



City of Huntington Beach Planning and Building Department  
**STAFF REPORT**

**TO:** Planning Commission  
**FROM:** Scott Hess, AICP, Director of Planning and Building  
**BY:** Joanna Cortez, Assistant Planner  
**DATE:** August 25, 2015

**SUBJECT:** VARIANCE NO. 2015-002 – APPEAL (Jackson Residence)

**APPELLANT/  
PROPERTY**

**OWNER:** Charles and Corrine Jackson, 6901 Lawn Haven Dr., Huntington Beach, CA 92648

**APPLICANT:** Ron Wikstrom, 2027 Ross St., Santa Ana, CA 92706

**LOCATION:** 824 Geneva Avenue, 92648 (east side of Geneva Ave., between Indianapolis Ave. and Hill St.)

---

**STATEMENT OF ISSUE:**

- ◆ Variance (VAR) No. 15-002 request:
  - Construct an approximately 2,211 sq. ft. first and second floor addition with a 451 sq. ft. attached garage to an existing 912 sq. ft. single family residence with nonconforming side yard setbacks in lieu of a maximum addition of 456 sq. ft.
  
- ◆ Staff's Recommendation:

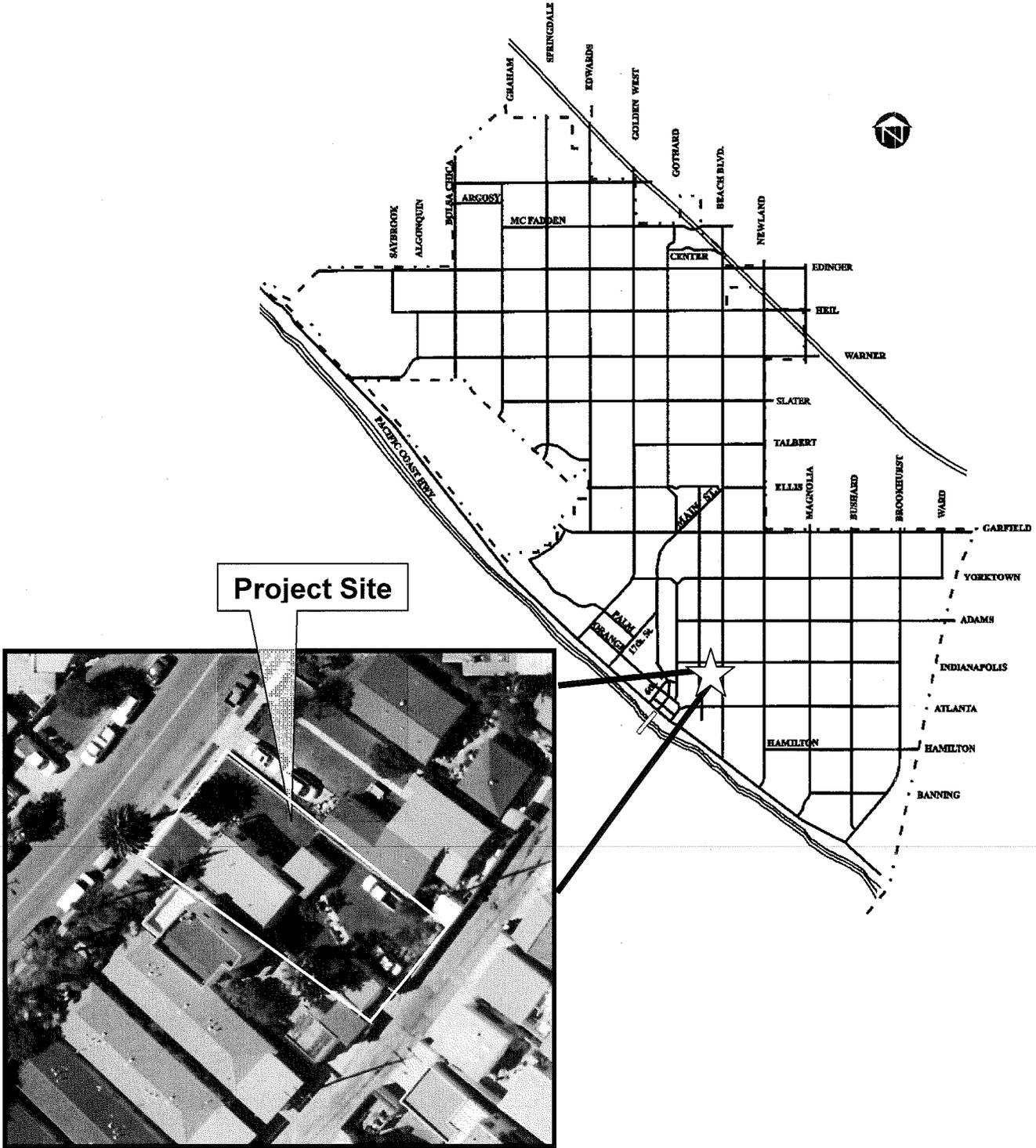
Approve VAR No. 15-002 based upon the following:

  - Does not constitute a grant of special privilege because there were previously approved special permits and variances for new construction to allow for deviations from setbacks and other development standards
  - Special circumstances, including the age of the dwelling, warrant approval of the requested variance
  - Necessary to preserve the enjoyment of one or more substantial property rights and allow the expansion of the existing residence to be designed in the same manner as the properties with the same lot configuration
  - Will not be materially detrimental to the public welfare or injurious to properties in the same zone, since the proposed addition will be architecturally consistent with the existing residence

**RECOMMENDATION:**

Motion to:

“Approve Variance No. 15-002 with suggested findings and conditions of approval (Attachment No. 1).”



**VICINITY MAP  
 VARIANCE NO. 15-002  
 (JACKSON RESIDENCE - 824 GENEVA AVE.)**

**ALTERNATIVE ACTION(S):**

The Planning Commission may take alternative actions such as:

- A. "Continue Variance No. 15-002 and direct staff accordingly."
- B. "Deny Variance No. 15-002 with findings for denial."

