

**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR
ZONING ADMINISTRATOR MEETING
MARCH 22, 2017**

1. CALL TO ORDER

A Regular Meeting of the City of San Clemente Zoning Administrator was called to order on March 22, 2017 at 3:00 p.m. in Conference Room A of the Community Development Department, located at 910 Calle Negocio, San Clemente, California, by Zoning Administrator Amber Gregg.

Staff Present: Amber Gregg, Zoning Administrator; Kirt Coury, Contract Planner; Roxanne Atencio, Office Specialist I.

2. MINUTES

A. The minutes of the Zoning Administrator meeting of February 22, 2017 were approved.

3. ORAL AND WRITTEN COMMUNICATION

None

4. PUBLIC HEARINGS

A. 404 South La Esperanza - Minor Architectural Permit 16-370/Minor Exception Permit 16-371 - Quade Residence Addition (Coury)

Public Hearing to consider a 1,176 square foot second-story addition to a legal nonconforming residence that continues a five foot, eight inch side yard setback where six feet is required. The project is located in the Residential-Low Density Zoning district with a Special Residential 1 Overlay (RL-SR1) at 404 South La Esperanza. The legal description is Lot 25 of Tract 5135 and Assessor's Parcel Number is 690-043-03.

Contract Planner Kirt Coury summarized the Staff Report.

ZA Gregg asked if Applicants would like to speak.

William Stoffregen, the Applicants' architect, clarified the existing home encroaches 2 inches on the southeast side and a 1 inch encroachment on the northwest side of the house, not the four inches stated in the report.

ZA Gregg opened the Public Hearing.

Thomas Whiten stated he was concerned the City issuing Variances would change the character of the neighborhood and allow for "McMansions" to be built. Whiten said decreasing views of the ocean, the pier and other desirable views would decrease property values. Whiten lives on a hill about 95 feet above Esperanza Street at 405 Avenida Arlena so that if anyone built a second story his property would be above it. Whiten explained he bought a house that was cracked in half and had caissons put in and 5 years later they still have cracks which shows the instability of the hill. Whiten continued that he was a professional engineer in New York and having walked the neighborhood and looking at the position of the Applicants' house the property will require severe structural analysis.

Dave Buettner stated he and his wife have been in San Clemente for about 15 years. Before they bought the house they knew they were in a very active geological area. They hired a geologist to look at the property and he said they would be ok as long as they did not make any major changes to their home. Right next to his home, across the street there was a geological distress where large amounts of soil slipped down the hill. The people that lived there spent a fortune stabilizing and installed caissons recently. The reason for the slide was inadequate fill for the foundations of the houses that were built there. Mr. Buettner said he was concerned the Applicants' project will have similar issues. Also, he stated the Staff Report does not reference a soil analysis, slope angle investigation, engineering evaluations, risk assessment, fill adequacy, bearing capacity. Buettner referenced a portion of the Staff Report, "The proposed addition does not have any adverse mass impacts." Mr. Buettner showed a picture of the Applicants' property taken from his backyard and he said the project would have an impact on their view. Buettner pointed out the statement on the Notice of Public Hearing that states Staff has not received any public comments about the project. Buettner said he did not know anything about the proposed project, it could be a potential disaster and he hadn't heard a word about it.

ZA asked Mr. Buettner if he received the Notice of Public Hearing in the mail.

Mr. Buettner said he did receive the Notice of Public Hearing in the mail but it said that no comments had been received regarding the project but comments have not been received because he barely received the public notice.

ZA Gregg stated a Notice of Public Hearing is mailed regarding all discretionary projects where a decision will be made. Public Notices are mailed 10 days prior to the meeting date, advertised in the newspaper and the project site is posted with the notice. That is the opportunity for the public to ask for more information about the proposed project. When the Staff report goes out, which was Friday March 17, 2017, there were no formal comments received by Staff. However, that does not mean that the public does not have the opportunity to come to the Public Hearing to speak. ZA Gregg further explained that this is the standard

process for all Public Hearings whether it be a variance, a minor exception permit, anything that has a discretionary application.

