



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Cohen and Members of the City Council

THROUGH: Geoff Dolan, City Manager

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

DATE: December 1, 2009

SUBJECT: Consideration of Planning Commission Approval of a Variance for Building Height and Side Yard Setback Standards for an Existing Single Family Residence Due to a Merging of Two Parcels on the Property Located at 113/119 S. Poinsettia Avenue

RECOMMENDATION:

Staff recommends that the City Council receive and file the decision of the Planning Commission approving the project subject to certain conditions.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its rescheduled meeting of November 12, 2009, **APPROVED** (5-0) a variance for building height and interior side yard setback for a lot merger and addition to a single-family residence. A similar variance was approved by the City Council in 2003, however the project was not implemented at that time, and the variance approval subsequently expired. The need for the variance comes from the enlargement of the site which causes a lowering of the altered site's height limit, and an increase in the interior side yard requirement.

The project includes demolition of one single-family residence (119 Poinsettia), merger of that parcel to the uphill abutting parcel (113 Poinsettia), and extension of the existing uphill residence onto the cleared lower parcel. The merger would conform to a recent requirement limiting site areas in this district to 15,000 square feet maximum. All new construction conforms to zoning standards, including: the supplemental second-story setback requirement, primary and secondary building height requirements, vehicle access, and retaining wall height. The portions of the remaining building that become nonconforming would not be enlarged or extended.

The Commission found that the proposed variance was appropriate for the following reasons:

- A similar (expired) variance was approved for the property previously.

- Similar variances have been approved for other merger projects, and many of such projects are eligible for minor exception approval under recent zoning code standards.
- The existing roof and interior side yard wall that are made nonconforming by the merger shall not be extended.
- The new roof area to be constructed will be lower than the new height limit, which will roughly balance the nonconforming portion.
- Retaining the existing building will not be detrimental to the neighborhood since it currently conforms to requirements, and will not change significantly.
- Special circumstances are present where the changing site size causes the existing building to become nonconforming, and it would be an undue hardship to require demolition of that building.

The Planning Commission received no testimony in response to the project public hearing notice.

In addition to its approval of the subject request, the Commission considered the applicant's proposal to retain a nonconforming tree planter that currently encroaches into the Poinsettia Avenue right-of-way. The Planning Commission supported the retention of the existing planters in order to preserve the mature trees. By approving the project, the City Council will also be approving the encroachment of the subject planters.

ALTERNATIVES:

The alternatives to the staff recommendation include:

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

Attachments:

Resolution No. PC 09-11
P.C. Minutes excerpt, dated 11/12/09
P.C. Staff Report, dated 11/12/09
Project plans (separate)

cc: Robbyn Hayne, Applicant/Architect
Nick Tell, Property Owner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

RESOLUTION NO PC 09-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A VARIANCE APPLICATION DUE TO A LOT MERGER TO EXCEED THE MAXIMUM ALLOWABLE BUILDING HEIGHT AND PROVIDE LESS THAN THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACK ON THE PROPERTY LOCATED AT 113-119 POINSETTIA AVENUE
(Tell)

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on November 12, 2009, to consider an application for a Variance for the property legally described as Lots 3 and 4, Block 8, Carnation Villa Tract, located at 113-119 Poinsettia Avenue in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Variance is Robbin Hayne. The property owner is Nick Tell.
- D. The property is located within Area District I and is zoned RS Single-Family Residential. The surrounding land uses consist of single-family residences.
- E. The General Plan designation for the property is Low Density Residential.
- F. The applicant requests the ability to merge two independent lots while retaining a building that would not conform to the revised height limit elevation and interior side yard setback resulting for the merged site.
- G. A variance was previously approved by the City Council on November 4, 2003, adopted as Resolution No. 5865, for building height purposes for a similar project, which expired. A subsequent zoning code change increased the interior side yard requirement for the project from 5 feet to 10 feet, generating an additional variance request item for the subject application.
- H. The merged site would contain approximately 12,494 square feet in area, and 100 feet in width. The retained building would exceed the 26-foot height limit by approximately 2.4 feet, and the interior side yard would be deficient of the 10-foot requirement by approximately 5 feet, for the merged site.

Resolution No. PC 09-11

- I. The proposed construction complies with other applicable standards including 3-car parking, alley access, and height and setbacks for new construction.
- J. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301, based on the determination that the project is an alteration of an existing facility.
- 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. The Planning Commission made the following findings with respect to the Variance application:
 1. Special circumstances applicable to the subject property, include exceptional topography and conditions, in that there is a dramatic elevation change between the two existing parcels and the currently conforming pre-existing building to remain would not create new circumstances or impacts to neighbors' privacy, light, ventilation, or aesthetics, but is located at the high side of the site where strict application of the lowered height limit and increased side setback requirements of this title due only to site enlargement would result in exceptional difficulties and/or undue hardships upon, the owner of the property, since substantial changes would be needed to portions of the building that currently conform where no changes are proposed.
 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. The height and interior side setback of the building to remain are currently conforming and would not be extended or expanded.
 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 because the height and interior side setback of the remaining building would not be altered. It is a pre-existing condition approved under current zoning code height requirements. It would be compatible with surrounding buildings, and it would not affect the adjoining properties.
- M. This Resolution upon its effectiveness constitutes the Variance for the subject project.

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 substantial conformance with the plans submitted to, and approved by the Planning Commission on November 12, 2009, specifically including a maximum 23.8-foot height for new construction areas.

