

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING ADJUSTMENTS
OF THE CITY OF HERMOSA BEACH, HELD IN THE COUNCIL CHAMBERS OF THE
CITY HALL, ON AUGUST 6, 1979 AT 7:30 P.M.

Meeting called to order at 7:31 p.m.

Pledge of allegiance led by Comm. Moore.

ROLL CALL

Present: Comms. Corky Beard, Bob Cummings, Tony Debellis,
Carl Moore, Chmn. Coralie Ebey
Absent: Comms. George Merrill, Jim Walker
Also Present: Laurie Duke, Ed King, Pam Sapetto, Staff

APPROVAL OF MINUTES

Correction by Comm. Moore to the minutes of June 4, 1979, Page 6,
vote on motion to read:

"Ayes: Comms. Merrill, Cummings,
Noes: Comms. Beard, Moore, Walker
Absent: Comm. Debellis, Chmn. Ebey"

Motion by Comm. Beard, seconded by Comm. Moore, to approve the minutes
of June 4, 1979, as corrected.

Ayes: Comms. Beard, Cummings, Debellis, Moore
Noes: None
Abstain: Chmn. Ebey
Absent: Comms. Merrill, Walker

Correction by Comm. Moore to the minutes of June 18, 1979, Page 6,
vote on motion to read:

"Ayes: Comms. Beard, Cummings, Moore, Walker, Vice Chmn. Debellis
Noes: None"

Motion by Comm. Moore, seconded by Comm. Beard, to approve the
minutes of June 18, 1979, as corrected.

Ayes: Comms. Beard, Cummings, Debellis, Moore
Noes: None
Abstain: Chmn. Ebey
Absent: Comms. Merrill, Walker

Motion by Comm. Beard, seconded by Chmn. Ebey, to approve the minutes
of July 2, 1979, as submitted.

Ayes: Comms. Beard, Cummings, Moore, Chmn. Ebey
Noes: None
Abstain: Comm. Debellis
Absent: Comms. Merrill, Walker

APPROVAL OF RESOLUTIONS

None

CONSENT CALENDAR

Comm. Debellis requested to pull Preliminary Environmental Impact Reports HB-79-042 (40 - 15th St. - construction of 3-unit condominium) and HB-79-044 (131 - 20th St. - remodel existing dwelling and add unit).

Chmn. Ebey asked if anyone in the audience wished to request a Preliminary Environmental Impact Report to be pulled for discussion. There was no response.

Motion by Comm. Beard, seconded by Comm. Cummings, to declare the following preliminary environmental impact reports to be adequate, not significant, and ask that negative declarations be filed:

HB-79-041 - 1200 Pacific Coast Highway, CUP for used car sales.
HB-79-043 - 1018-1022 Hermosa Avenue, Modification of existing CUP.
HB-79-045 - 837 Hermosa Avenue, Modification of existing CUP.
HB-79-033 - 8 Pier Avenue, CUP request for live entertainment.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

VARIANCES3009 Strand

Applicant: R. W. & Susan Gillett

Comm. Moore asked what is the nature of the current non-conforming use. Mrs. Duke replied it is a duplex in an R-1 zone. She explained the applicant is still within his own front yard, but will be encroaching 2'2" into the required front yard. Mrs. Duke added that because of the changes in R-1 requirements, the applicant is required to have a 10 foot front yard.

Open to public hearing at 7:45 p.m.

In reference to the applicant's statement re: findings which was included in the packets, Comm. Beard noted the applicant indicated there were "no particular exceptional or extraordinary circumstances or conditions associated with this property." Comm. Beard explained to the applicant that the Board has to find that there are exceptional or extraordinary circumstances to justify granting the variance.

Mr. Gillett stated that the surrounding properties have similar encroachment.

Chmn. Ebey noted that this structure was originally built much further back than those on surrounding properties.

In reference to the applicant's statement that the "proposed balcony will be positioned such that the view from either neighbors' house is preserved", Comm. Cummings asked how this would be accomplished.

Mr. Gillett stated they went to the neighbor's house to visually check it and to measure it. He noted it does impact the side view somewhat.

Public hearing closed at 7:50 p.m.

