

RESOLUTION NO PC 16-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A VARIANCE TO ALLOW THE CONSTRUCTION OF A NEW SINGLE FAMILY HOME WITH A REDUCED FRONT YARD SETBACK AND A REDUCED SUPPLEMENTAL SECOND STORY SETBACK AT 3017 ELM AVENUE (Cunha)

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 March 23, 2016 to consider an application for a Variance for the property legally described as Lot 24, Block 32, Tract No. 1638, located at 3017 Elm 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 and property owner for the Variance is Marcus Cunha.
D. The property is located within Area District II and is zoned RS Single-Family Residential. The surrounding Zoning and land uses consist of single-family residences.
E. The General Plan designation for the property and surrounding area is Low Density Residential. The General Plan encourages the preservation, rehabilitation and upgrade of residential development, such as this. The project is specifically consistent with General Plan Policies as follows:

Land Use Element:

Policy LU-1.2- Require the design of all new construction to utilize notches, balconies, rooflines, open space, setbacks, landscaping, or other architectural details to reduce the bulk of buildings and to add visual interest to the streetscape.

The architect has made a substantial effort to create articulation in the building's façade by creating different depths and using contrasting wall textures and design features including notches and other architectural details. The result is a unique building that adds to the eclectic architectural styles in the neighborhood and overall city.

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

The proposed project maintains a proportionally large landscaped front yard, due to the width of the front property line which is more than double the minimum lot width in the zone, in addition to a functional rear yard that provides ample private open space.

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

The proposed project is an aesthetically interesting design that also provides a practical floor plan for the home's inhabitants.

Housing Element:

Policy 1. Preserve the scale of development in existing residential neighborhoods.

The proposed project's size does not exceed the maximum buildable floor area, height, side or rear setbacks and is in line with neighboring properties' size and scale.

- F. The applicant requests to demolish their existing residence and construct a new single family dwelling with a reduced front yard setback and reduced second story supplemental setback.

12. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of the Variance.
13. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* The applicant shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. The applicant shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. The applicant shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require the applicant to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation. The applicant shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

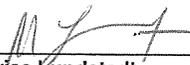
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of **March 23, 2016** and that said Resolution was adopted by the following vote:

AYES: **Bordokas, Conaway, Apostol,
Chairperson Hersman.**

NOES: **None.**

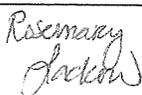
ABSTAIN: **None.**

ABSENT: **Ortmann.**



Marisa Kundstedt,
Secretary to the Planning Commission



Rosemary Lackow
Recording Secretary 

1 Granting the application is consistent with the purposes of the Zoning Code, in particular Section
 2 10.12.010 B and E, and will not constitute the granting of a special privilege because the setback
 3 standards are oriented toward more standard shape, size and depth properties. The proposed
 project will provide relative setback and bulk consistency with neighboring properties, will ensure
 adequate light, air, privacy and open space, protect neighboring residents from adverse impacts,
 and achieve design compatibility.

