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**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR
ZONING ADMINISTRATOR MEETING
June 20, 2012**

Staff Present: Jim Pechous, Christopher Wright, John Ciampa, and Kimberly Maune

2. MINUTES

Minutes of the Zoning Administrator meeting of June 6, 2012 received and filed.

3. ORAL AND WRITTEN COMMUNICATION

None

4. PUBLIC HEARINGS

A. 169 West Avenida Cornelio – (Minor Exception Permit 12-075) – Steele Residence (Ciampa) (continued from 06-06-12)

A request to consider the reduction in the required front yard setback and to continue a nonconforming 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.

Mr. Pechous asked Mr. Ciampa if there were any other Minor Exception Permits (MEP) approved previously. Mr. Ciampa responded there were two for side yard setbacks, none for encroachment into the front yard setback. Mr. Pechous stated there seem to be a lot of new buildings on this street. He visited the project site on two different occasions. He noticed some of the new structures have encroachments and it seems odd that they do not have a MEP to approve those encroachments. Mr. Ciampa responded this may be related to the two previous versions of the nonconforming code which allowed expansion of the home if there was one nonconforming wall. This is an older community; there are a number of homes that are presenting this non-conformity.

Architect Guy Pizzarello narrated a PowerPoint presentation which illustrated the analysis he did of the street. He measured the front yard setbacks from the face of the curb to the nearest structure closest to the curb and to the nearest plane of the garage door of each of the homes. To measure he used a Bosch

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Laser Distance Measurer which has an accuracy rating of 1/16 inch at a distance of 130 feet. He identified all of the properties that encroach into the front yard setbacks.

Mr. Pechous asked what the current setback is at the project site; Mr. Pizzarello responded 30 feet three inches from face of curb as measured with the same Bosch device.

To sum up his PowerPoint presentation, Mr. Pizzarello stated that approximately 33 percent of the homes are noncompliant with today's City standards and codes. His intention is to point out the discrepancies. He is not trying to set a precedent, he only wants to conform to the current building standards of this street. He is proposing 17 feet three inches from face of curb, which is well within the range of many of the homes that are much more intrusive than this proposal.

Mr. Pechous clarified this proposal is 27 feet three inches from face of curb and 17 feet three inches from the property line.

Applicant Linda Steele was present and stated at the last meeting a neighbor said they did a complete tear down and remodel five years ago. From their current patio in front they have a peak ocean view and they're concerned about losing that. They also said all of the homes on the street are even and that no one is encroaching. Ms. Steele stated that was an eye opener, they've done a lot of work and they've learned a lot by doing the analysis of the street. These measurements are true and accurate, not only did Mr. Pizzarello measure, so did she and her husband, and Mr. Ciampa verified the measurements.

Ms. Steele stated their intent is not to block a view or cause any problems. They are not asking to do anything more than anyone else on the street has done. When the neighbor's remodel was done five years ago the homeowner had options on how they could build their house. Their front patio could have been done a number of different ways; they could have brought it out further than it is. She doesn't feel they should be penalized because of the choices the neighbor made. She is asking the City to take that very seriously. What she does with her house shouldn't cause a problem for a neighbor as far as what they want to do to their house.

Ms. Steele would like the City to recognize that there are a number of discrepancies on the street. The houses are not even. She feels their proposal is compliant with the rest of the street. They have a very small house. They just want to extend the kitchen out a little bit so they can have a normal size kitchen. They don't currently have a dining room; this would allow them a dining room.

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Neighbor Ann Crowe was present and stated she attended the previous meeting. She is the neighbor immediately to the west. She does not have any measurements from the street. She brought in a print out from Google Maps which shows the street from the top all of the way down. She doesn't believe anyone has encroached very far. When they did their remodel five years ago it was never suggested they could go out further or they would have. They were given the rules, no other options were presented.

Ms. Crowe stated after the previous meeting an architect who was present at the meeting told her the front yard is sacred land and no one can encroach on it. The view can be encroached upon if the neighbor builds up and in the back there's really no say-so. The front setback is sacred and cannot be blocked so she never anticipated anyone would go out further than they did. They played by the rules and she assumed everyone else would do the same.

