



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

**TO:** Planning Commission

**FROM:** Richard Thompson, Director of Community Development 

**BY:** Esteban Danna, Assistant Planner 

**DATE:** June 24, 2009

**SUBJECT:** Appeal of an Administrative Decision to Approve a Minor Exception for 612-11<sup>th</sup> Street

**RECOMMENDATION**

Staff recommends that the Planning Commission uphold the Community Development Director's decision to approve the Minor Exception for 612-11<sup>th</sup> Street, thereby **ADOPTING** the attached Draft Resolution and **DENYING** the subject appeal.

**APPELLANT**

John Tootle  
609-9<sup>th</sup> Street  
Manhattan Beach, CA

**APPLICANT**

Jill Sohegian  
2008 Loma Drive  
Hermosa Beach, CA

**PROJECT OVERVIEW**

**Location**

Location

612-11<sup>th</sup> Street

Legal Description

Portion of Lot 9, Block 19, Tract No. 3393

Area District

I

**Landuse**

General Plan

Low Density Residential

Zoning

RS, Residential Single Family

Land Use

Existing

Proposed

1,595 sq. ft. Single Family

2,786 sq. ft. Single Family

Residence

Residence.

Neighboring Zoning/Land Uses

North

RS/ Single Family Residential

South

RS/ Single Family Residential

East

RS/ Single Family Residential

West

RS/ Single Family Residential

### ***Project Details***

	<u>Proposed</u>	<u>Requirement</u>
Parcel Size:	5,801 sq. ft. (flag lot)	7,500 sq. ft. min
Building Floor Area:	2,786 sq. ft.	4,011 sq. ft. max.
Height	24.83 ft.	26 ft. max.
Parking:	1 enclosed, 1 unenclosed spaces	1 enclosed, 1 unenclosed spaces (*)
Vehicle Access	11 <sup>th</sup> Street	N/A
<u>Setbacks</u>		
Front (west)	25 ft.	20 ft.
Rear (east)	Varies 2 ft. –10 ft .4 in.	12 ft. min(*)
Interior Side (north)	4 ft. 7 in. and 6 ft. 8 in.	7 ft. min. (*)

(\*) Minor Exception required to maintain non-conforming setbacks and parking.

### **ENVIRONMENTAL REVIEW**

The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15301 and 15332 based on staff's determination that the project is a minor infill development and will not have a significant impact on the environment.

### **BACKGROUND**

#### ***Minor Exceptions***

Minor exceptions are generally intended to allow alterations and additions to non-conforming existing structures. On March 21, 2008, as part of the Mansionization Code Amendments, the Minor Exception Section of the Code was substantially revised to further encourage the retention of existing smaller homes. The City Council wanted to provide flexibility to encourage home remodeling and small additions to existing smaller, older, legal non-conforming homes. The purpose of these provisions, as indicated in Section 10.84.010, are to allow and encourage homeowners to remodel and improve their smaller homes instead of tearing them down and building new larger homes. The remodeled home must be substantially smaller than the maximum allowed size. The new regulations streamline the previous Minor Exception process and still provide discretionary review with specific findings and criteria that must be met.

Since its effective date in March of 2008, Staff has reviewed and approved approximately 30 Minor Exception applications. Staff works with the applicant prior to the application process and carefully reviews preliminary plans to ensure all projects are eligible for a Minor Exception and meet the criteria set forth by the Minor Exception requirements of the Manhattan Beach Municipal Code (MBMC) Section 10.84.120. Since the new rules took effect no appeals have been filed for any Minor Exception application, except for the subject appeal. Prior to March of 2008, the Minor Exception provision limited the maximum size of homes to 2000 square feet. The community and City Council felt that this limitation was too restrictive and the provisions now allow additions over 2000 square feet as long as the home is substantially smaller than the maximum size allowed.

Staff feels that the intent of the revised Minor Exception Section, which is to encourage the retention of smaller, older homes, is being met since many of the homes that would have otherwise been torn down were remodeled and enlarged, retaining some of the original architecture and character of the Manhattan Beach neighborhoods as well as retaining smaller homes with larger green/open spaces.

## **DISCUSSION**

### ***Subject Minor Exception***

Similar to all other Minor Exception applications received, Staff diligently worked with the applicant/homeowner for the project at 612-11<sup>th</sup> Street. Several versions of preliminary plans were reviewed as well as discussed in Staff meetings to ensure that the proposal met all the requirements that qualify a project for a Minor Exception.

The subject dwelling was originally built in 1941 with subsequent additions in 1943, 1968, and 1974. In 1947, two lots were created out of the original lot, one to the north in front of the subject site (616-11<sup>th</sup> Street) and the subject lot to the rear, configured in the shape of a flag to the south (612-11<sup>th</sup> Street) with vehicular access at 11<sup>th</sup> Street (Exhibit B). The dwelling on the front lot at 616-11<sup>th</sup> Street was originally built in 1951. Both lots are located in the RS (Single Family Residential) zone in Area District I.

On March 3, 2009, the home owner submitted a Minor Exception application (Exhibit C) to enlarge and remodel the existing single-family dwelling at 612-11<sup>th</sup> Street. The applicant proposes to add a 1,190 square-foot first and second story addition to the existing 1,595 square-foot two-story residence for a total of 2,786 square feet. The subject lot is unusual in shape since it is a flag lot and it is wide, shallow, and has a small buildable envelope. It is substandard in size with an area of 5,801 square feet (7,500 square feet minimum required). The lot has a width of 70 feet (50 feet minimum required) but has a shallow buildable depth. With the Minor Exception a maximum of 3,008 square feet can be constructed, which is 75% of the maximum allowed Buildable Floor Area of 4,011 square feet. Existing non-conformities include a single-car garage, two side yard setbacks (6'-8" and 4'-7" instead of the 7' minimum), and rear yard setback (varies between 2' and 8' instead of 12' minimum).

Pursuant to Section 10.84.120, the types of Minor Exception the applicant seeks are: 1) construction of a first, second or third story residential addition that would project into required setbacks or required building separation yard, matching the existing legal non-conforming setback(s); and 2) alterations, remodeling and additions (enlargements) to existing smaller legal non-conforming structures.

On May 14, 2009 the Director of Community Development approved the subject Minor Exception application (Exhibit D).

### ***Subject Appeal***

Staff notified the appellant, at his request, of the pending development at the subject property. Notice to neighbors is not required for the scope of this project as outlined in

MBMC 10.84.120 (A) since the project size is not over 3,000 square feet. The appellant met with Staff to review the proposed plans and expressed concerns for the project. Staff also met with the appellant's attorney to discuss the project. Subsequently, other neighbors met with Staff and discussed the plans but were not substantially concerned.

