the area where
16 the construction would occur rather than only the street address. He commented that he is also
17 concerned with the bulk of the project because of the limited architectural articulation.

18
19 Commissioner Powell indicated that the property has existing nonconformities with an additional
20 Variance now being requested. He commented that the General Plan states that home additions
21 should reflect the scale and character of surrounding homes and that excessively large structures
22 that are tall and bulky with tight setbacks can produce streetscapes that are aesthetically
23 overbearing. He indicated that he finds the width of the structure out of scale in proportion with
24 that of the surrounding homes. He commented that Policy LU1.2 of the General Plan requires
25 the design of all construction to utilize notches, balconies, open space setbacks, or other
26 architectural details to reduce the bulk of buildings. He stated that he likes the project; however
27 he is not inclined to grant the Variance. He commented that he would approve the project if the
28 balcony on the inside of the structure were switched to the west side. He suggested that another
29 alternative would be that the balcony on the southwest corner being moved in 1 foot to reduce the
30 bulk and provide a larger airway. He commented that he does like that the proposed design does
31 maintain the additional rear setback. He indicated that he would like for the applicant to consider
32 revising the plans.

33
34 Commissioner Cohen commented that she is in favor of granting the proposed 5 ½ foot setback.
35 She indicated that she believes that the application meets the required findings for granting the
36 Variance. She stated that she does feel the site and existing structure are unique, and the property
37 could be demolished and rebuilt 1,000 square feet larger than is proposed. She indicated that
38 meeting the 8 foot setback requirement for the portion exceeding 25 feet in height would result in
39 an unusually small room on the third level of 8 feet in width and would create an undue hardship.
40 She stated that she is in favor of the additional setback that is provided for the back yard and

PLANNING COMMISSION MINUTES

July 26, 2006

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1 deck which would help to maintain light and open space for the neighbors. She stated that she is
2 also in favor of keeping some of the eclectic and historic feel of the City and encouraging
3 remodeling rather than reconstruction. She indicated that she supports the proposal, including
4 the proposed 5 ½ foot setback as proposed.
5

6 Commissioner Bohner indicated that the City policy is to reduce the appearance of bulk, which
7 favors denying the request for the setback Variance. He stated, however, that the policy of the
8 City also is to encourage remodeling. He pointed out that the property could be built out further
9 if it were torn down and rebuilt. He indicated that the project does provide additional open space
10 in the rear. He commented that the subject property is fairly skewed and unique. He said that he
11 is leaning in the direction of approving the project, and he does not feel it would set a precedent
12 to allow the 5 ½ foot setback. He said that tearing down the home and building a new larger
13 structure could result in a greater impact to the neighbors.
14

15 Commissioner Lesser said that the nature and character of the community is changing with a
16 strict application of building codes which essentially requires owners to demolish properties and
17 rebuild as opposed to remodeling. He said that the 50 percent rule provides that remodeling of
18 structures cannot exceed 50 percent of the valuation of the existing structure, and otherwise
19 owners are basically forced to rebuild. He indicated that the problem with the subject proposal is
20 that an earlier Variance imposed conditions that were the basis for granting the prior approval.
21 He stated, however, that concessions must be made by the City to property owners to the extent
22 that remodeling is encouraged as opposed to homes being torn down. He indicated that he is
23 inclined to grant the proposal and believes the findings can be made for approval. He stated that
24 he believes there are special circumstances because of the unusual size of the property, and he
25 feels strict application of the Code would result in exceptional difficulties to the owner. He
26 commented that he would welcome the possibility of switching the location of the room on the
27 third level to the middle of the property and eliminating the balcony; however, he recognizes that
28 it would increase the cost of the project. He said that he believes granting the application would
29 be consistent with the intent of the General Plan and would not constitute the granting of a
30 special privilege, as the property owner would still maintain a fairly good setback from the
31 adjoining property owner.
32

33 Chairman Schlager commented that he walked around the subject property and he understands
34 the circumstances of the applicant and the neighbors. He stated that the fact is that the City is
35 very densely populated, and it is not possible to please all property owners. He said that he must
36 refer to the intent of the General Plan and the current standards. He pointed out that there are
37 reasons for the current Code standards. He said that there is an existing Variance that applies to
38 the property as well as legal nonconformities, and the Commission is being asked to grant an
39 additional Variance. He stated that a new structure on the site would need to conform to the
40 current Code requirements. He indicated that he finds it difficult to support the request for the

PLANNING COMMISSION MINUTES

July 26, 2006

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1 Variance because it does not necessarily meet all of the necessary findings. He indicated that his
2 understanding is that there has not been any similar Variances granted in the past, and there is no
3 precedence that the subject Variance should be granted. He stated that concern regarding the
4 bulk of structures is a large issue, and the intent of the General Plan is to maintain the small town
5 character and atmosphere of the City. He commented that he does not feel that the applicant has
6 made every effort to consider other options that would prevent the necessity of a Variance, and
7 he feels there are alternative designs that could be considered. He indicated that while he would
8 support the request for the addition and remodel, he would not support the request for the 5 ½
9 foot setback for the portion of the structure over 25 feet in height.

10
11 Commissioner Powell commented that the comments of the Commissioners have convinced him
12 that perhaps there are mitigating circumstances that warrant granting of the proposal.

13
14 A motion was MADE and SECONDED (Lesser/Cohen) to direct staff to prepare a Resolution to
15 **APPROVE** an Amendment to a Variance to allow an addition and remodel to an existing three-
16 story single family residence and to allow a 5'6" setback in lieu of the required 8' setback for the
17 portion of the building wall over 25 feet in height, at 214 21st Street.

18
19 AYES: Bohner, Cohen, Lesser, Powell

20 NOES: Chairman Schlager

21 ABSENT: None

22 ABSTAIN: None

23
24 Director Thompson commented that staff will draft a Resolution of approval for the project for
25 review at the August 9 meeting.

26
27 **DIRECTOR'S ITEMS** None

28
29 **PLANNING COMMISSION ITEMS**

30
31 Commissioner Lesser commended the Commissioners and staff for the level of the substantive
32 dialogue and questioning during the previous discussion.

33
34 Commissioner Powell commented that the 310 area code must now be dialed before all phone
35 numbers.

36
37 **TENTATIVE AGENDA: August 9, 2006**

38
39 **ADJOURNMENT**

D R A F T C I T Y O F M A N H A T T A N B E A C H D R A F T
MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION
AUGUST 9, 2006

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on
2 Wednesday, August 9, 2006, at 6:35p.m. in the City Council Chambers, City Hall, 1400
3 Highland Avenue.

4
5 **ROLL CALL**

6
7 Chairman Schlager called the meeting to order.

8
9 Members Present: Bohner, Cohen, Lesser, Powell, Chairman Schlager
10 Members Absent: None
11 Staff: Richard Thompson, Director of Community Development
12 Angelica Ochoa, Assistant Planner
13 Sarah Boeschen, Recording Secretary
14

15 **APPROVAL OF MINUTES** July 26, 2006

16
17 Commissioner Powell requested that on page 7, line 23 of the July 26 minutes be revised to read:
18 "He indicated that there are many non-conforming features on the property, and the request
19 would result in an additional privilege to the owner."
20

21 Commissioner Powell requested page 8, line 17 be changed to read: "He commented that he is
22 also concerned with the bulk of the project because of the limited architectural articulation."
23

24 Commissioner Powell requested that a period be added to the end of the sentence on page 10,
25 line 17.
26

27 A motion was MADE and SECONDED (Lesser/Bohner) to **APPROVE** the minutes of July 26
28 2006, as amended.
29

30 AYES: Bohner, Cohen, Lesser, Powell, Chairman Schlager
31 NOES: None
32 ABSENT: None
33 ABSTAIN: None
34

35 **AUDIENCE PARTICIPATION** None

36
37 **BUSINESS ITEMS**

38
39 **A. Consideration of an AMENDMENT to a VARIANCE to Allow an Addition**
40 **and Remodel to an Existing Three-Story Single Family Residence and to**
41 **Allow a 5'6" Setback for a Building Wall, at 214 21st Street**

D R A F T



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1
2 Commissioner Lesser suggested that the second sentence of page 1, item G of the draft
3 Resolution be revised to state: "The building wall portion over 25 feet in height will maintain a
4 west side yard setback of 5 feet and 6 inches where the required setback is 8 feet."

5
6 Commissioner Lesser requested that page 2, section 1(M) of the draft Resolution be revised to
7 state: "This resolution upon its effectiveness constitutes an amendment to the Variance for the
8 subject property and supersedes the prior Variance approved in 1979 . . ."

9
10 In response to a question from Commissioner Lesser, Director Thompson stated that findings are
11 not necessary to support the overriding of the prior 1979 Variance, and the draft Resolution
12 captures the changes and identifies the project that is being considered and approved.

13
14 In response to a question from Commissioner Powell, Director Thompson indicated that section
15 2, item 4 of the draft Resolution requiring an appropriate merger document to be recorded prior
16 to a certificate of occupancy is a standard condition for such a situation that includes two half
17 lots.

18
19 Commissioner Lesser indicated that the previous Variance prescribed that the westerly 18 feet
20 remain as open space, and the subject proposal would override that condition. He commented
21 that while the applicant testified that he was designing the addition in order to stay within the 50
22 percent rule, it was not clear that all other alternatives had been considered. He indicated,
23 however, that he feels the findings for a Variance can be made. He stated that he is concerned
24 with the changing character of the City, and he is interested in taking any possible measures that
25 are consistent with Council directives to encourage property owners to remodel rather than
26 demolish their homes. He said that the purpose of the Code at the time the section relating to
27 non-conforming uses and structures was adopted in the early 1990s was to limit the number and
28 extent of nonconforming structures by prohibiting their being moved, altered or enlarged in a
29 manner that would increase the discrepancy between existing conditions and the standards
30 prescribed in the chapter, which has encouraged property owners to demolish rather than
31 remodel.

32
33 Commissioner Powell indicated that he switched his vote because he was convinced by the
34 comments of the other Commissioners that there were mitigating circumstances. He stated that
35 he would like for a condition to be included that incorporates the language of Section L(3) of the
36 draft Resolution which states that granting the proposed Variance will not constitute granting of a
37 special privilege inconsistent with limitations on other properties in the vicinity and in the same
38 zoning district and area district, since the proposed project will maintain a 5 ½ foot setback on
39 the west side yard and 11 ½ feet at the rear setback, whereas the required is 5 feet. He said that
40 his concern is that not including a requirement for open space as a condition does not meet the

PLANNING COMMISSION MINUTES

August 9, 2006

Page 3

1 goal of meeting the small town atmosphere, and he would like to see in particular the italicized
2 language of item L(3) of the findings become a condition.

3
4 Director Thompson said that the language of section L(3) can be made a condition of approval as
5 suggested by Commissioner Powell if the Commission is in agreement. He said that there are
6 good reasons for including such a condition, and it is supported by the findings.

7
8 The Commissioners agreed to include a condition incorporating the language of section L(3) as
9 suggested by Commissioner Powell.