Comm. Cummings felt the argument in favor of granting this variance is that there are a substantial number of properties in the same vicinity and zone that encroach more than this project would. He felt the argument against the variance is that in time those encroachments would be required to conform when buildings are torn down. He noted the applicant is not requesting to extend his building, just the deck. Comm. Cummings stated that in his opinion the applicant's project is reasonable and there are exceptional circumstances.

Motion by Comm. Cummings, seconded by Comm. Beard, to grant Variance Request BZA 154-335 with the condition that the supporting posts be set back so that they are not in the required front yard.

Comm. Debellis commented that this is still a nonconforming use. He added that possibly the Board had given out a lot of variances they should not have or perhaps these other properties did not require variances.

Comm. Cummings said he was taking the history of the area into consideration.

Mrs. Duke stated that most of the other properties had their encroachments prior to the 1975 R-1 zoning requirement change.

Comm. Cummings commented that the implication of the new requirements is that the properties are allowed a 3' balcony. Mrs. Duke said that if the deck did not expand the extra 2'2" the applicant could add the deck without a variance.

Comm. Cummings felt the request is minor, considering something could be done to the nonconforming building.

Vote on motion above:

Ayes:	Comms. Beard, Cummings, Moore
Noes:	Comm. Debellis, Chmn. Ebey
Absent:	Comms. Merrill, Walker

Motion by Comm. Cummings, seconded by Comm. Beard, to adopt the following findings:

1. because encroachment into the front yard setback is minor in nature considering the properties on the other sides.
2. because there are more significant encroachments in the immediate area.
3. because the applicant has obtained the signatures of the adjacent property owners stating they have no objections.
4. because it does not increase the density specified in the General Plan.

Ayes: Comms. Beard, Cummings, Moore
Noes: Comm. Debellis, Chmn. Ebey
Absent: Comms. Merrill, Walker

PEIR HB-79-044 - 31 - 20ty Street

Reviewed in conjunction with Variance Request BZA-154-338.

Applicant: David & Susan Erb

Comm. Debellis noted the proposed dwelling units per acre is 30.54. He stated the General Plan and Zoning Code only allow 25 dwelling units per acre. He felt this was a significant increase; and the report should be declared significant.

Comm. Beard said she agreed that it is significant; but felt that Mrs. Sapetto would advise the Board to just declare whether or not the information on the report was adequate.

It was the consensus of the Board to hold over the review until Mrs. Sapetto arrives.

Variance Request BZA 154-339 - 341 - 33rd Street

Applicant: Lionel & Suzzie Levin

Mrs. Duke gave the staff report. Chmn. Ebey asked if the survey indicates there is a difference from the plot plan and the Building Director determines it is a significant and adverse difference, would the applicant have to pay another fee. She also questioned why the survey was not conducted before.

Mrs. Duke replied the applicant would normally have to pay another fee, if such a determination were made. She added there was not enough time to have the survey done. Mrs. Duke stated that no new survey was done when the garage was constructed in 1966. She said it was not a requirement that a survey be done for some projects at that time.

Public hearing opened 8:10 p.m.

Chmn. Ebey asked the applicant if he would prefer to continue the request until the survey can be done. Mr. Levin replied no. He said they agree with staff that a new survey will show less of an encroachment. He felt that all four findings can be made easily. Mr. Levin stated they want to expand to provide more space in their single family residence. He said this will not interfere with community plans. He added it would be injurious to their enjoyment of a substantial property right, if it were denied.

Comm. Debellis asked if the walls of the addition would be set inside 3' from the setback. Mr. Levin replied yes. He explained they discussed this with the architect, and it is their feeling it will not take away from the house visually.

Mrs. Kaplan, of 34th Street, stated she did not want to stop the applicant from building the second story; but noted the addition

would block her entire view. She suggested perhaps the design of the roof could be changed to allow her view on the sides.

Chmn. Ebey asked if the roof is pitched. Mrs. Duke replied it is pitched east to west.

Comm. Moore asked what was the proposed height of the project. Mrs. Duke said the project is 31 ft. high; the applicant is allowed to build to 35 ft. high. Mrs. Duke explained the height is measured around the perimeter of the roof from grade to the high point.

Public hearing closed at 8:19 p.m.

Comm. Moore felt the only significant issue is whether the garage, built in 1966, is so close to the street that the Board would not want it to remain. Comm. Beard noted the garage was built at a time when that was allowed. She did not feel the Board should punish the applicant for that.

