RESOLUTION NO PC 13-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A VARIANCE APPLICATION FOR AN ADDITION AND REMODEL TO AN EXISTING SINGLE FAMILY RESIDENCE ALLOWING A NEW THIRD STORY TO EXCEED THE MAXIMUM ALLOWABLE HEIGHT LIMIT BY TWO INCHES (2") AT 508 THIRD STREET (Boyle)

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 April 10, 2013 to consider an application for a Variance for the property legally described as Level Dune Tract, Lot 28, Block K located at 508 Third Street in the City of Manhattan Beach.

B. The public hearing was advertised pursuant to applicable law, testimony was invited and received.

C. The applicants for the Variance are Shannon and Terry Boyle, owners of the subject site.

D. The existing two-story 3,125 square-foot home is located on a 2,700 square foot lot and was originally built in 1987. The applicant is seeking to add a new 358 square foot third story office, a 141 square foot deck area and a minor remodel of the existing internal stairs without significantly changing the original architectural concept and design integrity of the existing house.

E. The applicant requested approval to exceed the maximum allowable height limit by eight inches (8"). At the April 10, 2013 Planning Commission meeting the Commission requested and the applicant agreed to reduce the ceiling height to Building/Safety minimum requirements of seven feet six inches (7'-6") from eight feet (8'), therefore reducing the height to only two inches (2") over the maximum allowable height limit.

F. The property is located within Area District III and is zoned Single-Family Residential (RS). The surrounding Zoning and land uses consist of single-family residences.

G. The General Plan designation for the property is Low Density Residential.

H. The applicant requests relief from MBMC Section 10.12.030(H) to exceed the 30-foot maximum allowable height limit as measured from the average elevation at the four corners of the lot. The proposed construction complies with all other applicable standards.

I. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303.

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, since; special circumstances applicable to the subject property include exceptional topography and steep grades which rise in height from Third Street to the alley and this can be evidenced by similar properties along the existing streetscape that have raised front yards. Due to the physical limitation of the raised grade, and the alley access which established the first floor level when the house was originally constructed in 1987, a third story addition cannot be constructed without exceeding the maximum allowable height.

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, since; the project is asking to exceed the maximum allowable height by only two inches and the new construction will not be significantly different in height from neighboring properties and will be at 81% of the maximum allowable building floor area. The addition will not impact light or ventilation of surrounding properties, and the massing of the addition, by placing it in the middle of the house, minimizes impacts. The portion of the addition that will exceed the maximum height limitation is uniquely situated in the middle of the home which will not be visible from the front or rear of the house.

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, since; the height of the structure itself will be only two inches (2") over the maximum allowed building height and would not be inconsistent with surrounding properties. The number of stories being proposed would otherwise be allowed by code which is consistent with the purpose of this title. The proposed ceiling height is at the minimum per Building/Safety code requirements and the new small addition is only 358 square feet with a finished flat roof. Approving this variance does not set a precedent or any expectation that the Planning Commission will approve other height variances, in as much as each variance request is evaluated individually on its own merits.

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

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

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

Goal LU-3: *Achieve a strong, positive community aesthetic.*

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

Housing Policy 1.1: *The City of Manhattan Beach will continue to maintain and conserve the character of its existing residential neighborhoods.*

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 April 10, 2013, except the lowering of the ceiling height to seven feet six inched (7'-6") and only two inches (2") over the maximum allowable height limit. The proposed pyramid skylight at the new third floor stairway located at the front of the house is not part of this variance approval and must be constructed under the maximum height limit.

2. The project shall be in conformance with the Manhattan Beach Municipal Code except for:
   a. Allowing the residence to exceed the maximum allowable height limit by two inches (2") at the finished building height of 131.25' instead of the required building height of 131.08' as measured from the average elevation at the four corners of the lot.

3. Future construction or remodel of any additional buildable floor area on the third floor may require a Variance application amendment, subject to the Director of Community Development review and determination.

4. 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.

5. 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.

6. All defective or damaged curb, gutter, street paving, and/or sidewalk improvements shall be removed and replaced with standard improvements, subject to the approval of the Public Works Department.

7. All development, including the massing of the proposed building on the site shall not impact any light and ventilation requirements and must be brought into conformance with current Building Safety regulations as determined by the Building Official.

8. This Resolution shall become effective when all time limits for appeals have been exhausted as provided in MBMC Section 10.100.030.

9. The Variance shall be implemented within two years after the date of approval, with the option for future extensions, in accordance with the MBMC Section 10.84.090 (A).

10. Applicant shall defend, indemnify, and hold 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") free and harmless from and against any and all claims (including, without limitation, claims for bodily injury, death, or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including, without limitation, attorneys' fees, consequential damages, disbursements, and court costs) of every kind and nature whatsoever (individually, a "Claim," collectively, "Claims"), in any manner arising out of or incident to: (i) this approval and related entitlements, (ii) the City's environmental review of this project, (iii) any construction related to this approval, or (iv) the use of the property that is the subject of this approval. 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 arising out of or incident to this approval, any construction related to this approval, or the use of the property that is the subject of this approval. The City shall have the right to select counsel of its choice. 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. Applicant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Applicant or Indemnitees. This indemnity shall apply to all Claims and liability regardless of whether any insurance policies are applicable. Nothing in this Section shall be construed to require 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 Variance permit, 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. The time within which judicial review of the decision reflected in this resolution, if available, must be sought is governed by Section 1094.6 of the California Code of Civil Procedure and other applicable short periods of limitation. 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 California 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 April 24, 2013 and that said Resolution was adopted by the following vote:

AYES: Chairperson Conaway, Paralusz, Gross, Andreani, Ortmann
NOES: None.
ABSTAIN: None.
ABSENT: None.

FOR
RICHARD THOMPSON,
Secretary to the Planning Commission

for
Rosemary Lackow
Recording Secretary