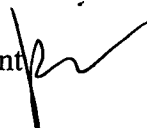



**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

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

Location

113-119 Poinsettia Ave. Northwest Corner
Poinsettia/Duncan Pl. (See Site Location Map).

Legal Description

Lots 3&4, Block 8, Carnation Villa Tract

Area District

I

LAND USE

General Plan

Low Density Residential

Zoning

RS, Residential Single-Family

Land Use

Existing

4,897 sq. ft. SFR &

3,652 sq. ft. SFR

8,549 sq. ft. Total floor area

Proposed

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 Categorical 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 parking 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:

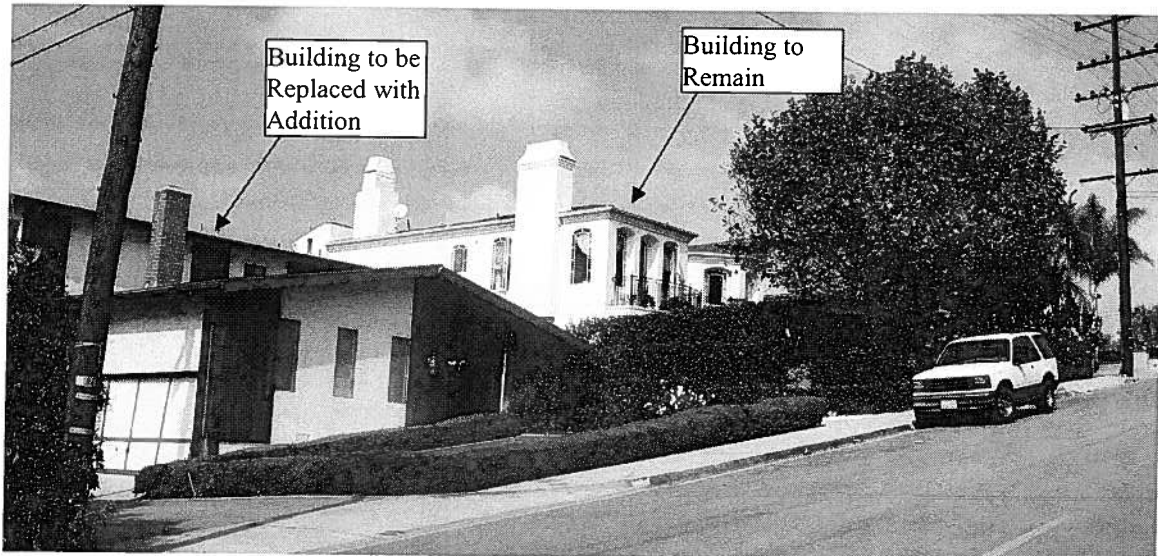
ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

113-115 S. Poinsettia Ave.

Vicinity



Dan M.

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RESOLUTION NO. 5865

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.

JF

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 Poinsettia 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



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a true copy of
said document
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JH
City Clerk of
the City of
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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 26 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 Polinsetta 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.

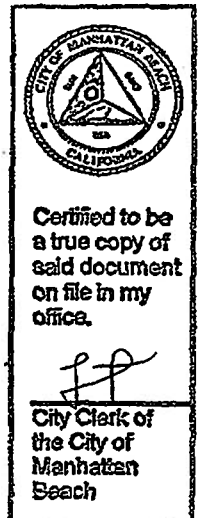
SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the subject Variance to exceed the maximum allowable building height and denies the third story deck and parking pad, subject to the following conditions:

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

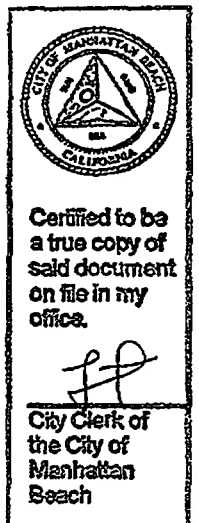


and Electrical Codes, safety regulations, and orders, rules of the Public Utilities Commission, the serving utility company, and specifications of the Public Works Department.

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



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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.

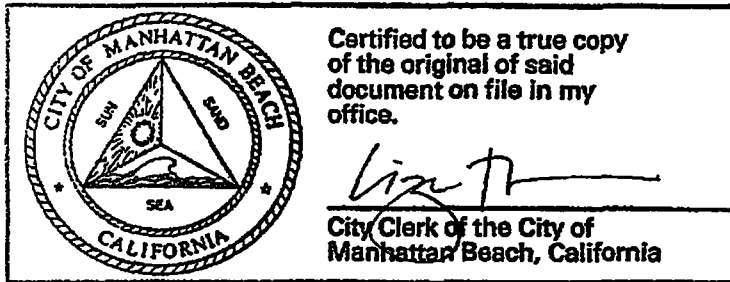
PASSED, APPROVED and ADOPTED this 4th day of November, 2003.

Ayes: Fahey, Ward, Napolitano, Willson 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 than.
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.

Increased Fence Height Agreement

Project Address: _____

Property Owner: _____ Phone: _____

Fence Description: _____

The signature below provides agreement to allow fence height of greater than 6 feet adjacent to, or on, the property listed below pursuant to Section 10.12.030(P)(1)(c) of the Manhattan Beach Municipal Code. This agreement gives my permission, as the neighboring property owner, for the project property owner to construct the fence as specified in the attached plans, which shall in no case exceed 6 feet of retaining height, or 8 feet of total height. The agreement is contingent upon the fence project's compliance with all applicable requirements including issuance of a building permit.

Neighboring Property Address

Name

Signature

Attachment: Fence plans

G:\Planning\Fence-Checklist\Neighbor Fence Agreement Example.doc