**PROJECT PROPOSAL:**

Variance No. 15-002 represents a request to construct an approximately 2,211 sq. ft. first and second floor addition with 451 sq. ft. attached garage to an existing 912 sq. ft. single family residence with nonconforming side yard setbacks in lieu of a maximum 50% addition of 456 sq. ft. pursuant to Section 230.06 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The existing 912 sq. ft. residence was constructed in 1922 with a 3 ft. side yard setback to the house and a 2.5 ft. side yard setback to the garage. Today, the HBZSO requires a 4.6 ft. for the house and the garage. Additions to structures with nonconforming setbacks can be approved if the setbacks conform to current setbacks and the size of the addition does not exceed 50% if the current structure. In this case, the 912 sq. ft. structure would be limited to a maximum of 456 sq. ft. addition. The appellant has requested a variance to exceed the maximum 50% addition with approximately 2,211 sq. ft. first and second floor addition, and a 451 sq. ft. garage expansion.

**Zoning Administrator Action:**

The project was considered by the Zoning Administrator at a public hearing on June 3, 2015. Staff gave an overview presentation on the project, recommended approval, and the applicant and property owner representative gave verbal testimony in support of the project. The Zoning Administrator denied the request (Attachment No. 4) based on the following:

- constitutes a special privilege
- no special circumstance exists

**Appeal:**

The Zoning Administrator's action on Variance No. 15-002 was appealed by the property owners, Charles and Corrine Jackson, (Attachment No. 3) to allow the Planning Commission to review the appropriateness of the Variance denial, particularly because the proposed addition complies with current code requirements and similar variances have been granted for other properties.

According to the appellant, there is no grant of special privilege because similar variances have been granted to other properties near the subject site with similar lot configurations. Additionally, the property owner states that a special circumstance does exist due to the fact that the existing dwelling was constructed in 1929 on a lot comprised of three different parcels ranging in width of 30 feet, 8 feet, and 12 feet.

**ISSUES:**

**Subject Property and Surrounding Land Use, Zoning and General Plan Designations:**

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	RMH-25-d (Residential Medium High Density - 25 dwelling/acre - design overlay)	RMH-A (Residential Medium High Density – small lot subdistrict)	Residential
North, south, east, and west of Subject Property:	RMH-25-d (Residential Medium High Density - 25 dwelling/acre - design overlay)	RMH-A (Residential Medium High Density – small lot subdistrict)	Residential

**General Plan Conformance:**

The General Plan Land Use Map designation on the subject property is Residential Medium High Density. The proposed project is consistent with the Land Use Element designation on the subject site, including the following policy:

*Policy LU 7.1.2:* Require that the development be designed to account for the unique characteristics of project sites and objectives for community character as appropriate.

The requested variance accounts for a structure with non-conforming side yard setbacks. Granting the addition would allow the subject property the opportunity to be developed in the same manner as nearby properties under the identical zone classification.

**Zoning Compliance:**

The project is located within the Residential Medium High Density – small lot subdistrict and the new construction complies with development standards including minimum onsite parking, building height, setbacks, and landscaping, with the exception of exceeding max 50% addition. The table in Attachment No. 5 shows an overview of the project’s conformance to the development standards.

**Urban Design Guidelines Conformance:** Not applicable.

**Environmental Status:**

The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the project consists of an addition to an existing single-family residence within a residential zone.

**Coastal Status:** Not applicable.

**Design Review Board:** Not applicable.

**Subdivision Committee:** Not applicable.

**Other Departments Concerns and Requirements:**

The Departments of Public Works, Fire, and the Building Division have reviewed the project and do not have any concerns or comments.

**Public Notification:**

Legal notice was published in the Huntington Beach Wave on August 13, 2015, and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Division's Notification Matrix), applicant, appellants, and interested parties. As of August 18, 2015, no communication supporting or opposing the revised request has been received.

**Application Processing Dates:**

**DATE OF COMPLETE APPLICATION:**

April 17, 2015

**MANDATORY PROCESSING DATE(S):**

June 17, 2015 (within 60-days)

Variance No. 15-002 was filed on March 19, 2015 and the project was deemed complete on April 17, 2015. The Zoning Administrator acted on the application on June 3, 2015, in compliance with mandatory processing. Variance No. 15-002 was subsequently appealed on June 10, 2015 (Attachment No. 3).

**ANALYSIS:**

There are four required findings for approval of a variance. Each finding is discussed below.

▪ **Grant of Special Privilege**

The granting of the variance for a 2,211 sq. ft. two-story addition in lieu of the maximum allowed square footage of 456 sq. ft. (50% addition) will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The subject property has a small, existing structure built in 1929 with nonconforming side yard setbacks along the southwest property line. New construction within identical or similar zoning classifications (such as the Downtown Specific Plan) have been approved with reduced side yard setbacks and other deviations from required development standards. Due to these allowances, property owners have maximized improvements on their lots. The proposed two-story addition will comply with all required setbacks, alley dedication, and is consistent with other properties within the vicinity and under an identical zone classification. Below is a list of properties that have been approved with deviations to development standards.