Gregory Lynch stated he lived at 401 Avenida Arlena and pointed out his property on the map displayed on the projection screen. Mr. Lynch stated he is currently upgrading his home. When he started his upgrades he planned to add a second story and had plans drawn up but decided not to do the second story. He wanted to do his project in four phases. Mr. Lynch said he had a fence separating his yard from his neighbor that was tilting to about a 50 degree angle. When Lynch first submitted plans to the City he was told no construction could be done until a soils report was done. The soils reports came back and said to do any upgrades they would need to put in caissons into the property. Mr. Lynch said his primary concern was there should be a soils perspective done for the Applicants' property. Lynch stated he had budgeted about \$250,000 for upgrades to his property. He said they had to installed caissons costing about \$500,000 just to start his upgrades to the home. Lynch said 25 years ago there were major issues with the soil at the back of his property and it had to be reconstructed because the soil was moving. He said the Staff Report did not mention anything about the soil and said he would not want the Applicant's home to have the same movement his house has had. Lynch referenced his garage having cement cracked in half 2-3 inches. He has been in a neighboring house and saw 3 inch crack in the kitchen and cracks are happening throughout the neighborhood. Mr. Lynch said because he stabilized his slope his property is holding up all of the other homes on his street. Caissons were put in 50 feet into the bedrock as a requirement of the City. Mr. Lynch said he thought it was important to have the soil tested since there has been so much movement in the neighborhood and the Applicants are proposing to add more weight to the property and this affects the entire hill.

Cheryl Lynch, wife of Gregory Lynch, stated her grandparents built their home in 1971 and were the original owners of the property. When the Lynches proposed to add a second floor they were told they could not put additional weight on this hill, it had to be put over the garage. Mrs. Lynch shared her concerns about a second floor addition being added to the back of the Applicants' property, rather than the front of the property. Mrs. Lynch said she had to put a half a million dollars in caissons into her hillside to make upgrades. Mrs. Lynch said if the Applicants' property slides down the hill the property below will be devastated. When this community was originally built it was all single story and her grandparents had a lawsuit against the property owners below them for building a 2 story home the City issued a variance for that property. Lynch reference another lawsuit in the neighborhood because of undermining of the soil. Another neighbor put in \$750,000 into their hill to stabilize it. Mrs. Lynch said she was concerned that adding a second story will impact property values of the neighborhood and start a trend for adding second story additions. Cheryl Lynch is a realtor in San Clemente and said she is all about the views stating "I sell views, I sell lifestyles."

Keith Howington stated he and his wife Susan live at 400 Avenida Arlena and pointed to his property on the map.

ZA Gregg asked if it was the two story home on the corner.

Keith Howington answered yes. Howington asked who wrote the Staff Report because it was extremely subjective and made a lot of assumptions. Mr. Howington said all the homes nearby are single story. He continued that the Staff Report was vague about the neighborhood being single story and disagreed with the portion of the report that stated "it will not result in accumulated impact the project over time." Howington is concerned if one goes two story all the houses will go two story. Mr. Howington said it was a major concern that similar geological issues that in the Shorecliff's community will happen in his neighborhood. Howington said the property above his home slid down to the next street where Howington lives and cost \$400,000-\$700,000 to repair. Howington said the project sight and his slope is less than 100 feet away. The road will not stop a landslide and once something moves the entire neighborhood suffers the consequences.

Susan Howington, wife of Keith Howington, said to the Applicants that her biggest concern was that they had no idea how their project will affect the neighborhood.

ZA Gregg asked Mrs. Howington to direct her comments to the ZA and not the Applicants directly.

Susan Howington stated to ZA Gregg she does not know how changes to the Applicant's home will directly affect the neighborhood. For the City to approve it without identifying the risk in the Staff Report seems to be gross negligence. Mrs. Howington said that Staff Report does not identify any of the negative impacts the project will have on the neighborhood and the Staff Report was only positive which is uneducated. The City owes it to their neighborhood to take a look at the potential difficulties and trauma that could be caused to the land itself. If the City is not interested in the property values that is one thing but the City should be interested in the land and the impact it can have on the home of the people around because there is a history of soil movement in the area.

Patricia Lamont of 403 East Avenida Cordoba pointed out her home on the map and said she owned two properties directly above the Applicant's property. She stated the City is not in the business of protecting properties. Ms. Lamont said directly to the Applicants that they were going to wipeout her view of the pier.