10
11 Chairman Schlager said that the owners have nonconforming features in the house and there has
12 not been any precedence for such a variance in the past. He indicated that the General Plan is
13 very specific about maintaining the small town atmosphere of the City, and granting the subject
14 Variance could lead to other requests. He said that the plans presented by the applicant are drafts
15 rather than actual architectural drawings. He commented that the Commission was only
16 presented with one option, and he would have like to have seen more detailed drawings of the
17 structure as well as other alternatives for the design to demonstrate that the subject design is
18 clearly the best option. He indicated that he feels there have already been concessions made for
19 the subject property, and he cannot justify allowing the subject request. He said that while he
20 cannot support the proposal, he is pleased with Commissioner Powell's suggestion of making the
21 setbacks a requirement to assure the neighboring property owners that any additional proposals
22 would have to again come before the Commission before the subject property could be built out
23 any further into the open space.

24
25 A motion was MADE and SECONDED (Lesser/Powell) to **APPROVE** an AMENDMENT to a
26 VARIANCE to Allow an Addition and Remodel to an Existing Three-Story Single Family
27 Residence and to Allow a 5'6" Setback for a Building Wall, at 214 21st Street to include a
28 condition consistent with section L(3) of the draft Resolution as discussed.

29
30 AYES: Bohner, Cohen, Lesser, Powell
31 NOES: Chairman Schlager
32 ABSENT: None
33 ABSTAIN: None

34
35 Director Thompson explained the 15 day appeal period and stated that the item will be placed on
36 the City Council's Consent Calendar for their meeting of September 5, 2006.

37
38 **DIRECTOR'S ITEMS** None

39
40 **PLANNING COMMISSION ITEMS**

PLANNING COMMISSION MINUTES

August 9, 2006

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A. Commission and Travel Reports

B. Ethics Training November 28, 2006, 6-8 p.m. in Redondo Beach

Director Thompson commented that the training in Redondo Beach on November 28 is an opportunity for the Commissioners to fulfill their ethics training requirement.

TENTATIVE AGENDA: August 23, 2006

ADJOURNMENT

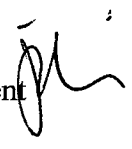
The meeting of the Planning Commission was **ADJOURNED** at 7:00 p.m. in the City Council Chambers, City Hall, 1400 Highland Avenue, to Wednesday, August 23, 2006, at 6:30 p.m. in the same chambers.


RICHARD THOMPSON
Secretary to the Planning Commission

SARAH BOESCHEN
Recording Secretary

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

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development 

FROM: Angelica Ochoa, Assistant Planner 

DATE: July 26, 2006

SUBJECT: Consideration of an AMENDMENT TO A VARIANCE to allow an addition and remodel to an existing three-story single family residence and to allow a 5 foot 6 inch setback for a building wall over 25 feet in height at 214 21st Street

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the public hearing, **APPROVE** the request for an addition and remodel, **DENY** the request for a 5 foot 6 inch setback for the building wall over 25 feet in height, and **DIRECT** staff to prepare a Resolution as appropriate

LOCATION

Location

The property is located on portions of two half lots, between 21st Street on the north, 20th Place on the south, Ocean Drive on the west and Highland Avenue on the east. The property has vehicular access off of 20th Place, with a 3 foot pedestrian access easement through an adjacent property off of 21st Street.

Legal Description

North Manhattan Beach Sub No. 2 SE 38.5 FT of Lot 5 and SE 45 FT of Lot 6, Block 7

Area District

III

LAND USE

General Plan

Medium Density Residential

Zoning

RM, Medium Density Residential District

Neighboring Zoning/Land Uses

RS/Single Family Residences on the south, north, west and east sides.

EXHIBIT
D

PROJECT DETAILS

	<u>Existing</u>	<u>Proposed</u>	<u>Required</u>
<u>Parcel Size:</u>	2,498 sq. ft.*	2,498 sq. ft.*	2,700 sq. ft. min.
<u>Building Floor Area:</u>	1,984 sq. ft.	2,960 sq. ft.	3,997 sq. ft. max.
<u>Building Height:</u>	30.4 ft.*	29.5 ft.	30 ft.
<u>Parking:</u>	2 enclosed 14'8''w x 19'd* (to remain)	1 enclosed space 12'w x 27'6''d (new)	2 enclosed spaces 18'w x 19'd
<u>Vehicle Access:</u>	20 th Place	20 th Place	N/A
<u>Setbacks:</u>			
Front (south) (20 th Pl.)	3.45 to 4.7 ft.*	5.45 ft.(new)	5 ft.
Rear (north) (21 st St.)	21 ft to 4.4 ft. *	11.5 ft.(new)	5 ft.
Right Side (east)	3 ft.	3 ft.*	5 ft.
Left Side (west)	17.8 ft.	5.5 ft.*	-17.8 ft. (original variance approved in 1979) -5 ft. (new wall less than 25 feet in height) -8 ft. (additional 3 feet for portion of wall over 25 feet)

* Legal non-conforming

ENVIRONMENTAL REVIEW AND COASTAL REQUIREMENTS

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303. A coastal development permit is not required as the project is exempt per the City's Local Coastal Program.

BACKGROUND

The project site is two unequal portions of two original full size lots (30'x 90') created prior to 1972. The subdivision resulted in two irregular half lots, with one being 29.99'x 38.41' and the other being 30'x 44.94', per attached vicinity map (Exhibit A). The unusual configuration of the subject site created non-conformities of setbacks and lot size.

A variance application was approved in 1979 (Exhibit B) to allow a second story addition of 652 square feet over the original 952 square feet single story residence with the following conditions:

- 1) That the westerly 18 feet of the subject property remain open for useable open space.
- 2) That the existing substandard two car garage be permanently maintained for vehicular parking purposes.

- 3) That the existing off-street parking space be permanently maintained for vehicular parking purposes
- 4) That the open deck area on the second floor, as shown by the proposed plans, be maintained as shown to reduce the building bulk adjacent to 21st Place.
- 5) That no more than two architectural projections be permitted on the south elevation.

A building permit application was approved in 1989 to construct a 380 square feet basement which the Board of Zoning Adjustment decided would not affect the conditions of the initial approved variance (Exhibit C). The Board of Zoning Adjustment and staff felt that no variance application was required since it would not increase the living area or mass of the existing residence.

The applicant is requesting an amendment to the original variance application approved in 1979 for the following two items:

- 1) Construction of a new oversized one car garage on the first floor and addition and remodel of living area at the second and third floors
- 2) Relief from the west side yard setback of 8 feet for the portion of the proposed building wall over 25 feet in height

The application changes the conditions per the original variance of maintaining useable open space and the existing open parking space on the west side of the property. For item number 3, the code requires a three foot increase in the setback in addition to the required side yard setback for building walls over 25 feet for lots greater than or equal to 35 feet wide [Section 10.12.030 (F)(1)]. In this case, the lot width is 60 feet wide and the requirement applies. A 5 foot setback is required for the portion of the building wall under 25 feet in height and an 8 foot setback is required for the portion over 25 feet in height (Exhibit D). A 5'6" setback is proposed.

DISCUSSION

The site at 214 21st Street is currently developed with a 3-story single-family residence including a substandard 2-car garage. The plans for this project propose an addition of 976 square feet on the second and third floors. A new garage of 484 square feet will also be constructed on the first floor (Exhibit E). The 2,960 square foot building is less than the maximum allowable buildable floor area of 3,997 square feet. All of the garage area is exempt from buildable floor area.

The house sits skewed on the two irregular half lots which occupy a 60 foot wide frontage on 20th Place per attached survey (Exhibit E). This condition created non-conforming front, side (east) and rear setbacks, and less than the minimum lot size of 2,700 square feet. Specifically, the front setback narrows from 4.7 to 3.45 feet, where the required setback is 5 feet. The east side yard setback is 3 feet, where the required is 5 feet and the rear yard setback narrows from 21 to 4.4 feet, where the required is 5 feet. The existing two-car garage is substandard in parking dimensions (14'9" x 19'). It meets the required depth of 19 feet, but is short in width, where the required is 18 feet for a two-car garage.

The proposed addition to the existing residence will amend the original variance in that it will not maintain useable open space on the west 18 feet of the property. The new living area will be

constructed on the west 12 feet of the property and provide a 5'6" side yard. A new driveway and a oversized one-car garage, 12' x 27'6" in size, will be constructed and provide a 5.45 foot setback from the front property line. The new driveway will eliminate the current off-street open parking space that was required to be maintained as part of the original 1979 variance. However, the new one-car garage will create a third enclosed parking space in addition to the existing substandard two-car garage.

Per the attached plans, the building wall height of the new addition and garage will be three stories and the portion (8 feet as shown on the west elevation) that exceeds 25 feet will not meet the additional side yard setback of 8 feet per code. The intention of this code requirement is to reduce the mass of the building on the upper levels. The applicant is requesting a relief to this requirement by providing only a 5'6" side yard setback for the entire building wall. The proposed rear yard setback will be 11'6", which is more than the required setback.

The subject site is one of very few properties that have a 60 foot wide lot in Area Districts III and IV. The majority of the properties in this area are 30'x 90' and 45'x 90' lots, which have required side yard setbacks of 3 feet and 4.5 feet, respectively. However, the required side yard setback for the subject property is 5 feet due to its 60 foot width. The majority of the neighboring properties have projections onto the alley (20th Place) and are 3 stories in height (30 feet) (Exhibit H).

The submitted plans are preliminary and have not been finalized. The following issues may affect the design of the building and these will be addressed during the plan check process:

- 1) The current driveway slope on submitted plans exceeds maximum 15%. The height of building may also be affected.
- 2) The existing set of stairs on the third floor may have to be replaced to comply with Building & Safety requirements for egress.

VARIANCE FINDINGS

Per MBMC Section 10.84.060 (B), in order to approve a Variance application, the Planning Commission must make the following findings:

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 hardship 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 a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.

According to the applicant's narrative (Exhibit G, dated April 2006), the variance should be approved for the following reasons:

1. The irregular shape of the lot and existing 70 year old structure causes constraints in meeting the required building wall height or increasing the side yard setbacks.
2. The design of the building will not affect the character of the surrounding neighborhood.
3. The new one-car garage will create an additional parking space and comply with the required setbacks.
4. The proposed addition does not increase any existing non-conformities and provides more than the minimum required setback at the front, west and rear yards.
5. The required side yard setback for all surrounding properties with 30 foot lot widths is 3 feet, whereas the new addition will provide 5.5 feet, with 5 feet required.
6. The rear yard setback is very generous at 11'6", while 5 feet is required.
7. The total square footage including the addition will be substantially less than the maximum living area that is allowed (2960 square feet proposed versus 3997 square feet allowed).
8. The required 8 foot setback for the portion (8 feet) of the building wall over the 25 foot height will affect the design (roof element for east and west sides, and interior ceiling height) of the building.
9. The new project will provide an excess of useable open space, including a generous rear yard and third floor deck.