<b>Address</b>	<b>Request</b>
112 12 <sup>th</sup> Street, 92648	Construction of three-story 2,586 sq. ft. single family dwelling with 1-2 ft. side yard setbacks in lieu of 3 ft. and 53% lot coverage in lieu of the

	maximum 50%. (DTSP)
421 8 <sup>th</sup> Street, 92648 (Former Hotel Evangeline)	Construction of a garage with a second floor storage area at a height of 23 ft. 8 in. in lieu of the maximum 15 ft. and allow two required open parking spaces to deviate from the parking design standards by permitting a tandem configuration. (RMH-A)
123 8 <sup>th</sup> Street, 92648	Construction of a 1,758 sq. ft. three-story addition at the rear on an existing, two-story legal nonconforming structure (greater than 10%), an addition of height greater than 10%, and permit a 55% maximum building lot coverage in lieu of maximum 50%. (DTSP)

▪ Special Circumstances

Due to the structure’s nonconforming side yard setbacks, age of the original construction, and small size of the home, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. The subject property consists of a 912 sq. ft. single family dwelling built in 1929 at a setback of 3 feet for the residence and 2 feet 6 inches for the detached garage. The current setback requirement is 4 feet 6 inches for both structures, rendering the existing dwelling legal nonconforming. In order to bring the property into compliance, portions or all of the structure would need to be demolished in order to comply with required setbacks, compromising the architectural and structural integrity of the existing dwelling. The other option would be to limit the addition to 50% of the existing residence, totaling a maximum of 1,318 sq. ft. for a 5,595 sq. ft. lot. A typical new home in the RMH-A zone is 2,875 sq. ft. Either option would place an undue burden on the property owner. With the exception of the variance request, the two-story addition will comply with all code provisions, including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Additionally, the overall design of the proposed addition is smaller than existing homes within the vicinity as the property owner is maintaining larger than required setbacks (between 6 ft. and 18 ft.) along the northeast and rear property lines. Limiting the addition to 50% of the existing structure or 456 sq. ft. would deprive the subject property of privileges enjoyed by other similar zoned properties without this unique circumstance. The granting of the variance would not be necessary if the setbacks along the southwest property line of the existing residence were conforming.

▪ Preservation of Property Rights

The granting of a variance is necessary to preserve the enjoyment of one or more property substantial property rights. The requested variance will allow the subject to be improved in the same manner consistent with other properties within the neighborhood with identical zoning classification. Additionally, new construction within identical or similar zoning classifications (such as the Downtown Specific Plan) has been approved with reduced side yard setbacks and other deviations from required development standards. With the exception of the variance request, the two-story addition will comply with all code provisions and is compatible with surrounding residential properties. Limiting the addition to 50% of the existing structure or 456 sq. ft. would deprive the subject property of privileges enjoyed by other similar zoned properties.

▪ Impact to Public Welfare

The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The proposed addition will comply with all code provisions including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Additionally, the overall design of the proposed two-story addition is smaller than other homes within the vicinity as the property owner is maintaining larger than required setbacks along the northeast and rear property lines. The granting of the variance will provide for property rights consistent with other properties. No detrimental impacts to surrounding properties are anticipated.

Staff recommends approval of Variance No. 15-002 with findings and suggested conditions of approval based on the following:

- Does not constitute a grant of special privilege because there were previously approved special permits and variances for new construction to allow for deviations from setbacks and other development standards
- Special circumstances including the age of the dwelling warrant approval of the requested variance.
- Necessary to preserve the enjoyment of one or more substantial property rights and allow the expansion of the existing residence to be designed in the same manner as the properties with the same lot configuration.
- Will not be materially detrimental to the public welfare or injurious to properties in the same zone, since the proposed addition will be architecturally consistent with the existing residence.

**ATTACHMENTS:**

1. Variance No. 15-002 - Suggested Findings and Conditions of Approval
2. Site Plan, Floor Plans and Elevations dated March 19, 2015
3. Appeal Letter received and dated June 10, 2015
4. Zoning Administrator Notice of Action dated June 4, 2015
5. Zoning Conformance Table

SH:JJ:kc:kd

**ATTACHMENT NO. 1**

**SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL**

**VARIANCE NO. 15-002**

**SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the project consists of an addition to an existing single-family residence within a residential zone.

**SUGGESTED FINDINGS FOR APPROVAL – VARIANCE NO. 15-002:**

1. The granting of the variance for a 2,211 sq. ft. two-story addition in lieu of the maximum allowed square footage of 456 sq. ft. (50% addition) will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The subject property has a small, existing structure built in 1929 with nonconforming side yard setbacks along the southwest property line. New construction within identical or similar zoning classifications (such as the Downtown Specific Plan) have been approved with reduced side yard setbacks and other deviations from required development standards. Due to these allowances, property owners have maximized improvements on their lots. The proposed two-story addition will comply with all required setbacks, alley dedication, and is consistent with other properties within the vicinity and under an identical zone classification.
  
2. Due to the structure's nonconforming side yard setbacks, age of the original construction, and small size of the home, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. The subject property consists of a 912 sq. ft. single family dwelling built in 1929 at a setback of 3 feet for the residence and 2 feet 6 inches for the detached garage. The current setback requirement is 4 feet 6 inches for both structures, rendering the existing dwelling legal nonconforming. In order to bring the property into compliance, portions or all of the structure would need to be demolished in order to comply with required setbacks, compromising the architectural and structural integrity of the existing dwelling. The other option would be to limit the addition to 50% of the existing residence, totaling a maximum of 1,318 sq. ft. for a 5,595 sq. ft. lot. A typical new home size in the RMH-A zone is 2,875 sq. ft. Either option would place an undue burden on the property owner. With the exception of the variance request, the two-story addition will comply with all code provisions, including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Additionally, the overall design of the proposed addition is smaller than existing homes within the vicinity as the property owner is maintaining larger than required setbacks (between 6 ft. and 18 ft.) along the northeast and rear property lines. Limiting the addition to 50% of the existing structure or 456 sq. ft. would deprive the subject property of privileges enjoyed by other similar zoned properties without this unique circumstance. The granting of the variance would not be necessary if the setbacks along the southwest property line of the existing residence were conforming.

3. The granting of a variance is necessary to preserve the enjoyment of one or more property substantial property rights. The requested variance will allow the subject to be improved in the same manner consistent with other properties within the neighborhood with identical zoning classification. Additionally, new construction within identical or similar zoning classifications (such as the Downtown Specific Plan) has been approved with reduced side yard setbacks and other deviations from required development standards. With the exception of the variance request, the two-story addition will comply with all code provisions and is compatible with surrounding residential properties. Limiting the addition to 50% of the existing structure or 456 sq. ft. would deprive the subject property of privileges enjoyed by other similar zoned properties.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The proposed addition will comply with all code provisions including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Additionally, the overall design of the proposed two-story addition is smaller than other homes within the vicinity as the property owner is maintaining larger than required setbacks along the northeast and rear property lines. The granting of the variance will provide for property rights consistent with other properties. No detrimental impacts to surrounding properties are anticipated.
5. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RMH-25-d (Residential Medium High Density – 25d/u per acre – Design Overlay) on the subject property, including the following policy:

Land Use Element

Policy LU 7.1.2: Require that development be designed to account for the unique characteristics of project sites and objectives for community character as appropriate.

