

AGENDA ITEM: A- 1

DATE: August 19, 2014

ACTION: APPROVED

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING –AUGUST 5, 2014
VETERAN’S MEMORIAL BUILDING – 6:00 PM

PRESENT:	Robert Tefft	Chairperson
	Gerald Luhr	Vice Chairperson
	John Fennacy	Commissioner
	Michael Lucas	Commissioner
	Richard Sadowski	Commissioner
STAFF:	Scot Graham	Planning Manager
	Cindy Jacinth	Associate Planner
	Whitney McIlvaine	Contract Planner

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

Chairperson Tefft introduced new Planning Manager Scot Graham.

Commissioner Lucas announced a workshop by SLO Green Build would be held on August 6 regarding the Title 24 changes.

PRESENTATIONS - None

PUBLIC COMMENT

Chairperson Tefft opened Public Comment period.

Robert Krause, Morro Bay resident, requested the Commission place a stay on issued citations regarding non-habitable accessory buildings until it can be reviewed and approves changes to setback regulations.

Chairperson Tefft closed Public Comment period.

CONSENT CALENDAR

- A-1 Approval of minutes from the Planning Commission meeting of June 17, 2014
Staff Recommendation: Approve minutes as submitted.
- A-2 Approval of minutes from the Planning Commission meeting of July 1, 2014
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Lucas moved to approve the consent calendar. Vice Chairperson Luhr Lucas seconded the motion and the motion passed unanimously. (5-0)

PUBLIC HEARINGS

B-1 Case No.: #AD0-091 Variance

Site Location: 938 Anchor Street, Morro Bay, CA

Variance: Request to allow a 7.56-foot rear setback in the R-1 zone where the Zoning Ordinance requires 10% of the lot depth which, in this case, is 10 feet.

CEQA Determination: Categorically Exempt, Section 15301, Class 1

Staff Recommendation: Deny the variance

Staff Contact: Whitney McIlvaine, Contract Planner, (805) 772-6211

McIlvaine presented the staff report.

Commissioner Lucas and McIlvaine discussed prior approved non-conforming second floor additions in the area and if that set a precedent for a current request to approve a second story addition of a non-conforming structure.

Commissioner Lucas and McIlvaine discussed the difference between when a project for a second floor addition on an existing non-conforming footprint would need only a building permit and when a variance would be needed.

Vice Chairperson Luhr asked if it is staff's interpretation of the zoning requirements that the ready to issue permit from 2008 was issued in error. McIlvaine replied yes.

Chairperson Tefft asked if the staff interpretation in 2008 was that the house was conforming so a conditional use permit was not required. McIlvaine stated the record is unclear, noting there was no conditional use permit ready to issue, only a building permit.

Chairperson Tefft and McIlvaine discussed when a conditional use permit would be needed for non-conforming structures, with McIlvaine confirming that additions of more than 25% would require a conditional use permit.

Commissioner Sadowski noted that he visited the site and spoke with the owner.

Chairperson Tefft opened Public Comment period.

Mike Sherrod, Applicant, stated a canvassing of the homes in the super block area shows half are two stories with non-conforming rear yard setbacks. Sherrod presented a history of the project, letters of support for the project, and requested the Commission approve the variance.

Vice Chairperson Luhr noted that if the variance is granted, someone in the future could request a variance to add a second story at the front of the house and asked the Applicant if they would be willing to place a deed restriction on the property. Sherrod replied yes.

Nancy Aaron, Morro Bay Anchor Street resident, spoke in support of granting the variance.

Matt Makowetski, Morro Bay resident, spoke in support of granting the variance.

Michael Caylen, Morro Bay Anchor Street resident, spoke in support of granting the variance.

Robert Nava, Morro Bay Anchor Street resident, spoke in support of granting the variance.

Chairperson Tefft closed Public Comment period.

Commissioner Fennacy spoke in support of the project and granting the variance noting there are special circumstances.

Commissioner Lucas stated he likes the design but is very concerned with the precedent it sets to approve the variance, noting unless there is a condition to address this, he cannot support a variance.

Vice Chairperson Luhr stated he would like to grant the variance, but condition it such that it specifies a previous planning staff member determined this was a valid project to limit the precedent for future variance requests of this nature, and restrict the air space over the existing front portion to a single story so a variance request would be needed for a future project.

Commissioner Sadowski stated he supports granting the variance and the conditions Vice Chairperson Luhr suggested.

Chairperson Tefft stated he visited the site and spoke with the Applicant, noting there are two issues before the Commission: how the zoning ordinance should be interpreted and whether or not grant this variance, noting that he supports McIlvaine's interpretation of the zoning ordinance. Chairperson Tefft stated he supports granting the variance as the Applicant proceeded based on representations by the City that we now believe to be incorrect and the project is well designed and not detrimental to the neighborhood.

Chairperson Tefft and staff discussed the status of the structure if the variance is granted, noting the rear yard setback would still be non-conforming but that the front yard setback may be deemed conforming if consistent with a provision in zoning code for street yard averaging.

Chairperson Tefft stated he supports granting the variance with the suggested conditions from Vice Chairperson Luhr.

Commissioner Fennacy stated he believes there are special circumstances to granting the variance that are stand alone to this project and is concerned with placing a condition that would restrict future development of the site.

Vice Chairperson Luhr stated the condition would be a trigger to bring it back and a future Commission could change that condition at its discretion.

Vice Chairperson Luhr and Graham discussed how the courts have interpreted a variance and whether the Commission condition the variance based on the process rather than special circumstances of the lot.

Chairperson Tefft re-opened Public Comment period.

Sherrod asked if there was a decision being made tonight. Graham replied yes but the Commission does not have a resolution before them to adopt granting the variance.

Sherrod, Vice Chairperson Luhr and Graham discussed differences between a deed restriction and a condition to restrict development of the property in the future.

Chairperson Tefft closed Public Comment period.

MOTION: Vice Chairperson Luhr moved to continue this item to the August 19 meeting with direction to staff to return with a resolution for approval of variance AD0-091 with conditions as noted. Commissioner Lucas seconded the motion.

Commissioners and staff discussed a continuance of the item versus approval of a variance and returning with a resolution and conditions on the Consent Calendar.

AMENDED MOTION: Vice Chairperson Luhr amended his motion and moved to approve variance AD0-091 with the conditions noted and direct staff to return at the August 19 meeting with a resolution approving variance AD0-091. Commissioner Lucas seconded the amended motion.

Commissioner Lucas and staff discussed bringing back an interpretation memo confirming that McIlvaine interpreted the code correctly. Graham stated that would be done for the next meeting.

The amended motion passed unanimously. (5-0)

UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and File

Jacinth reviewed the work program with the Commissioners.

NEW BUSINESS - None

E. DECLARATION OF FURTUE AGENDA ITEMS

- Staff to review setback regulations for accessory structures in relation Mr. Krause's code enforcement issue and return to the Commission as necessary.

F. ADJOURNMENT

The meeting adjourned at 7:34 p.m. to the next regularly scheduled Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on Tuesday, August 19, 2014 at 6:00 p.m.

Robert Tefft, Chairperson

ATTEST:

Rob Livick, Secretary