

**CITY OF SAN CLEMENTE  
MINUTES OF THE REGULAR  
ZONING ADMINISTRATOR MEETING  
June 6, 2012**

06/19/12  
6B(1)

Staff Present: Jim Pechous, Cliff Jones, Sean Nicholas, John Ciampa, Adam Atamian, Edward Peak, and Denise Gee

**2. MINUTES**

Minutes of the Zoning Administrator meeting of May 16, 2012 received and filed.

**3. ORAL AND WRITTEN COMMUNICATION**

None

**4. PUBLIC HEARINGS**

**A. 4015 Calle Mayo – (Minor Architectural Permit 12-121) – Jansen Residence Remodel (Jones)**

A request to consider a 717 square foot addition to a non-conforming residence located in the Residential Low (RL-1) zoning district. The project site is located at 4015 Calle Mayo, legal description being Lot 67, of Tract 4469, Assessor's Parcel Number 675-236-06.

Associate Planner Cliff Jones summarized the staff report. Mr. Jones advised that two emails were received regarding opposition to the proposed project. Lori Macias is opposed to any exemption or amendments to the zoning that would allow houses located in the residential low zoning district to build additional stories to their home. Mr. Jones responded stating that the zoning designation for the subject property allows two stories with a 25 foot limitation.

A second email was received from Mark Naughton stating that any addition would adversely affect their view and the value of their home, and he would oppose any addition to the second story. Mr. Naughton would like to see story poles erected.

For the record, Mr. Jones advised that per the Zoning Ordinance, story pole staking is required in non-residential, mixed-used zones, or within the architectural overlay, for structures that are three stories or more and for structures within a public view corridor within the coastal zone.

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Mr. Pechous asked for clarification regarding story poles, stating that because the project is in a residential area and not in a view corridor or an architectural overlay that story poles are not a requirement in the City. Mr. Jones agreed.

Applicant representative, Christine Lampert, was present. Ms. Lampert advised that the intent was to keep the addition in style with the 60's neighborhood with an island flair. Regarding the second story addition, this was done several years before the Jansen's owned the home. Ms. Lampert advised it's a rather awkward second story which has an outside stairway. This is a non-conforming feature because it can be used as an apartment. The addition on the second story will enclose the stairway so access will be taken from the interior of the house. The extra 41 square feet to the second story is a small addition which adds only four feet to the side of the house. Ms. Lampert indicated that it's a beautiful addition and will help upgrade the neighborhood.

Richard Jansen, owner of the house, indicated that the need for this extension is to enclose the stairway. The practical place to put the stairwell, which currently runs along the front of the house, is to put it at a 90 degree to the second story. Mr. Pechous indicated that the drawings provided show the visual change.

Several members of the public were present. Nick Rosien requested information as to who was notified of the project. Mr. Jones advised that every owner within 300 feet received a notice. Mr. Rosien stated that he came to the City and looked for a permit for the original structure and did not find anything. His second concern was regarding a previous report dated December 21, 2011, which stated the desire to make the flexibility and expansion of homes easier. Mr. Rosien stated that when he moved into the neighborhood, the homes on Calle Juno were two stories and that those homes could not block anyone's view. All of the homes in front of Mr. Rosien's are single story and designed to maximize the view. That was the intent of the original development. Now there is a flexibility issue of 1,400 square feet. Mr. Rosein's concern is why the City has a non-conforming requirement. Mr. Rosein did not see how the expansion to two stories will enhance the properties as it will allow others to build up.

Other neighbors who spoke were Bruno and Winona Stoecklein, Todd Foote, Keith Day, and Steve Reyes. Their concerns were regarding their views and height issues for future projects.

Mr. Pechous stated that the request before the Zoning Administrator is not for the approval of height or a second story. The building itself is allowed, by right, based on the City's Zoning Ordinance and Zoning Code, to be two stories and up to 25 feet in height. Mr. Pechous advised he has no discretion on this project

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regarding how high it is. As long as the height is at or below 25 feet, it's allowed by right.

The reason this item is being heard is because there is a non-conforming garage setback on the property and in order to expand a non-conforming structure, the applicant must go through a Zoning Administrator procedure to allow that expansion. The reason for the non-conforming ordinance is to address a large number of older developments in San Clemente that are non-conforming for one reason or another. When this home was built, it conformed to the rules and regulations in place at that time. In this case, there is a side entry garage and under the standards of when it was built, it was all right for there to be a side entry garage closer to the front setback. The rule now is that the structure has to be 20 feet from the property line. This is what makes this project non-conforming. For the owner to add square footage, Zoning Administrator approval is required.