Chmn. Ebey agreed. She noted the applicants are trying to follow current setback requirements.

Comm. Beard suggested that Mrs. Kaplan meet with the applicant and perhaps they can iron out the problems together.

Motion by Comm. Beard, seconded by Comm. Debellis, to grant Variance Request BZA 154-339, subject to providing a new lot survey.

Mr. Kaplan stated he had lived in Hermosa Beach since 1935. He added he once requested a variance and was turned down. Mr. Kaplin stressed the importance of the beauty of Hermosa Beach. He asked that the board consider the effect this project would have on the community.

Ayes:	Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes:	None
Absent:	Comms. Merrill, Walker

Comm. Beard commented the Board has to abide by the laws of the City. She noted the applicant is allowed to build up to 35 feet. She said the Board cannot determine whether that is good or bad.

Comm. Debellis asked if the applicant could get a refund if the new survey indicates that a variance was not needed. Mrs. Duke said the applicant could request a refund in that case.

Motion by Comm. Beard, seconed by Comm. Debellis, to adopt the following findings:

1. because the sideyard variances in this instance are extremely minor and occur regularly within the City, the vicinity and the zone; also, the sideyard non-conformities were pre-existing.
2. because variances which deal with the minor nature of pre-existing sideyard setbacks are frequently granted variances.

3. because it does not directly effect the surrounding properties; and the addition is in conformance with the code.
4. because it will not increase the density.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comm. Merrill, Walker

PEIR HB-79-044 - 31 - 20th Street

Continued from earlier in the agenda. Review in conjunction with Variance Request BZA-154-338.

Applicant: David & Susan Erb

Comm. Debellis questioned Mrs. Sapetto about the dwelling units per acre. Mrs. Sapetto stated it is the City Attorney's interpretation and the City's policy that duplexes do not need to conform with the General Plan and the subdivision map act. She added they are not considering a subdivision. Mrs. Sapetto suggested the Board could ask the City Attorney for a clarification.

Comm. Debellis stressed that he feels this is a significant increase in density. He suggested the Board could approve the Preliminary Environmental Impact Report, and declare it adequate and significant. Mrs. Sapetto said she thought that action would automatically require a full draft EIR.

Comm. Cummings said he was disturbed that there is no documentation on this. Comm. Moore agreed that a clarification is needed; but felt the Board could go ahead with the project.

Motion by Comm. Moore, seconded by Comm. Cummings, to declare PEIR HB-79-044 adequate, not significant, and request that a negative declaration be filed.

Ayes: Comms. Beard, Cummings, Moore
Noes: Comm. Debellis, Chmn. Ebey
Absent: Comms. Merrill, Walker

Variance Request BZA-154-338 - 31 - 20th Street

Mrs. Duke gave the staff report. She noted the existing front porch already encroaches two feet; and the proposed would encroach approximately 4 feet. She stated the request would have to go to the City Council for approval. Mrs. Duke added that the porch did not show on the survey.

Open to public hearing at 8:21 p.m.

David Erb, applicant, explained that the foundation would encroach on the sideyards; but the building would not. He stated he would cut back the porch. Mr. Erb said they wanted to enlarge for their family, and the additional unit would benefit them economically. He noted they are proposing additional parking beyond what is required.

Chmn. Ebey asked if the applicant was planning to move in all the walls. Mr. Erb replied yes. He added that the foundation is adequate. Chmn. Ebey asked if the foundation is up from the ground. Mr. Erb said it is up about 1½' in the front. He added there would be about one inch from the edge of the foundation to the wall on one side; and about six inches on the other side.

Comm. Moore asked about the front yard setback. Mrs. Duke explained the applicant has 2½"; but with the porch encroaching 2', it is still nonconforming.

Mrs. Duke commented that if the applicant demolished and rebuilds to more than 50% of value, then the project would be considered a new building and would have to meet all current codes. Mr. Erb stated that even if the walls were brought in, what would be saved in the flooring and foundation would be more than 50% of the value. He added it would be more aesthetic to bring in the walls, because of the regulations on windows.

Comm. Debellis asked the applicant if he would consider undertaking the project without the additional unit. Mr. Erb stated he needs it economically. He felt that he had sacrificed lot coverage by providing additional parking.