The requested variance accounts for a property constructed in 1929, prior to current setbacks requirements. In order to bring the structure into compliance, portions or all of the existing structure would need to be demolished, compromising the architectural and structural integrity of the structure, placing an undue burden upon the property owner. The proposed 2,211 sq. ft. two-story addition will comply with all code provisions, including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Granting the addition would allow the subject property the opportunity to be improved in the same manner as nearby properties with similar lot configurations under identical zone classification.

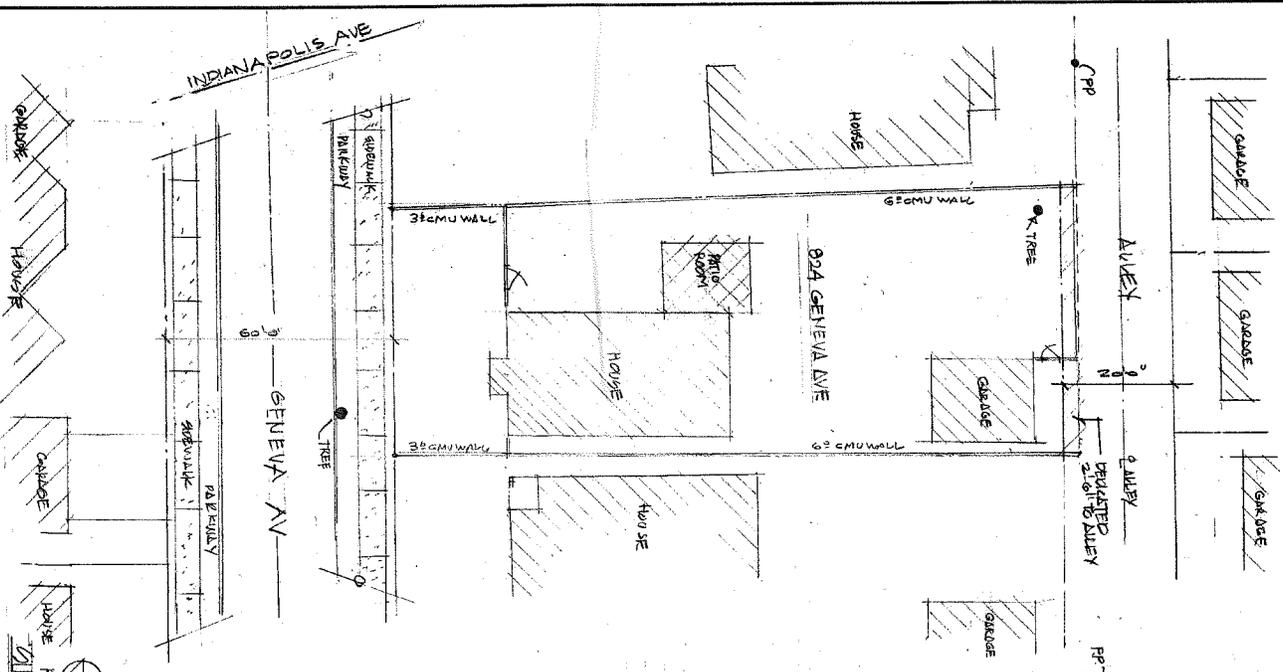
**SUGGESTED CONDITIONS OF APPROVAL – VARIANCE NO. 15-002:**

1. The site plan, floor plan, and elevations received and dated March 19, 2015 shall be the conceptually approved design with the following modifications:
  - a. The proposed patio cover located in the front of the house shall be set back a minimum of 12 feet from the front property line.

- b. An onsite 36 inch box tree or the palm equivalent shall be depicted in the front yard and a 24 inch box tree shall be depicted in the parkway. (HBZSO Section 232.08, Resolution 4545, HBMC 13.50)
2. Prior to submittal for building permits, Zoning entitlement conditions of approval and code requirements identified in separately transmitted memorandum from the Departments of Fire, Public Works, and Planning & Building shall be printed verbatim on one of the first three pages of all working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical, and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
3. VAR No.15-002 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
4. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
5. The final building permit(s) cannot be approved until the following have been completed:
  - a. All improvements must be completed in accordance with approved plans.
  - b. Compliance with all conditions of approval specified herein shall be verified by the Planning & Building Department.
  - c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
6. The Development Services Departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Zoning Administrator's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18.
7. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems <http://www.builditgreen.org/green-building-guidelines-rating>).

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.



**TABLE OF NOTES**

- REMOVED EXISTING 912 SQ FT 1 STORY HOUSE WITH 2ND FLOOR AND 100 A 2ND FLOOR
- EXISTING 400 SQ FT GARAGE TO BE DEMOLISHED AND A NEW 10' x 30' FT 2ND GARAGE TO BE ADDED
- WORK INCLUDES A NEW 52 SQ FT PORCH AND A 200 SQ FT TERRACE AT A FRONT REAR

**BLDG AREA**

EXIST'G 1ST FLR	912
ADDED 1ST FLR	473
TOTAL 1ST	1385
ADDED 2ND FLR	1000
NEW TRAIL LAMP	31.27
EXIST'G GARAGE	252
ADDED GARAGE	451
NEW TRAIL GARAGE	7.03
ADDED PORCH	52
ADDED TERRACE	209

**LOT CONVERSION**

LOT SIZE: 5716 - 121 = 5595  
 50% COVER: 2796 = 50%  
 PRODUCED COVER: 1895 + 94 = 1989  
 4.703 = 12.1  
 92 = 1  
 2651 47

