



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

TO: Planning Commission

FROM: Laurie B. Jester, Acting Director of Community Development 

BY: Eric Haaland AICP, Associate Planner 

DATE: October 27, 2010

SUBJECT: Consideration of a Coastal Development Permit and Minor Exception to Allow an Addition to an Existing Single Family Residence at 120 29th Place.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing, **DISCUSS** the subject request, and **CONTINUE** the Public Hearing to November 10, 2010.

APPLICANT /OWNER

Breton Lobner
120 29th Place
Manhattan Beach, CA 90266

LOCATION

<u>Location</u>	120 29 th Place between Manhattan Ave. & Ocean Dr. (See Site Location Map).
<u>Legal Description</u>	Lot 13, Blk 8, Peck's MB Tract
<u>Area District</u>	III

LAND USE

<u>General Plan</u>	High Density Residential	
<u>Zoning</u>	RH, Residential High Density	
<u>Land Use</u>	<u>Existing</u> 2,262 sq. ft SFR	<u>Proposed</u> 2,372 sq. ft. SFR

<u>Neighboring Zoning/Land Uses</u>	North	RH/Duplex
	South	RH/Triplex
	East	RH/SFR
	West	RH/Duplex

PROJECT DETAILS

	<u>Proposed</u>	<u>Requirement (Staff Rec)</u>
Parcel Size:	2,699 sq. ft.	2,700 sq. ft. min
Building Floor Area:	2,372 sq. ft.	4,588 sq. ft. max.
Height	28 ft. existing	30 ft. max.
Parking:	1 + partial enclosed space (*)	2 enclosed
Vehicle Access	29 th Place	N/A
Setbacks		
Front (north)	zero ft. existing (**)	5 ft. (*)
Rear (south)	4.2 ft. (*)	5 ft. min
Interior Side (east)	3 ft.	3 ft. min.
Interior Side (west)	3 ft.	3 ft. min
Usable Open Space	325 sq. ft. (*)	355 sq. ft.

(*) – Minor exception may allow nonconforming setbacks, parking, and open space

(**) – Pre-existing variance approval for front yard setback

BACKGROUND

The subject site fronts on a walk street (24th St.) and abuts an alley (24th Pl.) at the rear. A Variance was previously approved for the property allowing the ground floor of the residence to occupy approximately half of the front yard with a zero setback. This condition currently exists and no expansion, addition, or alteration is proposed in this area. Pursuant to Section A.96.050 of the Manhattan Beach Local Coastal Program, a Coastal Development Permit is now required because the proposed project includes a greater-than-10% addition, and is located within the appealable portion (where a decision is appealable to the State Coastal Commission) of the Coastal Zone. A public hearing is required, without the option of a waiver (Sec. A.96.260), because the application includes a Minor Exception request to retain nonconforming setbacks, parking and open space, and to retain and alter walls with nonconforming setbacks.

Most appealable coastal permit applications involving single-family homes and duplexes may proceed administratively through the waiver process provided by the coastal program. However, applications that require supplemental approvals such as minor exceptions, variances, use permits, and subdivision maps, must be reviewed by the Planning Commission at a public hearing.

DISCUSSION

The applicant proposes to construct a 250 square foot net addition to a 2-story single-family residence on a typical walk street lot in the beach area. The proposed ground floor additions would increase living area toward the front of the site, while converting some rear area to parking. A full first and second story remodel is proposed, however, the ground floor area within the front yard previously approved by the Variance would not be structurally altered. The upper story would remain recessed well behind the minimum front setback line, and most of an on-grade patio area abutting the unobstructed portion of the front yard side patio would also remain.

While the building's nonconforming setbacks would primarily be unchanged, a stairway in the west side yard would be removed, and the conversion of rear living area to garage space involves recessing a portion of the rear wall to achieve required parking back-up distance (15' from alley centerline). The resulting 2,372 square feet of total floor area would be 52% of the site's allowable 4,588 square feet of Buildable Floor Area (BFA), which also provides eligibility (under 66% of BFA) for Minor Exception approval to allow the setback, parking, and open space nonconformities to remain as proposed.

Setbacks:

The existing building's rear wall is proposed to remain partially nonconforming and will involve structural alterations where the new garage wall is constructed. This 4.2-foot nonconforming setback is well over the 50% of the minimum 5-foot setback that is generally required for a Minor Exception, and is the type of setback that is routinely approved by Staff.

