



**DRAFT MINUTES**

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**CITY OF PACIFIC GROVE  
PLANNING COMMISSION  
REGULAR MEETING**

6:00 p.m. Thursday, November 20, 2014

Council Chambers – City Hall – 300 Forest Avenue, Pacific Grove, CA

**1. Call to Order**

6:01 pm

**2. Roll Call**

Commissioners Present: Robin Aeschliman, Bill Bluhm (Vice-Chair), Jeanne Byrne, Nicolas Smith, Bill Fredrickson (Chair)

Commissioners Absent: Mark Chakwin, Donald Murphy

**3. Approval of Minutes**

**a. November 6, 2014 Regular Meeting**

**On a motion by Commissioner Smith, seconded by Commissioner Aeschliman, the Commission voted 5-0 to approve the November 6, 2014 Regular Meeting Minutes as presented.**

**4. Public Comments**

**a. Written Communications**

None.

**b. Oral Communications**

None.

**5. Items to be Continued**

**a. Address: 631 Ocean View Blvd, Pacific Grove, 93950**

**APN:** 006-084-002

**Permit Application:** Use Permit (UP) and Architectural Permit (AP) 14-441

**Description:** UP and AP Application No. 14-441 to reestablish a restaurant previously the Latitudes restaurant, to allow both the off and on sale of alcohol, to create a master sign program consistent with PGMC 20.04 in general for the proposed project @loverspoint, to allow renovation of an existing full service restaurant structure, to reconfigure the existing structure and site to accommodate a smaller full service restaurant and four additional food and/or retail related uses including development of common use facilities.

**Applicant/Owner:** James D. McCord AIA Architect/Ostrich Inc c/o Chris Hyland

**Zoning/Land Use:** C-D/Commercial

**CEQA:** Class 1 Categorical Exemption

**Staff Reference:** Laurel O'Halloran, Assistant Planner

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**To be continued to 12-4-14 Planning Commission. Pending Architectural Review Board recommendation.**

**6. Consent Agenda**

None.

**7. Regular Agenda**

**a. Continued from October 16, 2014 & November 6, 2014**

**Address: 1123 Ocean View Blvd, Pacific Grove, 93950**

**APN: 006-196-001**

**Permit Application: Variance (VAR) 14-523**

**Description: Variance Application No. 14-523 to extend a room addition into the side yard setback where a previous non-conforming structure once stood.**

**Applicant/Owner: Charles Huff**

**Zoning/Land Use: R-1-H/MDR 17.4 DU/AC**

**CEQA: Class 1 Categorical Exemption**

**Staff Reference: Mark Brodeur, Director**

**Recommended Action: Final Approval**

**COMMISSIONER BLUHM RECUSED HIMSELF DUE TO CONFLICT OF INTEREST**

Director Brodeur presented the project with the following points:

1. This is a Variance from a require side yard setback.
2. This is not a hearing on a boundary line dispute. Matters of boundary are a civil issue and they are not germane to the approval or denial of a variance.
3. This is also not a hearing regarding the structure or architecture of the addition. This variance, if approved or approved with modifications, will be conditioned upon the approval of the building official.
4. This is not a hearing regarding the height of the addition.
5. The Commission is asked to discount all testimony given regarding location of property lines, soundness of building or construction or building height, since such issues are not germane to the variance request.
6. The Commission should seek to ascertain whether the previous existing non-conforming structure was constructed legally or illegally.
7. The Commission should seek to ascertain how long the property has enjoyed the existence of the sunroom on the property.
8. The Commission needs to satisfy the findings that must be made to grant the variance.

Commissioner Fredrickson opened public comments.

Tony Lombardo spoke representing the property owner, submitted additional documentation (see Attachment 1) showing a proposal to build the exterior wall off of the masonry wall, opens a corridor between two lots.

Rudy Estrada, property owner, spoke about the submittal of plans.

Christine Kemp, representing the Burford's at 1124 Beacon, spoke regarding the precedent being set and that no extraordinary reason to approve a project increasing a non-conforming use.

Phil Svalya, 1129 Ocean View Blvd. neighbor, spoke about laws applying to variances and noncomplying uses.

Lois Svalya, 1129 Ocean View Blvd. neighbor, spoke about safety of structure on property line and described the history of the structure.