ZA Gregg asked Ms. Lamont to direct her comments to the ZA not the Applicants.

Ms. Lamont continued that she never received a Notice of Public Hearing for either of the properties that she owns. She only found out about meeting through another neighbor. Had she been given time she would have hired experts to analyze the financial effects that the Applicants' project will have on her property. Lamont asked that the Applicants take her view into consideration. Ms. Lamont said she lived in San Clemente for 40 years, she loves her home and will lose view of the pier. Lamont offered to have the Applicants come to her property to view how it will affect her view. Also, Lamont said the project will affect the value of her properties. Ms. Lamont suggested that the Applicants build below and not up because it affects other people's views.

ZA Gregg closed the public hearing.

ZA Gregg said she would address some of the concerns that were mentioned during the public hearing. ZA asked Staff to address the geotechnical concerns as well as the discretionary process and the building permit process.

Contract Planner Coury stated this discretionary application is before the ZA today to determine if the project can construct an addition to a nonconforming house, and continue a nonconforming side yard setback of 5.8 feet where 6 feet is required. If these things are approved to move forward with the project, the Applicants would then submit their project and plans to the Building Division for their Building Permit. At that time the Building Division would require a soils study which would identify what would be required for land stability.

ZA Gregg explained further that the application is not before the Zoning Administrator for a two story addition because the City allows a second story addition by development standards. Whether other residents agree or disagree with a second story addition or if the area should be zoned for second story additions, was not the application before the ZA as the project is under with the permitted height limit of 25 feet. ZA Gregg explained the City Staff is charged with analyzing the project under the laws as they exist today and ensuring the application complies with those laws. If this were a house that did not encroach and met all the other development standards and built a second story across the entire home they would only require Building Permits, not a public hearing. Part of the Building Permit process is for the Applicant to submit a soils study. This is a requirement for every development in San Clemente due to our soil concerns.

ZA addressed concerns regarding Variances. ZA defined a Variance as an exception to a development standard that deviates from City Code. San Clemente Zoning Ordinance allows for Minor Exception Permits which is defined differently than a Variance. A Minor Exception Permit has very narrow parameters. In regards to the Quade project, the Minor Exception Permit is for a side yard setback that typically requires 6 feet but when the house was built in 1964 there was not precise technology like GIS to making sure the house was built exactly to those standards. City Council has recognized that older homes

may not be built exactly to standards and they would allow for minor variations from the standards so homeowners don't have to tear down half of their house if they encroach by an inch. The Minor Exception Permit allows for an encroachment up to 2 feet on a side yard. Variances need to show specific findings in order to be approved. Variances are approved by the Planning Commission. ZA Gregg clarified that the application is not a variance.

ZA Gregg addressed concerns about view impact. The City does not protect private views, the City protects public views. Some homeowner's associations prohibit within their CC&Rs homes from adding a second story. ZA Gregg asked Staff if the Quade property was part of a homeowners association.

Contract Planner Coury stated the property is not in a homeowner association.

ZA Gregg went over what happened in the Shorecliff's community. ZA Gregg clarified that at the time Shorecliff's had active CC&Rs that did restrict properties from going more than two stories. The CC&Rs lapsed and there was a ballot measure to keep the CC&Rs intact. ZA Gregg asked Staff if this area had any CC&Rs.

Contract Planner Coury said he was not aware of any CC&Rs.

ZA Gregg stated again the City does not protect private views and City Staff is charged with allowing every homeowner to develop within their property rights. Height is not something that is in question for this meeting.

ZA Gregg went over the public hearing process. The members of the public that were present at the ZA Public Hearing were participating in the public hearing process by attending the meeting and making comments and concerns to the ZA. Applications are reviewed to ensure they meet all standards. When review is complete, a Notice of Public Hearing is generated followed by a Staff Report with necessary information to show how the proposed project does or does not comply with the law. The Public can then come to the Public Hearing Meeting, send a letter or email to voice opinions. ZA Gregg said the City encourages the Public to submit comments.

ZA Gregg said the City takes the findings very seriously and Staff is charged with showing how the project can or cannot make the findings. The height is not apart of the application because it is below the maximum height allowed. ZA commented that in reviewing the plans she appreciated that most of the openings were put toward the back of the house which would maintain privacy on the side of the encroachment.