The existing zero-setback front portion of the building does not meet the 50% conformance requirement for Minor Exceptions (MBMC Section 10.84.120(G)(11)), but is authorized by Variance approval. Staff's determination is that the Variance (attached) remains valid independently of the Minor Exception if variance compliance is maintained, and the relevant area is not structurally altered, as is the case with this proposal.

Parking:

Section 10.84.120(G)(6) of the Zoning Code provides that a Minor Exception can be approved for an existing residence between 2,000 and 2,800 square feet in area with a 1-car garage plus 1 open parking space instead of the required 2-car garage. This condition is also routinely approved for Minor Exception applications, and the subject property would possess the new conforming 1-car garage plus an existing nonconforming space. The existing garage is nonconforming in that its length is only 14 feet instead of 19 feet. The proposed conforming garage space, together with retention of an improved nonconforming space (partially within the driveway), make the project eligible for Minor Exception approval.

Open Space:

The required amount of useable open space for the project is 355 square feet. The 325 square feet of countable open space for the property is provided by the existing ground level patio and entry courtyard. These open space areas are well above minimum qualifying requirements as they are on-grade and uncovered. Section 10.84.120 of the zoning code (attached) provides for Minor Exception approval of reduced open space for "dwelling units that are largely 2-story in 3-story zones". Although some of the existing second story is relatively tall, the buildable areas that are no more than 1 story tall are substantial, and Staff believes it is appropriate to approve the small open space reduction.

Minor Exception and Coastal Permit Findings:

Section 10.84.120 of the Zoning Code (attached) provides for Minor Exception approval of nonconforming setbacks, nonconforming parking, and reduced open space for residential remodel projects. In order to approve this Minor Exception, the following findings must be made:

- 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.
- 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.
- 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.
- 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.
- 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.

Staff believes that these findings can be made since the resulting building will be well below the maximum size, and the new construction will be compatible with the neighborhood. The project is also consistent with a primary intention of Minor Exceptions (MBMC 10.84.010), which is to encourage retention of smaller buildings rather than prompting property owners to build new maximum size buildings due to nonconformity challenges.

Staff believes that the Minor Exception criteria of Section 10.84.120(G), applicable to nonconforming setbacks, open space, parking, are met by the proposal as listed in the attached resolution, including: appropriate building code compliance, appropriate zoning conformity, and appropriate parking conformity.

Staff also finds that that the project will comply with applicable coastal program regulations. The project is consistent with policies II.B 1, 2, 3 of the City's Local Coastal Program which seek to maintain neighborhood building scale, control residential building bulk, and establish building height standards.

PUBLIC INPUT

A public notice for the project was mailed to property owners and residents within 100 feet of the site and published in the Beach Reporter newspaper. Staff has received no inquiries or opposition from project neighbors or other members of the community at this time. Due to a delay in the mailed notices, Staff recommends continuing the public hearing to November 10, 2010, to allow for the full required ten day public notice prior to completing the public hearing and making a final decision.

ENVIRONMENTAL REVIEW

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

CONCLUSION

Staff supports the request finding that the project: 1) meets the findings required to approve a Minor Exception, 2) conforms to applicable zoning objectives and development standards, 3) is not expected to have a detrimental impact on nearby properties; 4) is consistent with the goals and policies of the General Plan, and; 5) would conform to the City's Local Coastal Program.

A draft resolution of approval is attached, which would act as the project minor exception approval and coastal development permit, if the project is approved by the Commission with no further appeal. Several standard conditions typically included have been placed in the draft Resolution as well as project specific conditions.

Attachments:

- A. Draft Resolution No. PC 10-
- B. Vicinity Map
- C. Minor Exception Code
- D. Applicant Material
- E. Previous Variance materials
- F. Development Plans (separate - NAE)

(NAE = not available electronically)

c: Breton Lobner, Applicant/Owner
Jay Stephenson, Project Architect
Elizabeth Srour, Applicant representative

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RESOLUTION NO PC 10-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT PERMIT AND MINOR EXCEPTION TO ALLOW CONSTRUCTION OF AN ADDITION TO AN EXISTING SINGLE FAMILY RESIDENCE WITH NONCONFORMING SETBACKS, NONCONFORMING PARKING, AND REDUCED OPEN SPACE ON THE PROPERTY LOCATED AT 120 29TH PLACE (Lobner)

