

RESOLUTION NO. PC 18-11

RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL APPROVING A COASTAL DEVELOPMENT PERMIT AND VARIANCE TO ALLOW A REMODEL/ADDITION TO A NONCONFORMING HOME AT 2912 OCEAN DRIVE (STRNAD)

THE MANHATTAN BEACH CITY COUNCIL HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1. Jeffrey Strnad (Applicant) has submitted an application for a Coastal Development Permit and Variance for a property located at 2912 Ocean Drive (Subject Property). The Applicant seeks approval to remodel and add square footage to his existing nonconforming home (the Project). The Subject Property is located in Area District III and is zoned RH, High Density Residential. The properties to the north, east, and south are all zoned RH, Residential High Density. The properties the west across Ocean Drive are zoned RM, Residential Medium Density. The Subject Property is classified as High Density Residential in the Manhattan Beach General Plan.

SECTION 2. On June 13, 2018, the Planning Commission conducted a duly noticed public hearing to consider the Project. After the public hearing was closed, the Commission adopted Resolution No. PC 18-11 conditionally approving the project. The Planning Commission's decision was timely appealed by Bella Stavchansky and Lisa Taylor.

SECTION 3. On August 7, 2018, the City Council conducted a duly noticed public hearing *de novo* to consider the Project. Evidence, both written and oral, was presented to the Council. All persons wishing to address the Council regarding the Project were given an opportunity to do so at the public hearing. Speakers spoke in favor and in opposition to the Project.

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law on June 13, 2018 to consider an application for a Coastal Development Permit and Variance for the property legally described as the SE 23 Feet of Lot 4, Block 8, Peck's Manhattan Beach Tract, located at 2912 Ocean Drive 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 Coastal Development Permit and Variance is Jeffrey Strnad.
- D. The property is located within Area District III and is zoned RH Residential High Density. The surrounding Zoning and land uses consist of RH zoned properties.
- E. The General Plan designation for the property and surrounding area is High Density Residential. The Local Coastal Program/Land Use Plan designation is Residential High Density. 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.

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

Housing Element:

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

- F. The applicant requests to remodel the existing nonconforming structure and add square footage by adding a new third floor.

- G. The proposed construction complies with other applicable standards including maximum building height and maximum buildable floor area.
- H. The Project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301 and 15303 based on staff's determination that the project consists of a remodel/addition to a small structure consisting of one-single family residence that will not have a significant impact on the environment.
- 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 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 applicant's lot, measuring just 689 square feet, is unusually small when compared to typical Area District III lots. The minimum lot size in Area District III is 2,700 square feet. The majority of lots in Area District III are 30 feet wide by 90 feet long (2,700 square feet), while most lots along The Strand, Manhattan Avenue, Highland Avenue, and Alma Avenue have been subdivided in a 33.33 feet wide by 100 or 105 feet long configuration. There are also many lots in Area District III that are also legal nonconforming half lots, being 30 or more feet wide by 45, 50, or 52.4 feet long (1,350 square feet, 1,500 square feet, or 1,575 square feet, respectively). The applicant's 689 square foot lot is clearly much smaller than the common 1,350 square foot nonconforming half lots found throughout Area District III.

Applying the strict application of the Code's development standards to this unusually small lot would result in a burdensome buildable envelope and an undue hardship on the applicant. Applying the required setbacks to this lot would result in a buildable envelope that would be 19 feet wide by 19.97 feet long, or about 379 square feet. The buildable envelope on a typical Area District III legal nonconforming half lot, for comparison, is 840 square feet; more than double the 379 square foot buildable envelope that would be required on the applicant's lot if no variance was granted. This 379 square foot buildable envelope provides just enough room for a two car garage that meets the minimum garage size requirements.

The applicant has also obtained a two-foot access easement on the neighboring property to the north at 2916 Ocean Drive. This two-foot access easement gives the applicant full access to the rear two feet of the neighboring property to the north, creating a buffer between the applicant's structure and the neighboring property and lessening the impact of the nonconforming 1.15 – 1.75 foot interior side yard setback that the applicant proposes to maintain. This two-foot access easement is a unique attribute of the subject property and could be taken into account when determining the unique "physical conditions" of the site.

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 home is retaining most of its existing footprint and setbacks. The proposed plans are also compatible with neighboring properties, as the neighboring properties are almost all three stories tall. The applicant's easement on the neighboring property to the north also helps create a permanent buffer between the applicant's property and the property to the north.

Furthermore, the applicant has made significant efforts to provide modulation to the structure's front, using different depths and textures to give the home architectural character that benefits the neighborhood. The proposed home is also compatible in terms of scale and mass with other neighboring properties, which range from smaller two-story duplexes to larger three-story single family homes and condominiums.

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.

Granting the application is consistent with the purposes of the Zoning Code, in particular Section 10.12.010 B and E, and will not constitute the granting of a special privilege because the setback 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.

K. The Planning Commission made the following findings with respect to the Coastal Permit Application:

1. The project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II.B.1, 2, & 3, as follows:
 - a. II.B.1: The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program- Implementation Plan;
 - b. II.B.2: The proposed structure is consistent with the residential bulk control as established by the development standards of the Local Coastal Program- Implementation Plan;
 - c. II.B.3: The proposed structure is consistent with the 30' Coastal Zone residential height limit as required by the Local Coastal Program- Implementation Plan.
2. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows;
 - a. Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along Ocean Drive and 29th Place.
 - b. Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on property is already adequately provided for in the area.
 - c. The proposed use permitted in the RH zone and is in compliance with the City's General Plan designation of RH; the project will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City.

L. This Resolution upon its effectiveness constitutes the Variance and Coastal Development Permit for the subject project.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Variance and Coastal Development Permit 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 June 13, 2018. Any substantial deviation from the approved plans or project description must be reviewed and approved by the Planning Commission.
2. Replacement of structural members that have dry rot and/or termite damage during the construction process shall be subject to review. The Community Development Department shall verify that the structural members are damaged and shall allow the owner to replace the structural members without needing to obtain a Variance Amendment and/or Coastal Development Permit Amendment if the Community Development Director determines that all the required findings can still be met. The applicant may also request a modification to this Variance to allow for new construction as opposed to remodeling of the existing building, subject to a properly noticed public hearing.
3. A Construction Management and Parking 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 during all phases of construction, including delivery and storage of materials and parking of construction related vehicles.

4. 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.
 5. A site landscaping plan utilizing drought tolerant plants shall be submitted for review and approval 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.
 6. A low pressure or drip irrigation system shall be installed in the landscaped areas, which shall not 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 Development Departments.
 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.
- Procedural***
8. 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.
 9. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Planning Commission.
 10. Inspections. The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
 11. 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.
 12. 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.
 13. 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.
 14. This Resolution shall become effective when all time limits for appeals have been exhausted as provided in MBMC Section 10.100.010 and the City of Manhattan Beach Local Coastal Program.
 15. 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).

- 16. 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.
- 17. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of the Variance. The Coastal Development Permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Community Development Department.
- 18. *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 **June 13, 2018** and that said Resolution was adopted by the following vote:

AYES: **Burkhalter, Fournier, Morton,
Thompson, Chair Seville-Jones**

NOES: **None**

ABSTAIN: **None**

ABSENT: **None**

/s/Anne McIntosh
ANNE MCINTOSH,
Secretary to the Planning Commission

/s/Rosemary Lackow
Rosemary Lackow,
Recording Secretary