Mr. Pechous asked Mr. Ciampa if he verified the accuracy of the measurements. Mr. Ciampa responded yes and stated he visited the site and looked specifically at all of the measurements that were 19 feet or closer to the property to maximize the quality of his time there. He verified all of the dimensions; Mr. Pizzarello answered his questions about the dimensions. He learned there were additional encroachments which he did not see, some building pop-outs. He went out and re-verified the accuracy of those dimensions. He verified the properties located closest to the front property line.

Mr. Pechous stated there are a wide variety of measurements, the closest to the curb is 21 feet eight inches, there are a number at 30 feet, and the furthest is 31 feet six inches. Thirty feet would signify a 20 foot setback. There are a number of encroachments measuring in the twenties. He shares the neighbor's concern regarding the front yard. He wants to be certain to not approve something he would call building creep onto the front yard setback. He is viewing the entire street as a parkway. He wants to maintain the character and to be certain this project will not impact that.

Mr. Pechous asked what the average is in terms of the encroachment. Mr. Ciampa responded there were limited encroachments that were in the 27 foot range, or under. There were two that were on the same side of the street as the Steele residence, which is on the south side. There were four that were on the north side of the property. The majority of the properties that did encroach on the south side of Cabrillo were in the 27 to 28 foot range, which is 17 to 18 feet from the front property line.

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Mr. Pechous stated the MEP procedure allows encroachment into the front yard setback. The Zoning Administrator has to determine that requests do not affect the character of the neighborhood. In this particular area there are a number of encroachments. With a MEP there is a three foot allowance; however, he is wondering if the applicants would be able to do 28 feet versus 27, would this still allow them to design an upgraded kitchen thus minimizing the building encroachment into the overall setback.

Ms. Steele responded they are absolutely willing to be reasonable. If one foot makes that much difference they will absolutely work with that. They do not want to upset anyone. They are trying to make their home livable; that is why they bought it. They have owned it for 12 years; they have been saving for 12 years. They started with Mr. Pizzarello and the contractor doing measurements to determine what amount of space they needed. They worked backwards from there and reached this point.

Mr. Pechous noticed as the street gets closer to the freeway the front yard building setbacks are more conforming. As the street moves towards Ola Vista there are a lot more encroachments into the setbacks. The Steele's are in between. He is trying to be fair to everyone involved. He will approve this encroachment with a limit of a 28 foot encroachment, which is two feet beyond the 20 foot requirement under the standard code, but still maintains the character of the street.

Mr. Pechous is approving this MEP with a 28 foot encroachment which is in character with the area the Steele residence is located in. If the home were at the Ola Vista end of the street it would have been in character to allow the full three feet. If they were located at the Presidente end of the street no encroachment may have been allowed. He finds this encroachment will not be considered building creep into the character of the neighborhood. This encroachment will not impact parking on this street and there will not be any parking overhang onto the sidewalk

Mr. Pechous stated there is not a problem with the side yard encroachment. There are two other MEPs that were previously approved for the side yard. This is very common in this neighborhood. The houses were built not really adhering to the setbacks because surveys were not that accurate at the time.

Mr. Pechous thanked the applicants team for the in depth analysis, it really helped him to make an informed decision. He appreciates everyone working with staff. Ms. Steele responded that Mr. Ciampa was absolutely wonderful to work with. Mr. Pechous also appreciated the applicant's patience since this item

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was continued from the last Zoning Administrator meeting to allow more time for the thorough analysis required to make a decision.

Ms. Crowe asked if there is a limit to how long construction fencing is allowed to remain in place in a neighborhood. The construction fencing has been up for almost eight months at this home. Mr. Pechous directed Mr. Ciampa to check into the answer to Ms. Crowe's question and let her know. Ms. Crowe stated she understands there's been a delay with this project, she said it seems like there should be some sort of time frame for the fencing. Mr. Ciampa stated he'll get back to her about this and he will also relay the information to the Steele's.

Action: The Zoning Administrator approved Minor Exception Permit 12-075, Steele Residence, subject to Resolution ZA 12-018 with attached Conditions of Approval with an additional condition stating that the front yard setback for the primary residence will not exceed 18 feet from the front property line.