On May 27, 2009 John Tootle, resident at 609-9<sup>th</sup> Street, to the rear of the subject property, submitted the subject appeal (Exhibit E) pursuant to MBMC Section 10.100.

#### ***Minor Exception Findings***

Section 10.84.120 of the MBMC provides details of the Minor Exception process, requirements, criteria, and findings. Staff believes that the subject project meets both the intent and the letter of the code. The required findings, in Section 10.84.120(F)(2), are met as described below:

- a) *The proposed project will be compatible with properties in the surrounding area, including, but not limited to, scale, mass, orientation, size and location of setbacks, and height.*

The subject project will be compatible with the properties in the surrounding area since it will continue to be used as a single-family residence and it will not be larger or taller than what is allowed by current regulations. The home is currently oriented with the front (north) yard being used as a typical rear yard, and the rear (south) yard used as a typical side yard. The addition to the second story will match the existing setbacks. The majority of the surrounding homes, including that of the appellant, were built in the 1940s and 1950s. All these homes are similar in size, style, scale, mass, and orientation. Since these homes were built within the same period of time, setbacks to most of these structures appear to be legal non-conforming and thus compatible with the subject property.

- b) *There will be no significant detrimental impact to surrounding neighbors, including, but not limited to, impacts to privacy, pedestrian and vehicular accessibility, light, and air.*

The proposed project will not have significant impacts to the neighbors since the new construction will match that of the first story. New construction at the rear yard varies between 5 feet 10 inches and 10 feet 4 inches (12 feet required). New construction at the side yards will be 6 feet 8 inches at the east side yard and 4 feet 8 inches at the west side yard (7 feet required for each side yard). The non-conforming one-car garage will not detrimentally impact neighbors since the property has a driveway measuring over 120 feet in length where cars can be parked off the street. Significant vegetation exists near the property lines which buffer potential privacy issues.

Potential impacts to the privacy of the appellant are mitigated by several factors. The rear of the proposed home, at the request of Staff, will only have three small frosted-glass windows located at two bathrooms and the laundry room. The appellant's rear property line is lined by an eight-foot high block wall. There are several tall trees adjacent to the wall on the appellant's side of the property line. Also, the appellant's garage is located

near the aforementioned wall at the northwest corner of his property, which extends east approximately 19 feet. These factors create reasonable buffers to possible impacts the proposed residence may have.

Furthermore, the rear yard at the subject property is not currently used and will continue to not be used as a typical rear yard where people gather and spend time since its use is more typical of a side yard, further reducing possible detrimental effects for the appellant's enjoyment of his rear yard.

The proposed project will not adversely impact the appellant's accessibility to light and air. The subject property is located to the north of the appellant's property and the sun is generally to the south, therefore the proposed project will not deny the appellant access to light. There is no unusual interruption of air flow or air circulation that is not typical for the area in question, as the addition will not exceed the allowed maximum height for the area.

- c) There are practical difficulties which warrant deviation from Code standards, including, but not limited to, lot configuration, size, shape, or topography, and/or relationship of existing building(s) to the lot.*

The subject site presents substantial practical difficulties which warrant deviation from Code standards since bringing the rear and side yard setbacks and parking into conformance would not be feasible due to the existing conditions and development on the site. The lot is a legally created substandard sized lot (5,801 square feet existing, 7,500 square feet required minimum) with an atypical lot configuration as a flag lot. The area of the lot minus the flag portion is 4,131 square feet. The lot is not shaped like a rectangle, which further limits the ability to develop the lot due to the increased side setbacks, as the lot is over the 50-foot minimum width at 70 feet in width but under the minimum 7,500 square-foot lot area. The lot also has a shallow buildable depth. The existing relationship of the lot lines to the existing structure creates difficulties in bringing the structure into conformance.

- d) That existing non-conformities will be brought closer to or in conformance with Zoning Code and Building Safety requirements where deemed to be reasonable and feasible.*

It is not viable or feasible to bring existing non-conformities into zoning compliance due to the size, shape, and orientation of the house on the lot. Building and Safety Department will require certain upgrades to conform to current life-safety requirements for the existing home. New construction is required to abide by Zoning Code and Building and Safety requirements (including height of structure) with the exception of the non-conformities allowed to remain through the Minor Exception.

- e) That the proposed project is consistent with the City's General Plan, the purposes of this title and the zoning district where the project is located, the Local Coastal Program, if applicable, and with any other current applicable policy guidelines.*

The proposed project is consistent with the City's General Plan and the zoning district in which the property is located since it will be used as a single family residence, as allowed.

The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. Specifically, the project is consistent with the following Goals and Policies of the General Plan:

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

*Goal LU-2: Encourage the provision and retention of private landscaped open space.*

*Policy LU-2.2: Preserve and encourage private open space on residential lots citywide.*

*Policy LU-3.1: Continue to encourage quality design in all new construction.*

The project also meets the criteria set forth by MBMC 10.84.120 as well as the intent of the Minor Exception Code. The proposed project plans, project description, and site conditions clearly show that the findings are met for the Minor Exception.

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***Applicable Additional Criteria***

Per MBMC 10.84.120G, the subject project meets the applicable additional criteria as discussed below:

*1) New construction must conform to all current Code requirements except as permitted by this Chapter.*

All new construction will conform to current regulations except as allowed by MBMC 10.84.120.

*2) Structural alterations or modifications, as regulated by Chapter 10.68, to existing non-conforming portions of structures shall only be allowed as follows:*

- a. To comply with Building Safety access, egress, fire protection and other safety requirements (i.e., stairs, windows) as determined to be significant by the Building Official.*
- b. For architectural compatibility (i.e., roof pitch and design, eave design, architectural features design) as determined to be necessary by the Director of Community Development.*
- c. Minor alterations to integrate a new 2nd or 3rd floor into an existing 1st and/or 2nd floor, as determined to be necessary by the Director of Community Development.*

- d. Architectural upgrades, including those associated with construction of new square footage, as determined to be necessary by the Director of Community Development.*
- e. Other minor alterations or modifications as determined to be necessary by the Director of Community Development.*

The proposed project complies with items a-e since all new construction will comply with safety requirements as determined by the Building Official, the entire structure will follow a uniform architectural style, the second story addition will be integrated into the existing first story where allowed, and the existing building's architecture will be updated to match the new construction.

- 3) A minimum of ten percent (10%) of the existing structure, based on project valuation as defined in Section 10.68.030, shall be maintained.*

The proposed project maintains more than 10% of the existing structure valuation.