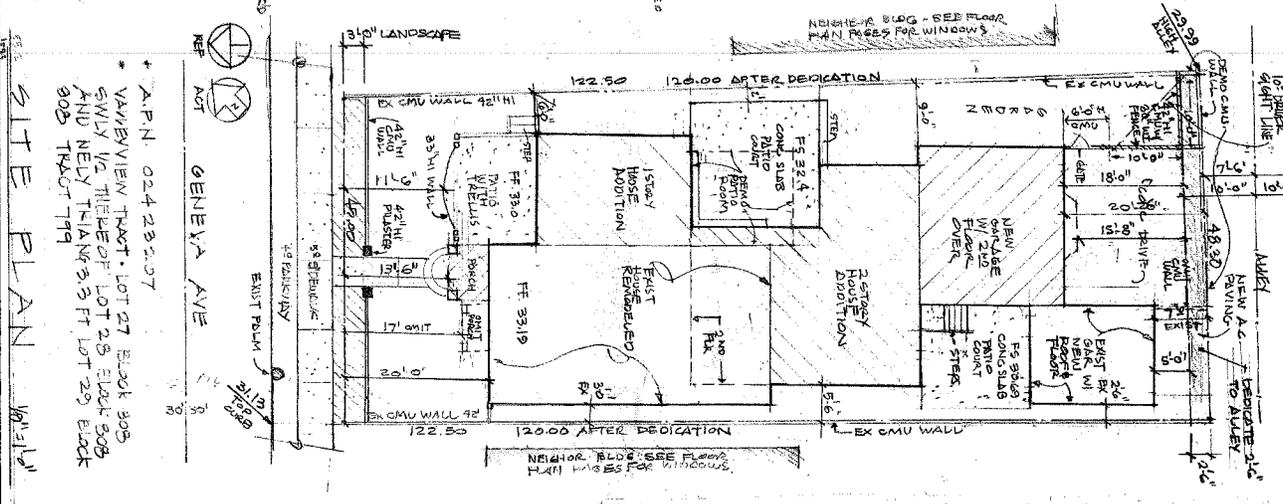
**PAV**

LOT SIZE	5595
1:1 SLOPES	5595
PAVED	3123

**EGULPS**

PMHA NOT HISTORIC

TRUCKS	1.0
HEIGHT	16
GRADE	10% WITHIN 50 FT 45 FEET
PERM	36" MAX
HEIGHT	2.5 MIN
PERM	2.5 MIN



**TABLE OF CONTENTS**

No	DESCRIPTION
1	SITE
2	EXIST'G DEMO
3	FIRST FLOOR
4	SECOND FLOOR
5	ELEVATION
6	ELEVATION

**NOTES**

2019 O.R.C.  
 2019 C.M.C.  
 2019 C.E.C.  
 2019 GREEN O.E.S.S.

**CONST**

V-B  
 K9-U

**OCCUP**

RESIDENTS: YES

• SINGLE FAMILY HOMES ARE NOT CHECKED FOR PUMPING MECHANICAL AND ELECTRICAL CODE COMPLIANCE. THESE DISCIPLINES ARE SUBJECT TO FIELD INSPECTIONS.

• SEPARATE PERMIT REQUIRED FOR EACH BUILDING. FENCE, POOL, SPA, ETC. ADDRESS TO BE VISIBLE AND LEGIBLE FROM STREET.

RESIDENCE REMODEL FOR:  
**CORRINE & CHUCK JACKSON**  
 824 GENEVA AVENUE  
 HUNTINGTON BEACH, CALIF 92648  
 714-960-0916

**La Costa Engineering GROUP**  
 2216 Faraday Avenue  
 Carlsbad, CA 92008  
 (760) 931-0290

**Ron Whitstrom**  
 8027 North Doss Street, Suite A, CA 92026  
 Telephone: 714-225-0184 • Fax: 714-241-0184  
 • ron@designprocalif.com