The Zoning Administrator's determination is based on whether the addition conforms to the neighborhood character, for example we look at whether homes in this neighborhood have similar setbacks and similar square footages. If the property owner wanted, they could redevelop the entire property and build an extensively greater amount of square footage on the second floor than the square footage they are proposing without any discretionary approval required. In terms of the amount of area on the second floor that is being developed, it is relatively a small amount. Their property rights per the Zoning Code would allow a second story to expand almost the entire length of the house.

Mr. Pechous advised that the Zoning Administrator review is not based on the second story concerns and loss of views. It is a concern to the neighborhood Mr. Pechous understands. However, the Zoning Administrator's discretion is limited by the Zoning Code.

At the request of Mr. Pechous, Mr. Jones addressed the question as to whether or not the original second story addition was permitted. Mr. Jones advised that there is a permit for the addition in the Building permit file. There are no plans for the project. However, there is a record of the size of the addition and year it was approved.

In reviewing the project, Mr. Pechous commended the applicant on putting together a detailed presentation which included existing setbacks and heights of other homes in the neighborhood. Mr. Pechous is in support of the project regarding the architectural style and the very low intensity of the addition. A 700 square foot addition, making the total square footage of the building 2,291

square feet, is not out of character with other projects in the community. The addition is a 41% increase of the total square footage of the building. The rule is that the addition cannot exceed 50%; this addition is below that requirement. In terms of the existing non-conforming garage, the driveway length is consistent with other side entry garages in the neighborhood and there is adequate room to park in front of the garage without overhanging onto the public sidewalk. The addition conforms to all of the existing requirements regarding setbacks and height standards.

Mr. Pechous thanked the applicant for working with staff and advised that there is a 10 day appeal period for the project. The minutes of this meeting will go to City Council for final approval.

The Jansen's thanked staff and the City for their work on the project.

Action: The Zoning Administrator approved Minor Architectural Permit 12-121, Jansen Residence Remodel, subject to Resolution ZA 12-015 with attached Conditions of Approval.

**ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL.**

**B. 1251 Puerta Del Sol – (Minor Conditional Use Permit 12-148) – Left Coast Brewery Tasting Room (Atamian)**

A request to consider a 749 square foot tasting room at an existing brewery warehouse within the Business Park (BP) zoning district of the Talega Specific Plan. The project site is located at 1251 Puerta Del Sol, legal description being Lot 7, of Tract 16124, Assessor's Parcel Number 688-311-05.

Assistant Planner Adam Atamian summarized the staff report.

President George Hadjis was present. He thanked the City for considering the request in this growing industry. Mr. Hadjis is proud to represent San Clemente, and stated that his product ships to locations all over the western states and San Clemente is listed on the label of every bottle. Mr. Hadjis asked if their request could change to Wednesday through Friday instead of Thursday through Friday. Mr. Hadjis advised that local brew clubs have expressed interest in meeting at the tasting room on Wednesdays. Mr. Hadjis also asked if the Saturday hours time could change to close at 9:00 p.m. to be consistent with Friday.

Tommy Hadjis, General Manager, asked if Saturday hours could change from opening at 1:00 p.m. to 12:00 p.m. which would be consistent with Sunday since Saturday is a very busy day.

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Mr. Pechous asked if there was a reason why the opening would be at 1:00 p.m. Mr. Atamian advised that other tasting rooms operating in Orange County and north San Diego County located in similar areas, incorporating light industrial relatively close to residential areas, the average hours these businesses are open is seven hours on Saturday. Mr. Atamian advised that the applicant wanted the hours to be 12:00 p.m. to 9:00 p.m., so he split the difference. However, since this is the first use of this type in San Clemente and there is no precedent, the hours are adjustable to this particular location.

There were no members of the public present to address this item.

Mr. Pechous is supportive of the application as an ancillary use to establish community business. It is not uncommon for this type of business to have this use. In terms of location, it is well situated. The City's biggest concern is impacts to residential neighborhoods, noise and traffic. Mr. Pechous does not anticipate these problems happening here in any shape or form due to the location in the business park.

Mr. Pechous understands the method in which Mr. Atamian addressed the times in order to be consistent with other jurisdictions. However, Mr. Pechous indicated he doesn't see any difference between 12:00 p.m. and 1:00 p.m. regarding neighborhood impacts and that the condition could be changed to read from 12:00 p.m. to 9:00 p.m. on Saturday. Mr. Pechous asked Mr. Atamian if there is a standard condition of approval that would address the hours of operation should there be any problems. Inasmuch as there is not, Mr. Pechous asked that staff add a condition regarding possible impacts and that the applicant mitigate noise or issues be mitigated to the satisfaction of the City Planner. By adding this condition, there will be some assurance that these do not cause additional impacts. Additionally, Mr. Pechous approved adding Wednesday in the tasting room hours consistent with Thursdays.