- 1 2. The project shall be in conformance with the Manhattan Beach Municipal Code except the
2 retention of a single-family residence exceeding the maximum allowable height limit and
3 having less than the minimum required interior side yard for the proposed enlarged site.
4 These nonconformities shall not be removed, reconstructed, enlarged, or extended.
- 5 3. Approval of an application for parcel merger, and recordation of such document shall be
6 required prior to issuance of project building permits.
- 7 4. A Construction Traffic Management and Staging Plan shall be submitted in conjunction
8 with all construction and other building plans, to be approved by the Community
9 Development Department prior to issuance of building permits. The plan shall provide for
10 the management of all construction related traffic and operation during all phases of
11 construction, including delivery and storage of materials and parking of construction
12 related vehicles.
- 13 5. Water and sewer laterals, water meters, backflow devices, backwater valves, and property
14 line clean outs shall be installed or replaced as required by the Director of Public Works.
15 Sewer laterals shall not extend beyond property lines or job site boundaries as defined by
16 Public Works. Any unused laterals shall be abandoned at the City main.
- 17 6. No discharge of construction wastewater, building materials, debris, or sediment from the
18 site is permitted. Erosion control devices shall be provided as required by the Public Works
19 Director.
- 20 7. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be
21 removed and replaced with standard improvements, subject to the approval of the Public
22 Works Department. The sidewalk shall be replaced.
- 23 8. A street corner obstruction-free zone shall be provided as required by the Director of
24 Public Works.
- 25 9. An address change application shall be submitted to the Community Development
26 Department prior to project submittal for building permits
- 27 10. This Resolution shall become effective when all time limits for appeals have been
28 exhausted as provided in MBMC Section 10.100.030.
- 29 11. The Variance shall be approved for a period of two years after the date of approval, with
30 the option for future extensions, in accordance with the MBMC Section 10.84.090 (A) .
- 31 12. Pursuant to Public Resources Code section 21089(b) and Fish and Game Code section
32 711.4(c), the project is not operative, vested or final until the required filing fees are paid.
13. 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.

Resolution No. PC 09-11

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

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of November 12, 2009 and that said Resolution was adopted by the following vote:

AYES: Andreani, Fasola, Lessser,
Paralusz, Chairperson Seville-
Jones

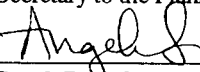

NOES: None

ABSTAIN: None

ABSENT: None



RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen *Sarah Boeschen*
Recording Secretary

In response to a question from Director Thompson the Commissioners clarified that they are supporting allowing a conversion of up to 7,452 additional square feet of medical office use for the subject site.

Associate Planner Haaland pointed out that the number stated in Condition 2 of the draft Resolution allowing a cap of 19,880 square feet of medical use would allow for 6,452 square feet to be converted to medical office use rather than 7,452 square feet. He indicated that the number will be changed to a cap of 20,880 square feet to reflect the Commission's motion. He said that the initial proposal was to allow conversion of up to 7,452 additional square feet of medical use, but the recommendation of the applicant's Traffic Engineer was to reduce it to 6,452 square feet, based on the assumption that on-site parking would not be increased.

Chairperson Seville-Jones commented that her understanding is that the applicant may be able to reach a maximum of 7,452 square feet of additional medical office use provided that the parking requirements for the medical use is met with the constraints that have been placed on them by the Commission and provided that they meet the handicapped parking requirements.

Associate Planner Haaland said that it is possible the applicant can reach 126 parking spaces in order to allow for the additional 7,452 square feet of medical office use provided that handicapped requirements are not increased.

Director Thompson said that the number of parking spaces that are able to be provided would control the amount of additional medical office use that would be permitted. He indicated that in order to meet the intent of the approval by the Commission, the cap of medical office use as stated in Condition 2 of the draft Resolution should be changed from 19,880 square feet to 20,880 square feet.

Associate Planner Haaland said that it should also be specified in the findings that achieving the maximum quantity of medical office space approved would depend on the number of on-site spaces increasing to 126.

Director Thompson explained the 15-day appeal period and said that the item will be placed on the City Council's Consent Calendar for their meeting of December 1, 2009.

11/12/09-3 Consideration of a Variance from Building Height and Side Yard Setback Standards for an Existing Single Family Residence Due to a Merging of Parcels on the Property Located at 113/119 South Poinsettia Avenue

Chairperson Seville-Jones indicated that she knows the applicant and feels she can be impartial in the consideration of the application.

Commissioner Lesser stated that he is friends with the applicant and his wife. He said that he has served on the Mansionization Committee with the applicant. He stated that he has no financial interest in the project and feels he can be impartial in considering the proposal.

Commissioner Andreani indicated that she knows and respects the applicant as a City Councilman and member of the community. She commented that she also served on the Mansionization Committee with the applicant. She said that she has no financial interest in the project and believes that she can look at the issue fairly.

Commissioner Fasola said that he is also comfortable that the applicant can receive a fair and impartial hearing from the Commission.

Commissioner Paralusz indicated that she also knows the applicant and received his vote to be appointed to the Commission. She said that she has no financial interest in the project and feels she can be impartial in hearing the application.

Associate Planner Haaland summarized the staff report. He indicated that the proposal is for a Variance to allow a lot merger resulting in nonconforming height and one side yard setback for an existing single family residence that would be expanded. He commented that the proposal is for approval of the retention of the existing single family residence on the upper lot. He said that the height and north side yard setback of the existing structure on the upper lot would be made nonconforming by the merging with the lower lot. He indicated that the existing building would be remodeled and an addition would be built across the dividing property line to the lower lot, with the square footage of the entire structure totaling 7,534 square feet. He stated that the lowered average elevation of the lot corners with the merger would change the height measurement of the existing structure to 28.4 feet, and the maximum permitted height is 26 feet. He indicated that the added width would make the interior side yard setback requirement 10 feet, and the setback of the existing structure is 5 feet.

Associate Planner Haaland commented that substantial grading is proposed for the new construction with the expansion to the existing structure to make the level of the lower lot more comparable to the upper lot. He indicated that there is an existing planter with a retaining wall in front of the house to remain, with two large trees that is within the Poinsettia Avenue right-of-way. He indicated that the planter is non-conforming with the current encroachment requirements, as the grade has been raised for a level surface. He indicated that staff is suggesting that an exception for the encroachment should be permitted to allow the trees to remain. He commented that there was a Variance approved previously by the City Council for a similar project for the same lot merger proposal. He said that there were also at least three other similar Variance requests approved for lot mergers that were not eligible for minor exceptions at those times. He indicated that the existing structure and proposed addition would be compatible with the neighborhood. He stated that the proposed addition would conform to Code requirements and would step down on the lot. He stated that the existing nonconformities would not be enlarged or extended with the proposal. He also said that modification of the existing structure to bring it into compliance with current Code requirements would be a substantial hardship and would make it difficult to retain the existing home.

In response to a question from Commissioner Lesser, Associate Planner Haaland indicated that the amount of soil that will be added on a site is not restricted. He stated, however, that raising the grade roughly 10 feet as proposed is fairly unusual. He said that there are multiple retaining walls which allow the grade to be raised substantially. He said that the grading does conform to Code requirements.