REVISIONS  
 03-15-15

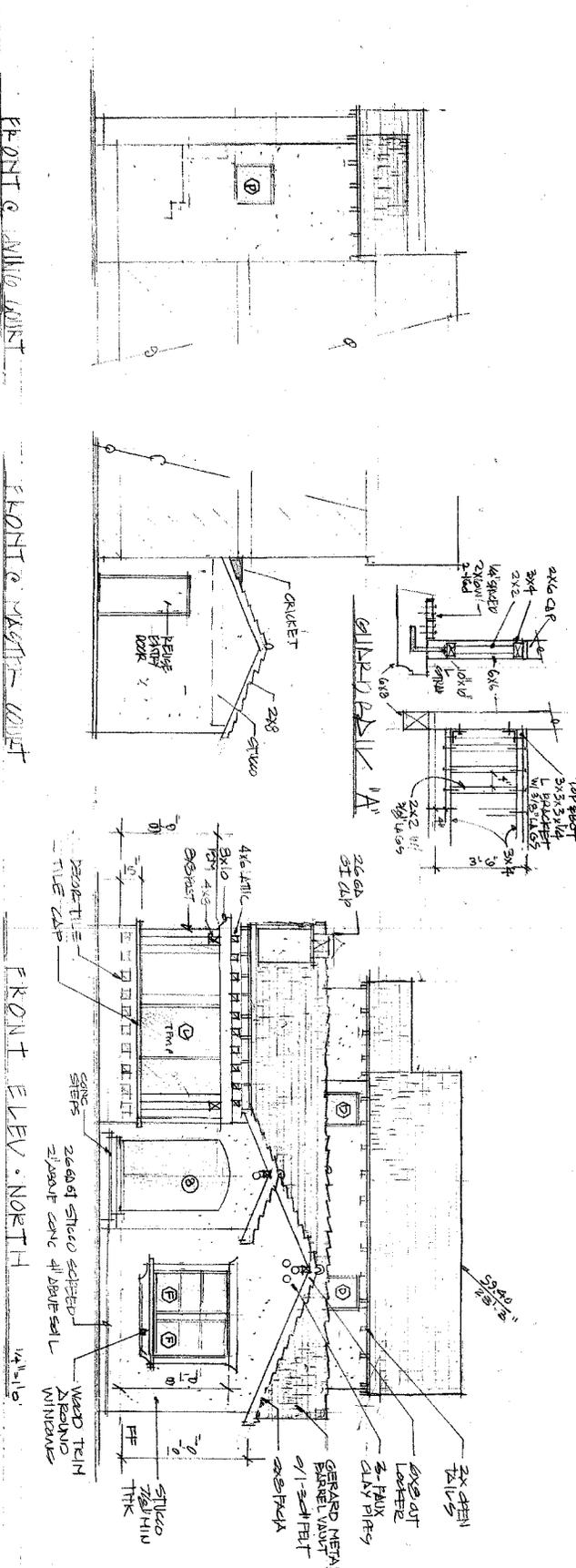
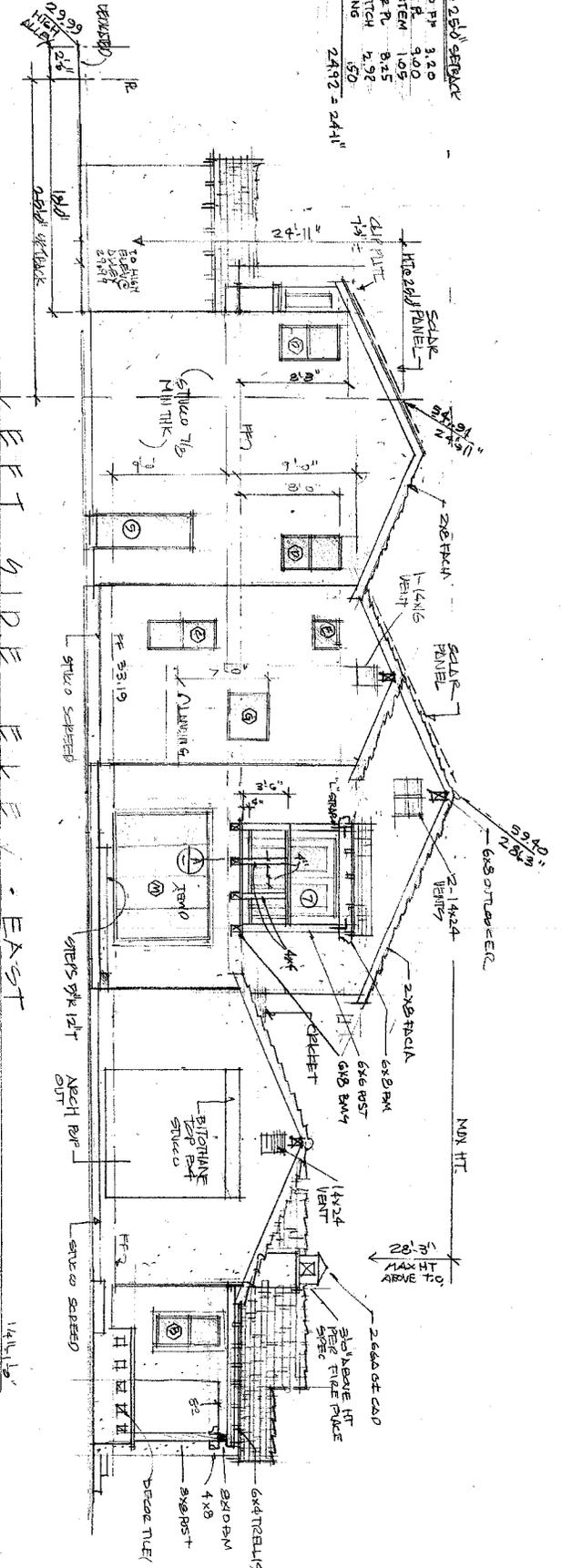
ATTACHMENT NO. 2







HT @ 2.50' SERVICE	
HT TO PP	3.20
ST. RISE	9.00
FUR SYSTEM	1.05
RAMP FUR R.	8.25
RAMP FTCH	4.92
PEAKING	.50
24.92 = 24'-11"	



FRONT & MIDDLE

FRONT & WEST

FRONT ELEV. NORTH

14'-11"

RESIDENCE REMODEL FOR:  
**CORRINE & CHUCK JACKSON**  
 824 GENEVA AVENUE  
 HUNTINGTON BEACH, CALIF 92648  
 714-960-0916

**GROUP DESIGN**

Ron Wilstrom  
 1027 North Ross Street, Santa Ana, CA 92705  
 Telephone: 714-965-0184 • Fax: 714-541-0184  
 groupdesign@earthlink.net



June 10, 2015

Huntington Beach Planning Commission  
Planning Commission Secretary  
P.O. Box 190  
Huntington Beach, California 92648

RECEIVED

JUN 10 2015

Dept. of Planning  
& Building

Reference: Variance No. 15-002 — Denial

Property Owners: Charles and Corrine Jackson  
6901 Lawn Haven Drive  
Huntington Beach, California 92648  
714-931-2696  
[chuckncorky@verizon.net](mailto:chuckncorky@verizon.net)

Dear Planning Commission:

We are long-time residents of Huntington Beach. Recently, we decided to remodel the structure now existing on a lot located at 824 Geneva Avenue. We intend to occupy the home once it is remodeled.

We were told that to improve the Geneva property we would need a variance. The proposed variance was tentatively approved. However, following a public hearing the Zoning Administrator denied our variance request.

We have complied with every recommendation and requirement imposed by the City, and have accepted the fact that in order to be able to remodel our existing home we will be required to give up a portion of our property, pay for the City owned alleyway paving, pay for replacing the City owned curb and gutter in front of our home, and pay for the repair of the City owned sidewalk that has been cracked due to root damage from a large palm tree planted by the City years ago. We understand the necessity for these requirements.