Mr. Pechous thanked the applicant for working with the staff and advised that there is a 10 day appeal period for the project. The minutes of this meeting will go to City Council for final approval.

Action: The Zoning Administrator approved Minor Conditional Use Permit 12-148, Left Coast Brewery Tasting Room, subject to Resolution ZA 12-016 with attached Conditions of Approval.

**ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL.**

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**C. 508 Avenida Teresa – (Minor Architectural Permit 12-179) – Yeomans Residence Addition (Atamian)**

A request to consider a 65 square foot addition to a non-conforming residence within the Residential Low (RL-1) zoning district. The project is located at 508 Avenida Teresa, legal description being Lot 68, of Tract 4941, Assessor's Parcel Number 057-233-09.

Assistant Planner Adam Atamian summarized the staff report. Mr. Atamian advised that he received two comments regarding the project. Mr. Kevin Kelly, who lives at 509 Teresa, sent a letter advising that he is supportive of the project. Additionally, a phone call was received from another neighbor who wanted to know what the mailed notice of public hearing regarded. Mr. Atamian explained the reason for the notice and the caller advised she was supportive.

Owner Nathan Yeomans was present. Mr. Yeomans advised that they would like to enclose the existing deck and add a bedroom for their growing family.

There were no members of the public present to address this item.

Mr. Pechous advised he agrees with the staff analysis in this particular case. This is a very modest addition to the existing building, with very little visual change. The 65 square foot addition is compatible with the neighborhood properties, conforms with existing setbacks and standards of the Zoning Ordinance and is in character with the mass and scale of the other properties.

Mr. Pechous thanked the applicant for working with the staff and advised that there is a 10 day appeal period for the project.

Action: The Zoning Administrator approved Minor Architectural Permit 12-179, Yeomans Residence Addition, subject to Resolution ZA 12-017 with attached Conditions of Approval.

**ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL.**

**D. 113 Avenida De La Grulla – (Minor Architectural Permit 12-118/Minor Exception Permit 12-156) – Mattos Addition (Nicholas)**

A request to consider an addition of 950 square feet to a non-conforming residence and to maintain an existing ten (10) inch encroachment into a side yard setback for a single-family house located at 113 Avenida De La Grulla, within the Residential Medium (RM-CZ) Density zoning district within the Coastal

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Zone Overlay. The legal description is Lot 37, of Block 2, of Tract 820, Assessor's Parcel Number 692-381-12.

Associate Planner Sean Nicholas summarized the staff report. Mr. Nicholas advised that since the time he completed the staff report, he has received three pieces of correspondence from the public. Maria Gladd and Mark Alpert are in support of the project regarding neighborhood compatibility. A letter from Patti Farnsworth was not in favor, stating concerns over additions and modifications to the neighborhood as a whole.

Mr. Nicholas also presented a PowerPoint prepared by Anita Mattos on the projects neighborhood compatibility.

Applicant Anita Mattos was present. She advised that she and her husband bought the house ten years ago with the dream of moving into it. Before the purchase, they were able to get onto the roof and see that they had a peek-a-boo view of the ocean. They checked with the Coastal Commission and the Planning staff to make sure before they made the purchase that they could go to two-story. They purchased the home and rented it for ten years. They are now in a position to be able to move in.

Ms. Mattos advised that she consulted with Architect Christine Lampert the possibility of the addition. Their concern was whether or not they would have to tear the house down and start over. They purchased the house because it is a cottage-style home with nice features and wooden floors. The home is only 880 square feet with one bathroom and is very difficult to live in. Every renter has moved out because there was little room for a family. Ms. Mattos liked the option provided by Ms. Lampert to keep the cottage feel with the peek-a-boo view as well as not inhibit the view of their neighbors. The Mattos' were also pleased that the Design Review Subcommittee reviewed the project, with a positive recommendation.

Architect Christine Lampert was present. Ms. Lampert advised that the code is such that they could have torn down the home and rebuilt a conforming house of 4,500 square feet with no design review whatsoever. In 1954, the house was conforming. Garages were allowed to be six inches from the property line. The project is nicer because it can remain a cottage and keeping the master bedroom discreetly hidden behind the roof ridge and adding a front porch.