Marland Vick, 1928 Strand, stated his wife was the previous owner. Mr. Vick stated that the sideyard nonconformity might be due to the fact that he remodeled in 1975, and put furring strips and cedar siding up. He felt this probably added a width of 4". He noted there are shingles underneath.

Mr. Vick commented there might be some contention as to whether or not the proposed project is aesthetic; but he felt it is appealing. He said there is some claim that this block has the cottage or village look. He said this is partially true; but nine of the fourteen homes on the block are two-story. He added that two of the homes built recently do not have the cottage look.

Dillan Perrine, 52 - 20th Street, questioned the encroachment on the sideyards. Chmn. Ebey explained the applicant now is proposing to set all the walls in to conform.

Vickie Post Riedel, 37 - 20th Street, stated she lives directly east of the project. She said she was also speaking for Margaret Rolland of 21 - 20th Street. She explained they both signed the application, but should not have signed until they saw the plans. She stated they have since withdrawn their signatures. Mrs. Riedel commented on the massiveness of the building and the nonconforming setbacks. She noted the effect of the lack of light and air on her home. She felt this was not in keeping with energy conservation concerns. She stated that she strongly opposed this project.

Mike Roth, 61 - 20th Street, stated there have been mistakes constructed on the block; but he felt that was no reason to continue making mistakes. He said the project would be like a wall in the middle of the block. He said it would shut out sunlight. He added that it is too voluminous, and is not in keeping with the neighborhood.

Comm. Moore commented that his impression was that Mr. Roth's concern was not really with the variance; but with the way the structure fits into the community. Mr. Roth stated he was concerned about both, with emphasis on the community.

In reference to the sideyards, Mr. Roth expressed concern about how firemen would be able to put up a ladder to fight a fire in a 5 ft. area. He added that he would be in favor of seeing something done that was more in keeping with the neighborhood.

Don Anderson, 43 - 20th Street, stated he does not like the large wall effect. He added that it blocks the view and the light and air.

Mike Riedel, 37 - 20th Street, felt that people do not really visualize this type of project. He presented scale drawings and overlays for comparison of the proposed project with the house in the surrounding area. He stressed that the project is too big. He said that should the plans be approved, there will be 3 stories, and the top two stories will not have windows. He added that the minimum height is 38 feet.

Mrs. Duke said the applicant indicated he would not exceed 30 feet. Mr. Riedel said the proposal is not for 40%; it is for 250%. He stressed the impact of the area is in terms of people. He said that laws are only guidelines to help the Commissioners.

Mrs. Duke submitted a letter of opposition from Mrs. P. Fuehring of 21 - 21st Street received this date.

Public hearing closed 9:15 p.m.

Comm. Moore asked if this project is a remodel or new construction. Mrs. Duke stated it was presented as a remodel and addition. She added that if the structure was scrapped down to foundation, then it is new construction.

Comm. Moore asked what effect this would have on the way the Board considers variances. Mrs. Duke said that would have to be determined by the Board.

Comm. Cummings felt it is new construction. He said the purpose of the 40% limitation is to preserve the character of the neighborhood. He added that he could not find any exceptional circumstances.

Comm. Moore felt the majority of the audience was concerned with air and light, bulk, and general fit into the community. He commented that is not so much what the Board deals with.

Motion by Comm. Debellis, seconded by Comm. Cummings, to deny Variance Request BZA 154-338 for the following reasons:

1. Because criteria for exception to code, 250%, does not allow this to be considered.
2. Because the nonconforming front yard setbacks are substantial, and in excess of the intent of granting a variance.
3. Because it is detrimental to the neighborhood and the public welfare.

4. Because it would be in excess of the General Plan designation.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

Chmn. Ebey informed the applicant of his right to appeal.

In reference to questions by the Commissioners about the Preliminary Environmental Impact Reports, Mrs. Sapetto stated the City Council passed a Resolution dated April 3, 1973, regarding the implementation of Section 12. She said the Resolution states that when a Preliminary Environmental Impact Report is declared to be significant, a full draft report must be written.

Variance Request BZA 154-341 - 1002 Fifth Street

Applicant: Jeffrey & Donna Clark

Mrs. Duke presented the staff analysis. Chmn. Ebey asked if it would be possible to get a survey before a variance request is made. Mrs. Duke said that staff has discussed this for a long time and are now requiring a survey prior to full acceptance of applications. Chmn. Ebey suggested it could be a requirement for a complete application.