- 4) Parking spaces may remain non-conforming with respect to the number of spaces, except as provided below, as well as the size, consistent with the provisions in Section 10.64.090 Exceptions, which allows a one foot (1') reduction in dimensions. Other minor parking non-conformities, including but not limited to, garage door width, turning radius, driveway width, and driveway visibility, may remain as determined by the Director of Community Development to be impractical to bring into conformance with Code requirements.*
- 5) All existing parking, required in accordance with Chapter 10.64, or by the provisions of this Section, shall be retained and shall not be reduced in number or size.*
- 6) Projects two thousand (2,000) square feet in area and up to two thousand eight hundred (2,800) square feet per dwelling unit shall provide a minimum two (2) car off-street parking with one (1) fully enclosed garage and one (1) unenclosed parking space per dwelling unit, which may be located in a required yard subject to Director of Community Development approval.*

The proposed project will not eliminate the existing one-car garage. Garage dimensions will exceed the minimum requirements. The project does not exceed 2,800 square feet and maintains one fully enclosed garage and one unenclosed parking space, as well as additional parking on the 120-foot long driveway.

- 7) All development on the site which is existing legal non-conforming development for zoning regulations may remain, however non-conformities shall be brought closer to or in conformance with current zoning requirements to the extent that it is reasonable and feasible.*

Existing non-conformities will be brought closer to or in conformance where feasible as previously discussed. New construction is required to abide by Zoning Code and

Building and Safety requirements with the exception of the non-conformities allowed to remain through the Minor Exception. The subject site presents substantial practical difficulties which warrant deviation from Code standards since bringing the rear, side yard setbacks, and parking into conformance would not be feasible due to the existing conditions of the site.

*8) The existing legal non-conforming portions of the structure that remain shall provide a minimum of fifty percent (50%) of the required minimum setbacks, unless there is an unusual lot configuration and relationship of the existing structure to the lot lines for minor portions of the building, then less than fifty percent (50%) of the minimum required setback may be retained.*

The subject property is a legally created substandard sized lot with an atypical lot configuration. The existing second story will keep the existing distance to the rear property line (varies between 2 feet and 4 feet 6 inches) since the lot configuration is unusual and the relationship from the rear property line to the structure varies due to unparallel front and rear property lines. All new construction will maintain at least 50% of the required setbacks except a small portion at the southeast corner of the structure where the rear setback is 5 feet 10 inches instead of 6 feet. This small portion is non-conforming due to the angled rear property line that is not parallel to the front property line.

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*9) All development on the site which is existing legal non-conforming for Building Safety regulations shall be brought into conformance with current regulations to the extent feasible, as determined by the Building Official.*

Existing non-conformities will be brought closer to or in conformance where feasible. The Building and Safety Department reviews the plans and requires modifications through the plan-check process.

*10) After completion of the project(s) that is subject to the Minor Exception approval(s), no further addition(s) shall be permitted unless the entire structure is brought into conformance with the current Code requirements. This shall not preclude the submittal of multiple Minor Exceptions that meet the Code established criteria.*

Additional square-footage will not be allowed to be built on the subject site in the future unless the entire structure is brought into conformance with current regulations.

## **CONCLUSION**

The proposed project meets both the intent and the requirements of the Minor Exception set forth by MBMC 10.84.120. As intended by City Council, the subject Minor Exception application allows the homeowners to maintain a smaller, legal non-conforming home as well as expand and update it.



Staff recommends that the Planning Commission uphold the Community Development Director's decision to approve the Minor Exception for 612-11<sup>th</sup> Street, thereby **ADOPTING** the attached Draft Resolution and **DENYING** the subject appeal.

Attachments:

- Exhibit A – Resolution PC 09-XX
- Exhibit B – Aerial Image
- Exhibit C – Minor Exception Application
- Exhibit D – Minor Exception Approval Letter
- Exhibit E – Appeal Application
- Exhibit F – Plans (n/a)

n/a – not available electronically

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RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF MANHATTAN BEACH DENYING AN  
APPEAL OF THE APPROVAL OF A MINOR  
EXCEPTION FOR 612-11<sup>TH</sup> STREET

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH,  
CALIFORNIA, 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 hearing pursuant to applicable law on June 24, 2009 to consider an appeal of an administrative decision regarding the approval of a Minor Exception for 612-11<sup>th</sup> Street in the City of Manhattan Beach.
- B. The Minor Exception was submitted by Jill Sohegian (property owner) on March 3, 2009. The Director's decision to approve the Minor Exception was on May 14, 2009.
- C. The project is a 1,190 square-foot, second story addition to an existing 1,595 square feet, for a total of 2,786 square feet (4,011 square-feet maximum allowed). The subject lot is unusual in shape since it is a flag lot and it is wide, shallow, and has a small buildable envelope. It is substandard in size with an area of 5,801 square feet (7,500 square feet minimum required). The lot has a width of 70 feet (50 feet minimum required) but has a shallow buildable depth.
- D. The subject site is located in Area District I and is zoned (RS) single-family residential.
- E. The appellant for the subject appeal of the administrative decision is John Tootle, 609-9<sup>th</sup> Street, Manhattan Beach.
- F. The appeal application was filed on May 27, 2009 pursuant to MBMC Section 10.100.
- G. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Sections 15301 and 15332 based on staff's determination that the project is a minor infill development and will not have a significant impact on the environment.
- H. The subject Minor Exception is approved based on the following findings as set forth in MBMC 10.84.120(F)(2):

- 1) *The proposed project will be compatible with properties in the surrounding area, including, but not limited to, scale, mass, orientation, size and location of setbacks, and height.*

The subject project will be compatible with the properties in the surrounding area since it will continue to be used as a single-family residence and it will not be larger or taller than what is allowed by current regulations. The home is currently oriented with the front (north) yard being used as a typical rear yard, and the rear (south) yard used as a typical side yard. The addition to the second story will match the existing setbacks. The majority of the surrounding homes, including that of the appellant, were built in the 1940s and 1950s. All these homes are similar in size, style, scale, mass, and orientation. Since these homes were built within the same period of time, setbacks to most of these structures appear to be legal non-conforming and thus compatible with the subject property.

- 2) *There will be no significant detrimental impact to surrounding neighbors, including, but not limited to, impacts to privacy, pedestrian and vehicular accessibility, light, and air.*

The proposed project will not have significant impacts to the neighbors since the new construction will match that of the first story. New construction at the rear yard varies



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between 5 feet 10 inches and 10 feet 4 inches (12 feet required). New construction at the side yards will be 6 feet 8 inches at the east side yard and 4 feet 8 inches at the west side yard (7 feet required for each side yard). The non-conforming one-car garage will not detrimentally impact neighbors since the property has a driveway measuring over 120 feet in length where cars can be parked off the street. Significant vegetation exists near the property lines which buffer potential privacy issues.