Maria Gladd, who lives at 115 La Grulla, reviewed the plans. Ms. Gladd was in total agreement with the plan, stating the addition will increase the beauty of the neighborhood.

Mr. Pechous advised that this is the first project application that requests for more than a 50% addition to a small home based on recent changes in the non-conforming ordinance. One of the concerns the non-conforming update addressed is exactly what this project represents. The way the code was written, it encouraged owners to tear down their little cottage home and mansionize the lot by putting a 4,500 square foot home.

This code treats these small cottages very similarly to how we might review an addition to a historic structure, even though it technically is not historic. If a sensitive remodel is done and is reviewed by the Design Review Subcommittee, and the finding is made that it is a sensitive design, the owner can do an addition greater than 50% of what the existing square footage is up to 2,100 square feet. The problem with small cottages is that they are so small that an 800 square foot house, with a 50% addition, the house is still only 1,200 square feet. Anything above that percentage would mean the owner would have to tear down the house.

The change in the code allows flexibility and common sense for people to do nice jobs to preserve neighborhood character where there are small beach cottages built in the 1950's. This is a perfect example of what we are trying to achieve with this code amendment. It's a pleasure for me to be the first person to review it and make the recommendation to approve it.

Mr. Pechous thanked the applicant for working with the staff and advised that there is a 10 day appeal period for the project.

Action: The Zoning Administrator approved Minor Architectural Permit 12-118/Minor Exception Permit 12-156, Mattos Addition, subject to Resolution ZA 12-020 with attached Conditions of Approval.

**ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL.**

**E. 800 E. Avenida Pico Suites T & U – (Minor Conditional Use Permit 12-139) – Wingstop Beer & Wine (Nicholas/Peak)**

A request to consider the onsite sale and consumption of alcohol, indoors only, at a new restaurant located at 800 East Avenida Pico Suites T and U within the Community Commercial (CC) zoning district. The legal description is Assessor's Parcel Number 688-101-04.

Planning Intern Edward Peak summarized the staff report.

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Mr. Pechous asked for clarification on the business hours. Mr. Peak advised that the hours are from 10:30 a.m. to midnight, seven days a week.

Applicant representative Sheryl Brady was present. She agrees with staff's approval for recommendation and reviewed the conditions of approval and had no issues.

There were no members of the public present to address this item.

Mr. Pechous advised he is supportive of the project. This is a long-established restaurant facility where there have never been any problems.

Mr. Pechous thanked the applicant for working with the staff and advised that there is a 10 day appeal period for the project.

Action: The Zoning Administrator approved Minor Conditional Use Permit 12-139, Wingstop Beer & Wine, subject to Resolution ZA 12-019 with attached Conditions of Approval.

**ACTION SUBJECT TO APPEAL TO OR CALL-UP BY CITY COUNCIL.**

**F. 169 West Avenida Cornelio – (Minor Exception Permit 12-075) – Steele Residence (Ciampa)**

A request to consider the reduction in the required front yard setback and to continue a non-conforming side yard setback for an addition to a home located at 169 West Avenida Cornelio. The project is located in the Residential Low (RL) zoning district, legal description being Lot 58, Block 8, of Tract 852, Assessor's Parcel Number 692-191-10.

Associate Planner John Ciampa summarized the staff report.

Applicant's architect, Guy Pizzarello, was present. Mr. Pizzarello stated that in keeping with the City's codes and standards, and with the character and style of the neighborhood, the applicant is proposing a small addition of three feet to the front yard which is different than the 15% of the allowable. The reason for this is that the house was built in 1952. The kitchen countertop is 12 inches wide. The home was used as a beach summer cottage and not a full-time residence. When the Steele's purchased the home, they looked into expanding the kitchen. The logical way to do this would be expand into the front. In keeping with the codes, we were able to keep the proposal within the 15% encroachment into the front yard. They would allow a two foot wide counter as opposed to 12 inches.

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Mr. Pechous asked for clarification of hatch marks on the plans. Mr. Ciampa advised the hatch marks are the eaves. He showed Mr. Pechous where the wall actually is and where the overhang of the roof is.

Mr. Pizzarello stated that there is currently a bay window that is encroaching into the front yard one foot six inches. In essence if you are looking at the structure down to the foundation, the expansion would be from that bay window another one foot six inches. The one foot six inches shown as a bay, another one foot six inches would be added to the structure. This is also in compliance with the City standards.