Public hearing opened at 9:32 p.m.

Mr. Clark stated his mistake was in the location of the garage. He said that he would move the garage wall out of the encroachment. He noted the house as originally submitted is approximately in the same location. He added the lot is not as long as he thought previously.

Comm. Cummings said his understanding of the original proposal was that the applicant wanted the garage and house aligned. He noted the garage would have to be moved to the setback of the house in order to accomplish that now.

Mr. Clark stated he was more interested in the west elevation, because that is the elevation that shows. He stated his intention is to move the garage wall a few inches so that it is on his property.

Comm. Moore asked if the applicant had considered the possibility of moving the walls so that they would be in line with the rest of the house. Mr. Clark said it could possibly be done; but added it would cost a little more.

Comm. Moore felt that would be closer to what the code allows. Mr. Clark did not feel that would gain anything. Comm. Moore stated the problem is that the neighbor might want to redo their property in the future. Mr. Clark noted the neighbor's house was remodeled recently above the current height limitations, and it encroaches on both sides. He felt it was a very remote possibility that they would redo their property.

Jane Brown, 1042 - 4th Street, stated she is opposed to the project because the existing fence on the west side and the garage extend almost flush with the sidewalk. She added it does butt up on the south side against the existing fence. She said it is not possible to know what someone might want to do with the surrounding properties in the future. Mrs. Brown said she would like to see the structure go back within the property lines with the setbacks, and the garage flush with the existing building.

Mr. Holman, 1040 - 4th Street, stated the house is not in line with the garage. He added there is no aesthetic value to the project.

Mr. Clark noted the building was proposed to the existing wall. He said it would not stick out when looking from north to south.

Comm. Debellis asked if the applicant was required to bring the east garage wall into line with the existing structure. Mrs. Duke replied that based on the survey, it could be reduced 2 feet in depth and still have a garage that meets code.

Public hearing closed at 9:47 p.m.

Comm. Cummings asked if the front yard fence is nonconforming in height. Mr. Clark said the fence is about $4\frac{1}{2}$ feet high and located on the property line. Mrs. Duke stated there is a 3 foot height limit on the property line.

Comm. Cummings commented he was not certain the new addition could not meet the new setback requirements. He added the south sideyard is not an acceptable variance. Mrs. Duke explained the garage interior has to have a clear 18 feet width. She said the existing garage has 20.1 feet; therefore, 2.1 feet would be the maximum that could be removed.

Comm. Moore commented that by the time the applicant removed both walls, it would be like starting from scratch. Comm. Cummings stated the plans are not working.

Mr. Duke agreed the applicant would have to totally redesign the proposed addition if he was required to come into conformity. She suggested the Board give guidelines and continue the request.

Comm. Moore recommended getting the existing structure back into the property line, consider granting a variance for the east side, and rebuild the garage to get the south side in line with the east side. He felt this was necessary to protect the community on the long range basis, and to protect the property to the rear and east.

Comm. Debellis commented he would not be adverse to granting variances for the third and fourth nonconformities, if the applicant is willing to amend the plans to bring the garage in, to the greatest extent possible, and do whatever necessary on the new construction.

Comm. Cummings did not feel the Board should grant any variances on this project.

Comm. Beard suggested bring the south wall into total conformity, not requiring the full setback on the east side, and aligning the garage with the building. Mr. Clark stated he could move the east wall of the garage in line with the house; but he could not move the south wall in because the garage would have to be rebuilt. He stated he could not afford this; and it would make the unit above too small.

Chmn. Ebey stated that based on the discussion, the request would be denied if the Board were to take a vote now.

Mrs. Clark asked if the request could be continued so that different plans could be considered. She noted it would be a radical change from the current proposed plans.

Comm. Moore asked if there was any response from the property owner to the south. Mr. Clark stated the neighbor to the south signed the petition. He commented this neighbor also has plans to construct a second story on their garage.

Motion by Comm. Beard, seconded by Comm. Debellis, to continue the request to the meeting of September 5, 1979, at which time the applicant will either submit revised plans, or the Board will vote on the current request. There were no objections. So ordered.

The Board recessed at 10:12 p.m. and reconvened at 10:20 p.m.