In response to a question from Commissioner Paralusz, Associate Planner Haaland indicated that a construction traffic plan is a common requirement for non single family homes. He stated that the plan establishes routes for construction vehicles to enter and exit the site. He said that the City's residential construction officer would review the plan with the contractor and the Traffic Engineer.

In response to a question from Chairperson Seville-Jones, Associate Planner Haaland indicated that the Variance is necessary because of the height of the existing structure and setbacks being out of compliance after the proposed merger. He indicated that all new construction would comply with Code requirements.

In response to a question from Commissioner Fasola, Associate Planner Haaland said that the grade of the property would be raised at least partially within the setbacks. He commented that the setback requirement of 10 percent of the lot width beyond 5 feet only pertains to interior side yards and not corner side yards. He indicated that the 787 square feet of basement area is not counted towards the square footage of the home because it would be located entirely below grade.

Robert Collins, Hayne Architects, representing the applicant, said that there are several examples of other projects that are similar to the subject proposal which have been approved. He stated that the applicant wants to retain the existing house on the subject property. He said that the existing building was renovated less than six years ago, and it would be unfair to require the applicant to demolish it rather than to expand the existing home. He indicated that the proposal is to keep the existing building and provide an addition for a total of five bedrooms. He commented that the applicant also wants to keep the character of the existing house and to minimize bulk. He pointed out that the height as proposed is no taller than the existing building on the site. He indicated that they are providing 15 percent more open space than the minimum requirement, and the building area as proposed is 1,000 square feet less than the existing structures on the site.

In response to a question from Commissioner Fasola, **Robbyn Hayne**, Hayne Architects, said that the upper floor of the existing structure would virtually remain in tact. He said that the walls of the lower floor would be reconfigured. He commented that the shell of the existing structure would remain. He indicated that the level of the rear portion of the first floor would be lowered to meet the grade of the proposed yard.

Chairperson Seville-Jones opened the public hearing.

There being no one wishing to speak, Chairperson Seville-Jones closed the public hearing.

Discussion

Commissioner Lesser stated that he supports the proposal. He indicated that the slope does provide a hardship. He indicated that the Council was previously able to make the Variance findings set forth in the Ordinance which are included in the subject draft Resolution. He said he can make the findings that there are special circumstances applicable to the subject property; that approval of the project may be granted without substantial detriment to the public good; and that granting the application is consistent with the purposes of Title 10.84.060(B) of the Code. He said that the proposal is consistent with the neighborhood. He said that he approves of the applicant expanding the home in a manner that is consistent with the existing property and without enlarging the nonconformities. He indicated that he appreciates that the applicant is seeking to retain the existing home rather than to demolish it and built a completely new structure. He stated that he appreciates that the proposal would result in an increase in open space for the two subject properties. He commented that he supports the proposal.

Commissioner Andreani said that she also supports the proposal. She commented that she agrees with staff that the amount of soil that is permitted to be imported should be regulated by the building height maximum for the final project. She stated that she agrees with the recommendation to require a truck management plan. She said that she would also want assurance that on site building inspections would occur during and after construction to be certain that the maximum height of the proposed addition is at 28 feet. She commented that she agrees with allowing the previously approved encroachment onto Poinsettia Avenue in order to preserve the existing mature trees. She indicated that there was an existing height Variance that

was approved for the residence at 113 South Poinsettia. She indicated that she is pleased that there would be terracing from the north to the existing house which would reduce the overall bulk and density. She commented that current Code only requires a 5 foot setback on the south side off of Duncan Place. She pointed out that Duncan Place is an alley and is smaller than a street. She said that she gave a lot of consideration regarding the setback for an alley as opposed to a street and feels such setbacks for projects should be addressed further. She stated that she agrees that there are special circumstances and that the applicant has addressed issues of bulk and open space. She stated that she supports the proposal.

Commissioner Paralusz said that she also supports the proposal. She pointed out that the new construction that is proposed would comply with the Code requirements. She indicated that the Variance for height was previously approved in 2003. She also pointed out that there has been no objection to the project expressed by the neighbors.

Commissioner Fasola said that he has no objection to the project. He stated that he approves of retaining the existing building. He said that although the side yard setback would not be conforming, it would not worsen the existing situation on the property. He stated that the lower height of the proposed new construction would be a benefit. He indicated that he supports the project.

Chairperson Seville-Jones said that she also supports the proposal. She indicated that the project would be an extension of the current home. She said that the home would fit in with the neighborhood. She indicated that if the Variance is not approved, the applicant would need to take 5 feet off of the side and reduce the height of the existing home which would damage the structure. She commented that the applicant has been respectful with providing open space and reducing bulk. She said that the proposed structure would be no higher than the existing building and would maximize open space. She commented that she was originally concerned with the amount of setback to the property to the west of the subject site. She said that she feels the project would not be harmful to the neighbor to the west, as there would be terracing of the subject site and open space would be provided to the south. She stated that she supports the project and feels it would be a good addition to the neighborhood.

A motion was MADE and SECONDED (Andreani/Fasola) to **APPROVE** a Variance from building height and side yard setback standards for an existing single family residence due to a merging of parcels on the property located at 113/119 South Poinsettia Avenue subject to Conditions 1 through 13 of the draft Resolution.

AYES: Andreani, Lesser, Paralusz, and Chairperson Seville-Jones
NOES: None.
ABSENT: None.
ABSTAIN: None.

Director Thompson explained the 15-day appeal period and stated that the item will be placed on the City Council's Consent Calendar for their meeting of December 1, 2009.


E. DIRECTORS ITEMS


F. PLANNING COMMISSION ITEMS

Chairperson Seville-Jones commented that November 12 is the day to make commitments to the Manhattan Beach Educational Foundation.

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

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development 

BY: Eric Haaland AICP, Associate Planner 

DATE: November 12, 2009

SUBJECT: Variance from Building Height and Side Yard Setback Standards for an Existing Single Family Residence Due to a Merging of Two Parcels on the Property Located at 113/119 S. Poinsettia Avenue

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the subject request.