Several members of the public were present; homeowner Steve Gillette, who lives at 175 Cornelio. Mr. Gillette did not have objections to the addition. His concern is the allowable variance would impact what occurs from this point on. Mr. Gillette does not live uphill from the residence. For the most part, his view would not be impacted. His concern is for the neighbors up the street. Mr. Gillette added onto his house and had the opportunity to move the garage forward, which would be completely conforming. In speaking with neighbors on how that would affect their views, Mr. Gillette opted not to do it because the comments were negative, even though the City would allow it. Mr. Gillette feels the proposed encroachment would impact the view of others. Will this set precedence for something that has not happened before?

Ann Crowe lives to the east of the Steele resident. This project would directly impact her view and her home. Their recent remodel conformed to the requirements. Their concerns were also about the fifteen neighboring homes that all have views. Mrs. Crowe advised that there is nothing that can be done about building up. However, to build out will make everyone's view go away. The addition will go out three feet and completely block the ocean view. Mrs. Crowe advised that everything they have worked to get will be gone.

Mr. Pechous asked if the setback for Mrs. Crowe's house is 20 feet. She advised that this is the case for the whole street on their side of the house and that the ocean can be seen all the way down the street.

Brian Crowe was present. He stated that the neighbors have abided by the setbacks and that the encroachment would affect everyone's views. This project would violate their way of life.

Owner Linda Steele was present. The request is to add approximately 120 square feet to the house. The wall will come out three feet. However, there is current bay window. Though the wall is moving out three feet, the addition will

only move out 18 inches past the existing bay window that is currently "blocking" their view.

Ms. Steele advised they have done their due diligence. There was a survey done that was filed with the county as there was a neighbor encroaching on the property. There have been soils tests done. They have worked with staff on this in the utmost manner to create minimal impact. There are many "McMansions" on the street. Ms. Steele brought photos of the Crowe's home, which sticks out further than the Steele residence. Photos were also provided showing views being blocked by umbrellas. If you were to stand on the Steele's front porch and look towards the ocean, Ms. Steele advised that Mr. Gillette's garage blocks her view.

Ms. Steele advised that neighbors attending the meeting and have complained, have built structures in the 10 foot right-of-way. They feel it is okay for them to do it, but they have issue when someone else does it. Ms. Steele is just to make the house livable and have better counter space and can have a barbecue like the neighbors have the opportunity to do. Ms. Steele shared the photos with Mr. Pechous.

Neighbor Carol Lopez lives next to the Steele's. Ms. Lopez came to be informed about what is going on in the neighborhood. Ms. Lopez has been living with 12 inch counters and observes the 20 foot setback and has been very happy. Maybe Ms. Steele could be too.

Brian Crowe provided a board with several photos of their home, showing the location of the Steele residence, the Crowe's deck and the bay window in question. Mr. Crowe stated what an additional 18 inches would do to their view.

Mr. Pechous asked Mr. Ciampa if the setbacks on the street have been surveyed. Mr. Ciampa researched records to find what properties are conforming and which are not. Mr. Ciampa found several that are conforming. However, there are properties that are not conforming to either the side or front yard setback. Mr. Ciampa stated that 177 Cornelio has an 18 foot front yard setback, 175 Cornelio has a five foot side yard setback where six feet is required, 116 Cornelio has a three foot side yard setback where a four foot is required. Many from the aerial views that appear to be encroaching, records are not available for some of the properties because of the age of the neighborhood.

Mr. Pechous advised that there is not enough information available on the front yard setbacks and that is a concern. Photographs basically can be deceiving based on the angle they are taken. Mr. Pechous does not have a concern with

the encroachment into the side yard setback. However, there is an important finding that needs to be made as to whether this addition is in character with the street. A two foot encroachment on a street that has a lot of encroachments isn't a big issue and would probably be supported by the Zoning Administrator. But if this is a precedent-setting variance, then Mr. Pechous would be concerned in allowing the addition. Mr. Pechous stated that there is a nine foot public right-of-way before the street which allows everyone a little extra property. Mr. Pechous understands the neighborhood concerns and would like to take a closer look to be fair so that the right decision be made.

Mr. Pechous is continuing this item to the next Zoning Administrator meeting of June 20, 2012. He is directing staff to provide a survey of the street's existing front yard setbacks. Mr. Pechous also requested staff provide notification to those present at the meeting of the date, time and place of the meeting since formal notification is not required for continued items.

5. **NEW BUSINESS**

None

6. **OLD BUSINESS**

None

**ADJOURNMENT**

The meeting adjourned at 4:15 p.m. to the regular Zoning Administrator meeting to be held on June 20, 2012 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR



Jim Pechous

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