

AGENDA ITEM: A-1

DATE: February 15, 2012

ACTION: APPROVED

SYNOPSIS MINUTES - MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 18, 2012
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	Jamie Irons	Commissioner
	Paul Nagy	Commissioner
	Jessica Napier	Commissioner
STAFF:	Rob Livick	Public Services Director
	Kathleen Wold	Planning and Building Manager

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS
PUBLIC COMMENT – None.
PRESENTATIONS

Unless an item is pulled for separate action by the Planning Commission, the following actions are approved without discussion.

A. CONSENT CALENDAR

A-1 Approval of minutes from the Planning Commission meeting held on January 4, 2012

STAFF RECOMMENDATION: Approve minutes as submitted.

Commissioner Irons asked to pull Item A-1. Irons requested, for clarification, that the minutes be corrected to include that Rob Livick stated that since there has not been a recorded map, then it would not render the property unusable.

MOTION: Commissioner Irons moved to approve the minutes as corrected. The motion was seconded by Commissioner Solu and carried unanimously. (5-0)

B. PUBLIC HEARINGS

B-1 **Case No.:** #AD0-068
Site Location: 2890 Ironwood

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 18, 2012

Applicant/Project Sponsor: Darrick and Sara Danta / Cathy Novak

Request: Requesting variance for the front and two side yard setbacks. The stairway from the front entry is 1.25' into the required front setback, the exterior side (northern) deck is a zero setback and the interior side (south) is currently 9" from the property line. The applicant proposes to modify the south side deck so that the portion of the deck that exceeds 30" above grade will be two feet from the property line.

CEQA Determination: Categorically Exempt Section 15305, Class 5

Staff Recommendation: Conditionally approve #AD0-068

Staff Contact: Kathleen Wold, Planning and Building Manager (805) 772-6211

Chairperson Grantham recused himself from the meeting due to being within 500 feet.

Wold presented the staff report.

Commissioner Solu opened the Public Comment period.

Cathy Novak, Applicant's Representative, spoke regarding the variance request and urged the Commission to support the variance request for all of the setbacks.

Karen Zelesny, neighbor of Applicant, spoke against the request. She stated the work done does not comply with what the City allowed which was a free standing structure 30 inches above grade. This was built without permits and now a variance is requested. If the City allows this, a precedent will be set of people wanting a wraparound porch. Ms. Zelesny stated her property is a Morro Bay landmark home and urged the Commission to protect landmark homes.

Fran Zelesny, mother of neighbor, spoke vehemently against the variance request. She expressed concern about the fire danger of the Applicant's home being built right on the property line. She stated Applicant should not be rewarded and urged the Commission not allow favoritism.

Hearing no further comment, Commissioner Solu closed the Public Comment period.

Commissioners discussed with staff:

- The wrap around deck issue and whether that could start a precedent. Wold clarified that the findings specifically identify the unique characteristics of the property to north and in addition referenced the memo of the City Attorney which references specific incidences.
- The issuance of a building permit without zoning clearance.
- The applicant's proposal of a 3 foot deck to replace an existing 5 foot deck which gives the equivalent of a 2 foot setback.
- The neighbor's fire liability by having a small setback. With the porch setback reduced, the separation is increased to 7 feet which would relieve the neighbor of fire liability.

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 18, 2012

Wold clarified that the building code does allow properties to build closer to the property line than the zoning code would allow.

Commissioners further discussed:

- The uniqueness of this property due to the erroneous issuance of a building permit. Commissioner Nagy stated the Applicant's proposal to cut the deck back and put in fire construction is a good compromise and spoke in favor of allowing the applicant to encroach 1 foot into the setback. Commissioner Napier agreed and stated allowing access to the yard is a good thing.
- The fire liability and whether allowing a reduced setback triggers any liability
- The difference in setback rules of 3 feet versus 5 feet.

Commissioner Solu asked Wold to specify the setback rules regarding 3 feet to 5 feet. Wold stated that the Applicant is allowed 2 feet encroachment, but is asking for 3 feet encroachment, a difference of 1 foot.

This is along the south side but on the north side, she is being allowed to go to a 0 foot setback because the neighboring property is not a developable lot.

The Applicant's proposal is for a reduction of the setback required pursuant to the Zoning Ordinance from 3 to 2 feet. The building code allows a 2 foot setback as long as specific building construction methodology is utilized to allow proper fire separation. Staff does not feel this increases fire concerns to neighbors.

The City Attorney submitted a memo stating that due to a detrimental reliance on the City's prior issuance of a permit, a variance should be granted.

Commissioner Irons further discussed with Wold the variance request and the 2 versus 3 foot deck setbacks and whether the deck would be usable as a deck or walkway at a 2 foot width.

Commissioners Napier and Nagy expressed support for the 1 foot variance.

MOTION: Commissioner Nagy made a motion to conditionally approve this variance only for this deck to within 2 feet of the property line and building with non-combustible material as proposed allowing a one foot variance and including findings in Exhibit A and the City Attorney's memo, subject to the modified conditions of approval as stated in Exhibit B. The motion was seconded by Commissioner Napier.

Commissioner Irons stated that a 2 foot deck, allowing a 1 foot variance on the south side, giving a 7 foot separation from the deck to the structure is important for the neighbor as far as fire safety. Irons further stated that considering this was a permit that was approved in error, this is a reasonable resolution and can support this.

Commissioner Solu stated support for the Applicant's request.

VOTE: The motion passed unanimously 4-0.

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 18, 2012

Chairperson Grantham rejoined the meeting at 7:05pm.

UNFINISHED BUSINESS

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

Livick clarified for Commission that no hearing items will be ready for the next meeting due to administrative permits being processed.

MOTION: Chairperson Grantham moved to cancel the February 1, 2012 Planning Commission meeting due to a lack of agenda items. Commissioner Nagy seconded and the motion carried unanimously. (5-0).

Wold reviewed the Work Program with Commissioners.

NEW BUSINESS

- D-1 Appoint a Planning Commissioner to fill the position on the Subdivision Ordinance Subcommittee vacated by Commissioner Irons.
Staff Recommendation: Appoint a replacement commissioner to Subdivision Ordinance Subcommittee.

Commissioner Nagy explained the current status of the subdivision ordinance review.

Commissioner Napier agreed to join Commissioner Nagy on the committee.

MOTION: Chairperson Grantham moved to appoint Commissioner Napier to the Subdivision Ordinance Subcommittee. Commissioner Solu seconded the motion carried unanimously. (5-0).

- D-2 Discussion regarding attending the March 2012 Planner's Institute.
Staff Recommendation: Discuss and submit request to City Council for consideration.

Commissioners agreed to request Council approval for all Commissioners to attend the 2012 Planner's Institute.

DECLARATION OF FUTURE AGENDA ITEMS

Commissioner Irons requested to agendize that item under new business to vote Commissioner Nagy as the new subcommittee member not alternate for General Plan/LCP subcommittee. Livick suggested this item be added to the next joint City Council/ Planning Commission meeting. Chairperson Grantham agreed if the joint meeting is held before March, otherwise it will be put on the Planning Commission agenda.

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JANUARY 18, 2012

ADJOURNMENT

The meeting adjourned at 7:20 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, February 15, 2012 at 6:00 pm.

Rick Grantham, Chairperson

ATTEST:

Rob Livick, Secretary