APPLICANT

Robbin Hayne
22762 Pacific Coast Hwy.
Malibu, CA 90265

OWNER

Nick Tell
113 S. Poinsettia Ave.
Manhattan Beach, CA 90266

LOCATION

<u>Location</u>	113-119 Poinsettia Ave. Northwest Corner Poinsettia/Duncan Pl. (See Site Location Map).
<u>Legal Description</u>	Lots 3&4, Block 8, Carnation Villa Tract
<u>Area District</u>	I

LAND USE

<u>General Plan</u>	Low Density Residential				
<u>Zoning</u>	RS, Residential Single-Family				
<u>Land Use</u>	<table><tr><td><u>Existing</u></td><td><u>Proposed</u></td></tr><tr><td>4,897 sq. ft. SFR & 3,652 sq. ft. SFR 8,549 sq. ft. Total floor area</td><td>7,534 sq. ft. SFR</td></tr></table>	<u>Existing</u>	<u>Proposed</u>	4,897 sq. ft. SFR & 3,652 sq. ft. SFR 8,549 sq. ft. Total floor area	7,534 sq. ft. SFR
<u>Existing</u>	<u>Proposed</u>				
4,897 sq. ft. SFR & 3,652 sq. ft. SFR 8,549 sq. ft. Total floor area	7,534 sq. ft. SFR				

Neighboring Zoning/Land Uses RS/ Single-Family Residential

PROJECT DETAILS

	<u>Proposed</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	12,494 sq. ft.	7,500 sq. ft. min. 15,000 s.f. max.
Density:	1 unit	1 unit max.
Building Floor Area:	7,534 sq. ft.	8,361 sq. ft. max.
Height	23.8 ft. new, 28.4 ft. existing (*)	26 ft. max.
Parking:	3 encl. spaces	3 encl. spaces
Vehicle Access	1 Duncan Place dwy.	Duncan Place access only
Setbacks		
Front (east)	20 ft.	20 ft. min
Rear (west)	29 ft. (stair)	17.5 ft. min
North Side	5 ft. existing (*)	10 ft. min.
South/Corner Side	5 ft. min.	5 ft. min.

(*) – Existing building to remain does not conform to lower maximum height elevation and increased interior (north) side setback requirement for the enlarged parcel.

BACKGROUND

At its regular meeting of November 4, 2003, the City Council approved a variance from Section 10.12.030 of the zoning code for the subject property regarding building height for a lot merger and addition to a single-family residence. The project was not implemented at that time and the variance approval subsequently expired. Since that time, various amendments to zoning standards have occurred including increased side yards for sites that are wider than standard width. The property owner is currently requesting re-approval of the previous variance proposal for a revised, but similar, project. At this time, Planning Commission approval of a side yard setback variance from zoning code Section 10.12.030(E) is required, in addition to the height variance, to retain the existing building as proposed on the merged site.

DISCUSSION

The submitted plans show demolition of one single-family residence (119 Poinsettia), merger of that parcel to the uphill abutting parcel (113 Poinsettia), and extension of the existing uphill residence onto the cleared lower parcel. The merger would conform to a recent requirement limiting site areas in this district to 15,000 square feet maximum. A substantial amount of grading is proposed to raise the ground floor and yard levels close to those of the home being remodeled and enlarged. The new construction would roughly match the envelope of the nonconforming 3-story building to be demolished, however, the area of the bottom floor level of that residence would be displaced by the raised grade. Raised planters supporting a pool matching the new ground floor level characterize the property's modified rear yard. All new

construction conforms to zoning standards, including: the supplemental second-story setback requirement, primary and secondary building height requirements, vehicle access, and retaining wall height. The portions of the remaining building that become nonconforming would not be enlarged or extended.

The need for a variance is not uncommon for lot merger situations where an existing building is to remain. Examples of such variances are at 218 Anderson Street, 2012 Strand, and 621 13th Street. A minor exception procedure (staff level) is available for many of these situations, but is not applicable to a project as extensive as this. The specific reason the project is not eligible for the expanded minor exception options adopted during the recent “mansionization” process, is that the project exceeds 75% of the maximum floor area, and includes alterations (garage door infill, interior wall changes, etc.) to those newly nonconforming areas.

A building height conflict arises when a building exists at or near the height limit elevation established by the average grade (four corners) of its existing site, and the site itself is expanded resulting in a lower average grade than the original site. In this case the average grade of the uphill lot is lowered by approximately 3 feet after merging with the downhill lot. The 23.8-foot height of the proposed addition will somewhat balance the 28.4-foot height of the remaining building toward an overall average of 26 feet (code standard).

The new setback nonconformity is caused by the widening of the site, since the interior side yard requirement is a function (10%) of the site width. This was not a variance item for the previous application since a cap of 5 feet for all required side yards was in effect at that time. The 5-foot cap is still applicable to the corner/alley side yard of the project.

The project items that warrant additional discussion include: proposed grade raising, an existing nonconforming encroachment, and variance findings

Grade Raising:

The project includes importing soil to more closely match the downhill lot grade to the uphill lot. A new raised surface will be accomplished with retaining wall terraces formed around the perimeter of the southwest (lowest) corner of the site, in conformance with zoning code fence height limits of Section 10.12.030(P). The City does not have zoning grading regulations that limit the amount of import or export of soil. Staff has worked closely with the project architect to address mass/bulk concerns where these retaining walls combine with the southwest portion of the building. The applicant has provided an open patio area there, and recessed some solid walls.

Since the project will involve additional truck traffic due to grading, staff has included a condition requiring approval of a construction traffic plan typical of commercial projects. This was not required by the previous variance approval, which did not involve as much grading.

Right-of-Way Encroachment:

The residence proposed to remain has planter walls extending within the Poinsettia Avenue right-of-way that were previously approved with an encroachment permit. The walls themselves generally conform to current encroachment requirements; however, the raised grade behind them occupied by two large trees is not. Current encroachment standards allow minimal disruption of natural right-of-way grade for private improvements. Encroachment regulations require conformance with current standards for a project of this size. The applicant proposes to maintain the existing grade and trees. Staff supports the proposed modification in order to preserve and maintain the existing mature trees in the public right-of-way.

