

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, FEBRUARY 16, 2005 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Mary Beth Broeren

**STAFF MEMBER:** Jason Kelley, Ron Santos, Ramona Kohlmann (recording secretary)

**MINUTES:** January 26, 2005  
February 2, 2005

**APPROVED AS SUBMITTED**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: VARIANCE NO. 04-06 (MC CLYMONDS RESIDENCE)**

APPLICANT/  
PROPERTY OWNER: Bruce McClymonds, 617 18<sup>th</sup> Street, Huntington Beach, CA 92648  
REQUEST: To permit an interior side yard setback of five-feet in lieu of the required ten-foot setback for a new two-story single-family residence. The request includes a review and analysis for compliance with the Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/privacy issues, such as window alignments, building pad height, and floor plan layout.  
LOCATION: 1114 Palm Avenue (northeast corner of Palm Avenue and 12<sup>th</sup> Street)  
PROJECT PLANNER: Jason Kelley

Jason Kelley, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the requested project. Staff presented a review of the proposed project and the suggested findings and conditions of approval as outlined in the executive summary.

Staff recommended approval of the request based upon the suggested findings and subject to the suggested conditions as outlined in the executive summary.

Staff stated that comments were received from a neighboring property owner concerning the conditions of approval and another neighboring property owner concerning setbacks and alternatives. No other written or verbal comments were received in response to the public notification.

Mary Beth Broeren, Zoning Administrator, reviewed the plans and photographs. A general discussion ensued with staff concerning the property and garage to the rear, setback, and dedication of property.

**THE PUBLIC HEARING WAS OPENED.**

Susan Braun, 707 11<sup>th</sup> Street, neighboring property owner, stated opposition to the granting of any variance in the City.

Jennifer Brown, 710 12<sup>th</sup> Street, neighboring property owner, questioned why the project planner did not approach the neighboring property owners to discuss the plans. Ms. Brown spoke in opposition to the proposed project expressing concerns based upon loss of sunlight and privacy on her property, smoke from the proposed chimney, noise from the proposed pool's location near her bedroom, location of the pool equipment, and danger to the integrity of her property resulting from the excavation for the proposed basement. Ms. Brown presented a letter addressing her concerns.

Steve De Sante, 1108 Palm Avenue, neighboring property owner to the rear and across the alley, requested clarification of suggested Condition of Approval No. 1.d. Mr. De Sante stated reluctance to agree to suggested Condition of Approval No. 1.d.2) stating that it is not feasible and would jeopardize parking of his vehicle in the driveway.

Bruce Mc Clymonds, 617 18<sup>th</sup> Street, applicant, spoke on behalf of the proposed project addressing suggested Condition of Approval No. 1.d. Mr. Mc Clymonds stated that the demarcation line is not where the adjacent garage is located but is only 6 inches at the edge of the planter. He stated that the code does not address vehicular parking. Mr. Mc Clymonds addressed the concerns stated by Ms. Brown.

Ms. Broeren explained the 10-day public notification process as set forth by State and City law, thus advising why the project planners do not contact neighboring property owners as a general practice.

Ms. Broeren explained the options as set forth in suggested Condition of Approval No. 1.d emphasizing the covenant and dedication. Discussion ensued concerning the code requirement for a clear 25-ft. turning radius and impact of a dedication from the adjacent property owner. Ms. Broeren confirmed with staff that parking in the driveway would cause an obstruction of the 25-ft. turning radius. Further discussions ensued concerning location of the chimney and setback for the fire pit.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Ms. Broeren reviewed the project plans and elevations. Discussion ensued concerning the encroachment into the setback and the location of windows. Ms. Broeren explained the City's limits on construction days and hours. She advised that the Public Works and Building departments will look at the soils report concerning the excavation and that the file is public record.

Ms. Brown approached and reviewed the plans with staff. Discussion ensued concerning the location of the pool and pool equipment, placement of the chimney, and the window height and alignment. Ms. Brown stated her support of the proposed project provided that the plans are

accurate. Ms. Broeren stated that the project plans are the product of a professionally licensed architect and are represented to be true.

Ms. Broeren explained the details and costs involved to the applicant if he were to request a zoning change to Low-Density Residential thereby allowing the 5 ft. setback without a variance. She confirmed with Ms. Braun that her opposition is based upon the principle of a variance and not the proposed project.

Ms. Broeren stated her concurrence with staff's executive summary. She stated that if the applicant cannot comply with suggested Condition of Approval no. 1.d, the project plans would have to be revised or not build.

Ms. Broeren asked staff to modify the suggested findings and conditions for approval as follows:

Suggested Findings for Approval:

2. Because of special circumstances applicable to the subject property, including size, location and surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The size of the property is 50-feet wide and 115-feet deep consisting of 5,664 square feet of net lot area. The size of the property constrains development to one single-family residence, although the property is zoned for multi-family development. Development on the subject property is uniquely constrained by the substandard width of the lot. In addition, the subject property's location adjacent to the RL zoning district presents unique circumstances which support approval of the requested variance. Strict application of the zoning ordinance deprives the subject property from developing multi-family based on the size of the lot. ~~Therefore, special circumstances are applicable to the subject property, based on the permitted development (single-family residence).~~
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The required interior side yard setback in the RM zoning district adjacent to an RL zoning district is 10-feet. The requested variance would allow a five-foot interior side yard setback for a portion of the proposed single-family residence. The overall building depth for the proposed single-family residence is ~~95-feet; however, 95-feet. Of this amount,~~ 20-feet 9-inches at the front of the building and 25-feet 3-inches towards the rear of the building is proposed to encroach within the required 10-foot setback. The principal intent of the required 10-foot setback is to buffer single-family residences from higher density development. However, in this case, a single-family residence is proposed. The reduced side yard setback will not impact the surrounding properties based on the proposed development, the window placements, and the limited usable floor area within the required setback area.