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 public hearings pursuant to applicable law on October 27, 2010, and November 10, 2010 to consider an application for a Coastal Development Permit and Minor Exception for the property legally described as Portion of Lot 13, Block 8, Peck's Manhattan Beach Tract, located at 120 29th Place in the City of Manhattan Beach.
- B. The public hearings were advertised pursuant to applicable law, testimony was invited and received.
- C. The applicant for the Coastal Development Permit and Minor Exception is Breton Lobner, the property owner.
- D. The applicant proposes a 1st story addition of 250 square feet to an existing 2,262 square foot building for a project that exceeds a 50% remodel of the existing single-family residence with retention and alteration of nonconforming setbacks, retention of nonconforming parking, and a reduction of useable open space to a total of 325 square feet, instead of the required 355 square feet. The resulting 2,372 square foot building would be 52% of the allowable 4,588 square feet, and would remain a 2-story building in a 3-story zone.
- E. The property is located within Area District III and is zoned RH High Density Residential, and is located within the appealable portion of the Coastal Zone. The surrounding land uses consist of single and multiple family residences.
- F. A previous Variance approval for the site's existing front yard setback nonconformity contained in Board of Zoning Adjustment Resolution 77-35 remains in effect.
- G. The General Plan designation for the property is High Density Residential, and the Local Coastal Program/Land Use Plan designation is High Density Residential.

- H. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301, and 15332 based on staff's determination that the project is a minor development/infill project.
- I. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- J. The Planning Commission made the following findings with respect to the Minor Exception application:
- a) The proposed project will be compatible with properties in the surrounding area since the building size will be well below the maximum size permitted and the addition area is relatively low in bulk.
 - b) The project will not be detrimental to surrounding neighbors since the new construction will observe required setbacks, and be well below the maximum floor area.
 - c) Practical difficulties warrant deviation from code standards including demolishing living area and garage area.
 - d) Existing nonconformities will not be brought into conformance since significant changes are not proposed for those locations and required conformance would not be reasonable.
 - e) The project is consistent with the General Plan, the intent of the zoning code, and other applicable policies of the City.
- K. The Planning Commission determined that the project is consistent with the following applicable Minor Exception Criteria:
1. New construction must conform to all current Code requirements except as permitted by this Chapter.
 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.
 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.

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 between two thousand (2,000) and two thousand eight hundred (2,800) square feet in area per dwelling unit shall provide a minimum two (1) 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.
 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.
 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. A previous Variance approval preempts this requirement for the existing front yard nonconformity.
 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.
 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.
- L. The project is in accordance with the objectives and policies of the Manhattan Beach Coastal Program, as follows:
- a) The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Manhattan Beach Coastal Zone Zoning Code.
 - b) The proposed structure is consistent with building density standards of the Local Coastal Program in that it proposes a floor area ratio factor less than the allowable.

- c) The proposed structure will be consistent with the 30-foot Coastal Zone residential height limit. This is consistent with the residential development policies of the Land Use Plan, Policy II.B.1-3 as follows:
 - 1. Maintain building scale in coastal zone residential neighborhoods.
 - 2. Maintain residential building bulk control established by development standards.
 - 3. Maintain Coastal Zone residential height limit not to exceed 30'.

- L. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows;

Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, and adequate public access is provided and shall be maintained along 29th Street and 29th Place.

Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

- M. This Resolution upon its effectiveness constitutes the Coastal Development Permit and Minor Exception approval for the subject project.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Coastal Development Permit and Minor Exception subject to the following conditions:

Standard Conditions

- 1. *Compliance.* All development must occur in strict compliance with the proposal as set forth in the application for said permit, subject to any special conditions set forth below. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
- 2. *Expiration.* The Coastal Development Permit 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.
- 3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
- 4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.

5. *Assignment.* The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
 - a. a completed application and application fee as established by the City's Fee Resolution;
 - b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
 - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. a copy of the original permit showing that it has not expired.

6. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

7. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030, and the City of Manhattan Beach Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period (if applicable) which is 10 working days following notification of final local action.

Special Conditions

8. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.

9. The plans shall be in substantial conformance with the plans submitted to the Planning Commission on October 27th & November 10, 2010.

10. The project shall comply with all requirements of the RH zoning district except for the existing front & rear yards, and parking size (modified per plan) and open space. The existing front yard nonconformity authorized by previous Variance approval contained in Board of Zoning Adjustment Resolution 77-35 shall not be structurally altered..

11. 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.

12. 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 10, 2010 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

LAURIE B. JESTER,
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

Vicinity Map
120 29th Place



EXHIBIT B
PC MTG 10-27-10

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10.84.120 - Minor exceptions.