Variance Findings:

In order to grant the variance request, Section 10.84.060(B) of the zoning code requires that the Planning Commission make required findings. These findings previously made by the City Council, with modifications for the current application, are as follows:

1. Special circumstances applicable to the subject property, include exceptional topography and conditions, in that there is a dramatic elevation change between the two existing parcels and the currently conforming pre-existing building to remain would not create new circumstances or impacts to neighbors' privacy, light, ventilation, or aesthetics, but is located at the high side of the site where strict application of the lowered height limit and increased side setback requirements of this title due only to site enlargement would result in exceptional difficulties and/or undue hardships upon, the owner of the property, since substantial changes would be needed to portions of the building that currently conform where no changes are proposed.
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. The height and interior side setback of the building to remain are currently conforming and would not be extended or expanded.
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 because the height and interior side setback of the remaining building would not be altered. It is a pre-existing condition approved under current zoning code height requirements. It would be compatible with surrounding buildings, and it would not affect the adjoining properties.

Some General Plan goals and policies that the Planning Commission might determine to be relevant to its decision on this application include the following:

Goal LU-1: Maintain the low-profile development and small-town atmosphere of Manhattan Beach.

Goal LU-4: Preserve the features of each community neighborhood, and develop solutions tailored to each neighborhood's unique characteristics.

Housing Policy 1.3: The City will continue to support a diversity of housing types to accommodate existing and future needs.

Public Input:

Staff has received one response to the project notice from the rear abutting neighbor of the project site, which discusses some of the issues and preparations for property line walls that would be constructed. No opposition to the proposal has been received.

CONCLUSION

Staff recommends that the Planning Commission accept public hearing testimony, discuss the project issues, and approve the variance request based on the findings discussed above and included in the proposed Resolution. Conditions of approval, including items mentioned above, utility conditions, and other standard conditions are contained within the Resolution.

ENVIRONMENTAL REVIEW

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15301.

Attachments:

- A. Resolution No. PC 09-
- B. Vicinity map/photos
- C. Previous variance: Reso. No. 5865
- D. Applicant material
- E. Neighbor letter
Plans (separate)

c: Robbyn Hayne, Applicant/Architect
Nick Tell, Property Owner

RESOLUTION NO PC 09-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A VARIANCE APPLICATION DUE TO A LOT MERGER TO EXCEED THE MAXIMUM ALLOWABLE BUILDING HEIGHT AND PROVIDE LESS THAN THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACK ON THE PROPERTY LOCATED AT 113-119 POINSETTIA AVENUE
(Tell)**

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

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

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on November 12, 2009, to consider an application for a Variance for the property legally described as Lots 3 and 4, Block 8, Carnation Villa Tract, located at 113-119 Poinsettia Avenue in the City of Manhattan Beach.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Variance is Robbin Hayne. The property owner is Nick Tell.
- D. The property is located within Area District I and is zoned RS Single-Family Residential. The surrounding land uses consist of single-family residences.
- E. The General Plan designation for the property is Low Density Residential.
- F. The applicant requests the ability to merge two independent lots while retaining a building that would not conform to the revised height limit elevation and interior side yard setback resulting for the merged site.
- G. A variance was previously approved by the City Council on November 4, 2003, adopted as Resolution No. 5865, for building height purposes for a similar project, which expired. A subsequent zoning code change increased the interior side yard requirement for the project from 5 feet to 10 feet, generating an additional variance request item for the subject application.
- H. The merged site would contain approximately 12,494 square feet in area, and 100 feet in width. The retained building would exceed the 26-foot height limit by approximately 2.4 feet, and the interior side yard would be deficient of the 10-foot requirement by approximately 5 feet, for the merged site.
- I. The proposed construction complies with other applicable standards including 3-car parking, alley access, and height and setbacks for new construction.
- J. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301, based on the determination that the project is an alteration of an existing facility.
- 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. The Planning Commission made the following findings with respect to the Variance application:

1. Special circumstances applicable to the subject property, include exceptional topography and conditions, in that there is a dramatic elevation change between the two existing parcels and the currently conforming pre-existing building to remain would not create new circumstances or impacts to neighbors' privacy, light, ventilation, or aesthetics, but is located at the high side of the site where strict application of the lowered height limit and increased side setback requirements of this title due only to site enlargement would result in exceptional difficulties and/or undue hardships upon, the owner of the property, since substantial changes would be needed to portions of the building that currently conform where no changes are proposed.
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. The height and interior side setback of the building to remain are currently conforming and would not be extended or expanded.
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 because the height and interior side setback of the remaining building would not be altered. It is a pre-existing condition approved under current zoning code height requirements. It would be compatible with surrounding buildings, and it would not affect the adjoining properties.

M. This Resolution upon its effectiveness constitutes the Variance for the subject project.

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 substantial conformance with the plans submitted to, and approved by the Planning Commission on November 12, 2009.
2. The project shall be in conformance with the Manhattan Beach Municipal Code except the retention of a single-family residence exceeding the maximum allowable height limit and having less than the minimum required interior side yard for the proposed enlarged site. These nonconformities shall not be removed, reconstructed, enlarged, or extended.
3. Approval of an application for parcel merger, and recordation of such document shall be required prior to issuance of project building permits.
4. A Construction Traffic Management and Staging Plan shall be submitted in conjunction with all construction and other building plans, to be approved by the Community Development Department prior to issuance of building permits. The plan shall provide for the management of all construction related traffic and operation during all phases of construction, including delivery and storage of materials and parking of construction related vehicles.
5. Water and sewer laterals, water meters, backflow devices, backwater valves, and property line clean outs shall be installed or replaced as required by the Director of Public Works. Sewer laterals shall not extend beyond property lines or job site boundaries as defined by Public Works. Any unused laterals shall be abandoned at the City main.
6. No discharge of construction wastewater, building materials, debris, or sediment from the site is permitted. Erosion control devices shall be provided as required by the Public Works Director.

7. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed and replaced with standard improvements, subject to the approval of the Public Works Department. The sidewalk shall be replaced.
8. A street corner obstruction-free zone shall be provided as required by the Director of Public Works.
9. An address change application shall be submitted to the Community Development Department prior to project submittal for building permits
10. This Resolution shall become effective when all time limits for appeals have been exhausted as provided in MBMC Section 10.100.030.
11. The Variance shall be approved for a period of two years after the date of approval, with the option for future extensions, in accordance with the MBMC Section 10.84.090 (A) .
12. 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 are paid.
13. 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.