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

**B. 239 Avenida Serra – (Minor Exception Permit 12-125) – Bogart Residence
(Ciampa)**

A request to consider an addition to a house that would continue a nonconforming side yard setback and allow the garage and balconies to encroach into the side yard setback at 239 Avenida Serra within the Residential Medium (RM) zoning district. The legal description is Lot 19, Block 15 of Tract 779, Assessor's Parcel Number 058-123-09.

Associate Planner John Ciampa summarized the staff report.

Applicant's Daniel and Brigitte Bogart and architect Paul Geijer were all present; they all examined the plans with Mr. Pechous and Mr. Ciampa.

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

Mr. Pechous stated he visited the project site and noticed the beautiful landscaping. He would like to know if this landscaping will be kept. Mr. Ciampa responded it is proposed to be kept. Ms. Bogart stated it all came with the home.

Mr. Ciampa stated when the Bogart's purchased the property some of the planter walls were located in the public right-of-way so they have submitted an application with Engineering to allow for those encroachments. This is under

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review by Engineering at this time and has been conditioned depending upon Engineering's decision. Mr. Geijer asked when this would be resolved. Mr. Ciampa responded he received an email from Engineering stating there would be a decision within the next week or two.

Mr. Pechous asked for clarification regarding the garage encroachment. Mr. Ciampa stated because the garage as it sits with the floor plan is an existing car port, one side is at the five foot side yard setback. The proposal is to have the garage encroach one foot into the side yard setback to meet the minimum interior dimension so that the garage does not get pushed into the kitchen area. This proposal is for the encroachment of the garage, the continuation of the nonconforming side yard setback, and for the inset balconies to encroach three inches. Mr. Pechous and Mr. Ciampa examined the plans.

Mr. Bogart stated they are trying to maintain a front area for their kitchen, with a window so light can come in.

Mr. Pechous stated this will be a nice addition to the neighborhood; the architecture is definitely an improvement. Enclosing the car port area will enhance the neighborhood. He understands the reasoning behind doing an encroachment into the side yard setback so they do not have to take out the kitchen. To not have all garage in the front is better aesthetically for the home and for the neighborhood. He is glad the applicants will be keeping the existing landscaping.

Mr. Pechous appreciates the architectural design and how the building steps up from the street so it doesn't loom over the street. This keeps the massing in character with the neighborhood. He also appreciates the attention to detail on the deck so there is less impact to the neighborhood.

Mr. Pechous informed the applicant of the ten day appeal period and he thanked the applicant and the architect for working with staff.

Action: The Zoning Administrator approved Minor Exception Permit 12-125, Bogart Residence, subject to Resolution ZA 12-022 with attached Conditions of Approval.

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

C. 123 El Levante – (Minor Exception Permit 12-080) – Nikopoulos Fence (Wright)

A request to consider constructing gates and a fence over 42 inches high up to a maximum of six feet within the required front yard setback of a residence. The

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project site is located in the Residential Low Density zoning district (RL). The legal description is Lot 17, Tract 16501, Assessor's Parcel Number 057-09-317.

Associate Planner Christopher Wright summarized the staff report.

Applicant Demetrios Nikopoulos was present. He feels this will greatly improve his property. Once the gate is finished he will add landscaping.

Mr. Wright added that condition number eight, which is related to the design change, is worded to be flexible so the applicant can work with the City Planner, or his designee, to make certain that whatever changes are something that they want to take place, assuming the Zoning Administrator agrees. Mr. Pechous responded he agrees with this condition.

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

Mr. Pechous stated the proposed fence is not going to affect line-of-site, there will not be any problems with safety, and this proposal is consistent with the neighborhood, there are similar fences within the vicinity.

Mr. Pechous thanked the applicant for working with staff. Mr. Nikopoulos stated Mr. Wright was wonderful to work with. Mr. Pechous informed Mr. Nikopoulos of the ten day appeal period.

Action: The Zoning Administrator approved Minor Exception Permit 12-080, Nikopoulos Fence, subject to Resolution ZA 12-021 with attached Conditions of Approval.

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

5. NEW BUSINESS

None

6. OLD BUSINESS

None

ADJOURNMENT

The meeting adjourned at 3:55 p.m. to the regular Zoning Administrator meeting to be held on July 18, 2012 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California.

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Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line at the end, positioned above the name "Jim Pechous".

Jim Pechous

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