PUBLIC INPUT

A public notice for the proposed project was mailed to all property owners within 500 feet of the site and published in the Beach Reporter newspaper. One letter was received in opposition (Exhibit F) from the neighbor located directly to the west of the subject property (206 20th Place). The main issues of concern was the increase in building wall height, the minimum setback of 5.5 feet on the west side, and the reduction of light, ventilation, view and privacy by not complying with the required setback of 8 feet for the vertical 25 foot wall requirement.

DEPARTMENT COMMENTS

If the requested variance is approved, the standard comments received from the Public Works Department will be incorporated in the Resolution as appropriate. The Building & Safety comments will be addressed during the plan check process. A change of address may be required off of 20th Place per Police and Fire Department requirements since the property fronts and takes vehicular access from 20th Place.

CONCLUSION

Staff requests that the Planning Commission conduct a public hearing, consider the request, and provide direction to staff. The following are the actions for the Planning Commission to consider:

- 1) Construction of a new oversized one car garage on the first floor and addition and remodel of living area at the second and third floors.
- 2) Relief from the west side yard setback of 8 feet for the portion of the proposed building wall over 25 feet in height.

ALTERNATIVES

1. **APPROVE** the subject Variance for the Addition and Remodel, **DENY** the allowance of a 5 foot setback for the portion of the building over 25 feet in height and **DIRECT** Staff to prepare a Resolution, including conditions.
2. **APPROVE** the subject Variance requests
3. **DENY** the subject Variance requests and **DIRECT** Staff to prepare a Resolution of Denial.
4. **DIRECT** Staff accordingly.

ATTACHMENTS:

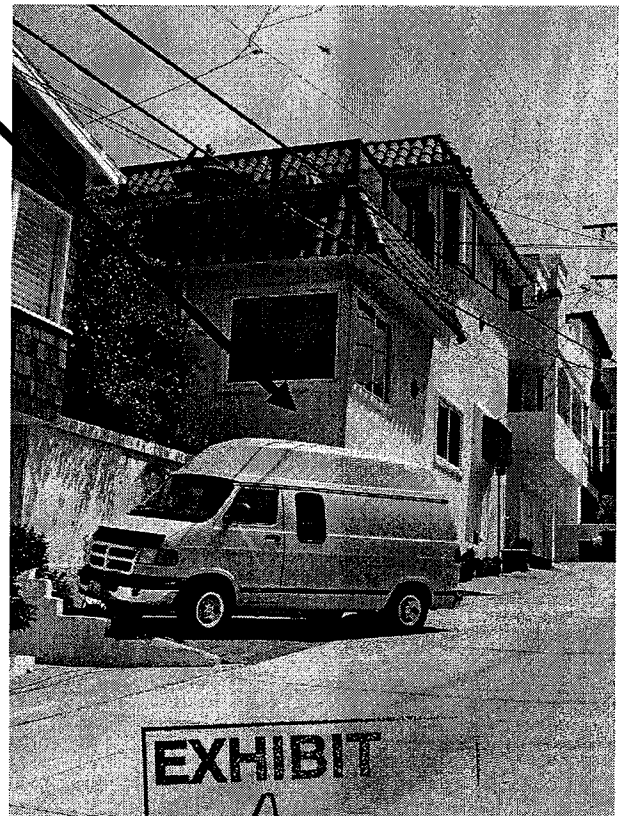
- Exhibit A - Vicinity Map
- Exhibit B – Previous Variance Approved Resolution 79-8
- Exhibit C - Basement Approved in 1989
- Exhibit D - Diagram of 25 Foot Building Wall
- Exhibit E – Development Plans and Survey (separate package, NAE)
- Exhibit F – Letter from Neighbor
- Exhibit G – Applicant Narrative dated April, June 13 and July 11, 2006)
- Exhibit H – Photos of Neighboring Properties

- c: Douglas Smith, Applicant
Blair Smith, Project Draftsman
Elizabeth Srour, Project Representative

214 21st Street Variance Vicinity Map



SITE



EXHIBIT

A

RESOLUTION 79-8

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH APPROVING THE ZONE VARIANCE FOR THE PROPERTY CONSISTING OF THE SOUTH 15 FEET OF LOT 6, AND THE SOUTH 35 FEET OF LOT 5, BLOCK 7, OF NORTH MANHATTAN BEACH SUBDIVISION NO. 2, IN THE CITY OF MANHATTAN BEACH (214 21st Street)

WHEREAS, the Board of Zoning Adjustment of the City of Manhattan Beach conducted a public hearing to consider an application for zone variance for the property located at 214 21st Street, consisting of the south 35 feet of Lot 6, and the south 15 feet of Lot 5, Block 7, of North Manhattan Beach Subdivision No. 2, in the City of Manhattan Beach; and

WHEREAS, said application was filed by Douglas Smith, owner of the subject property; and

WHEREAS, said public hearing was advertised pursuant to applicable law and testimony was invited from interested persons and received from the applicant; in addition, one letter of protest was received from a neighbor of the subject property;

WHEREAS, the purpose of the proposed variance would be to add a second story addition to an existing dwelling unit which is located on a lot with substandard lot area and substandard side, front and rear yards, and a substandard garage; and

WHEREAS, the Board of Zoning Adjustment made the following findings with regard to the subject application:

1. The present structure contains a substandard two car garage having an interior width of 14'8".
2. The building is sited on the lot in a skewed manner so that the substandard area occurs at the southwest and northeast corners of the building and for the full length of the east wall of the building.
3. The subject lot consists of portions of two lots and occupies 60 feet of frontage on 20th Place.
4. The east sideyard setback is three feet and the required sideyard setback per Code is five feet; the five foot setback is required because of the 60 foot frontage on 20th Place, but for regularly subdivided lots in that area of the City the required sideyard setback is three feet.
5. The property is zoned R-2, but that particular parcel is developed with a single family residence.
6. The property slopes downward east to west seven feet.
7. In addition to the substandard two car garage, there is one open parking space maintained parallel to 20th Place.
8. The Board reviewed the application to determine if there were any extraordinary or exceptional circumstances that apply to this property and to determine if the grant of the variance was required to permit the applicant to enjoy a substantial property right that would otherwise be denied to him, and it was found that because of the 60 foot frontage on 20th Place, the Code imposed a requirement for a five foot sideyard setback whereas all regularly subdivided property in that area is permitted to build with a three foot sideyard setback.
9. To require that the garage be increased in size approximately three feet would impose an undue hardship on the applicant and may result in a net reduction in the parking on the property.
10. The granting of the variance would not be detrimental to the public health, safety or welfare and would not be in violation of the General Plan.

NOW THEREFORE, BE IT RESOLVED, that based on the above findings, the Board of Zoning Adjustment hereby grants the subject zone variance subject to the following conditions:

1. That the westerly 18 feet of the subject property remain open lot suitable open space.

EXHIBIT
B

RESOLUTION 79-8
(continued)

2. That the existing substandard two car garage be permanently maintained for vehicular parking purposes.

3. That the existing off-street parking space be permanently maintained for vehicular parking purposes.

4. That the open deck area on the second floor, as shown by the proposed plans, be maintained as shown to reduce the building bulk adjacent to 21st Place.

5. That no more than two architectural projections be permitted on the south elevation.

I hereby certify that the foregoing is a full, true and correct copy of the Resolution as adopted by the Board of Zoning Adjustment at their regular meeting of May 8, 1979, and that said Resolution was adopted by the following vote:

AYES: Cole, Glancy, Duffy, Simpson and Logan
NOES: None
ABSENT: None
NOT VOTING: None

THOMAS H. CORLEY, Secretary to the Board
of Zoning Adjustment

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM

February 14, 1989

TO: Board of Zoning Adjustment

FROM: Department of Community Development

SUBJECT: Determination as to Whether a Proposed Building Enlargement is Within the Scope of Previously Approved Zone Variance For the Property Located at 214 - 21st Street (Smith)

BACKGROUND

On May 8, 1979, the Board of Zoning Adjustment adopted Resolution 79-8, approving a Zone Variance, subject to conditions, for the property located at 214 - 21st Street.

The purpose of the 1979 variance was to allow a 652 square foot second story addition over an existing 952 square foot single story building footprint. The existing building is non-conforming with respect to the front, side (east) and rear yard setbacks, as well as the required interior width dimension of the garage. In addition, the property, being less than 2,700 square feet in area, is considered substandard in lot size and therefore is limited in use to a single family residence. A zone variance was necessary due to the extent of the enlargement and because the new work proposed further encroachment into the non-conforming setbacks.

The Board of Zoning Adjustment based its approval of the zone variance on the findings that there were unusual circumstances affecting the lot, including the lot configuration and skewed placement of the building. In addition, the Board found that, with appropriate conditions imposed, the project would comply with the intent of the Code.

DISCUSSION

The property owner has recently submitted a building permit application to construct a 380 square foot basement, accessed from the garage area. It is the intent of the applicant that the added area be used for storage. The new basement will be located entirely within the permitted building footprint area, and will be created by excavating an existing under-floor area approximately 3 feet. The new area will be improved with electrical service but without plumbing or windows and is not considered "habitable area". In addition, the applicant proposes to widen the existing garage door opening approximately 1 foot to ease access for two cars. The existing two-car garage is conforming with respect to required depth, but has a deficient width of 14 feet, 8 inches where the Code requires 18 feet.

Staff has reviewed the proposed project with the City Attorney who has advised that a second Zone Variance is necessary for any new building expansion, unless the Board, as the initial approving body, can determine that the new work does not exceed the scope of the initial variance. The Board could make this

EXHIBIT

C

determination if it concluded that the current proposal does not alter any matter that formed the basis for the original approval. In support of a determination favorable to the applicant's requests, staff suggests the following findings:

1. The proposed basement will not intensify the existing yard nonconformities.
2. The proposed basement will not increase the amount of living area.
3. Conditions imposed by the initially approved Zone Variance mitigate building bulk and parking availability.
4. The subject request is in compliance with all findings and conditions of Resolution No. 79-8.

The Board, as the initial approving body has the final authority in this matter, and its decision is not subject to confirmation by the City Council, or appeal.

Attached for the Board's review are pertinent materials, including BZA Resolution 79-8, applicant correspondence, construction plans, and minutes from the BZA meeting of May 8, 1979.

RECOMMENDATION

It is recommended that the Board of Zoning Adjustment determine that the subject proposal is within the scope of approval of Resolution 79-8, thereby authorizing issuance of a building permit, subject to compliance with all applicable building and zoning regulations, and conditions of approval of Resolution No. BZA 79-8.