Potential impacts to the privacy of the appellant are mitigated by several factors. The rear of the proposed home, at the request of Staff, will only have three small frosted-glass windows located at two bathrooms and the laundry room. The appellant's rear property line is lined by an eight-foot high block wall. There are several tall trees adjacent to the wall on the appellant's side of the property line. Also, the appellant's garage is located near the aforementioned wall at the northwest corner of his property, which extends east approximately 19 feet. These factors create reasonable buffers to possible impacts the proposed residence may have.

Furthermore, the rear yard at the subject property is not currently used and will continue to not be used as a typical rear yard where people gather and spend time since its use is more typical of a side yard, further reducing possible detrimental effects for the appellant's enjoyment of his rear yard.

The proposed project will not adversely impact the appellant's accessibility to light and air. The subject property is located to the north of the appellant's property and the sun is generally to the south, therefore the proposed project will not deny the appellant access to light. There is no unusual interruption of air flow or air circulation that is not typical for the area in question, as the addition will not exceed the allowed maximum height for the area.

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- 3) *There are practical difficulties which warrant deviation from Code standards, including, but not limited to, lot configuration, size, shape, or topography, and/or relationship of existing building(s) to the lot.*

The subject site presents substantial practical difficulties which warrant deviation from Code standards since bringing the rear and side yard setbacks and parking into conformance would not be feasible due to the existing conditions and development on the site. The lot is a legally created substandard sized lot (5,801 square feet existing, 7,500 square feet required minimum) with an atypical lot configuration as a flag lot. The area of the lot minus the flag portion is 4,131 square feet. The lot is not shaped like a rectangle, which further limits the ability to develop the lot due to the increased side setbacks, as the lot is over the 50-foot minimum width at 70 feet in width but under the minimum 7,500 square-foot lot area. The lot also has a shallow buildable depth. The existing relationship of the lot lines to the existing structure creates difficulties in bringing the structure into conformance.

- 4) *That existing non-conformities will be brought closer to or in conformance with Zoning Code and Building Safety requirements where deemed to be reasonable and feasible.*

It is not viable or feasible to bring existing non-conformities into zoning compliance due to the size, shape, and orientation of the house on the lot. Building and Safety Department will require certain upgrades to conform to current life-safety requirements for the existing home. New construction is required to abide by Zoning Code and Building and Safety requirements (including height of structure) with the exception of the non-conformities allowed to remain through the Minor Exception.

- 5) *That the proposed project is consistent with the City's General Plan, the purposes of this title and the zoning district where the project is located, the Local Coastal Program, if applicable, and with any other current applicable policy guidelines.*

The proposed project is consistent with the City's General Plan and the zoning district in which the property is located since it will be used as a single family residence, as allowed.

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The General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. Specifically, the project is consistent with the following Goals and Policies of the General Plan:

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

*Goal LU-2: Encourage the provision and retention of private landscaped open space.*

*Policy LU-2.2: Preserve and encourage private open space on residential lots citywide.*

*Policy LU-3.1: Continue to encourage quality design in all new construction.*

The project also meets the criteria set forth by MBMC 10.84.120 as well as the intent of the Minor Exception Code. The proposed project plans, project description, and site conditions clearly show that the findings are met for the Minor Exception.

I. The subject Minor Exception is approved based on the following applicable additional criteria as set forth in MBMC 10.84.120(G):

1) *New construction must conform to all current Code requirements except as permitted by this Chapter.*

All new construction will conform to current regulations except as allowed by MBMC 10.84.120.

- 2) *Structural alterations or modifications, as regulated by Chapter 10.68, to existing non-conforming portions of structures shall only be allowed as follows:*
- a. To comply with Building Safety access, egress, fire protection and other safety requirements (i.e., stairs, windows) as determined to be significant by the Building Official.*
  - b. For architectural compatibility (i.e., roof pitch and design, eave design, architectural features design) as determined to be necessary by the Director of Community Development.*
  - c. Minor alterations to integrate a new 2nd or 3rd floor into an existing 1st and/or 2nd floor, as determined to be necessary by the Director of Community Development.*
  - d. Architectural upgrades, including those associated with construction of new square footage, as determined to be necessary by the Director of Community Development.*
  - e. Other minor alterations or modifications as determined to be necessary by the Director of Community Development.*

The proposed project complies with items a-e since all new construction will comply with safety requirements as determined by the Building Official, the entire structure will follow a uniform architectural style, the second story addition will be integrated into the existing first story where allowed, and the existing building's architecture will be updated to match the new construction.

3) *A minimum of ten percent (10%) of the existing structure, based on project valuation as defined in Section 10.68.030, shall be maintained.*

The proposed project maintains more than 10% of the existing structure valuation.

4) *Parking spaces may remain non-conforming with respect to the number of spaces, except as provided below, as well as the size, consistent with the provisions in Section 10.64.090 Exceptions, which allows a one foot (1') reduction in dimensions. Other minor parking non-conformities, including but not limited to, garage door width, turning radius, driveway width, and driveway visibility, may*

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*remain as determined by the Director of Community Development to be impractical to bring into conformance with Code requirements.*

- 5) *All existing parking, required in accordance with Chapter 10.64, or by the provisions of this Section, shall be retained and shall not be reduced in number or size.*
- 6) *Projects two thousand (2,000) square feet in area and up to two thousand eight hundred (2,800) square feet per dwelling unit shall provide a minimum two (2) car off-street parking with one (1) fully enclosed garage and one (1) unenclosed parking space per dwelling unit, which may be located in a required yard subject to Director of Community Development approval.*

The proposed project will not eliminate the existing one-car garage. Garage dimensions will exceed the minimum requirements. The project does not exceed 2,800 square feet and maintains one fully enclosed garage and one unenclosed parking space, as well as additional parking on the 120-foot long driveway.

- 7) *All development on the site which is existing legal non-conforming development for zoning regulations may remain, however non-conformities shall be brought closer to or in conformance with current zoning requirements to the extent that it is reasonable and feasible.*

Existing non-conformities will be brought closer to or in conformance where feasible as previously discussed. New construction is required to abide by Zoning Code and Building and Safety requirements with the exception of the non-conformities allowed to remain through the Minor Exception. The subject site presents substantial practical difficulties which warrant deviation from Code standards since bringing the rear, side yard setbacks, and parking into conformance would not be feasible due to the existing conditions of the site.