The Community Development Director may grant minor exceptions from certain regulations contained in the ordinance codified in this chapter for projects as follows:

Valuation No Limitation. Projects that involve new structures or remodels without limits of project valuation [i.e., may exceed fifty percent (50%) valuation provisions of Section 10.68.030(E)], as provided below. Notice may be required for exceptions to Sections 10.68.030(D) and (E), see subsection A and B of this section for noticing requirements.

Applicable Section	Exception Allowed
10.12.030	Attachment of existing structures on a site in Area District III or IV which result in the larger existing structure becoming nonconforming to residential development regulations.
10.12.030	Site enlargements (e.g., mergers, lot line adjustments), not exceeding the maximum lot area, which result in existing structures becoming nonconforming to residential development regulations.
10.12.030 (M)	Reduction in the 15% open space requirement for dwelling units that are largely 1-story in 2-story zones and for dwelling units that are largely 2-story in 3-story zones.
10.12.030 (P)	Construction of retaining walls beyond the permitted height where existing topography includes extreme slopes.
10.12.030 (T)	Reduction in percentage of additional 6% front yard setback, or 8% front/streetside yard setback on corner lots, required in the RS Zone—Area Districts I and II, 15% open space requirement, side yard setbacks, and/or rear yard setback. This may be applied to small, wide, shallow, multiple front yard, and/or other unusually shaped lots or other unique conditions.
10.12.030 (T)	Reduction in percentage of additional 6% front yard setback required in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12.030 (T)	Reduction in percentage of additional 8% front/streetside yard setback required on corner lots in the RS Zone—Area Districts I and II for remodel/additions to existing dwelling units if the additional setback area is provided elsewhere on the lot.
10.12—10.68	Non-compliant construction due to Community Development staff review or inspection errors.
10.68.030 (D) and (E), 10.12.030 and 10.12.030 (R)	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).
10.68.030 (D) and (E)	Alterations, remodeling and additions (enlargements) to existing smaller legal non-conforming structures.
10.68.030 (E)	Alterations and remodeling to existing legal non-conforming structures.

A. **Minor Exception Application Without Notice.** All applications for minor exceptions may be approved administratively by the Director of Community Development without notice, except as provided in subsection B of this section. Additionally, a minor exception from Section 10.68.030(D) and (E) must meet the following criteria:

1. **Alterations, remodeling, additions (enlargements) to existing smaller legal non-conforming structures.** The total proposed Buildable Floor Area, as defined in Section 10.04.030 which excludes certain garage and basement areas from BFA, does not exceed sixty-six percent (66%) of the maximum allowed (Area Districts III and IV) and seventy-five percent (75%) of the maximum allowed (Area Districts I and II) or three thousand (3,000) square feet, whichever is less .

Alterations and remodeling to existing legal non-conforming structures. No limit to the total existing Buildable Floor Area, as defined in Section 10.04.030 which excludes certain garage and basement areas from BFA, but no further additions (enlargements) permitted.

EXHIBIT C.2.
PC MH. 10/27/10

~~EXHIBIT C.2~~
PC MH. 10/27/10

- B. Minor Exception Application with Notice.**
1. Applications for minor exceptions from Section 10.68.030(D) and (E) which do not meet the criteria in subsection (A)(1) of this section, may be approved administratively by the Director of Community Development, with notice. A minor exception from Section 10.68.030(D) and (E) must meet the following criteria, and notice as provided in subsection D of this section, must be provided:
 - a. **Alterations, remodeling, additions (enlargements) to existing smaller legal non-conforming structures.** The total proposed Buildable Floor Area as defined in Section 10.04.030 which excludes certain garage and basement areas from BFA, does not exceed sixty-six percent (66%) of the maximum allowed (Area Districts III and IV) and seventy-five percent (75%) of the maximum allowed (Area Districts I and II) and the Buildable Floor Area exceeds three thousand (3,000) square feet but does not exceed four thousand (4,000) square feet.
- C. Submittal Requirements—All Minor Exceptions Applications.** Applications for all minor exceptions shall be initiated by submitting the following materials to the Community Development Department.
1. A completed application form, signed by the property owner or authorized agent, accompanied by the required fees, plans and mapping documentation in the form prescribed by the Community Development Director.
 2. Written statements to support the required findings and criteria of this Code section.
 3. A vicinity map showing the location and street address of the development site.
- D. Submittal Requirements—Minor Exception Applications with Notice.** Applications for minor exceptions with notice shall be initiated by submitting the following materials to the Community Development Department:
1. A completed application form, signed by the property owner or authorized agent, accompanied by the required fees, plans and mapping documentation in the form prescribed by the Community Development Director.
 2. Written statements to support the required findings and criteria of this Code section.
 3. A vicinity map showing the location and street address of the development site;
 4. A map showing the location and street address of the property that is the subject of the application and of all lots of record within three hundred feet (300') of the boundaries of the property; and
 5. A list, drawn from the last equalized property tax assessment roll or the records of the County Assessor, Tax Collector, or the City's contractor for such records showing the names and addresses of the owner of record of each lot within three hundred feet (300') of the boundaries of the property. This list shall be keyed to the map required by subsection (D)(4) of this section and shall be accompanied by mailing labels.
- E. Notice to Property Owners—Minor Exception with Notice.** After receipt of a completed Minor Exception application, the Community Development Director shall provide notice to surrounding property owners as provided in subsection D of this section. Said notice shall include: a project description, information regarding where and when project plans can be viewed, a request for comments regarding said exception, and a commenting deadline date. No public hearing shall be required.
- F. Director's Review and Action—All Minor Exceptions.**
1. **Notice of Decision.** After the commenting deadline date, if any, and within thirty (30) days of receipt of a completed application, the Director shall approve, conditionally approve, or deny the required exception. The Director of Community Development shall send the applicant a letter stating the reasons for the decision under the authority for granting the exception, as provided by the applicable sections of this chapter. The letter also shall state that the Director's decision is appealable under the provisions of subsection K of this section. Notice of the decision also shall be mailed to all those individuals who received the initial notice to property owners described in subsection E of this section.
 2. **Findings.** In making a determination, the Director shall be required to make the following findings:
 - 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.