Suggested Condition of Approval:

1. The site plan, floor plans, and elevations received and dated January 12, 2005 shall be the conceptually approved layout with the following modifications:
  - d. The required minimum clear backup distance out of the garage shall be 25-feet. Therefore, one of the following shall be completed:
    - 1) Increase the rear yard setback to 7½ feet, or
    - 2) Provide a letter of authorization from the adjacent property owners that 2½ unobstructed feet may be encroached upon. A covenant shall be recorded on the adjacent properties granting authorization. The covenant may be removed upon alley dedications of the adjacent properties, or
    - 3) Submit evidence that the adjacent property owner to the south has dedicated 2½ feet at the rear of their property.

**VARIANCE NO. 04-06 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING MODIFIED FINDINGS AND CONDITIONS. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15305 of the CEQA Guidelines, because the project consists of a minor alteration in land use limitation for a side yard setback variance and does not result in the creation of any new parcels.

**FINDINGS FOR APPROVAL - VARIANCE NO. 04-06:**

1. The granting of Variance No. 04-06 for a reduced interior side yard setback in lieu of the required ten-foot setback for a new two-story single-family residence will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The subject property is located in the RM (Residential Medium Density) zoning district. The Huntington Beach Zoning and Subdivision Ordinance requires a 10-foot interior side yard setback when the adjacent zoning district is RL (Residential Low Density). The purpose of the 10-foot side yard setback is to buffer a single-family development from an adjacent multi-family development. Since the project consists of a new single-family residence instead of a multi-family development, the granting of the requested variance will be consistent with the limitations placed on other properties with single-family development.
2. Because of special circumstances applicable to the subject property, including size, location and surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The size of the property is 50-feet wide and 115-feet deep consisting of 5,664 square feet of net lot area. The size of the property constrains development to one

single-family residence, although the property is zoned for multi-family development. Development on the subject property is uniquely constrained by the substandard width of the lot. In addition, the subject property's location adjacent to the RL zoning district presents unique circumstances which support approval of the requested variance. Strict application of the zoning ordinance deprives the subject property from developing multi-family based on the size of the lot.

3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The subject property is zoned RM and is similar in size as the surrounding properties, which are zoned RL. Although the zoning is intended for multi-family development, the size of the property permits only one unit. Therefore, the granting of the variance would provide for property rights consistent with other properties in the vicinity developed with a single-family dwelling at a five-foot side yard setback.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The required interior side yard setback in the RM zoning district adjacent to an RL zoning district is 10-feet. The requested variance would allow a five-foot interior side yard setback for a portion of the proposed single-family residence. The overall building depth for the proposed single-family residence is 95-feet. Of this amount, 20-feet 9-inches at the front of the building and 25-feet 3-inches towards the rear of the building is proposed to encroach within the required 10-foot setback. The principal intent of the required 10-foot setback is to buffer single-family residences from higher density development. However, in this case, a single-family residence is proposed. The reduced side yard setback will not impact the surrounding properties based on the proposed development, the window placements, and the limited usable floor area within the required setback area.
5. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Residential Medium Density on the subject property by allowing residential development not exceeding 15 units per acre, including the following policies:

LU 9.2.1 Require that all new residential development within existing residential neighborhoods (i.e., infill) be compatible with existing structures, including the maintenance of privacy on abutting residences.

The proposed 5-foot interior side yard setback within the RM zoning district will be compatible with the 5-foot interior side yard setback required in and typical of the adjacent RL zoning district. The requested variance will not adversely affect privacy on the abutting residence since the proposed 5-foot side yard setback is consistent with the required setback for adjacent properties. Consequently, the project will have no detrimental impacts to the abutting residence based on the zoning and the proposed development.

**CONDITIONS OF APPROVAL VARIANCE NO. 04-06:**

1. The site plan, floor plans, and elevations received and dated January 12, 2005 shall be the conceptually approved layout with the following modifications:
  - a. The lot size (5,664 sq. ft.) and proposed lot coverage (48.5%) shall be corrected in the zoning conformance matrix.
  - b. The southern most window on the first floor within the courtyard shall be removed or relocated to avoid alignment with the adjacent neighbor's window.
  - c. The pool equipment shall be setback from the property line a minimum of 30-inches
  - d. The required minimum clear backup distance out of the garage shall be 25-feet. Therefore, one of the following shall be completed:
    - 1) Increase the rear yard setback to 7½ feet, or
    - 2) Provide a letter of authorization from the adjacent property owners that 2½ unobstructed feet may be encroached upon. A covenant shall be recorded on the adjacent properties granting authorization. The covenant may be removed upon alley dedications of the adjacent properties, or
    - 3) Submit evidence that the adjacent property owner to the south has dedicated 2½ feet at the rear of their property.
2. Prior to issuance of building permits, the following shall be completed:
  - a. A Lot Line Adjustment application shall be submitted and approved by the Departments of Planning and Public Works, for purposes of consolidating lots two and four.
  - b. Zoning entitlement conditions of approval, including the code requirement letter shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
3. The Planning Director ensures that all conditions of approval herein are complied with. The Planning Director shall be notified in writing if any changes to the site plan, elevations and floor plans are proposed as a result of the plan check process. Building permits shall not be issued until the Planning Director has reviewed and approved the proposed changes for conformance with the intent of the Zoning Administrator's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the Huntington Beach Zoning and Subdivision Ordinance.
4. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

**THE MEETING WAS ADJOURNED AT 2:25 PM BY THE ZONING ADMINISTRATOR TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR ON WEDNESDAY, FEBRUARY 23, 2005 AT 1:30 PM.**

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Mary Beth Broeren  
Zoning Administrator

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