- 8) *The existing legal non-conforming portions of the structure that remain shall provide a minimum of fifty percent (50%) of the required minimum setbacks, unless there is an unusual lot configuration and relationship of the existing structure to the lot lines for minor portions of the building, then less than fifty percent (50%) of the minimum required setback may be retained.*

The subject property is a legally created substandard sized lot with an atypical lot configuration. The existing second story will keep the existing distance to the rear property line (varies between 2 feet and 4 feet 6 inches) since the lot configuration is unusual and the relationship from the rear property line to the structure varies due to unparallel front and rear property lines. All new construction will maintain at least 50% of the required setbacks except a small portion at the southeast corner of the structure where the rear setback is 5 feet 10 inches instead of 6 feet. This small portion is non-conforming due to the angled rear property line that is not parallel to the front property line.

- 9) *All development on the site which is existing legal non-conforming for Building Safety regulations shall be brought into conformance with current regulations to the extent feasible, as determined by the Building Official.*

Existing non-conformities will be brought closer to or in conformance where feasible. The Building and Safety Department reviews the plans and requires modifications through the plan-check process.

- 10) *After completion of the project(s) that is subject to the Minor Exception approval(s), no further addition(s) shall be permitted unless the entire structure is brought into conformance with the current Code requirements. This shall not preclude the submittal of multiple Minor Exceptions that meet the Code established criteria.*

Additional square-footage will not be allowed to be built on the subject site in the future unless the entire structure is brought into conformance with current regulations.

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**SECTION 2.** Based on the foregoing findings the Planning Commission of the City of Manhattan Beach hereby DENIES the subject appeal of an administrative decision.

**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 such decision or to determine the reasonableness, legality or validity of any condition attached to this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to 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 June 24, 2009 and that said Resolution was adopted by the following vote:

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**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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**RICHARD THOMPSON,**  
Secretary to the Planning Commission

---

**Sarah Boeschen**  
Recording Secretary



11TH ST

616  
11th  
Street

Subject  
Applicant

612  
11th  
Street

Subject  
Appellant

609  
9th  
Street

9TH ST



0 15 30 60 Feet

Exhibit B



# MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT

*Office Use Only*  
Date Submitted: 3/3/09  
Received By: UB  
F&G Check Submitted: N/A

612 11<sup>th</sup> Street, MB  
Project Address

Portion of lot 9, Block 19, Tract No 3393  
Legal Description

General Plan Designation \_\_\_\_\_ Zoning Designation \_\_\_\_\_ Area District \_\_\_\_\_

For projects requiring a Coastal Development Permit, select one of the following determinations<sup>1</sup>:

- |   |  |
|---|--|
| <input type="checkbox"/> Project located in Appeal Jurisdiction           | <input type="checkbox"/> Project <u>not</u> located in Appeal Jurisdiction |
| <input type="checkbox"/> Major Development (Public Hearing required)      | <input type="checkbox"/> Public Hearing Required (due to UP, Var., etc.)   |
| <input type="checkbox"/> Minor Development (Public Hearing, if requested) | <input type="checkbox"/> No Public Hearing Required                        |

**Submitted Application (check all that apply)**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Appeal to PC/PWG/BBA/CC _____      | <input type="checkbox"/> Use Permit (Residential) _____            |
| <input type="checkbox"/> Coastal Development Permit _____              | <input type="checkbox"/> Use Permit (Commercial) _____             |
| <input type="checkbox"/> Environmental Assessment _____                | <input type="checkbox"/> Use Permit Amendment _____                |
| <input checked="" type="checkbox"/> Minor Exception <u>54750</u> _____ | <input type="checkbox"/> Variance _____                            |
| <input type="checkbox"/> Subdivision (Map Deposit) 4300 _____          | <input type="checkbox"/> Public Notification Fee / \$65 _____      |
| <input type="checkbox"/> Subdivision (Tentative Map) _____             | <input type="checkbox"/> Park/Rec Quimby Fee 4425 _____            |
| <input type="checkbox"/> Subdivision (Final) _____                     | <input type="checkbox"/> Lot Merger/Adjustment/\$15 rec. fee _____ |
| <input type="checkbox"/> Subdivision (Lot Line Adjustment) _____       | <input type="checkbox"/> Other _____                               |

**Fee Summary: Account No. 4225 (calculate fees on reverse)**

Pre-Application Conference: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_ Fee: \_\_\_\_\_

Amount Due: \$ \_\_\_\_\_ (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: \_\_\_\_\_ Date Paid: \_\_\_\_\_ Cashier: \_\_\_\_\_

**Applicant(s)/Appellant(s) Information**

Jill Sohegian  
Name

2008 Loma Drive, Hermosa Beach, CA 90254  
Mailing Address

owners  
Applicant(s)/Appellant(s) Relationship to Property

Jill Sohegian  
Contact Person (include relation to applicant/appellant) Phone number / e-mail \_\_\_\_\_

Address \_\_\_\_\_

Applicant(s)/Appellant(s) Signature \_\_\_\_\_ Phone number \_\_\_\_\_

**Complete Project Description- including any demolition (attach additional pages if necessary)**

See attached description & filings

**EXHIBIT**  
C

<sup>1</sup> An Application for a Coastal Development Permit shall be made prior to, or concurrent with, an application for any other permit or approvals required for the project by the City of Manhattan Beach Municipal Code. (Continued on reverse)

PAID  
C/001-0228157  
03-03-2009



## OWNER'S AFFIDAVIT

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

I/We Jill Sohegian being duly sworn, depose and say that I am/we are the owner(s) of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)

Print Name

Mailing Address

Telephone

Subscribed and sworn to before me, this 25<sup>th</sup> day of February, 2009

in and for the County of Los Angeles

State of California

Notary Public



### Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply – refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

**Submitted Application (circle applicable fees, apply total to Fee Summary on application)**

**Coastal Development Permit**

Filing Fee (public hearing – no other discretionary approval required): \$ 4,275   
 Filing Fee (public hearing – other discretionary approvals required): \$ 815   
 Filing Fee (no public hearing required): \$ 560

**Use Permit**

Use Permit Filing Fee: \$ 5,200   
 Master Use Permit Filing Fee: \$ 8,145   
 Amendment Filing Fee: \$ 4,730   
 Master Use Permit Conversion: \$ 4,080