We also understand the necessity for zoning ordinances. They prevent shoddy construction, improper mixture of residential and commercial structures, public safety hazards, or other conditions harmful to the City and its residents. However, we do not believe the intent of the zoning law was to deprive a homeowner of the right to upgrade and improve his or her property while maintaining some of its historical structure — especially given the circumstances surrounding the variance we requested.

Accordingly, we have filed an appeal from the Zoning Administrator's denial of our variance. The appeal is attached to this letter.

Thank you for your consideration of this matter. We look forward to the appellate hearing, and your decision.

Sincerely,



Charles Jackson  
Corrine Jackson

RECEIVED

JUN 10 2015

Dept. of Planning  
& Building

**APPEAL FROM THE DENIAL OF VARIANCE REQUEST NO. 15-002**

**I. INTRODUCTION**

Property owners, Charles and Corrine Jackson, appeal the Huntington Beach Zoning Administrator's denial of variance No. 15-002. The Jacksons contend that the Zoning Administrator erred in denying their request for variance, and ask that the denial be reversed, and the variance granted.

**II. FACTS**

The Jacksons own a lot located at 824 Geneva Avenue, Huntington Beach, California (hereafter the "City"). The lot is 48 feet in width, and is in an area zoned for single-family residences. There is a one-story, 912 square-foot, single family residence located on the lot, along with a detached single car garage.

Although the Jacksons' lot is characterized by the City as a 48 foot wide lot, it is in reality three lots. One is 30 feet wide, one is 12 feet wide, and one is 8 feet wide. As a convenience, the county tax assessor issues a single tax bill to the Jacksons for the three lots. While the City recognizes the property to be 48 feet in width, it is actually 45 feet on the front yard and 48.3 feet on the back yard.

In 1929, when the existing structure was built, the side yard setbacks were 3 feet, perhaps because the largest of the three lots is 30 feet wide. Because the width of the three lots together total 48 feet, and because the Jacksons have agreed, as a condition to the grant of a variance, and ultimately a building permit, to execute a letter stating that the width of the lot will be considered 48 feet in perpetuity, the City has interpreted the current zoning law to mean that the side yard setbacks are 4 feet, 8 inches. The existing structures (house and garage) are considered by the City to be nonconforming because: 1) the southwest wall of the house is located 3 feet from the property line, which means it is 18 inches too close to the southwest property line; and 2) the detached garage is 2.6 feet from the southwest property line, which means it is 2 feet, 8 inches too close to the property line.

Another unusual characteristic of the Jacksons' lot is that it is one of only a few lots located on Geneva Avenue between Indianapolis Avenue, and Hill Street,

that is more than 30 feet in width. The majority of the lots in the immediate vicinity of the Jackson lot are 30 feet in width. Many of the structures on these 30 foot wide lots have been improved. Because these lots are 30 feet in width, the homeowners were allowed to remodel their homes without the need for a variance. All of the structures on these 30 foot wide lots have side yard setbacks of 3 feet. What this means is that the owners of the 30 foot wide lots are able to remodel their existing homes rather than tear down the existing home and build an all new structure.

The Jacksons sought to improve their Geneva property by increasing the square footage of the existing structure, and adding a second story. They planned to leave the southwest, northwest, and part of the northeast walls in place, as well as the existing floor. Once remodeled the house would be 2,211 square feet in size.

Pursuant to section 236.06 of the Zoning and Subdivision Code of the City of Huntington Beach (hereafter "Zoning Code"), if a structure is nonconforming, the area of enlargement may not exceed 50 percent of the area of the existing structure. In the Jackson's case, this meant that if they chose to leave the southwest wall intact, they could enlarge the existing 912 square foot home by no more than 50 percent (or by 409 square feet), which would mean that the remodeled home could be no more than 1,318 square feet in size.

The Jacksons were informed that in order to remodel in the way they envisioned they would be required to obtain a variance in order to keep what the City referred to as the "nonconforming" setbacks on the southwest side of the lot intact.

The Jacksons, as part of the process of obtaining a building permit, were required to mail letters to the surrounding neighbors to provide them with information, and give them an opportunity to view the plans and make any comments, for or against the project. The Jackson's first mailing included the eight residences that were adjacent, across the street or across the alley from the Geneva lot. No negative comments were submitted to the City. Because the Jacksons were requesting a variance, they were required to send out a second mailing to a wider area that included 500 residences. Not one complaint or objection was registered with the

**City. The Jacksons personally contacted their adjacent neighbors and those across the street from the Geneva lot, and these neighbors were in favor of the remodel, with each expressing the opinion that the remodel would enhance the neighborhood and local property values.**

**On March 11, 2015, the Jacksons filed a request for a variance, asking that they be allowed to improve the existing structure without complying with the 4 foot, 8 inch setback the City required for the southwest wall of the house and single car garage.**

**In support of their request for a variance, the Jacksons submitted the following evidence:**

**1) Photographs and drawings of the properties surrounding the Jackson's lot. These photographs and drawings demonstrated that there are 13 lots located on the block of homes stretching from Indianapolis Avenue to Hill Street; that 8 of these lots are 30 feet in width; and that only 5 of these lots are 48 feet in width, and that one of these 48 feet wide lots is the Jackson lot.**

**2) Evidence that in December 2014, the City granted a variance request (Variance No. 14-005) for a remodel located at 1009 Main Street, which is twelve blocks from the Jacksons' lot, and is located in an area very similar to the Jacksons' neighborhood in the sense that there are a mixture of 30 feet wide lots, and lots closer to 48 feet in width.**

**The Main Street property has an approximate 48 foot wide lot, and at the time the variance was granted, had a small residential structure. The side walls of that residence had setbacks of 4 feet, and 4 feet, two inches. The zoning ordinance required a 5 foot setback. The City granted a variance, allowing the homeowner to remodel the existing structure with the existing nonconforming setbacks. What this means is that the remodeled structure is 10 inches too close to its neighbor on one side, and 12 inches too close to its neighbor on the other side.**

**3) Evidence showing that the home located at 822 Geneva Avenue, which is located next door to the Jackson residence, was built at the same time as the Jackson**

residence, and had the exact same floor plan and square footage. The City allowed the homeowner to remodel his home to include a second floor, which means that the homeowner was allowed a 100 percent increase in square footage. Because the lot was one of the 30 feet wide lots, the homeowner was allowed to maintain 3 foot setbacks on each side of his property.