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

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

- 7 1. The project shall be in substantial conformance with the plans submitted to, and approved by the
 8 Planning Commission on March 23, 2016. Any substantial deviation from the approved plans
 must be reviewed and approved by the Planning Commission.
- 9 2. If determined to be necessary by the City Traffic Engineer, a Construction Management and
 10 Parking Plan (CMPP) 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
 11 permits. The plan shall provide for the management of all construction related traffic and
 operation during all phases of construction, including delivery and storage of materials and
 parking of construction related vehicles.
- 12 3. 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.
- 13 4. A site landscaping plan utilizing drought tolerant plants shall be submitted for review and approval
 14 concurrent with the building permit application. All plants shall be identified on the plan by the Latin
 and common names. The current edition of the Sunset Western Garden Book contains a list and
 description of drought tolerant plants suitable for this area.
- 15 5. A low pressure or drip irrigation system shall be installed in the landscaped areas, which shall not
 16 cause any surface run-off. Details of the irrigation system shall be noted on the landscaping plans.
 The type and design shall be subject to the approval of the Public Works and Community
 17 Development Departments.
- 18 6. All defective or damaged curb, gutter, street paving, and sidewalk improvements shall be removed
 19 and replaced with standard improvements, subject to the approval of the Public Works
 Department.
- 20 7. The applicant must obtain an Encroachment Permit for any wall or fence, or other private use, in
 the right-of-way on Elm Avenue. All improvements shall meet the city's Encroachment standards
 21 for private use of public property.
- 22 8. The applicant will record a new vehicular easement that will provide the homeowner of 3100 N
 Ardmore Ave access to their rear garage. The easement will match the easement in the submitted
 23 plans approved by the Planning Commission. The Building Permit for the project will not be issued
 until the easement documentation has been submitted to the Planning Division for review and
 24 approval, and the building permit shall not be finalized till the new easement has been recorded with
 the County Recorder's Office.
- 25 **Procedural**
- 26 9. This Resolution shall become effective when all time limits for appeals have been exhausted as
 provided in MBMC Section 10.100.010.
- 27 10. 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).
- 28 11. Pursuant to Public Resources Code Section 21089(b) and Fish and Game Code Section 711.4(c),
 29 the project is not operative, vested or final until the required filing fees are paid.
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- 32

- G. The proposed front yard setback will be 12.63 feet at its closest point at the garage and 16.52 feet for most of the structure instead of the required 20 foot front yard setback. The supplemental second story setback provided will be 125 square feet instead of the required 209.4 square feet.
- H. The proposed construction complies with other applicable standards including maximum building height, maximum buildable floor area, rear yard setback, side yard setbacks, and parking requirements.
- I. The project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303 based on staff's determination that the project consists of the new construction of a small structure consisting of one single family residence that will not have a significant impact on the environment.
- J. 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.
- K. The Planning Commission made the following findings with respect to the Variance application:

1. **Because of special circumstances or conditions applicable to the subject property—including narrowness and hollowness or shape, exceptional topography, or the extraordinary or exceptional situations or conditions—strict application of the requirements of this title would result in peculiar and exceptional difficulties to, or exceptional and/or undue hardships upon, the owner of the property.**

The lot is a small substandard sized triangle shape with 97.65 feet of frontage on Elm Avenue. Applying the strict application of the Code development standards to this irregular lot would result in a burdensome buildable envelope and an undue hardship in developing an adequately sized home on the property. A typical lot in this part of Area District II is 40 feet wide by 112 feet long, and the normal 20 foot setback would take up approximately 17.86% of the lot. A normal 20 foot setback applied to 3017 Elm Avenue, with the lot's long 97.65 feet of frontage along Elm Avenue, would create a situation where the area of the conforming front setback would take up approximately 42% of the lot with the assumption that the new easement would be subtracted from the lot area.

A conforming front setback takes up a tremendous portion of 3017 Elm Avenue's lot and denies the applicant the buildable floor area to create a functional floorplan that meets the needs of today's typical family. The first floor buildable envelope using the Zoning Code development standards would be about 1,409 square feet. The second story buildable envelope would be even smaller at about 1,120 square feet after applying the supplemental second story setback requirement. These setback requirements, coupled with the two-car garage standard that would take away about 380 square feet, would create a dwelling with about 2,149 square feet of livable area. The maximum allowed buildable floor area, however, is 2,420 square feet, not 2,149 square feet. The lot's shape and orientation clearly present peculiar and exceptional difficulties that create an exceptional and undue hardship for the property owner in building a reasonably sized residence.

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 relief may be granted without substantial detriment to the public good as the proposed nonconforming front yard setback is not substantially more nonconforming than the front setback of the existing structure. The proposed home is also compatible with neighboring properties, which range from small single story homes on smaller lots to large two-story homes on oversized lots. Furthermore, the architect has made significant efforts to provide modulation to the structure, using different depths, textures, and a roof opening on the second story deck to give the home architectural character that benefits the neighborhood.

3. **Granting the application is consistent with the purposes of this title and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district and area district.**