- 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.
 - c. There are practical difficulty 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.
 - 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.
 - 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.
- G. **Additional Criteria—Sections 10.68.030(D) and (E).** When making a determination to approve an exception to Sections 10.68.030(D) and (E), the Director shall also require the following criteria to be met, in addition to the findings in subsection (F)(2), as stated above:
1. New construction must conform to all current Code requirements except as permitted by this Chapter.
 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.
 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.
 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 under two thousand (2,000) square feet in area per dwelling unit shall provide a minimum one (1) car fully enclosed garage per dwelling unit.
 7. 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.
 8. Projects two thousand eight hundred (2,800) square feet in area and up to three thousand six hundred (3,600) square feet per dwelling unit shall provide a minimum two (2) car fully enclosed garage per dwelling unit.
 9. Projects three thousand six hundred (3,600) square feet in area per dwelling unit and over shall provide a minimum three (3) car fully enclosed garage per dwelling unit.

10. 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.
 11. 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.
 12. 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.
 13. 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.
- H. **Additional Criteria—Section 10.12.030(T). Interior Lots.** When making a determination to approve an exception to Section 10.12.030(T) for a reduction in percentage of additional front yard setback for alterations, remodeling and additions (enlargements) to existing homes if the additional setback area is provided elsewhere, the Director shall also require compliance with the following criteria, in addition to the criteria stated in subsection (F)(2) of this section:
1. A minimum of three percent (3%) of the additional front setback shall be provided within the front and shall meet the criteria established in Section 10.12.030(T).
 2. The percentage of area that is provided outside of the additional front setback area, as established in Section 10.12.030(T), shall be required to be two (2) times the percentage if it was provided in the front yard [i.e., six percent (6%) required, if three percent (3%) in the front {three percent (3%) balance due} - provide six percent (6%) outside of the front yard equals nine percent (9%) total].
 3. The area provided outside of the additional front setback area shall be located adjacent to a required setback (i.e., not an interior courtyard).
 4. The area provided outside of the additional front setback area shall meet all of the criteria established in Section 10.12.030(T)(2) through (4).
 5. The proposed project is consistent with the purpose stated in Section 10.12.010(H).
- I. **Additional Criteria Section 10.12.030(T)—Corner Lots.** When making a determination to approve an exception to Section 10.12.030(T) on corner lots for alterations, remodeling and additions (enlargements) to existing homes if the additional front setback area is provided on the streetside frontage, the Director shall also require compliance with the following criteria, in addition to the criteria stated in subsection (F)(2) of this section:
1. A minimum of three percent (3%) of the additional front setback shall be provided within the front and shall meet the criteria established in Section 10.12.030(T).
 2. A minimum of three percent (3%) of the additional front setback shall be provided in a location that is largely directly abutting the streetside setback, and the balance of the required eight percent (8%) shall be located adjacent to another required setback (i.e., not an interior courtyard).
 3. The area abutting the streetside setback shall meet all of the criteria established in Section 10.12.030(T)(2) through (4).
 4. The proposed project is consistent with the purpose stated in Section 10.12.010(H).
- J. **Conditions of Approval.** In approving a minor exception permit, the Director may impose reasonable conditions necessary to:
1. Achieve the general purposes of this chapter and the specific purpose of the zoning district in which the minor exception will be located, or to be consistent with the General Plan;
 2. Protect the public health, safety, and general welfare; or
 3. Ensure operation and maintenance of the minor exception in a manner compatible with existing uses on adjoining properties in the surrounding area.