Attachments

Resolution No. 79-8

Correspondence dated December 23, 1988

Board of Zoning Adjustment minutes 5/8/79

Construction Plans

TSW:RAB:md
214.21s

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM

March 7, 1989

TO: Honorable Mayor and Members of City Council
THROUGH: David J. Thompson, City Manager
FROM: Terry Stambler-Wolfe, Director of Community Development *TSW*
SUBJECT: Determination as to whether a Proposed Building Enlargement is Within the Scope of a Previously Approved Zone Variance For the Property Located at 214 - 21st Street (Smith)

APPLICANT/OWNER

Douglas Smith
214 - 21st Street
Manhattan Beach, CA 90266

BACKGROUND/DISCUSSION

The Board of Zoning Adjustment, at its meeting of February 14, 1989, determined that a proposed building enlargement is within the scope of a previously approved Zone Variance. The Board's decision was based on the findings that the proposed construction of a 380 square foot storage basement will not enlarge the habitable area of the existing residence, or increase the building mass, and therefore is consistent with the original findings and conditions of approval of the previous zone variance, granted by the Board in 1979.

The new work will be full compliance with current zoning regulations. Because the value of the proposed work is less than \$20,000, this project is not subject to the provisions of Ordinance 1787, which affects enlargements or alterations of non-conforming structures.

Acting under advisement of the City Attorney, this matter was referred to the Board, which, as the original approving body of the variance, has the final authority in this determination. This information is provided to the Council for information only. For the Council's reference, a copy of the Staff memorandum to the Board dated February 14, 1989, with construction plans attached, is included with this report.

RECOMMENDATION

It is recommended that the City Council RECEIVE and FILE this report.

TSW:RAB:md:214 21.cc

Attachments

Staff Memorandum to BZA Dated 2/14/898
Project Plans

25' Building Wall for lots over 35' wide
Per MBMC 10.12.030(F)

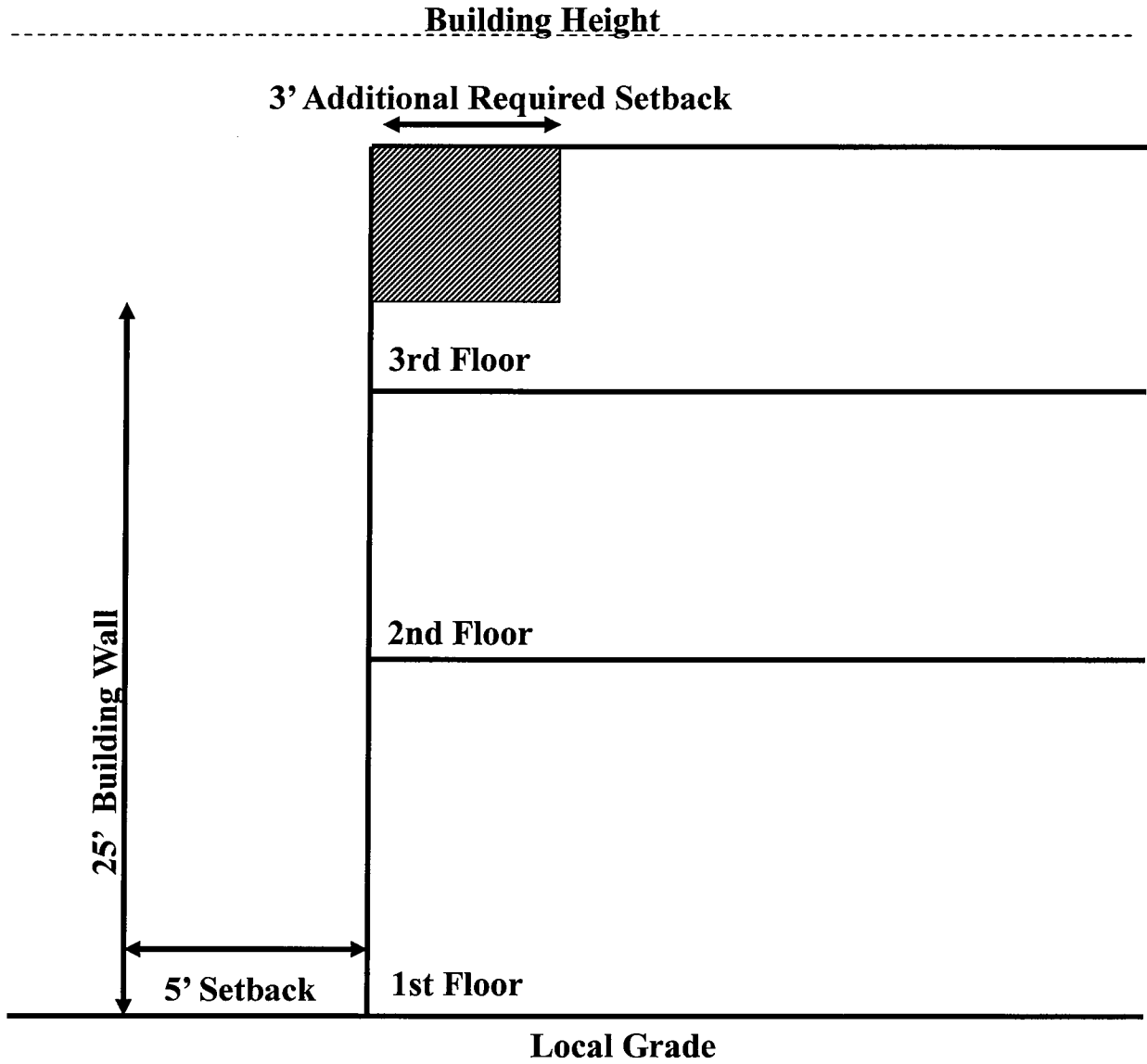


EXHIBIT
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Attn: Angelica Ochoa
City of Manhattan Beach

Re: NORTH MANHATTAN BEACH SUB NO 2 SE 38.5 FT OF LOT 5 AND SE 45 FT OF LOT 6 BLK 7

To Whom It May Concern:

We are writing to submit our testimony regarding the proposed addition at 214 21st Street. We live at 206 20th Place, directly west of the proposed addition.

Although the proposed addition greatly diminishes approximately 25% of the views from our smaller home, and will undoubtedly reduce the amount of sunlight, breeze and privacy we currently enjoy, we are not strongly opposed to the currently proposed addition as it relates to the garage and second story. However, we have a smaller home on a half lot with the very real potential to be surrounded by much taller homes on all three sides, effectively building us into a 1 directional view. Therefore, upon reviewing the plans and receiving a tour of his property in relation to the proposed addition, we ask that the City enforce the required 8' setback on the west side of the 3rd story (closest our home) to retain a maximum amount sunlight and skyward view, if any. Please refer to item #2 on the "Project Description" in your notice.

On side note, the "Project Location" on the city notice for the construction is shown as 214 21st street, indicating the construction is on 21st street. However, the construction is actually on 20th place. When we received the notice we threw it away not knowing it was for our direct neighbor.

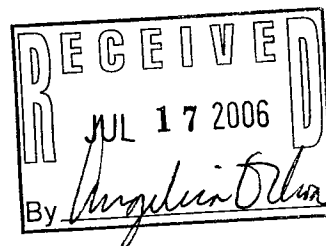
Thank you. Sincerely,



Jill and Stephen Tallman
206 20th Place
Manhattan Beach, CA 90266
(310) 650-2866

Encl: Original Notice

EXHIBIT
F



ATTACHMENT TO APPLICATION – 214 21ST STREET
AMENDMENT TO APPROVED VARIANCE
April 2006

NARRATIVE

The purpose of the Amendment request is to allow the construction of a new garage and to add a total of 976 sf of living area to the first and second floor. The existing 1752 sf residence contains a substandard two-car garage with two levels of living area above, situated on an irregularly shaped lot that is slightly less than the required 2700 sf for this location. The structure is situated askew on the lot, and combined with the irregular shape, results in two points of non-conformance:

Rear setback at the NE corner where the rear setback narrows to 4.4'

Front setback at the SW corner where the front setback narrows to 3.45'

In addition, the east side yard is 3' which is standard for the area except that, again, because of the irregular lot configuration combining unequal portions of two lots, now requires 5'.

The original residence was constructed in 1937 and was remodeled in the 50's and again in 1979. It presently contains 1752 sf of living area, and with the new addition will contain a total of 2728 sf, which is substantially less than the 4000 sf home that could be built under present regulations. The new construction will comply with current zoning standards. In addition, it is intended that the valuation of the modification will comply with the 50% rule for non-conforming structures.

A variance was approved in 1979 to allow a second story addition with existing non-conformities. At that time the Board of Zoning determined that the site does contain unusual circumstances and that the addition would comply with the intent of the Code. One critical goal of established zoning standards is to protect compatibility between adjacent uses as well as maintain some level of parity within the area. The newly remodeled residence will greatly improve the relationship of this residence within the neighborhood because of the enhanced parking, and it will not compromise the livability of any adjacent properties or the safety and security of the neighborhood.

In addition, the proposed remodel will provide a much more livable residential environment and, although the home will be substantially smaller than many of the surrounding homes, it will provide a reasonable contemporary lifestyle without having to completely demolish the existing structure.

FINDINGS

1. Exceptional Circumstances

The exceptional circumstances relating to this site pertain to the irregular shape incorporating two unequal portions of lots and the fact that the original 70 year old structure was situated askew on the property. It is not uncommon to find a skewed building orientation in older parts of the beach area, especially so given the age of this structure. And, this circumstance almost always results in some type of deviation from current Code. In addition, at the time the house was built, a three foot side yard was the accepted norm. The only real remedy for the setback issues is to demolish the existing structure and rebuild.



2. No substantial Impact on Public Good

The requested modification is not a significant change in the relationship of the existing residence to the property or to the neighborhood, and it will not result in any detriment to the public good or natural resources. The home has co-existed very compatibly with adjacent neighbors for many years and, except for parking issues common all along 20th Place, there is no evidence of any detrimental impact resulting from the present situation.

The modification will result in a very significant improvement in that an additional oversized garage will be constructed that can also accommodate storage of cumbersome recreational apparatus commonly used in the beach community. The new garage will comply with setback requirements and will allow a vehicle to temporarily park parallel on 20th Place.

3. Consistency with Title

The proposed modification does not expand the area of nonconformance, and all new construction will comply with current standards. Approval of the Amendment does not compromise standards that exist to protect neighborhood safety and compatibility between adjacent uses. In addition, approval of the Amendment would not confer any special privilege - the residence will meet all basic requirements including parking and private open space. With the proposed remodel, the property will still maintain an excess of usable open space, including private yard area and the existing upper level 240 sf deck. With the additional garage, the property will actually provide three enclosed parking spaces, including the existing undersized garage that actually can accommodate two vehicles.

In conclusion, findings can be made to approve the requested Amendment. The proposed addition and remodel is within the spirit and application of zoning standards and poses a reasonable balance between strict interpretation of the Code and the reality of an older home and a very irregular lot configuration. Approval of the Amendment also does not compromise the findings established in the original Variance review and approval. Finally, it recognizes a community need to encourage opportunities for smaller, older homes to be maintained and upgraded to some extent to provide a contemporary living environment and some level of parity within the community.