CONDITIONAL USE PERMITS

Conditional Use Permit BZA 154-333 - 837 Hermosa Avenue

Mr. John Bowler of Fat Face Fenner's Falloon made a statement regarding their application for a conditional use permit for outside dining on the patio. He stated that after discussion with the neighbors, they no longer feel it would be in the best interest of the neighborhood to pursue the permit. Mr. Bowler rescinded the request for the permit.

Conditional Use Permit BZA 154-336 - 1200 Pacific Coast Highway

Applicant: Maury Silver

Mr. King explained the applicant got a temporary conditional use permit until the Board could hear the request. He said the applicant supplied the City with a copy of the lease and met the four conditions recommended by staff. He noted the City Manager approved the temporary permit on the condition that it was only temporary until the Board made a decision. Mr. King stated that any automotive-related business requires a conditional use permit. He added the applicant indicated he will be going into a different auto related business soon.

Open to public hearing at 10:25 p.m.

Mr. Silver stated he read and would agree to all the conditions. Comm. Moore asked when the applicant would have plans for a more permanent structure. Mr. Silver replied the plans would be sub-

mitted within about 4 months. He explained the new business would be a complete auto center including parts, auto rental, eight bays for car repair and auto sales. Mr. King commented this request is just for the used cars.

Comm. Debellis asked if the owner of the property knows about these plans. Mr. Silver said yes, adding the owner has approved them.

Comm. Moore expressed concern about approving car sales from a trailer. Mr. Silver said he does not want to work out of a trailer. He explained that he has to have the permit because of the Department of Motor Vehicles requirements.

Public hearing closed at 10:30 p.m.

Motion by Comm. Beard, seconded by Comm. Moore, to approve Conditional Use Permit BZA 154-336. Mr. King noted Condition #5, for 6 month review, does not mean 6 month permit. Mr. King added Condition #9: "failure to observe any conditions would be grounds for setting a hearing for revocation."

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

Conditional Use Permit BZA 154-337 - 1018-1022 Hermosa Avenue

Applicant: Mike Lacey for The Comedy and Magic Club

Mr. King reported the original Conditional Use Permit dated January 23, 1978, was for the sale of beer and wine. He said the applicant feels the proposed modification of the permit to allow the service of liquor would benefit his business.

Mr. King said he spoke with the applicant regarding a 50% admission-alcoholic beverage percentage requirement; and the applicant indicated it would be a hardship. He said they also discussed modifying the condition "maintain live entertainemnt at least 25% of the time" to 50% of the time.

Comm. Debellis said he did not understand the reference to "off-sale" in the Preliminary Environmental Impact Report under the sections Environmental Impact and Growth Inducing Impact. Mr. King noted both references were errors and should have read "on-sale".

Open to public hearing at 10:35 p.m.

Mr. Lacey stated the entertainment is actually much higher than 50%-50%; but he noted there are times when the club is used by specific businesses for dinner-meetings, and then the percentage goes down. He noted they do not serve the beer and wine during certain portions of the show, such as the magic act. He added there are always two doormen present. Mr. Lacey stated there have been no problems.

Closed to public hearing at 10:39 p.m.

Motion by Comm. Moore, seconded by Comm. Cummings, to approve the

Motion by Comm. Moore, seconded by Comm. Cummings, to approve the Conditional Use Permit BZA 154-337 with the staff recommendations; and to modify Condition #7 "...to maintain comedy/theatrical productions...."

Comm. Moore felt a permit to serve alcoholic beverages was appropriate in conjunction with this kind of club. He felt there is firm control.

Ayes: Comms. Cummings, Debellis, Moore, Chmn. Ebey
Noes: Comm. Beard
Absent: Comms. Merrill, Walker

Conditional Use Permit BZA 154-330 - 8 Pier Avenue

Mr. King noted this item was pulled because the applicant is withdrawing his request.

PEIR REVIEW

PEIR 79-042 - 40 - 15th Street

Comm. tebellis explained he pulled this report because many of the questions on the application had not been filled out. The applicant gave the following responses to the questions:

Cost: The applicant stated \$250,000 to \$300,000. He added they were not sure because it would depend on how luxurious the units would be.

Demolition: Bulldozer. He noted the old buildings are encroaching.

Landscaping: Only bushes existing. He said they would be putting in more trees and landscaping.