- K. **Effective Date—Appeals.** Unless appealed in accordance with Chapter 10.100 of the Manhattan Beach Municipal Code, a minor exception decision shall become effective after expiration of the time limits for appeal set forth in Section 10.100.030 Manhattan Beach Municipal Code.

(Ord. No. 1832, Amended, 01/17/91; Ord. No. 1838, Renumbered, 07/05/91; Ord. No. 1861, Amended, 12/03/92; Ord. No. 1891, Amended, 01/06/94; § 2, Ord. 1951, eff. July 4, 1996; § 5, Ord. 1992, eff. February 18, 1999; § 2, Ord. 2032, eff. May 16, 2002; § 2, Ord. 2050, eff. January 1, 2004; § 3 (part), Ord. 2068, eff. February 4, 2005, and § 20, Ord. 2111, eff. March 19, 2008)

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JAY STEPHENSON, Architect
MEMBER AMERICAN INSTITUTE OF ARCHITECTS
505 N. Sepulveda Blvd. Suite #4
Manhattan Beach, CA 90266 (310)379-6230

PLANNING REVIEW FOR MINOR EXCEPTION

ADDRESS: 120 29th Place
OWNER: Bret & Pattie Lobner
4514 New Hampshire St.
San Diego, CA 92116
(310) 545-7560 (M.B.)

EXISTING HOUSE:

The Lobner's single family house is on a 30x90 Walkstreet lot, zone R-H, A.D. III. The lot area is 2700 sq. ft., and the maximum allowable BFA is 4590 sq. ft. The Lobner's added onto the original 1920's 2-story house in the 1970's. A variance was granted to allow 1-story construction within half of the front setback area. The house now has 2,286.5 sq. ft. Buildable Floor Area and 293.5 sq. ft. garage area. The garage is non-conforming in depth and width. There are landscaped yards in the front and side of the house.

PROPOSED PROJECT:

The Lobner's want to enlarge the garage, add a new kitchen & dining room, and remodel other parts of the old house. The proposed work will exceed 50% valuation, but is less than 66% of the maximum allowable BFA for the property. GARAGE ENLARGEMENT: 175 sq. ft. living area will be converted to one new parking space. The existing non-conforming space will be enlarged by the removal of stairway, but will remain slightly undersized. Structurally, the best way to build the new space is to align new with existing non-conforming garage rear wall setback of 4'-2", requiring a Minor Exception.

KITCHEN/DINING ROOM ADDITION: The proposed addition will add 246.0 sq. ft. BFA. The addition will fix circulation problems and enlarge the living area. The addition requires 37 sq. ft. of Usable Open Space. The addition removes 246 sq. ft. of deck and yard area, but leaves 336 sq. ft. of Usable Open Space at the front and side yards. Minor Exception required?

LIVING ROOM REMODEL: The living room was legally constructed within the front setback as allowed by variance. The living room will be remodeled, but not enlarged, within the allowances of the original variance.

BEDROOM REMODEL: The upstairs bedrooms will be remodeled as required by the moving of the stair in the garage, and to modernize and upgrade the rooms.

ATTACHMENTS:

1. Existing floor plans, 1st & 2nd floors.
2. Proposed floor plans, 1st & 2nd floors, and elevations.
3. Copy of variance
4. Survey
5. Picture

EXHIBIT D

PG KHJ. 10/27/10



BRET & PATTIE LOBNER

120 29th PL.