ZA Gregg addressed concerns stated about mansionization. ZA said mansionization is a concern in the City of San Clemente. A couple of years ago the City Council approved an ordinance to help incentivize property owners to

not “mansionize” their home. The approved Ordinance allowed for a Minor Architectural Permit to expand houses up to a certain size and be able to go through a minor process. Prior to this Ordinance the City found that it was less expensive for owners to tear down their house and build a new one rather than going through a longer public hearing process or require homeowners to replace portions of their home to comply with the development standards. Minor Architectural Permits were implemented to keep the houses smaller.

ZA Gregg asked Staff what the encroachment on the garage was and if it was a side entry garage.

Contract Planner Coury said garage encroachment is 5 feet 4 inches and it is a side entry garage.

ZA Gregg said because it's a side entry garage the existing driveway appears to provide a long enough apron to ensure that a car can park there and not overhang into the public right-of-way.

ZA Gregg stated that there is a 10 calendar day appeal period and if the Public would like more information regarding the appeal process they could go to the lobby and a Planning Staff will provide them additional information.

Action: The Zoning Administrator approved Minor Architectural Permit 17-370, Minor Exception Permit 16-371, Quade Residence Addition, subject to Resolutions ZA 17-008 with attached Conditions of Approval.

B. 329 W Paseo De Cristobal – Minor Architectural Permit 16-387– McMahon Residence (Coury)

Public Hearing to consider a request to allow a 567 square foot addition to a legal nonconforming two-story residence. The project is located in the Residential-Low Density Zoning district and Coastal Overlay (RL-CZ) at 329 W Paseo Cristobal. The legal description is Lot 36, Block 18 of Tract 822 and Assessor's Parcel Number is 692-272-21.

Contract Planner Kirt Coury summarized the Staff Report.

ZA Gregg asked if Applicants wished to make comments.

Jack Garland, the Applicants' architect, said the project would be a great improvement to the house and the neighborhood aesthetically. They are tailoring the inside of the house to the Applicants' needs. In addition, they are lowering the existing roof elements that are exceeding the height limit standards with the exception of the turret which is the main architectural feature of the structure.

Applicant, Mr. McMahon stated they are not changing the footprint of the home

Mrs. McMahon expressed they would like to have the project approved quickly.

ZA Gregg opened the public hearing.

No one from the public wished to speak so ZA Gregg closed the public hearing.

ZA Gregg asked Staff to clarify the encroachment into the garage and clarify on the plans.

Contract Planner Coury stated the side yard, which is on the south side of the garage encroaches. The plans show a 5 foot setback were the requirement is 6 feet. Also, on the northeast corner of the garage there is an encroachment identified at approximately 12 feet where 18 feet is required.

ZA Gregg asked if the new addition would be built with the required 6 foot setback.

Contract Planner Coury said the new addition would be built the required 6 foot setback.

ZA Gregg asked Staff if the garage itself resulted in a 12 foot setback but the driveway apron is an 18 feet apron.

Contract Planner Coury replied yes.

ZA Gregg pointed out there is a substantially large right-of-way and the sidewalk that appears to be adjacent to the curb and gutter.

Contract Planner Coury said ZA was correct.

ZA Gregg stated City standard for driveway apron is 18 feet which means the Applicants' driveway meets the requirements. In addition, the project meets the requirements of the Coastal Bluff standards which is beyond the setback requirement of 25 feet. Based on the findings, the 18 foot driveway length, and that the addition does not expanding the footprint of the home, I can support the proposed project.

Action: The Zoning Administrator approved Minor Cultural Architectural Permit 16-387, McMahon Residence, subject to Resolution ZA 17-009 with attached Conditions of Approval.

5. **NEW BUSINESS**

None

6. **OLD BUSINESS**

None

ADJOURNMENT

The meeting adjourned at 3:51 p.m. to the next Regular Zoning Administrator meeting of April 5, 2017 at 3:00p.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

Amber Gregg

A handwritten signature in blue ink, appearing to read 'Amber Gregg', is written over a horizontal line. The signature is stylized and cursive.