ATTACHMENT TO APPLICATION – 214 21ST STREET
AMENDMENT TO APPROVED VARIANCE
June 13, 2006

Request to allow proposed 5'6" side yard setback on westerly side yard

All of the findings and information presented in the application narrative dated April 2006 relate to this request. More specifically:

- The proposed development provides very meaningful relief to the adjacent neighbors, especially on the west where there is a 5'6" side yard setback, and to the north where a rear yard with 11'6" setback is maintained. The rear yard is open to the sky which greatly benefits both the westerly and the northerly neighbors.
- The proposed development is substantially less than could be built (approximately 68% of total allowable floor area).
- The additional 3' setback affects the roof element, reduces interior ceiling height and does not provide any more physical or aesthetic relief to the adjacent neighbors or to the streetscape than already exists in the proposed plan.
- If the additional 3' setback is required, the resulting roof element will be totally out of context with the existing roof element on the easterly portion of the residence, and will eliminate the eave elements which themselves add architectural interest, shadowing and relief.
- Finally, and most importantly, the standard of development in this area is a 3' side yard separation for the length of the building, regardless of the length of the lot. The prevailing configuration is the minimal 3' separation.

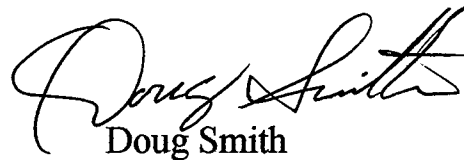
The proposed development is well within the context of the neighborhood character, and will be compatible with the surrounding homes. Once again, approval of the overall amendment request recognizes a community desire to encourage retention of older homes and still provide a contemporary living environment.

July 11, 2006

Dear Planning Commission Member,

I live at 214 21st Street, and my application for a variance is coming up at the July 26th meeting of the Planning Commission. I would personally like to invite you out to see my unique project. My house was originally built in 1937 on a lot that is unusually shaped in comparison to all of the other lots in the sand section. It has a 60 foot frontage on 20th Place and is 38 feet deep at the easterly side and 45 feet deep on the westerly side. As you know, most of the lots in the sand section are 30x90 full lots or 30x45 half lots. These full or half lots are required to have 3 foot setbacks. To require me to have an 8 foot setback above the 25 foot height seems unfair. I believe that if you could see my property in person, you would understand my position. I would be very happy to show my property to you at your convenience.

Thank you,



Doug Smith

P.S. Please call to see anytime 545-2101

Neighboring Properties of 214 21st St.



EXHIBIT
H

July 20, 2006

Manhattan Beach Planning Commission

Regarding 214 – 21st Street

Dear Commission Members,

Attached you will find some color photos of my neighborhood along 20th Place. As you can see, it is a mixture of old and new homes, with new construction utilizing all the buildable area of each lot. I believe my lot is unique not just for my immediate neighborhood, but for the beach area in general, since it consists of two unequal half lots and is smaller than a typical 30 x 90' lot. In addition, with the approval of my request to remodel, my home will be substantially smaller than the approximately 4000 sf home that could be built on my lot.

My goal is to create additional private parking and storage area and to incorporate a modest addition. I also am trying to preserve as much of my yard area and private open space as possible as these open areas have always been an important element for my home. For that reason, I am not extending the westerly wall the full extent and am preserving a 12.5' deep rear yard.

In their review of my application, staff identified a code section affecting the height of my westerly wall that does not normally apply in this area. I believe there certainly are situations in which this code section is beneficial to the neighborhood and is appropriate. However, in my situation, I believe strict application results in an unfair constraint, diminishes the usability of the upper floor and results in a very unattractive roof elevation.

In reviewing my application I request that you consider the following:

The code regulating wall height in the side yard is intended for larger size lots in which the building runs the full length of the lot. In my situation, the lot is quite shallow on the west side and the building extends only 27.5' with the balance of 17.5' remaining as open area. The code also assumes the property maintains a minimal side yard setback, whereas my property already adheres to a higher standard with a 5.5' setback on the west side yard. This is more than required by code and certainly more than any lot in my neighborhood.

If someone else chose to purchase my property, given the age of the structure, they would undoubtedly bulldoze and build a new home which would be very close to 4000 sf in size with a typical 5' rear yard. In addition, the side yard would only be 4' which is significantly less than my 5.5' side yard.

As previously stated, the proposed building utilizes only 27.5 linear feet with the remaining 17.5' remaining as open area. This greatly enhances the building separation between my home and the structure to the west allowing for an 8.5' separation the length of my home plus the remaining 12.5' deep rear yard. This separation is also very beneficial for my northerly neighbor.

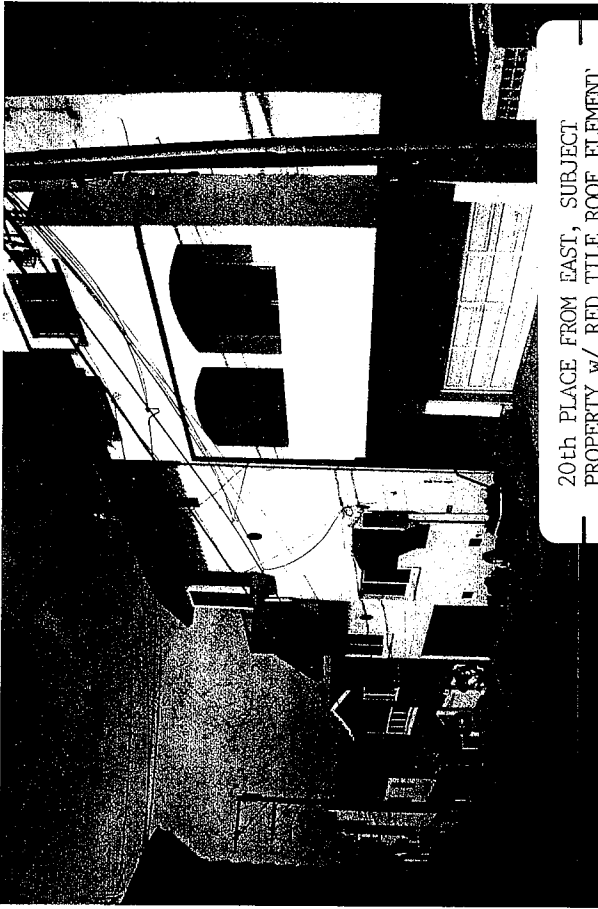
Finally, strict application of the code requiring an additional 3' set back for the upper level seriously compromises the interior livable area as the ceiling height is reduced to less than 8' along the westerly face of the building.

The purpose of the variance procedure is to examine the unique setting and determine the necessity for strict application of the code. In this situation, there are certainly unique circumstances relating to the property. And, as previously stated, the proposed development does eliminate the existing parking deficiency which is a benefit to the community. In addition, given the enhanced yard areas, 5.5' side yard setback, generous rear yard, and reduced building scale, the proposal is very compatible with the surrounding neighborhood and provides a great deal of privacy and separation from immediately adjacent neighbors. Strict application of the code would impose an unfair standard on my property and does not result in any added neighborhood benefit.

I respectfully request that the Planning Commission approve my request as presented. Thank you for your consideration.

Sincerely,

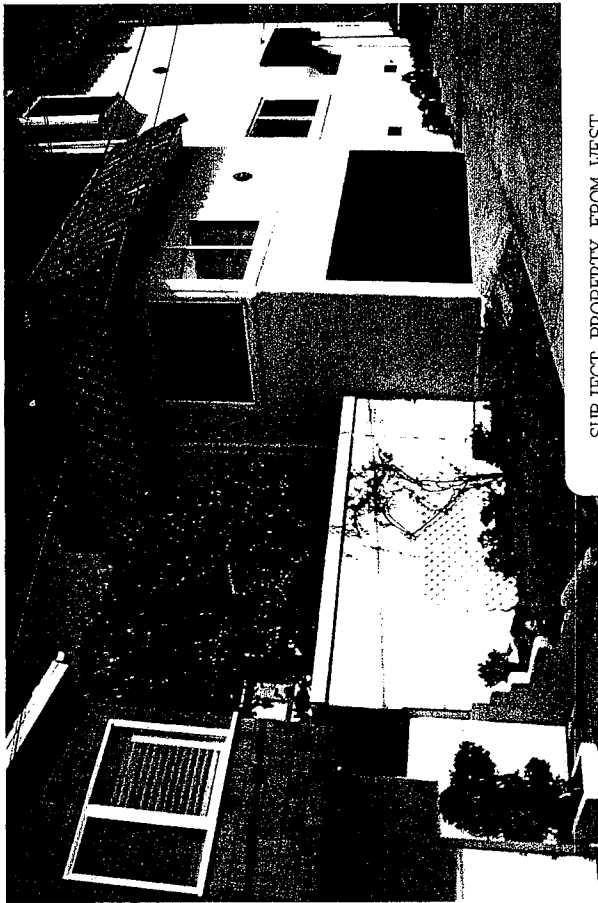

DOUG SMITH



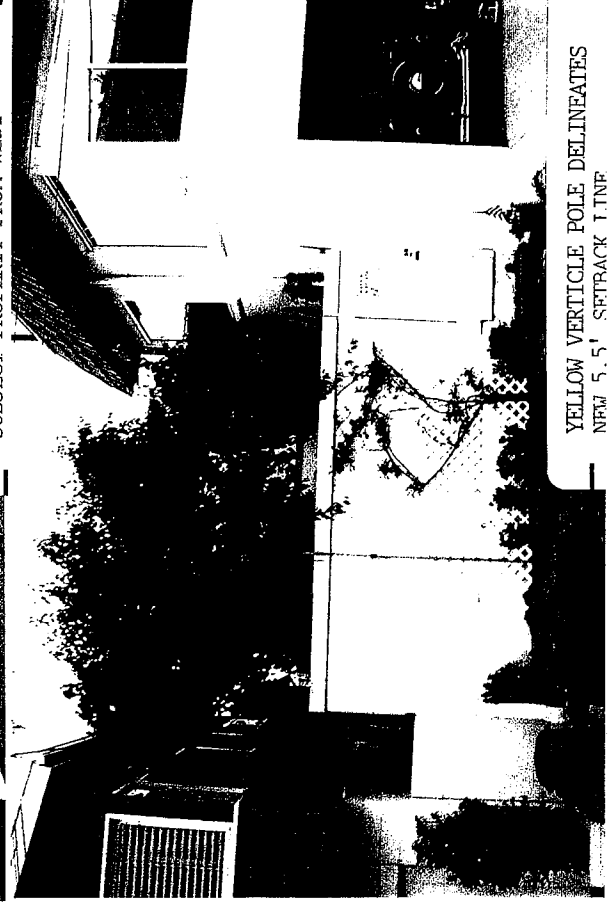
20th PLACE FROM EAST, SUBJECT PROPERTY w/ RED TILE ROOF ELEMENT



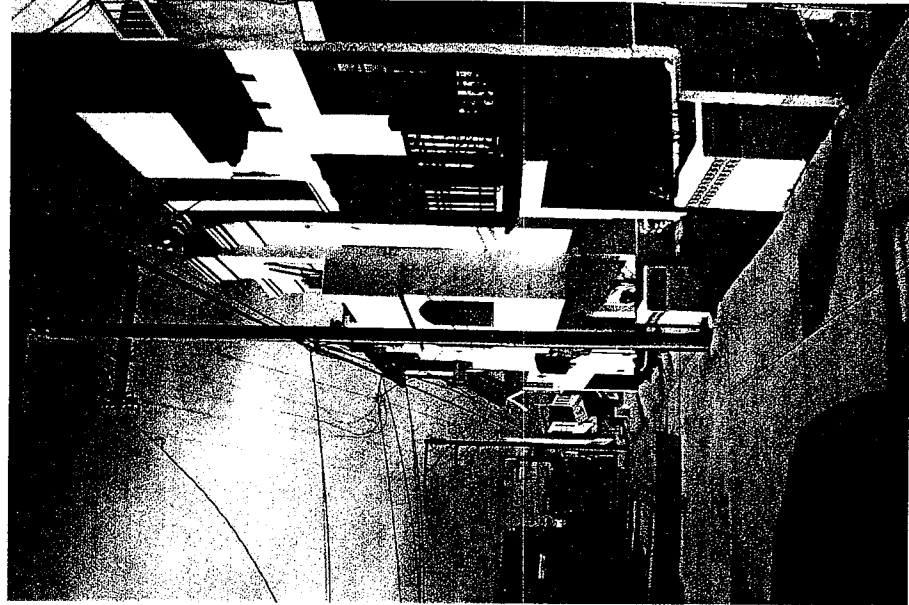
REAR YARD OF SUBJECT PROPERTY
Yellow pole indicates rear yard