JUN 1 2010

RESOLUTION 77-35

A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MANHATTAN BEACH GRANTING A VARIANCE FOR THE PROPERTY LEGALLY DESCRIBED AS LOT 13, BLOCK 8 OF PECK'S MANHATTAN BEACH TRACT (120-29th Street)

WHEREAS, the Board of Zoning Adjustment of the City of Manhattan Beach conducted a Public Hearing to consider a variance for the property located at 120-29th Street; and

WHEREAS, the application was filed by Breton K. and Patricia G. Lobner; and

WHEREAS, the Board of Zoning Adjustment made the following findings with respect to the subject property:

1. The applicant requests a zone variance to allow construction of a single family addition within approximately one-half of the required front yard setback.
2. Subject property is a R-2 lot in Area District III which requires a five foot front yard setback from 29th Street.
3. The neighboring residences are generally built to the property line.
4. The Board finds an exceptional circumstance in that a single family dwelling not exceeding one story over approximately one-half of the frontage would preserve the open space, light, air, and views of adjacent properties in furtherance of the intention of the setback ordinance.
5. The Board finds the variance is necessary to grant the applicant an ocean view presently enjoyed by neighboring properties in that neighbors have already built to property line in violation of the front setback ordinance.
6. Granting the variance subject to conditions enumerated below will not be detrimental to neighboring uses.
7. The granting of the variance will not increase population density or otherwise adversely affect the General Plan.
8. No testimony or correspondence was received in opposition to the variance and testimony was received from the neighbor immediately to the east of subject property in favor of the proposed variance.
9. The Board finds that if the conditions enumerated below are enforced, the granting of the variance would not set a precedent.

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Adjustment grants the requested variance subject to the following conditions of approval:

1. That all building improvements constructed within the front 20 feet of Lot 13 not cover more than 17 feet of the lot width.
2. That all building improvements within the front 20 feet of the Lot 13 shall not exceed one story or 14 feet.
3. That the use of subject property be limited to single family dwelling.

I hereby certify that the foregoing is a full, true, and correct copy of the resolution adopted by the Board of Zoning Adjustment at its regular meeting of June 28, 1977, and that said Resolution was adopted by the following vote:

AYES: Commissioners Clancy, Myska, and Acting Chairman Hayden
NOES: None
ABSENT: Commissioner Logan and Chairman Armistead
NOT VOTING: None

EXHIBIT E

PC Mtg. 10/27/10

THOMAS H. CORLEY
Director of Community Development

Mr. Orndorff explained that the subject property contains a single family dwelling build in 1925. The adjacent properties to the west and to the east are two units all constructed prior to 1941. The properties adjacent to the subject property have nonconforming front yard setbacks. Mr. Orndorff pointed out that this is a unique situation in that the exterior lots are zoned R-3, and the interior lots

BZA

page 2

6-28-77

are zoned R-2. The applicant requests a zone variance to allow construction of a single story addition within approximately one-half of the required front yard setback extending to the front property line. The proposal is in variance from Section 10.3.503(c), front yard setback (5') feet.

Mr. Orndorff read the recommended conditions to the Commission.

Commissioner Myska asked whether the use would limit it to a single family use and if in later years the owner wanted to change the use he would have to come back to the Board. Mr. Orndorff explained that if the present owner, or future owner, wanted to add to the existing building he would be informed that the front portion within the 5 foot front yard setback would have to be removed.

Acting Chairman Hayden opened the public hearing and invited testimony from the audience, and asked the applicant to speak in favor of his application and show to the Board the exceptional circumstances that would justify the exception to the Code.

Mr. Lobner, owner and occupant of the property, noted that he had filed an extensive document resitem 6 through 12 of the application for zone variance. Mr. Lobner remarked that he had contacted all the residents of the adjacent properties and discussed his intentions re: the setback. They were all in favor of his plan. His family intends to live in Manhattan Beach, they are not investors and they want to fix the house they have just bought. If you go on our street, said Mr. Lobner, you will see that all the houses have an ocean view. He added that it was their desire to also have some living area with some sort of a view to enjoy.

The applicant said that he was aware that he could build a two-story building on his lot, but in doing so he would obliterate his neighbor's view of the ocean which in the long run would be destructive to the General Plan.

Mr. Lobner read the written report he prepared listing all the exceptional circumstances regarding the property.

In answer to Commissioner Clancy's question, the applicant responded that they were planning to add 700 square feet to the 1500 square feet of the existing building. One part of the structure would be two story.

Chuck Thompson, neighbor to the east, on Lot 14, stated that he was pleased that he had been taken into account in the Lobner's plans. He appreciated the fact that he would be able to retain his ocean view. It will beautify the neighborhood added Mr. Thompson, and we are for this type of improvements.

Commissioner Myska asked the applicant whether he had any letters or evidence when he stated that all his neighbors were in favor of his plans. Mr. Lobner stated that he would furnish anything the Commission desired if necessary.

In answer to Commissioner Clancy whether this item had been advertised, Mr. Orndorff said that it had and notice had been sent to all property owners within 300 feet in addition to being advertised in the Manhattan Beach News.