Size of Sewer Main. The applicant said he did not know; but he was sure it would be adequate.

Noise and Vibration: The applicant said the landscaping would help to decrease this.

Comm. Moore commented on the close proximity of the proposed condominium units to the public parking lots, where there is continuous noise. The applicant noted each unit would have its own patio area. He did not anticipate any problems.

Aesthetics: The applicant stated he submitted renderings of the proposed building. He noted there will be landscaping, and each unit will have some landscaping.

Motion by Comm. Debellis, seconded by Comm. Cummings, to declare PEIR HB-79-042 adequate, not significant and ask that a negative declaration be filed.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

Comm. Debellis commented that he likes the new format for the Preliminary Environmental Impact Reports; but it doesn't help if it is not completely filled out.

CONDITIONAL USE PERMIT REVIEWS

1014 Hermosa Avenue - Hermosa Cafe

Mr. King noted the reason this was continued from the July 2nd and July 16th meetings was because the applicant was not present. He added there were no problems with the business. Mr. King suggested adding the condition for posting the sign advising of the illegality of open containers on public streets, etc.

Motion by Comm. Cummings, seconded by Comm. Beard, to approve the review.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

53 Pier Avenue - Casablanca

Mr. King reported that staff found no problems in connection with this business. The applicant agreed to the conditions.

Motion by Comm. Beard, seconded by Comm. Cummings, to approve the review.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

2-4 Pier Avenue - Diana's

Mr. King reported that staff advised the Board about the problems with beer being served along with plastic cups; and people walking out with them. He explained the Board questioned whether the applicant fully understood the conditions. He reported the applicant indicated he has implemented a new policy and is only serving in glass containers.

The applicant noted his sale of beer dropped 50% since these conditions were set. He added that he did not receive the notification of the last meeting because the notice was just left by the register; it was not brought to his attention. He suggested it would be better to either mail or special deliver papers of this importance.

Comm. Cummings asked if screens should be required. Mr. King stated there are no openable windows, just doors.

The applicant stated they do not sell beer by itself or to go. Comm. Beard said she would like to emphasize not serving in plastic cups or bottles. She commented it is not something the applicant is trying to perpetuate; but it is something the Board is trying to stop. The applicant felt it should be sufficient to not serve

beer with food to go; but he agreed to the conditions.

Motion by Comm. Cummings, seconded by Comm. Beard, to approve the review with a one month review.

Ayes: Comms. Beard, Cummings, Moore
Noes: Comm. Debellis, Chmn. Ebey
Absent: Comms. Merrill, Walker

52 Pier Avenue - Pier 52

Mr. King repoted he spoke with the City Attorney regarding how the license was initially Type 47 and was eventually changed to Type 48 without any apparent City approval. He noted the City Attorney felt that because of the change in license without City approval and due to the fact that the City did not follow through, a public hearing should be held to resolve this. Mr. King said the City's position would be that it was initially a Type 47 license. He added the City may have forfeited any right to require Type 47 because there were no reviews. He noted that documentation was sent to the City regarding the change, and the City did nothing.

Mr. King reported the Building Director felt the Board should delay public hearing for 6 months to see how the business operates and to see if the business will incorporate the sandwiches.

Chmn. Ebey asked if the applicant would be interested in serving sandwiches. Mr. Lloyd, applicant, said they would be willing to continue the public hearing for 6 months while trying to solve their acoustical problems and trying the sandwiches. He added the order for the acoustical curtains had been delayed and should be received within 90 days.

Comm. Cummings felt the delay in setting a public hearing was a bad idea. He felt the public hearing should be held in order to get all the information on record.

Mr. Lloyd stated the problem with the previous owners request was one of allowing more dancing. He did not think the issue on the restaurant should be an issue. He said they were not still obligated. Mr. Lloyd stated a bonified restaurant would not be feasible; he added they could try the sandwiches. He said that if it does not work out, the Board will still have the power to set a public hearing.

Comm. Beard felt the City has been remiss in this issue; and the Board should give the applicant the opportunity to see how the sandwiches work. Comm. Moore agreed that there is a need to clarify how the license got from a Type 47 to a Type 48; but he did not see how it ties into this review. He added the City Attorney seems to be indicating that the applicant could not be forced back into a Type 47.