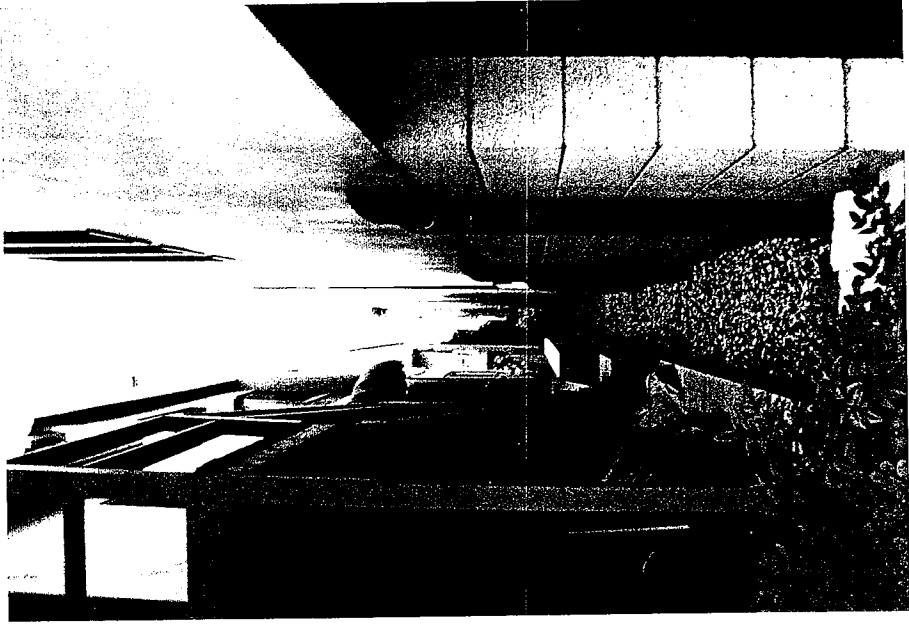
SUBJECT PROPERTY FROM WEST



YELLOW VERTICLE POLE DELINEATES
NEW 5.5' SPTRACK I.T.N.F




— 20th PLACE, view to west —




— TYPICAL EXAMPLES OF 3' SIDE YARD SETBACKS FOR NEW CONSTRUCTION —

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development 

FROM: Angelica Ochoa, Assistant Planner 

DATE: August 9, 2006

SUBJECT: Consideration of a Resolution Approving an **AMENDMENT TO A VARIANCE** to Allow an Addition and Remodel to an Existing Single Family Residence and to Allow a 5'6" Setback For a Building Wall, at 214 21st Street

RECOMMENDATION

Staff recommends that the Planning Commission **APPROVE** the variance amendment and relief from additional setback requirement subject to conditions contained in the attached 'Draft' Resolution (Exhibit A).

BACKGROUND

At the public hearing of July 26, 2006, the Commission (4-1-0) supported the Variance for the addition and remodel and the request to maintain a 5 foot 6 inch setback for the building wall portion over 25 feet in height. The Commission discussion focused on the issue of bulk and mass of new buildings versus granting of relief to remodel older homes that have non-conformities. Also discussed was to encourage the preservation of older buildings but allow remodeling based on today's development standards and neighborhood compatibility.

Section 10.84.060 (B) states the required findings for Variances that are required to be met in order for the Planning Commission to approve a project. The findings for the Variance as required by Code Section 10.84 060 (B) are set forth in the attached resolution (Exhibit A). The Commission felt the Variance findings could be met and for the reasons stated below supported the project:

- a) the small size of the parcel, nonconforming setbacks and unusual lot configuration constituted a hardship and special circumstance.

- b) the proposed addition and maintaining a 5 foot 6 inch setback for the building wall portion over 25 feet would not be detrimental to the public good due to providing an additional setback at the rear yard, reducing bulk by adding less than the maximum allowable living area, proposing two decks at the rear and west side yards to increase light and ventilation for the adjoining neighbors, and providing a total separation of 8 ½ feet between structures on the west side rather than 6 feet as is typical in this area.

- c) and the request would not grant a special privilege, since the proposed project will maintain a 5 foot 6 inch setback on the west side yard and 11.5 feet at the rear yard setback whereas the required is only 5 feet. Overall, the strict application of the code would impose an undue hardship on the applicant to rebuild rather than remodel.

The Commission also did not feel the opposing issues that were presented in a letter from the direct neighbor to the west and public hearing testimony would impair any views or limit light and ventilation to the adjoining properties due to more than the required rear yard setback being maintained as open space.

ALTERNATIVES

The alternatives to the Planning Commission include:

1. **ADOPT** the attached 'Draft' Resolution.
2. **ADOPT** the attached 'Draft' Resolution with revised and/or additional findings and conditions and **APPROVE**.

Attachments: Exhibit A – 'Draft' Resolution No. PC 06-
Exhibit B – Excerpt from the 'Draft' Minutes of the 07/26/06
Planning Commission Meeting

C: Doug Smith, Property Owner
Blair Smith, Project Draftsman
Bunny Srour, Project Representative

'DRAFT' RESOLUTION NO. PC 06 -

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO A VARIANCE TO ALLOW AN ADDITION AND REMODEL TO AN EXISTING THREE-STORY SINGLE FAMILY RESIDENCE AND TO ALLOW A 5 FOOT 6 INCH SETBACK FOR A BUILDING WALL OVER 25 FEET IN HEIGHT AT 214 21ST STREET

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 July 26, 2006, to consider an application for an Amendment to a Variance for the property legally described as the North Manhattan Beach Sub No. 2 SE 38.5 FT of Lot 5 and SE 45 FT of Lot 6, Block 7, Los Angeles County 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 Doug Smith, property owner.
- D. The applicant proposes to construct a new oversized one car garage on the first floor and addition and remodel of living area at the second and third floors on the westerly side of the existing three-story structure. Additionally, the applicant is requesting relief from the required west side yard setback of 8 feet for the portion of the proposed building wall over 25 feet in height.
- E. The parcel is 2,498 square feet, two unequal portions (29.99'x38.41' and 30' x 44.94') of two original full size lots (30'x 90'), and is legal nonconforming for the required area (minimum 2,700 square feet) located in the "RM" zone, Area District III.
- F. The property fronts on the south side of 20th Place between Ocean Drive on the west and Highland Avenue on the east. The majority of the properties within this neighborhood are three stories in height and have projections onto the alley (20th Place).
- G. The Variance application includes 976 square feet of new living area on the second and third floors and an oversized one car garage of 484 square feet on the first floor. The building wall portion over 25 feet in height will maintain a west side yard setback of 5 feet and 6 inches where the required is 8 feet. The building wall portion under 25 feet in height will comply with the required side yard setback of 5 feet.
- H. Section 10.12.030 (F)(1) of the Manhattan Beach Municipal Code contains a provision which requires properties that are more than 35 feet wide to increase the width of a required interior side or rear yard adjoining a building wall by three feet over the basic requirement. The subject property has a 60 foot wide frontage on 20th Place.
- I. The General Plan designation for the property is Medium Density Residential. The General Plan encourages development solutions tailored to each neighborhood's unique characteristics.



'DRAFT' RESOLUTION NO. PC 06-

- J. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15061, (b) (3) based on staffs determination that the project is a minor development and will not have a significant impact on the environment.
- K. 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.
- L. Pursuant to the Manhattan Beach Municipal Code, 10.84.060 B., the Planning Commission made the following findings 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, *since the lot is substandard in lot size (2,498 square feet) due to two unequal portions of two full lots and has non-conforming setbacks of front, west side and rear yards.*
 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, *since the proposed addition will reduce the bulk of the building by adding less than the maximum allowable living area, the additional setback at rear yard will increase light and ventilation for the adjoining neighbors, and maintaining only a 5 foot 6 inch setback at the building wall over 25 feet in height will provide a total separation of 8 ½ feet between structures on the west side rather than 6 feet as is typical in this area.*
 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, *since the proposed project will maintain a 5 foot 6 inch setback on the west side yard and 11.5 feet at the rear yard setback whereas the required is only 5 feet.*
- M. This resolution upon its effectiveness constitutes the Amendment to the Variance for the subject property and supersedes the prior Variance approved in 1979 (Resolution No. 79-8).

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Variance subject to the following conditions:

1. The project shall be in conformance with the plans submitted to, and approved by the Planning Commission on July 26, 2006.
2. With the exception of the approved 5 foot 6 inch setback for the building wall portion over 25 feet in height and the proposed Amendment to the Variance for the addition and remodel, all other work shall be developed in compliance with all applicable development Regulations of Title 10 of the Manhattan Beach Municipal Code.
3. The applicant must file a change of address off of 20th Place since the property fronts and takes vehicular access from 20th Place as part of the plan check process.
4. An appropriate merger document shall be recorded for the site as required by the Community Development Department prior to issuance of a certificate of occupancy.

'DRAFT' RESOLUTION NO. PC 06 –

Public Works

5. No discharge of construction wastewater, building materials, debris, or sediment from the site is permitted.
6. Sidewalk, driveway, curb and gutter repairs or replacement must be completed per Public Works Specifications. See City Standard Plans ST-1, ST-2, and ST-3.
7. All displaced and damaged sidewalk or driveway approaches must be repaired.
7. Residential properties must provide an enclosed storage area for refuse containers. These areas must be constructed to meet the requirements of M.B.M.C. 5.24.030. The area must be shown in detail on the plans before a permit is issued.
8. Erosion and sediment control devices BMPs (Best Management Practices) must be implemented around the construction site to prevent discharges to the street and adjacent properties. BMPs must be identified and shown on the plan. Control measures must also be taken to prevent street surface water from entering the site.
9. Plan holder must have the plans rechecked and stamped for approval by the Public Works Department before the building permit is issued.