**Variance**

Filing Fee: \$ 4,925

**Minor Exception**

Filing Fee (with notice): ~~\$ 1,000~~   
 Filing Fee (without notice): 547.50

**Subdivision**

Certificate of Compliance \$1,505  
 Final Parcel Map / Final Tract Map 585  
 Lot Line Adjustment or Merger of Parcels 1,010  
 Mapping Deposit (paid with Final Map application) 473  
 Quimby (Parks & Recreation) fee (per unit/lot) 1,817  
 Tentative Parcel Map (less than 4 lots / units) No Public Hearing 805  
 Tentative Parcel Map (less than 4 lots / units) Public Hearing 3,180\*\*   
 Tentative Tract Map (more than 4 lots / units) 3,770\*\*

**Environmental Review (contact Planning Division for applicable fee)**

Environmental Assessment: \$ 215  
 Environmental Assessment (if Initial Study is prepared): \$ 2,210  
 Fish and Game County Clerk Fee<sup>2</sup>: \$ 50

**Public Notification Fee** applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable. \$ 65

<sup>2</sup> Make \$50 check payable to LA County Clerk, (DO NOT PUT DATE ON CHECK)

**MINOR EXCEPTION FOR A SECOND FLOOR ADDITION AT 612 11<sup>TH</sup> STREET, MANHATTAN BEACH, CA**

**10.84.120 F2**

a. The site consists of a flag lot (5540 sq.ft.) with an existing two story residence of 1595 sq.ft. and an attached (257 sq. ft.) garage. This is an uncommon lot configuration in the area. The structure is comparable to properties in the area, actually smaller than most two story homes. Orientation is at the back of the lot with a large front yard set back of 30 feet. The home is barely visible from the street. It's not comparable as to the required yards. They are nonconforming.

b. Set backs are indicated on a Civil Survey by Denn Engineers. This survey indicates a 6.7 east side yard, a 4.6 ft. west side yard a varying rear yard from 5.9 to 2.0 and a 30 ft. front yard in the flag portion.

We feel this addition will not significantly impact neighbors because the structure is sited to the very rear of the property adjacent to the back of a neighbor's garage to the rear and adjacent to back yards on the sides. Any windows toward the rear of the lot can be frosted glass.

c. A 213 sq.ft. first story addition, a 977 sq. ft. second story addition with a 65 sq. ft. deck are proposed for construction. A relative small structure for the area of 2,786 square feet will be the result. The flag portion (buildable area) of the lot is only 3,900. This project will be nonconforming due to the yard deficiencies.

d. The existing non-conformities will be brought closer to or in conformance with City requirement where deemed to be reasonable and feasible.

e. The proposed project is consistent with current applicable policy guidelines for residential development in the RS, Area District I.

The benefits of this minor exception to the owner are that the existing structure will not be demolished to allow a larger development. The construction cost is much less and this modest home has less impact on a restricted site maintaining a large front yard open space.



# City of Manhattan Beach

## Community Development

---

Phone: (310) 802-5500

FAX: (310) 802-5501

TDD: (310) 546-3501

### APPROVAL OF MINOR EXCEPTION

The Department of Community Development has approved a Minor Exception application pursuant to Section 10.84.120 of the Manhattan Beach Municipal Code to allow an addition to a single-family residence located at 612-11<sup>th</sup> Street. The owner (Jill Sohegian) proposes to add 1,190 square-feet to the existing 1,595 square-foot residence. Existing non-conformities include a single-car garage, two side yard setbacks (6'-8" and 4'-7" instead of the 7' minimum), and rear yard setback (varies between 2' and 8' instead of 12' minimum).

#### Minor Exception Type(s):

Construction of a first, second or third story residential addition that would project into required setbacks or required building separation yard, matching the existing legal non-conforming setback(s).

Alterations, remodeling and additions (enlargements) to existing smaller legal non-conforming structures.

#### Approval Findings:

- a) The proposed project will be compatible with properties in the surrounding area since the building size is well below the maximum size permitted.
- b) The project will not be detrimental to surrounding neighbors since window openings at the rear yard are limited to three small frosted-glass windows at bathrooms and laundry room.
- c) Practical difficulties warrant deviation from code standards including moving existing building walls to comply with minimum setbacks and add a second car garage.
- d) Existing non-conformities will be brought closer to or in conformance with Zoning Code and Building Safety requirements where deemed to be reasonable and feasible.
- e) The project is consistent with the General Plan, the intent of the zoning code, minor exception criteria, and other applicable policies of the City.

#### Conditions of Approval:

##### *Special Conditions*

1. The project shall comply with all requirements of the RS zoning district except for the existing legal non-conformities stated above.
2. The project shall be in substantial conformance with the plans submitted to, and approved by, the Community Development Department for consideration of the minor exception request. Variation from these plans may require that existing yard nonconformities be brought into conformity with applicable zoning standards.

*Applicable Criteria*

3. Structural alterations or modifications, as regulated by Chapter 10.68, to existing non-conforming portions of structures shall only be allowed as follows:
  - a. To comply with Building Safety access, egress, fire protection and other safety requirements (i.e. stairs, windows) as determined to be significant by the Building Official.
  - b. For architectural compatibility (i.e. roof pitch and design, eave design, architectural features design) as determined to be necessary by the Director of Community Development.
  - c. Minor alterations to integrate a new 1<sup>st</sup> or 2nd floor into an existing 1st and/or 2nd floor, as determined to be necessary by the Director of Community Development.
  - d. Architectural upgrades, including those associated with construction of new square footage, as determined to be necessary by the Director of Community Development.
  - e. Other minor alterations or modifications as determined to be necessary by the Director of Community Development.
  - f. A minimum of 10% of the existing structure, based on project valuation as defined in Section 10.68.030, shall be maintained.
4. All existing parking, required in accordance with Chapter 10.64, or by the provisions of this Section, shall be retained and shall not be reduced in number or size.
5. All development on the site which is existing legal non-conforming development for zoning regulations may remain, however non-conformities shall be brought closer to or in conformance with current Zoning requirements to the extent that it is reasonable and feasible.
6. The existing legal non-conforming portions of the structure that remain shall provide a minimum of 50% of the required minimum setbacks, unless there is an unusual lot configuration and relationship of the existing structure to the lot lines for minor portions of the building, then less than 50% of the minimum required setback may be retained.
7. All development on the site which is existing legal non-conforming for Building Safety regulations shall be brought into conformance with current regulations to the extent feasible, as determined by the Building Official.
8. After completion of the project(s) that is subject to the Minor Exception approval(s), no further addition(s) shall be permitted unless the entire structure is brought into conformance with the current Code requirements. This shall not preclude the submittal of multiple Minor Exceptions that meet the Code established criteria.