Mr. Lloyd explained that Mr. Martinez, the former owner, applied at one Board meeting for live entertainment; and a compromise was made. He said Mr. Martinez then reapplied for dancing which was approved, and the sandwiches were deleted.

Chmn. Ebey stated she spoke with members of the City Council; and the policy is clear that they do want the sandwiches incorporated. She said she would like to see an honest attempt to serve food.

Mr. Herring, applicant, noted the business does not open until 5 p.m. He added there are a lot of places to eat. He did not understand what the food would accomplish. He said the license has been a Type 48 since 1970 and the business license was issued under it.

Motion by Comm. Beard, seconded by Comm. Debellis, to review in 4 months with regard to acoustic problems and serving of sandwiches, at which time the Board can set a date for a public hearing; and to request a full report for review.

Ayes: Comms. Beard, Debellis, Moore, Chmn. Ebey
Noes: Comm. Cummings
Absent: Comms. Merrill, Walker

22 Pier Avenue - Flagship

Mr. King reported a communication was sent to the City Council requesting their rationale behind the phasing in of hot food service. He said the informal answer was that the Board should make recommendations to the City Council concerning whether or not hot food service should be retained.

The applicant stated he was willing to cooperate. He said he recently had the sewer cleaned out at his own expense because he could not get the City to do it. He stated that food service is not profitable; and conditions 6 and 7 requiring food service were dropped on April 11, 1977. The applicant said if he thought he could make a dollar off selling food, he would do it. He noted there are now 13 establishments serving food within 2 blocks. The applicant also addressed the motorcycle problem. He said he would do what he could to help solve the problem.

Motion by Comm. Cummings, seconded by Comm. Moore, to recommend to the City Council that they drop the hot meal conditions from the Flagship's conditional use permit.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

19 - Pier Avenue - Cantina Real

Applicant: not present

Mr. King stated the review was continued from July 16th because the applicant was not present. He added there were no problems with the business.

Motion by Comm. Cummings, seconded by Comm. Debellis, to continue the review. No objections. So ordered.

1229 Hermosa Avenue - Cove Cinema

Mr. King explained staff recommended two additional conditions:

- 1: based on interpretation of Code by the Police Department, staff recommended approval of entertainment by the Police Chief;
- 2: doors to remain closed (the applicant stated the doors are being kept closed now.)

Comm. Cummings explained that a theater is defined as a public place and the Police Chief wants to exercise his control. He stressed the applicant would have to obtain each permit at least 48 hours prior to each live entertainment program. The applicant agreed.

Motion by Comm. Debellis, seconded by Comm. Cummings, to approve the review with a 6 month review period.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

1200 Hermosa Avenue - Shenanigan's

Mr. King reported that the proposed setting of a hearing for revocation was continued from the last meeting.

Chmn. Ebey asked if the escrow closed. Mr. Bales, President of Fat Howie's, explained they are in the process of subleasing the building to Two Guys From Italy. He added they will not be selling the liquor license. He requested that the Board continue the review for one month, so they can produce the sublease.

Chmn. Ebey commented that was the same request the last time. Mr. Bales explained there were problems with stock holders before. Chmn. Ebey asked how much notice had to be given for a revocation hearing. Mr. King replied two weeks.

Mr. Bales expressed concern that too many problems might scare off the prospective lessee. Mr. King asked how long it would be until Two Guys From Italy take over after they sign the sublease. Mr. Bales replied that part of the conditions of the lease is that Two Guys From Italy get the permits necessary before December 31, 1979. He added they were hoping to slide along like they have been in the meantime, because it would be a great hardship if they were forced to stop doing business, carry the location and cover the rent for 3 or 4 months.

Motion by Comm. Debellis, seconded by Comm. Beard, to direct staff to wait until August 29th for a certified letter stating that the sublease has been signed; and if a certified letter is not received, to set a public hearing for October 1, 1979.

Ayes: Comms. Beard, Cummings, Debellis, Moore, Chmn. Ebey
Noes: None
Absent: Comms. Merrill, Walker

The meeting was adjourned at 12:15 by Chmn. Ebey.

CERTIFICATION

I hereby certify that the foregoing minutes were approved at a regular meeting of the Board of Zoning Adjustment.

DATE 10-1-79

Cathy Frank

Coralie C Ebey
Coralie Ebey, Chairman