Fire Department

10. Contractor's plans and permit required by Manhattan Beach Fire Department for fire sprinkler consideration.

Building Department

11. Per Building Department, two sets of stairs must be provided from the 3rd Floor, that one be located one half the longest diagonal of that floor apart to meet minimum exiting out of that floor or justify that the bottom level meets Section 220 of the 2001 CBC for Basement qualifications.

Procedural

12. This Resolution shall become effective when all time limits for appeals have been exhausted as provided in MBMC Section 10.100.030.
13. Approval of this Variance shall comply with Manhattan Beach Municipal Code (MBMC) Section 10.84.090 (A).
14. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code Section 711.4(c), the project is not operative, vested or final until the required filing fees paid.
15. The applicant agrees, as a condition of approval of this project, to pay for all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal actions associated with the approval of this project brought against the City. In the event such a legal action is filed against the project, the City shall estimate its expenses for the litigation. Applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

'DRAFT' RESOLUTION NO. PC 06 -

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 **August 9, 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

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- 1 NOES: None
- 2 ABSENT: None
- 3 ABSTAIN: None

4

5 **AUDIENCE PARTICIPATION** None

6

7 **BUSINESS ITEMS**

8

9 **PUBLIC HEARINGS**

10

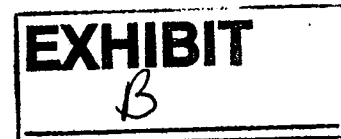
11 **06/0726.1 Consideration of an AMENDMENT to a VARIANCE to Allow an Addition**
12 **and Remodel to an Existing Three-Story Single Family Residence and to**
13 **Allow a 5'6" Setback for a Building Wall over 25' in Height, at 214 21st**
14 **Street**

15

16 Assistant Planner Angelica Ochoa summarized the staff report. She stated that the proposed
17 Amendment is to allow an addition and remodel to the second and third floors and to add a new
18 oversized one-car garage at the first floor of an existing three-story single family home. She
19 commented that the request is also to allow a 5'6" setback on the west side of the property
20 instead of the required 8 feet for the portion of the building wall that exceeds 25 feet in height.
21 She indicated that the proposed new construction would be located on the west 12 feet of the lot
22 with approximately 8 feet of the building wall portion exceeding 25 feet in height. She indicated
23 that the subject lot is 60 feet in width, and the Code requires any portion of a building wall over
24 25 feet in height to be set in an additional 3 feet beyond the required setback for lots over 35 feet
25 in width. She stated that the lot consists of two unequal portions of two full lots which created
26 non-conforming setbacks at the front, rear and east sides in addition to the lot size being less than
27 the required minimum 2,700 square feet.

28

29 Assistant Planner Ochoa indicated that the prior Variance approved in 1979 permitted a second-
30 story addition with a condition that the west 18 feet remain open, which is the location proposed
31 for the new construction. She said that a building permit was also approved in 1989 for
32 construction of a basement. She indicated that the BFA (buildable floor area) with the proposed
33 addition would be less than the allowable, and the project does meet the requirements for open
34 space. She said that an additional enclosed parking space is proposed, which would help to
35 alleviate parking congestion in the alley. She commented that the height limit is 30 feet, and the
36 majority of properties in the area are three stories. She stated that staff received a letter in
37 opposition to the project from the adjacent neighbor to the west that expressed concerns
38 regarding the increase in building height; the reduction of light, privacy and view from their
39 property; and noncompliance with the 8 foot setback requirement for the portion of building wall
40 over 25 feet.



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1
2 In response to a question from Commissioner Bohner, Assistant Planner Ochoa indicated that
3 staff is recommending that the proposal be approved except for the 5'6" setback along the west
4 side of the property. She commented that staff is recommending that the setback not be
5 permitted because the proposed addition must comply with the additional 3 foot setback
6 requirement above 25 feet, because the lot is 60 feet in width.

7
8 Director Thompson indicated that staff found it difficult to meet the required findings for
9 approving the Variance for the setback because of the potential impact to the neighbors.

10
11 In response to a question from Commissioner Lesser, Director Thompson commented that the
12 Commission should use the current Code and required findings in evaluating whether to modify
13 the 1979 Variance. He indicated that the Commission should also consider that the justification
14 for approval of the previous Variance was that the western portion of the property remain open.
15 He commented that development patterns were different when the prior approval was granted,
16 and the Commission should consider the current conditions and patterns of the neighborhood.

17
18 Commissioner Powell commented that the notice listed the address of the project as 214 21st
19 Street; however the property actually fronts off of 20th Place. He indicated that a letter from the
20 neighboring property owners to the west indicated that they originally disregarded the notice
21 because they thought the construction would occur on the other side of the property and would
22 not impact them. He suggested that other neighboring residents could possibly have been
23 similarly confused by the address listed on the notice, and future notices for projects with similar
24 circumstances should also list the street on which the property fronts.

25
26 Director Thompson commented that it is a unique situation. He said that he would hope any
27 neighbors who received the notice and were unable to identify the site would inquire to staff to
28 receive further information.

29
30 In response to a question from Commissioner Bohner, Director Thompson indicated that staff is
31 satisfied that the project was properly noticed to the neighbors.

32
33 In response to a question from Commissioner Lesser, Director Thompson commented that in his
34 experience a Variance request has never been granted for a this type of setback.

35
36 **Elizabeth Srour**, representing the applicant, indicated that the property address of 214 21st Street
37 has existed for many years and precedes the applicant's ownership of the property. She
38 commented that historically there have been issues regarding lot boundaries and non-conforming
39 setbacks in the neighborhood which is an older part of the City. She indicated that the section of
40 the Code which requires an additional 3 foot setback for lots wider than 35 feet generally does

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1 not apply to the beach area, and they feel it should not apply to the subject property. She said
2 that meeting the setback requirement would definitely compromise the living space of the third
3 floor. She stated that the proposed design adheres to a standard of development that is very
4 attractive and compatible with the adjacent properties. She indicated that the existing home
5 would not be demolished except for the west side, and the proposed remodel encourages the
6 retention of the original structure. She pointed out that development patterns today are very
7 different than in 1979 with the current trend of building out lots to the maximum allowable. She
8 said that the applicant wishes to add living area and retain the rear yard and have the ability to
9 park his van in an enclosed space.

10
11 **Ms. Srour** commented that one purpose of a Variance procedure is to allow some flexibility
12 when addressing the application of the City's standards and to consider the complexities
13 hardships and difficulties for unique lots. She indicated that the subject property is unique in that
14 it has an irregular configuration. She pointed out that the lots in the area are typically 30 feet by
15 90 feet, and the subject lot is only 45 feet deep on the west side. She indicated that a standard
16 house on a lot 45 feet deep would be 35 feet long, and they are proposing 27 ½ feet of building
17 length. She pointed out that 12 foot of the rear yard would be retained, and the requirement is for
18 5 feet. She indicated that the placement of the original structure is skewed on the lot, which
19 creates concerns on the northeast corner and the front setback. She pointed out that the subject
20 structure is over 1,000 square feet less than is permitted on the site; the height is less than is
21 permitted; the setback is greater on the west side than is typical; the design is compatible with the
22 area; and the proposal would help to improve the street parking. She commented that the
23 proposal does address the goal of the Council to allow for existing homes to be remodeled. She
24 indicated that they feel the proposal is a very reasonable compromise between the Code
25 requirements, what is necessary for the community, and the uniqueness of the property.

26
27 In response to a question from Commissioner Bohner, **Ms. Srour** indicated that there would be 8
28 ½ feet of separation between the subject building face and the adjacent home to the west, and 6
29 feet of separation between buildings is standard in the beach area for half lots. She pointed out
30 that the building would also not be built out to the maximum permitted length. She indicated
31 that they feel 8 ½ feet of separation between buildings is greater than is typical in the beach area,
32 and they do not feel the proposal would compromise the livability, property value, or
33 development of the adjacent property to the west.

34
35 In response to a question from Commissioner Cohen, **Ms. Srour** indicated that no public parking
36 spaces would be lost as a result of the proposal.

37
38 Commissioner Powell pointed out that the 3 foot setback requirement is standard in the beach
39 area for lots that are 30 feet wide; however the subject property is required to have a 5 foot
40 setback with an additional 3 foot setback for the portion of the building over 25 feet in height

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1 because it is 60 feet wide. He indicated that the existing structure is currently legally
2 nonconforming on the east side where it only has a 3 foot rather than the required 5 foot setback.
3 He indicated that the spirit of the Code requirement is to require additional setbacks because of
4 the added bulk for larger structures on wider lots, particularly with three levels.

5
6 **Ms. Srour** indicated that the subject lot cannot be built out as can other wide lots because it has a
7 very shallow configuration. She said that the only method by which to eliminate the
8 nonconforming setbacks is to demolish the existing home and build a new structure, which is an
9 unfair burden to place on the property owner.

10
11 Commissioner Powell indicated that the issue is that the proposed setback would allow an
12 additional encroachment for a structure that is already nonconforming.

13
14 **Ms. Srour** commented that the property could be built out to 4,000 square feet, and the proposed
15 structure is 2,960 square feet. She also stated that the setbacks and open space that would be
16 provided also should be taken into account.

17
18 **Blair Smith**, a resident of 25th Street in Hermosa Beach, indicated that he encouraged his brother
19 to retain his existing home rather than build a new home. He indicated that the proposed
20 addition is being requested in order to allow additional living space; to change the existing
21 narrow staircase; and to add garage space. He indicated that they feel meeting the setback
22 requirement on the west side of the structure would drastically reduce the living area on the top
23 level. He commented that meeting the requirement would reduce the size of the room on the
24 upper level from 12 feet to 9 feet wide, and it would not be very cost effective to put money into
25 a remodel for such a small room. He commented that the intent of the Code requirement for the
26 additional setback is to reduce the impact of the bulk of structures to neighboring properties. He
27 pointed out that they have taken other measures to reduce the appearance of bulk including
28 placing a deck in the middle of the structure. He pointed out that homes will be built to the west
29 of the neighboring home in the future will most likely be built to the maximum allowable height
30 and square footage. He stated that they do not feel that the proposed addition would greatly
31 affect the light that reaches the neighboring property to the west, and the amount of light would
32 not be any different with an additional 3 foot setback. He indicated that the bulk that would
33 result from their addition would be than would result from new construction.

34
35 In response to a question from Commissioner Cohen, Director Thompson indicated that it is
36 unlikely that new construction on the subject property could be built out to the 4,000 square foot
37 maximum allowable on the site, and homes are typically built up to 15 or 20 percent of the
38 maximum.

39
40 In response to a question from Commissioner Cohen, **Mr. Smith** indicated that they feel the

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1 impact to the neighbors would be greater if the existing structure were torn down and a new
2 home was built to the maximum allowable. He commented that the large rear yard as proposed
3 also allows more open space.

