

PUBLIC HEARINGS

1. Consideration of Zone Variance 20-01 to reduce the rear yard setback from 25 feet to 6 feet and Zone Variance 21-01 to reduce the minimum lot size from 7,200 square feet to 6,192 square feet for the construction of a single-family home at 161 West Hidden Lane.

Associate Planner Lopez presented the staff report to the Commission.

Chair Nigsarian asked if any of the Commissioners had any questions.

Commissioner Munoz inquired about the height limits of the fence on the west side of the property and whether the property was zoned residential before being annexed into the City. Associate Planner Lopez clarified the height limits for the fencing and stated there were no recorded documents to show the original intended use of that lot.

Commissioner Powell mentioned that he had visited the site and read the correspondence from the community. He asked if LA County Fire had visited the site to look at the turn around or if they had a matrix to assure there was sufficient turnaround space for their vehicles. Associate Planner Lopez referred to the site plan which had been reviewed and approved by La County Fire and noted it did not show a turnaround area.

Commissioner Powell then asked about trash truck collection access. Associate Planner Lopez said that was not part of the review for this project. Commissioner Powell then asked if the water supply would be diminished by adding an additional home that by code is required to be fire sprinklered. Director Ho said that Hidden Lane has historically had low fire flow in the area and that was why the project was conditioned to be fire sprinklered to address the low fire flow. Planning Manager Ramsland mentioned that the fire department had identified the minimum fire flow requirements and the applicant would have to meet those minimum requirements before permits are issued.

Commissioner Powell then asked if there could be an issue with the applicant getting approval for the septic system. Planning Manager Ramsland stated that the project had been conditioned to proof that it can meet the conditions to obtain approval for a septic system prior to the issuance of any permits. He noted that the Commission could however continue any action on the project until the property owner gets approval for a septic system.

Commissioner Bernier inquired about who has access to the recorded easements. She also recalled a project that received approval for an addition to one of the homes on that street and inquired if it had been completed. Associate Planner Lopez clarified the access rights of the various easements on the property. He added that the room addition project at the other home in the neighborhood had been completed.

Vice Chair Manley inquired about the total lot coverage percentage. Associate Planner Lopez provided an explanation.

Chair Nigsarian noted that it appears that one of the previous owners of the lot was a Home Owners Association that has since been disbanded.

The Chair then opened the public hearing and asked if there was anyone on the phone conference, or who had sent an email who wished to speak in favor of the request.

Staff noted that prior to the meeting Emails were received from: Jennifer Paraska, 1330 W. Hidden Lane; Joy Porter, 120 W. Hidden Lane; Karen Barnett, 301 La Serna Dr.; Tom Minnich, 1420 N. Hidden Lane; Donna Lawson, 121 W. Hidden Lane; Leticia Baker, 180 W. Hidden Lane; and Mark and Connie Gipple, 114 W. Hidden Lane. The emails expressed their concerns that the lot was too small for development and the proposed home was inappropriate for the neighborhood. They cited such reasons as loss of easement rights, fire access, water pressure issues, traffic safety and parking limitation issues.

The applicant, Mr. Blash Momeny, 5518 Paseo Del Lago, #2E, Laguna Woods, expressed his excitement for developing this lot and spoke about how as an architect he was inspired by the 1950's architecture to design this home and for the color and wood paneling he looked at Ms. Baker's home across the way from his lot.

Mr. Momeny's consultant, Max Ahmadi, 22361 Birchcrest, Mission Viejo, began by explaining that the question raised by Vice Chair Manely in regards to lot coverage was incorrect. He stated that the lot coverage information in the staff report is correct. He said that "he has read all the letters in opposition and would be happy to address them. The purpose of this hearing is to address the findings of the City's Variance requirements which are mirrored by state law. That states that every land owner has the right to develop his land. Some developments are already standardized and are easy to do and some are very difficult to do. And those with difficulties beyond their control deserve a waiver of the code. The job of Planning Commission and ultimately the City Council is to make those findings that these hardships exist. After many years the staff report finally agrees that hardships do exist". Mr. Ahmadi said that they were not proposing to create a new lot but rather develop an existing lot that was created over 60 years ago. He noted that the lot is 1,000 square feet short and that it was created when it was in the unincorporated LA County, where the City of La Habra had no control. When the City incorporated it, it accepted it as is. He added "whoever owns that property earns the rights that come with it. Those rights may not be very comfortable for the neighbors but they are still legal rights. We are here talking about the legal issues as opposed to the comfort of the neighbors".