There being no further testimony, motion was made and seconded to close the public hearing (Hayden/Myska).

After further discussion between Commissioners, Acting Chairman Hayden made the following motion. With respect to the subject property, the Board of Zoning Adjustment makes the following findings:

June 22, 1977

TO: Board of Zoning Adjustment
FROM: Department of Community Development
SUBJECT: Zone Variance, 129 - 29th Place, Lot 13, Block 8 of Peck's
Manhattan Beach Tract.

APPLICANT

Broton K. and Patricia G. Lobner
120 - 29th Place
Manhattan Beach, California 90266

PROPOSAL

An application for a zone variance to allow construction of a single story addition within approximately one-half of the required front yard setback extending to the front property line. The proposal is in variance from Section 10-3.503(c), front yard setback (5') feet. See attached plot plan.

ANALYSIS (See Appendix (B) for zoning, and building set

The subject property is zoned R-2 and is located in Area District III on a walk street, see Appendix (B). The improvements consist of a single family dwelling originally constructed in 1925. The existing structure is located on the north portion of the lot leaving the south 50'± vacant.

The adjacent property to the west is also zoned R-2; the improvements consist of a single family dwelling built in 1938, the front portion of which is built to the front property line adjacent to the walk street. Further west, at the corner of Ocean Drive and 29th Street property zoned R-3, City records indicate that a residence was built in 1936, and a permit in 1969 was issued to repair fire damage to third floor; number of units indicated as two. To the east of the subject property on Manhattan Avenue property zoned R-3, the property has a duplex built in 1933 and remodeled in 1968. The building is set back three feet from the front property line, however, the fireplace is built to the property line. On the south side of 29th Street adjacent to Manhattan Avenue, a multiple unit building is on two lots; the side lot line of which abuts the walk street. Section 10-3.504(b) (2)(ii) permits a one foot setback. The property to the west is a multiple unit building built 5' from the property line.

The four conditions that must be met are listed in Section 10-3.1603(a) (b) (c) (d). The applicant has also listed the "required showings" (attached) and has addressed each one in detail.

- (a) Staff comments. There are exceptional circumstances in that the property to the west of the subject property is built on the front property line; however, this alone cannot be grounds for "exceptional circumstances." The fact that the general area was developed prior to 1941, the effective date of the Zoning Ordinance, and some properties developed on lots "rearranged" by deed of record, could be considered exceptional circumstances, again, in conjunction with other unique conditions. The fact that the applicant proposes "single story" and on one-half of the frontage, and in that the use of the subject property is and will remain a single family use can be considered exceptional.

In order to make a finding of "exceptional circumstances," the special conditions applicable to the subject property should be made conditions of approval, such as: remain single family use, not exceed one story, and proposed structure not to exceed 50% of the lot width.

- (b) Staff comments. Property in the beach area contains value based on its proximity to the beach and the potential view. The applicant could build two stories within the Code requirements (5' from the property line) and obtain a view. This would block the existing view of the property to the east. This alternative would only provide a view

until the property to the west of the subject property improved to the allowable limits.

Other property in the vicinity presently enjoys a "view." It could be interpreted that the "special conditions" do prohibit the applicant the same amenity.

- (c) Staff comments. The proposed addition will not be detrimental to the public welfare or injurious to adjacent property. The major purposes of "setbacks" are to provide adequate open space, light and air for the property and adjacent properties and to provide efficient emergency access; the subject proposal should not inhibit these objectives.
- (d) Staff comments: The applicant adequately supported that the variance would not affect the General Plan.

ENVIRONMENTAL ASSESSMENT

The proposed project has been evaluated in accordance with the California Environmental Quality Act; A Negative Declaration has been filed.

CONCLUSION

The major concern of staff is that the approval of the variance could be precedent setting. However, due to the following "special conditions" the variance should not create a precedent:

- (a) Single family use where two-family use is permitted,
- (b) Adjacent property to the west built to the property line,
- (c) Single story addition covering fifty percent of the lot width,
- (d) That the normal purposes of setbacks are not totally applicable; and,
- (e) That the possibility of a parallel situation occurring again is remote, thereby lessening the precedent setting factor.

Should the Board wish to approve the subject variance, the Department of Community Development recommends the following conditions of approval:

- (1) That all building improvements constructed within the front twenty feet of Lot 13 not cover more than 50 percent of the lot width.
- (2) That all building improvements within the front twenty feet of Lot 13 not exceed one story or 14 feet.
- (3) That the use of the subject property be limited to single family dwelling.

WHO:dc