  
\_\_\_\_\_  
RICHARD THOMPSON  
Director of Community Development

Date: May 14, 2009



# MASTER APPLICATION FORM

CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT

*Office Use Only*  
Date Submitted:  
Received By: *(mail/FEDEX)*  
F&G Check Submitted: \_\_\_\_\_

612 11th Street, Manhattan Beach, CA

Project Address

Legal Description

General Plan Designation

Zoning Designation

Area District

For projects requiring a Coastal Development Permit, select one of the following determinations<sup>1</sup>:

Project located in Appeal Jurisdiction

Project not located in Appeal Jurisdiction

Major Development (Public Hearing required)

Public Hearing Required (due to UP, Var., etc.)

Minor Development (Public Hearing, if requested)

No Public Hearing Required

### Submitted Application (check all that apply)

- Appeal to PC/PWC/BBA/CC PC  Use Permit (Residential)
- Coastal Development Permit \_\_\_\_\_  Use Permit (Commercial)
- Environmental Assessment \_\_\_\_\_  Use Permit Amendment
- Minor Exception \_\_\_\_\_  Variance
- Subdivision (Map Deposit)4300 \_\_\_\_\_  Public Notification Fee / \$65
- Subdivision (Tentative Map) \_\_\_\_\_  Park/Rec Quimby Fee 4425
- Subdivision (Final) \_\_\_\_\_  Lot Merger/Adjustment/\$15 rec. fee
- Subdivision (Lot Line Adjustment) \_\_\_\_\_  Other \_\_\_\_\_

### Fee Summary: Account No. 4225 (calculate fees on reverse)

Pre-Application Conference: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_ Fee: \_\_\_\_\_

Amount Due: \$ \_\_\_\_\_ (less Pre-Application Fee if submitted within past 3 months)

Receipt Number: \_\_\_\_\_ Date Paid: \_\_\_\_\_ Cashier: \_\_\_\_\_

### Applicant(s)/Appellant(s) Information

JOHN TOOTLE

Name

609 9th Street, Manhattan Beach, CA 90266

Mailing Address

Owner of adjacent property

Applicant(s)/Appellant(s) Relationship to Property

Richard R. Terzian, attorney for appellant

(213) 236-2845

Contact Person (include relation to applicant/appellant)

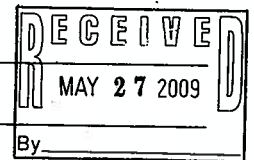
Phone number / e-mail

444 So. Flower Street, Los Angeles, CA 90071, Suite 2400

Address

*Richard Terzian*  
Applicant(s)/Appellant(s) Signature

*(213) 236-2845*  
Phone number



Complete Project Description- including any demolition (attach additional pages if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT**  
**E**

<sup>1</sup> An Application for a Coastal Development Permit shall be made prior to, or concurrent with, an application for any other permit or approvals required for the project by the City of Manhattan Beach Municipal Code. (Continued on reverse)

C:\001-0124366  
05-27-20  
F14

# OWNER'S AFFIDAVIT

STATE OF CALIFORNIA  
 COUNTY OF LOS ANGELES

I/We \_\_\_\_\_ being duly sworn,  
 depose and say that I am/we are the owner(s) of the property involved in this application and  
 that the foregoing statements and answers herein contained and the information herewith  
 submitted are in all respects true and correct to the best of my/our knowledge and belief(s).

\_\_\_\_\_  
*Signature of Property Owner(s) – (Not Owner in Escrow or Lessee)*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Mailing Address*

\_\_\_\_\_  
*Telephone*

Subscribed and sworn to before me,  
 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

in and for the County of \_\_\_\_\_

State of \_\_\_\_\_

*Notary Public*

## Fee Schedule Summary

Below are the fees typically associated with the corresponding applications. Additional fees not shown on this sheet may apply – refer to current City Fee Resolution (contact the Planning Department for assistance.) Fees are subject to annual adjustment.

**Submitted Application (circle applicable fees, apply total to Fee Summary on application)**

<i>Coastal Development Permit</i>	
Filing Fee (public hearing – no other discretionary approval required):	\$ 4,275
Filing Fee (public hearing – other discretionary approvals required):	\$ 815
Filing Fee (no public hearing required):	\$ 560
<i>Use Permit</i>	
Use Permit Filing Fee:	\$ 5,200
Master Use Permit Filing Fee:	\$ 8,145
Amendment Filing Fee:	\$ 4,730
Master Use Permit Conversion	\$ 4,080
<i>Variance</i>	
Filing Fee:	\$ 4,925
<i>Minor Exception</i>	
Filing Fee (with notice):	\$ 1,095
Filing Fee (without notice):	547.50
<i>Subdivision</i>	
Certificate of Compliance	\$1,505
Final Parcel Map / Final Tract Map	585
Lot Line Adjustment or Merger of Parcels	1,010
Mapping Deposit (paid with Final Map application)	473
Quimby (Parks & Recreation) fee (per unit/lot)	1,817
Tentative Parcel Map (less than 4 lots / units) No Public Hearing	805
Tentative Parcel Map (less than 4 lots / units) Public Hearing	3,180**
Tentative Tract Map (more than 4 lots / units)	3,770**
<i>Environmental Review (contact Planning Division for applicable fee)</i>	
Environmental Assessment:	\$ 215
Environmental Assessment (if Initial Study is prepared):	\$ 2,210
Fish and Game County Clerk Fee <sup>2</sup> :	\$ 75
Public Notification Fee applies to all projects with public hearings and covers the city's costs of envelopes, postage and handling the mailing of public notices. Add this to filing fees above, as applicable.	\$ 65

<sup>2</sup> Make \$75 check payable to LA County Clerk, **(DO NOT PUT DATE ON CHECK)**

Richard R. Terzian  
Direct: 213.236.2845  
Our File No.: 05302-0001

May 26, 2009

*Sent Via Federal Express*

Richard Thompson  
Director of Community Development  
City Hall  
1400 Highland Avenue  
Manhattan Beach, CA 90266

Re: Minor Exception Application  
612 11<sup>th</sup> Street

Dear Mr. Thompson:

This firm represents John and Mary Tootle, residing at their home located at 609 9<sup>th</sup> Street, immediately behind the above-described property. Enclosed is a notice of appeal to the Planning Commission on behalf of the Tootles with respect to the Approval of Minor Exception on the above-described property dated May 14, 2009.

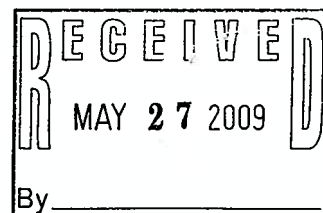
Accompanying this appeal is our firm check in the amount of \$465. If there is any defect in this notice or the filing fee is inadequate, please advise me at once. It is my intention to submit a supporting letter outlining the basis for this appeal by the end of this week.