Julie Burford, 1124 Beacon neighbor, spoke about how the addition changes the quality of her property.

Dale Nickett, 25 Esplanade neighbor, spoke about how the variance would set a bad precedent.

Tony Lomardo presented a rebuttal.

Rudy Estrada presented final comments.

Director Brodeur clarified that we are not talking about a non-conforming use; this is a single family dwelling which is a conforming use. We are talking about a non-complying structure. Did the previous building enjoy a legal non-conforming status or not. A legal non-conforming structure can continue, it can be improved but the non-conforming structure cannot be increased. The non-compliance of this structure is the lack of a ten foot side yard setback. City Council believed in 1983 there was an illegal non-complying structure.

Phil Svalya and Tony Lomardo made additional

Commissioner Fredrickson closed public comments.

Commissioner Byrne asked if the property was historic; Director Brodeur responded no.

Commissioner Aeschliman asked questions regarding the set-backs.

Commissioner Byrne asked about lot coverage and if the project increases the size of a non-conforming structure. Existing non-conforming condition is the set-back which is expanding the set-back if expanding the square footage.

Commissioner Fredrickson suggested the focus on set-back.

Commissioner Byrne suggested that plans were submitted and approved by City and there is an increase in the non-conforming structure.

Commissioner Fredrickson asked what remedy can be offered and what is the intent.

Commissioner Byrne offered that we can't approve another non-conforming condition.

Commissioner Aeschliman offered her concerns regarding whether there is sufficient setback for safety reasons so that someone can get out of the backyard in the event of a disaster, there are design issues and this set an unnecessary precedent and not in the best interest of the neighborhood and this Commission to set the precedent that a side set back is not required between two properties. Not uncomfortable offering a variance but not a zero foot variance; there is a zero on west side and while zoning requires a ten foot. Consider safety.

Commissioner Byrne indicated that the code reads you can average the side set-backs maximum side set back is twenty feet; you can have fifteen feet on one side and five feet on the other side; that is not what they have. We don't have a survey to tell us if the average works in this case.

Commissioner Smith expressed discomfort with the variance request as presented; the plan remedy does not seem to address the set-back concerns; asked about the legal non-compliant structure.

Director Brodeur clarified that the sunroom (the non-complying structure) fully encroached the 10 foot side-yard set-back there is no way they can increase that non-compliance because it was on the wall.

Commissioner Byrne suggested that the non-compliance is increased by increasing the size.

Director Brodeur offered that the condition of the Variance can be that the degree of non-compliance be brought to zero; remove the appropriate amount of square footage so that the other degree of non-compliance is zero.

Commissioner Aeschliman expressed concerns and suggested sending the project back to the applicant. Preference would be to redesign.

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**On a motion by Commissioner Byrne, seconded by Commissioner Smith, to deny Variance application 14-523 as proposed; and in place grant a Variance based on drawing labeled #4 with exterior wall line beam indication provided that a minimum in the rear of a three foot side yard set-back and the distance as shown on the drawing labeled #4.**  
**Motion carried 4-0.**

**8. Acceptance of Minutes from Other Bodies**

- a. Architectural Review Board October 28, 2014
- b. Historical Resources Committee October 22, 2014

**On a motion by Commissioner Aeschliman, seconded by Commissioner Byrne to accept the minutes as submitted. Motioned carried 4-0**

**9. Reports of PC Subcommittees**

None.

**10. Reports of Commissioners**

Commissioner Aeschliman commented that what happened with the Estrada's is unforgivable and has put us and the Planning Department in an awkward position. If the RZRR would go back to what it used to be this would have been identified and it would have been clear to Mr. Estrada that there was a problem. Recommends reinstate the process. Commissioner Fredrickson asked about the December 4<sup>th</sup> meeting; reviewing code punch list. Director Brodeur plans to go back to two meetings a month and one meeting to deal with development applications and another meeting to deal with code issues.

**11. Reports of Council Liaison**

None.

**12. Director's Report**

a. Lynn Burgess presented a review of the implementation of the Downtown Sign Code and summarized efforts to expand the effort Citywide. Requested feedback from the Planning Commission.

**13. Adjournment**

7:50 p.m.

**APPROVED BY PLANNING COMMISSION:**

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Date