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

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of November 12, 2009 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

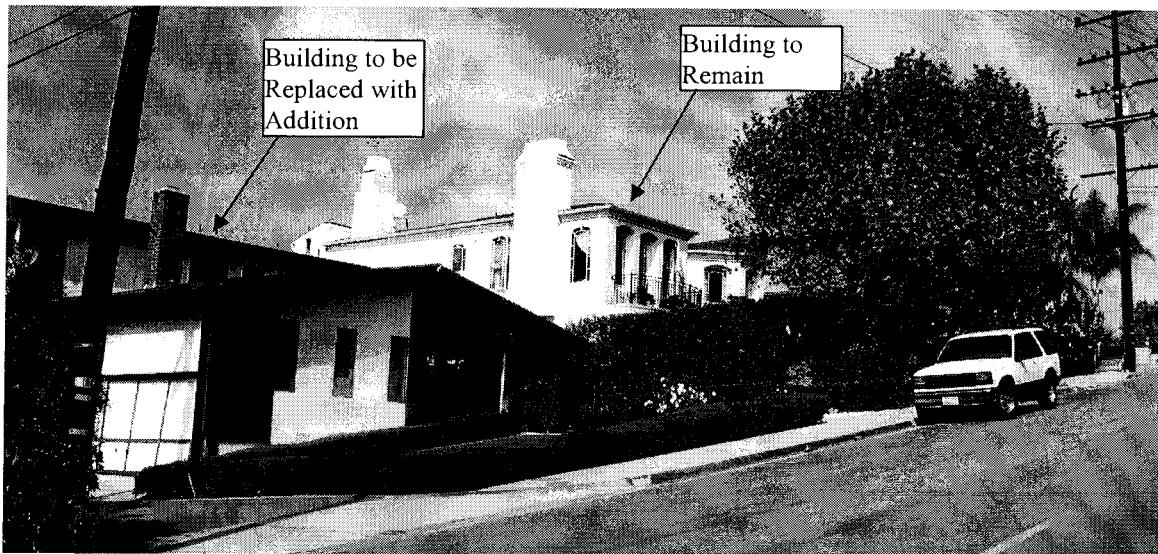
ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

113-115 S. Poinsettia Ave.

Vicinity



Dqn M.

File

RESOLUTION NO. 5865

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH APPROVING A VARIANCE APPLICATION DUE TO A LOT MERGER TO EXCEED THE MAXIMUM ALLOWABLE BUILDING HEIGHT AND DENYING A NEW THIRD STORY DECK AND RETENTION OF AN EXISTING PARKING PAD AT 113 AND 119 SOUTH POINSETTIA AVENUE (Tell)

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. Pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on May 28, 2003, and subsequently adopted Resolution No. 03-8, at its meeting of June 11, 2003, approving the Variance to allow an existing retained building to exceed the maximum allowable height and a new third-story deck and denying the retention and expansion of a parking pad for the properties legally described as Lots 3 and 4, Block 8, Carnation Villa Tract, located at 113 and 119 South Poinsettia Avenue in the City of Manhattan Beach.
- B. This item was reviewed at the City Council meeting of July 1, 2003, and was pulled from the consent calendar by a member of the City Council.
- C. The Council then voted (5-0-0) to appeal the Planning Commission decision and scheduled the item for public hearing. On October 21, 2003, the City Council held the public hearing for the item. At this meeting the Council voted to approve the building height, but denied the third story deck and the parking pad, and the Council directed staff to return with a Resolution reflecting its action.
- D. The City Council public hearing was advertised pursuant to applicable law, testimony was invited and received.
- E. The applicants/owners for the Variance application are Nicholas and Valerie Tell.
- F. The applicant's requested approval to exceed the maximum allowable building height on a building that would be retained as part of a merger of two properties. Additionally, they requested approval to allow a new third story deck above a new second story area and retention and expansion of an existing off-street parking pad located in the front yard setback, which is required to be abandoned as a result of the garage relocation.
- G. The subject sites currently consists of two 49.98' x 125.00' east/west lots which front on Poinsettia Avenue. With the proposed lot merger the southerly property line would be bordered by Duncan Place (side yard) and Poinsettia Avenue to the east (front yard).
- H. The applicant's proposed to merge both lots into one parcel retaining the existing 3,518 square foot two-story, plus basement, single-family residence on Lot 3 (113 South Poinsettia Avenue) and demolishing the 2,550 square foot single family residence on Lot 4 (119 South Poinsettia Avenue). The properties when merged would contain approximately 12,492 square feet of lot area.
- I. The lot merger is not part of the Variance application, but it is an application that would be acted on administratively, after final action on the Variance.
- J. The nonconformities that are created by the lot merger include: garage access, required parking, additional 6% front setback requirement, building height and parking pad in a required yard. The applicant is modifying the buildings to remove all the existing nonconformities except the building height and parking pad in the front yard.
- K. The properties when merged would contain 12,492 square feet of lot area (99.96' x 125.00') and is permitted 8,360 square feet of Buildable Floor Area (12,492 sq. ft. x .65 + 240 = 8, 260 sq. ft.).



Certified to be a true copy of said document on file in my office.

JP

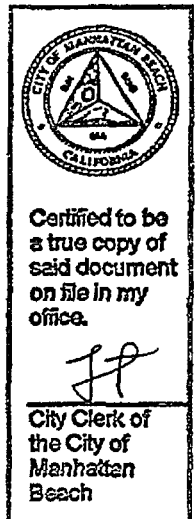
City Clerk of the City of Manhattan Beach

The proposed building is designed with a 7,626 square foot structure, which is 734 square feet below the allowable BFA. This decrease in building area allows for an increase in open space and reduction of building bulk at the lower end of the property to the south.