He continued that the number one issue that everyone has talked about is the fire access. Mr. Ahmadi said that he met with La County Fire inspector Joel Gonzalez at the site and they walked the site and tested the existing hydrants. He noted that the turnaround is the same whether they build or not. It appears the public wants to use this property for free. He also noted that the staff report has made a finding for a hardship because of its shape, location and the matter it was created. He concluded by saying that the property owner has rights and we are listening to the facts to understand what those rights are, and reminded the Commission that this was not a design review discussion. He mentioned that Mr. Mirhosseini, the applicant's attorney, was also participating in the Zoom meeting and

could address any legal issues regarding property rights. He stated that the staff report addresses all issues raised by the opposition and he would like the opportunity to rebuttal any objections raised by the callers.

The Chair then asked if there was anyone who wished to speak in opposition to the request.

Mr. Ray Fernandez, 1400 N. Hidden Lane, La Habra, said that he hoped the Commission had visited the site to view the property. He then stated his belief that the applicant is not entitled to the variances they are requesting. Mr. Fernandez shared plans (holding them up to his monitor) regarding his garage addition that showed what he had to submit to LA County Fire to proof that there was space for a fire truck to do a three-point turn. He was amazed that Mr. Momeny did not have to include that on his site plan. He then spoke about the history of the lot, saying that originally it was going to be improved with a swimming pool for the community. He added that when permits to build a pool were denied by the City, the residents stopped paying the taxes for the lot and it was sold. Mr. Fernandez expressed that the proposed home does not fit with the existing community.

Mr. Richard Carver, 141 W. Hidden Lane, La Habra, said he has lived in his home since 1963. He spoke about an old driveway that was put on the lot, that is being used as a turnaround. The current plans do not show that turnaround area and he expressed that it was needed. He expressed his concerns for privacy if they are allowed to have a 5-foot setback. He called it a tremendous disservice to allow the project to be built and expressed concerns with the septic system and the bank to the north of the lot which he said has a history of sliding.

Mr. Tom Minnich, 1420 N. Hidden Lane, La Habra, said that the audio kept cutting out on his end and he had not heard everything that the speakers had said. He hoped that staff had viewed the property to see that the project did not fit. He called the owner a poor neighbor who has failed to maintain the property. He said this property was never designed to support a residence and recommended that the Commission turn down the project.

Mr. Mike Paraska, 1330 N. Hidden Lane, expressed his concern for the removal of the turnaround stating that if someone gets hurt an emergency vehicle will not be able to respond. He asked the Commission to do the right thing and deny the variances.

Secretary Lopez noted that an email had been received during the public hearing and read it into the record. The email was sent by Joseph Pellkofer, 260 Olinda Ave., La Habra. The email stated: Concerns with a two-story structure and the impact on the neighborhood, including loss of quiet enjoyment of his property, the placing of high density in an established neighborhood, the negative effect on wildlife and vegetation, negative aesthetics and views. He raised questions regarding zoning and setbacks and reasons for approval or disapproval along with conditions of approval. He requested that the Commission add conditions to the projects to replace any vegetation that is remove as part of the project to provide screaming to his home and that any fencing be aesthetic friendly.

Chair Nigsarian asked if there was anyone else who wished to speak in opposition of the project. There was someone who used the raise hand option on Zoom to address the Commission, but did not respond when unmuted. The Chair then asked if there were others who wished to speak in opposition. There were none. The Chair closed the public comments and moved to Commission discussion.

Assistant City Attorney, Keith Collins, pointed out that it was customary to allow the applicant to have a few minutes for rebuttal to the comments made in opposition. Chair Nigsarian called on the applicant to offer a rebuttal.

Mr. Max Ahmadi addressed the Commission. He stated this was not a popularity contest. The Commission has to make a finding whether there is a hardship or not. There is no legal reason to keep the turnaround area. There is no code restriction or municipal code prohibiting to build a two-story structure. He added that we are in the height of a residential shortage and the State of California has enacted laws to encourage additional housing and not to create roadblocks. He continued that there is no danger to families in the neighborhood and this project increases property values. He concluded by stating that there is no other way to look at this project other than does a hardship exist on this land or not.

Chair Nigsarian then asked for Commissioner comments.

Commissioner Munoz asked what the street side setbacks are in La Habra. Planning Manager Ramsland said that setback was 10 feet but that it does not apply in this case. He added that setbacks are applied differently on private streets. Setbacks for this lot are measured from the center of the easement since that is where the property line is located.