4
5 Commissioner Lesser asked whether the room on the upper level could be switched with the
6 position of the deck in order to meet the Code requirements.

7
8 **Mr. Smith** said that his design was intended to change the existing structure of the home as little
9 as possible in order to stay within the 50 percent valuation rule for remodels.

10
11 **Doug Smith**, the applicant, said that he would like to improve his property to provide extra space
12 to entertain and to have a garage for his van and equipment. He stated that the cars drive fast up
13 and down the street, and he wants to park his van in an enclosed area to avoid the possibility of
14 an accident. He said that he would also like to build a stairway to allow easier access to the
15 second and third levels. He stated that he feels strict compliance with the building Code on his
16 property would cause him an unnecessary hardship due to the unique layout of his lot and would
17 deny him his property rights that others in the neighborhood enjoy of having a 3 foot setback. He
18 indicated that he does not feel the setback as proposed would have a negative impact to his
19 immediate neighbors to the west because of the 8 ½ foot separation between the structures, which
20 is greater than others in the neighborhood.

21
22 Chairman Schlager opened the public hearing.

23
24 **Jill Tallman**, a resident of the 200 block of 20th Place, said that although they support the current
25 development patterns in the City, they request that the Commission deny the subject Variance
26 request for a reduced setback to the west. She indicated that the applicant already enjoys the
27 benefit of having a double wide lot, and the additional setback is not necessary to maintain the
28 square footage or visual appearance of an addition. She commented that additional square
29 footage could be obtained on the north of the proposed addition rather than encroaching on the
30 west side. She indicated that no similar variance request has been granted in the past. She said
31 that their view, light, and breeze will be severely diminished if the property is built as proposed,
32 particularly from their dining room and kitchen area. She pointed out that the setback of the
33 existing structure currently encroaches on the east side. She stated that the additional square
34 footage obtained without the encroachment by either reducing the size of the outside proposed
35 patio deck area or by expanding on the north side.

36
37 In response to a question from Commissioner Lesser, **Ms. Tallman** indicated that she would
38 prefer for the existing home to be torn down and a new home built rather than the proposed
39 addition. She commented that they are not opposed to the addition of square footage but only to
40 the encroachment into the setback.

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Stephen Tallman, a resident of the 200 block of 20th Place, said that it is the case that larger homes will be built on the property to the west of their lot in the future, and they want to attempt to protect their view of the sky and breeze as best they are able.

Charles Mau, stated that the views of property owners end at their property line. He commented that all homes would need to be torn down in order to provide residents a full view of the sun. He commented that the only time the sunlight of the property to the west might be impacted is during part of the summer months. He commented that not everyone may be pleased with the appearance of construction, but homes are built to realize the property owner's dream.

Major Abagnon, a resident of the 200 block of 20th Street, stated that the uniqueness of the subject lot and the unique size needs to be taken into consideration.

Linda Abagnon, commented that their neighbors also have an odd sized lot which will be torn down in the future, and she would support their request for a Variance in order to allow them space to build. She commented that if she lived to the west of the subject lot, she would prefer for the existing home to be remodeled as proposed rather than torn down and rebuilt.

Ben Schlimie, a resident of the 100 block of 20th Street, indicated that the proposal is a request to disregard a Code requirement, and he does not want to presume the reasoning behind enacting the regulation. He indicated that there are many non-conforming features on the property, and request would result in an additional privilege to the owner. He said that rebuilding on the property and eliminating the nonconforming features might help the view of one neighbor but could be a detriment to another neighbor.

Mr. Tallman, clarified that they are not opposed to the Variance request for remodeling the first and second levels and are only requesting that the Variance not be granted for the encroachment of the portion over 25 feet. He said that they would support the addition of a garage on the property.

Ms. Srou said that the proposal does address the issue of bulk within the interior of the lot where it is most relevant. She indicated that they do believe the findings can be made to grant the Variance request.

In response to a question from Commissioner Cohen, **Doug Smith** stated that the room proposed on the third level would be used as a den.

Chairman Schlager closed the public hearing.

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1 Commissioner Powell said that he supports a preservation ordinance to provide incentives for
2 remodeling of older homes rather than reconstruction. He commented, however, that the subject
3 home is not the original structure in terms of age or the configuration. He indicated that the
4 home originally was a single story 952 square foot home; was increased to 1,604 square feet in
5 1979; and is currently 1,984 square feet of BFA. He said that the proposal would bring the home
6 to 2,980 square feet. He said that a new house built on the lot would be required to provide the 5
7 foot setbacks on the west and east side and to provide the additional 3 foot setback to the extent
8 that the walls exceed 25 feet in height. He pointed out that the reason for the condition of the
9 Variance in 1979 that the 18 foot open space setback requirement be maintained was in order to
10 reduce building bulk. He said that he does not see that there are extraordinary circumstances
11 which create a great hardship regarding the lot size or topography, except possibly for the skewed
12 position of the house on the lot. He indicated that there has been testimony by the neighboring
13 property owners that they are concerned with losing their light, ventilation, view, and privacy as a
14 result of the proposal. He indicated that he feels more concern may have been raised by
15 neighboring property owners if there was further reference on the notice regarding the area where
16 the construction would occur rather than only the street address. He commented that he is also
17 concerned with the bulk of the project because of the limited articulation.

18
19 Commissioner Powell indicated that the property has existing nonconformities with an additional
20 Variance now being requested. He commented that the General Plan states that home additions
21 should reflect the scale and character of surrounding homes and that excessively large structures
22 that are tall and bulky with tight setbacks can produce streetscapes that are aesthetically
23 overbearing. He indicated that he finds the width of the structure out of scale in proportion with
24 that of the surrounding homes. He commented that Policy LU1.2 of the General Plan requires
25 the design of all construction to utilize notches, balconies, open space setbacks, or other
26 architectural details to reduce the bulk of buildings. He stated that he likes the project; however
27 he is not inclined to grant the Variance. He commented that he would approve the project if the
28 balcony on the inside of the structure were switched to the west side. He suggested that another
29 alternative would be that the balcony on the southwest corner being moved in 1 foot to reduce the
30 bulk and provide a larger airway. He commented that he does like that the proposed design does
31 maintain the additional rear setback. He indicated that he would like for the applicant to consider
32 revising the plans.

33
34 Commissioner Cohen commented that she is in favor of granting the proposed 5 ½ foot setback.
35 She indicated that she believes that the application meets the required findings for granting the
36 Variance. She stated that she does feel the site and existing structure are unique, and the property
37 could be demolished and rebuilt 1,000 square feet larger than is proposed. She indicated that
38 meeting the 8 foot setback requirement for the portion exceeding 25 feet in height would result in
39 an unusually small room on the third level of 8 feet in width and would create an undue hardship.
40 She stated that she is in favor of the additional setback that is provided for the back yard and

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1 deck which would help to maintain light and open space for the neighbors. She stated that she is
2 also in favor of keeping some of the eclectic and historic feel of the City and encouraging
3 remodeling rather than reconstruction. She indicated that she supports the proposal, including
4 the proposed 5 ½ foot setback as proposed.

5
6 Commissioner Bohner indicated that the City policy is to reduce the appearance of bulk, which
7 favors denying the request for the setback Variance. He stated, however, that the policy of the
8 City also is to encourage remodeling. He pointed out that the property could be built out further
9 if it were torn down and rebuilt. He indicated that the project does provide additional open space
10 in the rear. He commented that the subject property is fairly skewed and unique. He said that he
11 is leaning in the direction of approving the project, and he does not feel it would set a precedent
12 to allow the 5 ½ foot setback. He said that tearing down the home and building a new larger
13 structure could result in a greater impact to the neighbors.

14
15 Commissioner Lesser said that the nature and character of the community is changing with a
16 strict application of building codes which essentially requires owners to demolish properties and
17 rebuild as opposed to remodeling. He said that the 50 percent rule provides that remodeling of
18 structures cannot exceed 50 percent of the valuation of the existing structure, and otherwise
19 owners are basically forced to rebuild. He indicated that the problem with the subject proposal is
20 that an earlier Variance imposed conditions that were the basis for granting the prior approval.
21 He stated, however, that concessions must be made by the City to property owners to the extent
22 that remodeling is encouraged as opposed to homes being torn down. He indicated that he is
23 inclined to grant the proposal and believes the findings can be made for approval. He stated that
24 he believes there are special circumstances because of the unusual size of the property, and he
25 feels strict application of the Code would result in exceptional difficulties to the owner. He
26 commented that he would welcome the possibility of switching the location of the room on the
27 third level to the middle of the property and eliminating the balcony; however, he recognizes that
28 it would increase the cost of the project. He said that he believes granting the application would
29 be consistent with the intent of the General Plan and would not constitute the granting of a
30 special privilege, as the property owner would still maintain a fairly good setback from the
31 adjoining property owner.

32
33 Chairman Schlager commented that he walked around the subject property and he understands
34 the circumstances of the applicant and the neighbors. He stated that the fact is that the City is
35 very densely populated, and it is not possible to please all property owners. He said that he must
36 refer to the intent of the General Plan and the current standards. He pointed out that there are
37 reasons for the current Code standards. He said that there is an existing Variance that applies to
38 the property as well as legal nonconformities, and the Commission is being asked to grant an
39 additional Variance. He stated that a new structure on the site would need to conform to the
40 current Code requirements. He indicated that he finds it difficult to support the request for the

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1 Variance because it does not necessarily meet all of the necessary findings. He indicated that his
2 understanding is that there has not been any similar Variances granted in the past, and there is no
3 precedence that the subject Variance should be granted. He stated that concern regarding the
4 bulk of structures is a large issue, and the intent of the General Plan is to maintain the small town
5 character and atmosphere of the City. He commented that he does not feel that the applicant has
6 made every effort to consider other options that would prevent the necessity of a Variance, and
7 he feels there are alternative designs that could be considered. He indicated that while he would
8 support the request for the addition and remodel, he would not support the request for the 5 ½
9 foot setback for the portion of the structure over 25 feet in height.

10
11 Commissioner Powell commented that the comments of the Commissioners have convinced him
12 that perhaps there are mitigating circumstances that warrant granting of the proposal.

13
14 A motion was MADE and SECONDED (Lesser/Cohen) to direct staff to prepare a Resolution to
15 **APPROVE** an Amendment to a Variance to allow an addition and remodel to an existing three-
16 story single family residence and to allow a 5'6" setback in lieu of the required 8' setback for the
17 portion of the building wall over 25 feet in height, at 214 21st Street

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

23
24 Director Thompson commented that staff will draft a Resolution of approval for the project for
25 review at the August 9 meeting.

26
27 **DIRECTOR'S ITEMS** None

28
29 **PLANNING COMMISSION ITEMS**

30
31 Commissioner Lesser commended the Commissioners and staff for the level of the substantive
32 dialogue and questioning during the previous discussion.

33
34 Commissioner Powell commented that the 310 area code must now be dialed before all phone
35 numbers.

36
37 **TENTATIVE AGENDA: August 9, 2006**

38
39 **ADJOURNMENT**

40