- L. The subject properties highest elevation is located at the northeast property corner (115.10') while the lowest point occurs at the southwest property corner (91.17'). A severe downward slope of 23.93' occurs between these two points.
- M. Based on the current building height methodology and the new average of the elevation of the natural grade at the four corners of the property, the maximum allowable building height would be at a 128.78' elevation. Since the remaining structure is currently at a 131.18' elevation, the structure is over height by 2.40' at its highest ridgeline. The new addition located at the southerly end of the property would be designed with a ridge elevation of 119.50' (garage area) to a ridge elevation of 128.00' (living area addition), which is .78 - 9.28 feet below the maximum allowable building height.
- N. The existing deck to be retained is located at the rear of the structure above a "sun room" area designed with a cathedral ceiling. This deck was approved legally as a second story deck area above a single story condition. The applicant's proposed to extend this existing deck above the new second story addition at the center of the building. This new deck area would not be in compliance with current a zoning requirement which prohibits deck area above a second story.
- O. With the proposed lot merger the site would be bounded by Duncan Place to the south (side yard setback), which is a 15-foot wide alley. Because the lot merger requires garage alley access, the existing garage area off Polinsettia Avenue must be relocated to Duncan Place. Current zoning requirements provide that required yards and open space areas shall not be used for parking except as access to a garage. Since the existing garage will be converted to living area, the driveway access no longer provides access to a garage area. Therefore, the zoning code requires the removal of the "parking pad" as parking is not permitted in a required yard or open area.
- P. The proposed addition/remodel would exceed 50% valuation of the existing improvements and therefore would be required to bring existing nonconformities into conformance, or approval of a Variance as requested.
- Q. Pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject project has been determined to be exempt (Class 32) as infill development within an existing urbanized area per Section 15332 of CEQA.
- R. 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.
- S. The City Council made the additional following findings with respect to this Variance application:
1. The applicant requested approval of a Variance application to allow an existing building to exceed the maximum building height, allow a new third-story deck, and to allow an existing parking pad to remain and be expanded on two contiguous properties that would be merged.
 2. The project is located in Area District I and is zoned (RS) Residential Single Family. The surrounding adjacent properties are similarly zoned.
 3. The General Plan designation for the property is (RS) Residential Single Family.
 4. Based upon State law, the proposed project will meet the required findings as follows:

For Variance

- a) The special circumstance or conditions applicable for building height is the extreme topography of the site. Because of the location of the retained structure, and the location and the low height of the proposed building, the



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

proposal would not create privacy impacts to the surrounding properties. The City Council supported the Variance for building height for the retained building because it is a pre-existing condition with no change to the building height. Additionally, the remaining structure, which was constructed in 1994, was built in conformance with the current height methodology and would not impact the surrounding properties. Strict application of the Zoning Code, which would result in altering the remaining building to meet the current height methodology, would result in peculiar and exceptional difficulty and/or undue hardship upon the owners of the property. Tying the retained house with the addition, which requires access off the alley and which is at a substantially lower elevation, creates a peculiar and exceptional difficulty and undue hardship.

- b) The relief may be granted without substantial detriment to the public good; without substantial impairment of affected natural resources; and would not be detrimental or injurious to property or improvements in the vicinity of the development or to the public health, safety or general welfare. The height of the structure to be retained, which was constructed under the current height methodology and which would not be altered, would not have any impact on the surrounding properties.
- c) Granting the request would be consistent with the purpose of this title and would not constitute a granting of a special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district because the height of the remaining building would not be altered, it is a pre-existing condition approved under current zoning code height requirements, it would be compatible with surrounding buildings, and it would not affect the adjoining properties.

5. The findings to grant approval of the third story deck cannot be made. The proposed third story deck is not in keeping with current Code requirements that prohibit decks above a second story where the height limit is 25 feet, the design and location of the decks is a new condition created by the new construction, approving the deck would be granting a special privilege that is not enjoyed by other property owners and the new deck could be detrimental or injurious to property or improvements in the area since it is on the third story. There is no special circumstances that would justify allowing new third story decks.

6. The findings to grant approval of retaining and expanding the existing curb cut, driveway and parking pad off of Polnsettia Avenue cannot be made. The City Council did not support the retention and expansion of the front yard "parking pad", driveway, and curb cut as they felt that the paved parking area did not meet Code requirements for access to a garage area, would eliminate on-street parking and front yard landscaping and would have a negative visual impact.

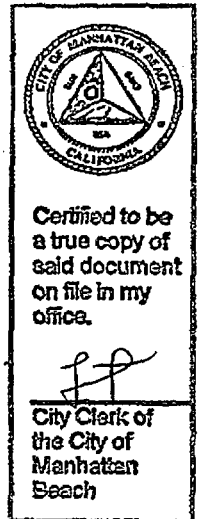
SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the subject Variance to exceed the maximum allowable building height and denies the third story deck and parking pad, subject to the following conditions:

General

- 1. The project shall be in substantial conformance with the plans submitted to, and approved for building height by the City Council on October 21, 2003. The plans shall be modified to eliminate the third story deck and parking pad.

Public Works

- 2. All landscape irrigation backflow devices must meet current City requirements for property installation.
- 3. All electrical, telephone, cable television system, and similar service wires and cables shall be installed underground to the appropriate utility pole(s) in compliance with all applicable Building

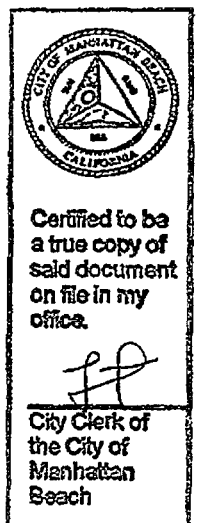


and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.

4. No discharge of construction wastewater, building materials, debris, or sediment from the site is permitted.
5. A property line cleanout must be installed on the sanitary sewer lateral (See City Standard Plan ST-5).
6. A backwater valve is required on the sanitary sewer lateral if the discharges from fixtures with flood level rims are located below the next upstream manhole cover of the public sewer (See City Standard Plan ST-24).
7. If any existing sewer lateral is used, it must be televised to check its structural integrity. The tape must be made available for review by the Public Works Department. The Public Works Department will review the tape and determine at that time if the sanitary lateral needs repairing, replaced, or that it is structurally sound and can be used in its present condition.
8. Any unused water or sanitary sewer laterals must be abandoned at the City sewer main.
9. A disabled access ramp must be installed on the public sidewalk and ramp must be shown on plans if applicable (See City Standard Plan ST-9).
10. The sidewalk must be replaced from the North property line to the South property line and shown on the plans.
11. 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). The plans must have a profile of the driveway, % of slope on driveway, and driveway elevation. Removal of the existing curb cut on Poinsettia Avenue, replacement with sidewalk, curb, gutter and other improvements shall meet City standards.
12. The water meter box must be purchased from the City, and must have a traffic lid if the box is located in the driveway.
13. 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 entering the site.
14. All storm water, nuisance water, etc. drain lines installed within the street right-of-way must be constructed of ductile iron pipe. Drains must be shown on plans.
15. Any utility pole relocation must be resolved before a building permit is issued.
16. Plan holder must have the plans checked and stamped for approval by the Public Works Department before the building permit is issued. All of the Public Works notes and conditions must be printed on the plans.