Commissioner Powell asked if they were determining that a hardship does exist. Planning Manager Ramsland said that under State law, in a zone variance, you have to make findings for a hardship. He noted that the Commission was looking at two variances for this application, lot size and rear setback. In this case it appears that this lot is unusual in terms of its size, location and shape. Another finding is whether a denial of a variance will deprive the property owner of the use of their land of a right guaranteed to property owners with similar lots throughout the City. The second variance is in regards to the setback. The question before the Commission is, is the lot unbuildable or is there another way to design the property to meet the requirements. For the first variance it appears that a hardship can be determined, for the second variance they can be more flexible with regards to a determination.

Commissioner Powell said that when he visited the site he did not see any signs of a landslide that was mentioned by one of the neighbors and asked if there was a history of those safety issues. Mr. Ramsland said that he was not aware of any issues with the slope, but noted that during the plan check process the applicant will have to submit a complete soils test to comply with code standards to stabilize the slope if necessary.

Commissioner Powell brought up Mr. Fernandez' comment in regards to the turnaround area that he was required to show on his garage plans. He asked if the applicant needed a final approval from LA County Fire of his plans before going forward. Mr. Ramsland said

in this case the fire department has not asked for a turnaround, but their approval is tentative at this time and that they would have an additional review during building plan check. Commissioner Powell asked if the project gets approved what happens if the applicant doesn't get an approval for the septic system. Planning Manager Ramsland stated that if the applicant cannot meet the requirements for a septic system he will have to redesign his plans to comply or he would not be able to move forward with construction.

Director Ho interjected that there were some speakers with raised hands holding in the queue. He mentioned that staff had received an email from a caller who had issues unmuting themselves. He asked the City attorney if the Commission should go back and hear from those with their hands raised. Assistant City Attorney Collins said it was not legally imperative to reopen the public hearing again, but the Commission could at their discretion. Chair Nigsarian stated that the Commission had heard a broad base of opposition comments and the Commission was aware of the issues of contention and that he did not believe that it was necessary to reopen the hearing. He then called on comments from Commissioner Bernier.

Commissioner Bernier asked if when people buy in to the area are they made aware of the easements. Director Ho responded by saying that when they purchase property all of the legal real-estate disclosures related to easements are included in the real-estate documents. Commissioner Bernier then compared this lot size to the lots in her neighborhood and said it was very comparable.

Vice Chair Manley did not have any questions or comments.

Chair Nigsarian summarized the two variances before the Commission. He agreed that this was an unusual lot. In regards to the second issue of the rear setback he mentioned that the fact that they have to go from 25 feet to roughly 7 feet in rear setbacks is a good indication that this project as currently proposed is mis-scaled and that does not mean that the applicant can't build anything on this lot.

The Chair asked for a motion.

Moved by Commissioner Powell, seconded by Commissioner Bernier: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING ZONE VARIANCE 20-01 TO REDUCE THE REAR YARD SETBACK REQUIREMENT FROM 25 FEET TO 6 FEET, FOR A SINGLE-FAMILY HOME AT 161 WEST HIDDEN LANE, AS PER THE APPROVED PLANS, MAKING THE APPROPRIATE FINDINGS, AND SUBJECT TO CONDITIONS.

The action was denied by a 3-2 vote.

The roll call vote was as follows:

AYES: COMMISSIONERS: BERNIER, MUNOZ
NOES: COMMISSIONERS: POWELL, MANLEY, NIGSARIAN
ABSTAIN: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

Moved by Commissioner Powell, seconded by Chair Nigsarian, APPROVING RESOLUTION NO. 21-09 ENTITLED: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING ZONE VARIANCE 21-01 TO REDUCE THE MINIMUM LOT SIZE FROM 7,200 SQUARE FEET TO 6,192 SQUARE FEET FOR THE CONSTRUCTION OF A SINGLE-FAMILY HOME AT 161 WEST HIDDEN LANE, AS PER THE APPROVED PLANS, MAKING THE APPROPRIATE FINDINGS, AND SUBJECT TO CONDITIONS.

The roll call vote was as follows:

AYES: COMMISSIONERS: BERNIER, POWELL, MUNOZ, NIGSARIAN
NOES: COMMISSIONERS: MANLEY
ABSTAIN: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: NONE

ADMINISTRATIVE ITEMS

Director Ho said that the next Planning Commission meeting will be a live meeting in the Council Chamber.

Chair Nigsarian thanked staff for running smooth meetings through Zoom.

ADJOURNMENT: 8:05 p.m.

Respectfully submitted,

Veronica Lopez
Community Development Secretary