Sincerely,

  
RICHARD R. TERZIAN

RRT/sa  
Enclosure  
cc: John Tootle

LA #4817-4522-7779 v1

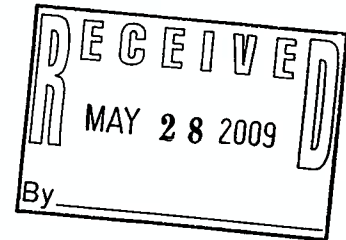


Richard R. Terzian  
Direct: 213.236.2845  
Our File No.: 05302-0001

May 28, 2009

Sent Via Federal Express

Richard Thompson  
Director of Community Development  
City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, CA 90266



Re: Minor Exception Application  
612 11<sup>th</sup> Street  
Applicant: Jill Sohegian  
Date of Hearing: June 24, 2009

Dear Mr. Thompson:

This firm represents John and Mary Tootle, owners and residents of a single-family home located at 609 9<sup>th</sup> Street. The Tootle home backs up to the 612 11<sup>th</sup> Street property which is the subject of the above application. The Tootles object to the proposed Minor Exception primarily because it is not "minor" in any respect, but rather contemplates a massive intrusion on their privacy and well-being. I submitted a notice of appeal on May 26, 2009 and this letter sets forth the reasons why the application should be rejected.

### BACKGROUND

The applicant's property is a flag lot of a kind that would likely not be permitted today. The entire impact of any construction on the property is oriented toward the rear and thus on the Tootles, rather than on the 11<sup>th</sup> Street frontage where only a driveway and gate is visible from the street.

The lot is only 5540 square feet with an existing residence of 1595 square feet. The house now has a ground floor and "half" of a second story that faces the rear of the Tootle's garage and which does not significantly impact them. The applicant proposes to add on to the other half of the first story another "half" second story of 977 square feet, another 213 square feet to the first story, and a



Richard Thompson  
City of Manhattan Beach  
May 28, 2009  
Page 2

65 square feet deck for a total of 1,255 square feet. The valuation of the addition alone is 129% of the present value of the property.

The house is currently non-conforming as to side yards and rear yards. The proposal will not change its non-conforming nature, but instead will enhance it by overwhelming the Tootles with a massive structure some 25 feet high looming over their house and seriously impacting their quality of life. The Tootles have a swimming pool, Jacuzzi, and barbecue in their backyard. Much of their leisure time is spent there and they derive much of their enjoyment of their home from its use. The proposed opaque glass on any rear facing windows will not reduce the impact on them any more than frosted windows in a 25 foot high prison wall would reduce its impact located less than six feet from the Tootle's rear fence.

---

THE REQUIREMENTS OF THE MUNICIPAL CODE  
HAVE NOT BEEN MET FOR THIS MINOR EXCEPTION

Under Municipal Code §10.84.120(A) the application is deemed a "Minor Exception" without notice, but must still be reviewed by the Director of Community Development, who must make five findings and also meet 13 other criteria under §10.84.120(F) and (G).

The required rear yard setback is 12 feet and the existing setback varies on the subject property from 8 feet to 2 feet. The Code permits exceptions of up to one-half the required setback, but the proposed application does not show a 6-foot setback throughout. With such a small rear yard, the massive wall-like construction proposed will have a significant impact on the Tootles.

The Director has made findings under the Code in the letter of May 14, 2009. However, the findings of the Director generally repeat the language of §10.84.120(F), rather than make an individualized analysis of the facts relating to the applicant's property and the surrounding properties such as my clients' house. It is well-established planning law that findings to justify a variation from development standards must bridge the gap between the specific facts presented with an application and the conclusions reached in applying them. Topanga etc. Assn. v. County of Los Angeles, 11 Cal.3d 506, 511-514 (1974). With that in mind, the following is each finding of the Director and a responsive

Richard Thompson  
City of Manhattan Beach  
May 28, 2009  
Page 3

analysis. The relevant portion of the Code and the Director's May 14 letter are attached for convenience of the Planning Commission:

Finding:

"a) The proposed project will be compatible with properties in the surrounding area since the building size is well below the maximum size permitted."

Response:

This finding is identical to §10.84.120(F)(2)(a) and contains no analysis or specifics as to impact. There is at least one property in the area with which the proposed project is clearly not compatible. That is the Tootle house which is significantly impacted. The total size of the project may be below the maximum size permitted, but the permitted height creates the equivalent of a 25 foot high wall looming over their backyard.

Finding:

"b) The project will not be detrimental to surrounding neighbors since window openings at the rear yard are limited to three small frosted-glass windows at bathrooms and laundry room."

This finding does not include all of the factors required by §10.84.120(F)(2)(b) which requires a finding that:

"There will be no significant detrimental impact to surrounding neighbors, including but not limited to, impacts to privacy, pedestrian and vehicle accessibility, light, and air." (Emphasis added.)

The Director's finding does not even mention impact on "light" and "air" to my clients and is thus defective for that basis alone. Moreover, there are no specifics as to how there will be no detriment to surrounding neighbors.

Richard Thompson  
City of Manhattan Beach  
May 28, 2009  
Page 4

As pointed out above, the project will clearly be detrimental to the peace and well-being of the Tootles. Frosting the windows will not solve the height and massively intrusive nature of the "wall." This is apparently to address the "privacy" factor. However, this only highlights the failure to address any of the other key factors. Moreover, the proposed addition will overlook the neighboring house to the east. There is no mention of the impact on the privacy for that resident.

Finding:

"c) Practical difficulties warrant deviations from code standards including moving existing building walls to comply with minimum setbacks and add a second car garage."

---

This finding does not address all the requirements of §10.84.120(F)(2)(c) which states:

"c. There are practical difficulty (sic) which warrants deviation from Code standards, including, but not limited to, lot configuration, size, shape, or topography, and/or relationship of existing building(s) to the lot."

Response:

The issues of lot configuration, size or shape, and topography required in the Code are not addressed in the Director's finding. There is no specification of the Code standards or what justifies a deviation from them.

Moreover, there is no specification of what those "practical difficulties" are. This finding assumes that the applicant has the right to construct a non-conforming structure on a non-conforming lot by making the existing structure larger and allowing further deviations, albeit of a "minor nature." Why does the project have to be allowed at all? There is a livable house on an existing lot used for many years without any problem. The fact that an owner wants more room is not enough to justify destroying a neighbor's ability to enjoy his property.