Procedural

17. This Resolution shall become effective when all time limits for appeals have been exhausted as provided in MBMC Section 10.100.030.
18. The Variance shall be approved for a period of two years after the date of approval, with the option for future extensions, in accordance with the Manhattan Beach Municipal Code (MBMC) Section 10.84.090 (A).
19. The applicant agrees, as a condition of approval of this project, to pay all reasonable legal and expert fees and expenses of the City of Manhattan Beach, in defending any legal action associated with the approval of this project brought against the City. In the event such a legal action is filed



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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.

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.

SECTION 4. This resolution shall take effect immediately. The City Clerk shall make this resolution readily available for public inspection within thirty (30) days of the date this resolution is adopted.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and thenceforth and thereafter the same shall be in full force and effect.

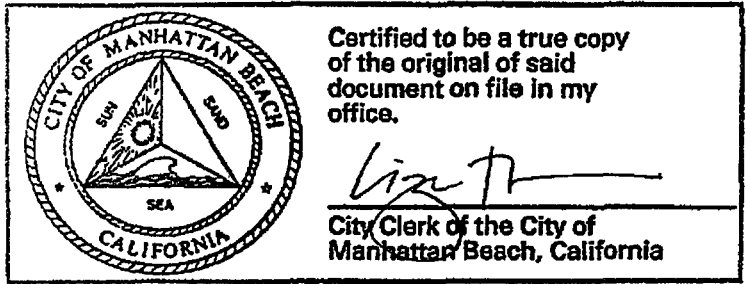
PASSED, APPROVED and ADOPTED this 4th day of November, 2003.

Ayes: Fahey, Ward, Napolitano, Wilson and Mayor Aldinger.
Noes: None.
Absent: None.
Abstain: None.

/s/ Jim Aldinger
Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura
City Clerk



Variance Findings 113/119 S. Poinsettia

- 1) In this case the property owner would like to create one single family residence for his growing family where there currently exists two separate residences: One existing residence being relatively new and remodeled less than 6 years ago and the other being more than 50 years old and in need of serious work. What the property owner would like to do is keep the newer residence with minor interior modifications and create an addition where the older residence would be demolished. There would be no increase in height and all portions of the proposed addition would meet current regulations for required height and setbacks. It would be unfair for this property owner to be required to essentially demolish a perfectly suitable structure because he would like to expand his residence to meet the needs of his growing family.
- 2) The granting of this variance would allow this property owner to maintain the existing height and side yard on the existing structure to remain. This would not result in any changes in height or setback compared to what currently exists on this property. Therefore there can be no detriment to the public good, impairment of affected natural resources, injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.
- 3) I believe that granting of this variance is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with this limitation of other properties in the vicinity and in the same zoning district and area district. The fifty percent valuation rule was developed in reference to single lots. This is an exception as it involves an addition on what were essentially two lots. The proposed improvements to this existing structure on this single existing lot would easily comply with the fifty percent rule. In aggregate, as we propose to demolish the second existing structure, it does not comply. I feel it would be beyond unfair to dictate to this property owner that they demolish what is essentially a perfectly livable structure to be able to expand it!

To: Erik Haaland
From: Anneke Steeneken <omasteeneken@fs-architects.com>
Subject: Nic Tell's project on Poinsettia
Cc:
Bcc:

Attachments:

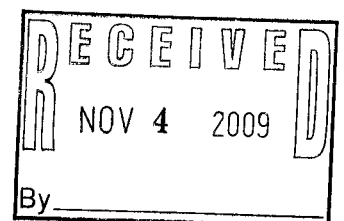
Erik

This is a letter I got from my architect daughter, Sue Steeneken, to pass on to you and Robin Hayne and Nic Tell.

She talked with Robin, 3 years ago and knows all about what was going on then. I try to be at the hearing on November 12th and meeting you.

Sorry about the last line of the letter, I had trouble with my computer and printer.

Ann Steeneken
831 Duncan Place
Manhattan Beach.
310-376-8358



X-Original-To: omasteeneken@fs-architects.com
Delivered-To: omasteeneken@fs-architects.com
Date: Fri, 30 Oct 2009 10:34:44 -0400
To: Anneke Steeneken <omasteeneken@fs-architects.com>
From: Sue Steeneken <sue@fs-architects.com>
Subject: Re: Hi

Hi Mom,

I got this email so it looks like your email is working! Are you still getting error messages?

I'll write more later.

Sue

Hi Mom,

I've attached the picture showing how to change the settings in order to stop the error message.

Some questions for Nick Tell (either at the meeting or just between the two of you):

1. You need to see a drawing showing what your side of the wall will look like (it would be nice if they could email it to me too). Is the site layout changed from what it was in 2006? We never saw final drawings then showing the wall elevation so you will want to see it now.

2. Planning rules say their fence should not be more than 6 feet tall and the combined height of the retaining wall and the fence cannot be more than 12 ft. on your side of the wall according to the MB Planning website. Tell might not have drawings showing the wall from your side so you will need to see if they can confirm that they will stay below that total. Even with that, you may need to sign a form for him saying you agree to the fence height before they will approve it (there is a special form for that I have attached so you will see what it looks like).

Before you sign anything, make sure you are happy with what he tells you and gives you in writing. It would be best if you get the following items confirmed: He will protect your concrete block retaining wall from damage, he will show you what your side of the wall will look like and what finish it will have on it and also he will clean up any mess on your property left by the construction.

3. You should strongly insist that they do all the construction from their side of the property line. That is what his architect, Robbie Haynes, said they would do in 2006. Ask them how the wall will be built and what protection there will be for your property. If for any reason you have to let anyone on your property, you need to make sure that the contractor gives you insurance certificates prior to the work starting on the wall. The certificates should be for the liability and workmen's comp insurance and they should have you listed as an "additional

insured". This will better protect you if accidents happen during work.