4) Evidence that there were three lots located at 824 Geneva Avenue, one 30 feet in width, one eight feet in width, and one 12 feet in width, and that when the house was built in 1929 the City required 3 feet side yard setbacks.

5) Evidence that as a condition to the grant of a variance, and ultimately a building permit, the Jackson agreed to execute a letter wherein they would agree that the width of the Geneva lot (now consisting of three lots) would be considered to be one lot, 48 feet in width, in perpetuity.

The Jacksons' variance request was investigated and reviewed by the Planning Department as well as other city departments resulting in their tentative recommendation that the variance be approved. A tentative approval was given to the Jacksons by Steve Eros, Fire Protection Analyst, Huntington Beach Fire Department.

On June 3, 2015 the Jacksons attended a public hearing before the Zoning Administrator. About 10 minutes prior to the hearing, the Jacksons were handed the Agenda and Executive Summary of the meeting. The document contained no objections from the public with respect to the Jackson's request for variance, and the recommendation was to approve the Jacksons' variance request.

During the public meeting, Mr. Jackson spoke in support of his request for variance, making reference to the evidence submitted, and reiterating that he was seeking a variance in order to build a structure that was in keeping with those already approved and built by the City in the immediate vicinity of the Jackson lot on Geneva. Mr. Jackson also noted that the City had granted a similar variance in connection with a request made by a homeowner on Main Street, which is twelve blocks from the Jacksons' residence.

Although the Zoning Administrator seemed sympathetic to the Jacksons' position, at the conclusion of the public hearing, the Zoning Administrator denied the Jacksons' request for variance.

On June 4, 2015, the Office of the Zoning Administrator generated a letter advising the Jacksons that their request for variance No. 15-002 had been denied based on the following two findings:

"1. No special circumstance that is applicable to the subject property has been identified such that the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other nonconforming properties in the vicinity and under identical zoning classification. Chapter 236 of the Huntington Beach Zoning and Subdivision Ordinance applies to nonconforming uses and structures. Relying on the nonconformance of the structure itself as a special circumstances in approving the variance request would mean that most, if not all, nonconforming structures would qualify for approval of the same variance. A variance is intended to be the exception and not the rule.

"2. The granting of Variance No. 15-002 to permit an approximately 2,211 sq. ft. first and second floor addition to a nonconforming structure in lieu of the maximum allowed square footage of 456 sq. ft. (50% addition) will constitute a grant of special privilege inconsistent with limitations upon other nonconforming structures under an identical zone classification. No special circumstance applicable to the subject property that does not exist in other nonconforming properties in an identical zone classification has been identified to support the variance. Approval of a variance without a special circumstance constitutes a grant of special privilege."

The June 4, 2015 letter also advised the Jacksons of their right to appeal, and specified that the appeal was required to be filed on or before June 15, 2015. This appeal, filed June 10, 2015, is therefore timely. (Zon. Code, section 241.14.)

### **III. CONTENTIONS ON APPEAL**

The Jacksons claim the Zoning Administrator erred in denying their request for a variance. Specifically, the Jacksons claim: 1) a special circumstance applicable

to their property exists such that a variance should be granted; and 2) granting the variance would not constitute a grant of special privilege.

In addition, the Jacksons contend that the findings made by the Zoning Administrator are conclusory in nature, without reference to the record, and are therefore inadequate.

#### IV. STANDARD OF REVIEW

In considering an appeal from the denial of a variance by the Zoning Administrator, the Planning Commission conducts a *de novo* review as set forth in section 248.20, subsection (D) of the Zoning Code, which states: "*De Novo Hearing: The reviewing body shall hear the appeal as a new matter. The original applicant has the burden of proof. The reviewing body may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise ground or scope of the appeal. In addition to considering the testimony and evidence presented at the hearing on the appeal, the reviewing body shall consider all pertinent information from the file as a result of the previous hearings from which the appeal is taken.*"

#### IV. THE ZONING ADMINISTRATOR ERRED IN DENYING THE JACKSONS' REQUEST FOR VARIANCE.

##### A. Zoning Code Section 241.10, Subsection (B)

A comprehensive zoning plan could affect owners of some parcels unfairly if no means were provided to permit flexibility. Accordingly, in an effort to achieve substantial parity and perhaps also in order to insulate zoning schemes from constitutional attack," our Legislature, and various charter cities, have laid down a foundation for the granting of variances.<sup>1</sup> (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 511.)

---

<sup>1</sup> In 1965, the California Legislature enacted section 65906 of the Government Code, which establishes criteria for the grant of variances. It provides: "Variances from the terms of the zoning ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or sur-

Huntington Beach enacted section 241.10 of the Zoning Code. It provides: "An application for a . . . variance may be approved . . . if, on the basis of the application, plans, materials, and testimony submitted, the . . . Zoning Administrator finds that: ¶ ¶ (B) For Variances. ¶ 1. The granting of a variance will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. ¶ 2. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. ¶ 3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. ¶ 4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification and is consistent with the General Plan."

**B. The Zoning Administrator Erred In Finding That There Were No Special Circumstances Applicable To The Jacksons' Property.**

The Zoning Administrator found that the Jacksons had failed to produce evidence showing that because of "special circumstances" applicable to the Geneva lot, the strict application of the zoning ordinance would deprive the Jacksons of privileges enjoyed by other properties in the vicinity and under identical zone classification. In fact, the Zoning Administrator claimed that the Jacksons had relied on the

---

roundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. ¶ Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated." This provision is not applicable to Charter cities such as Huntington Beach. However, Huntington Beach, as well as other charter cities enacted very similar statutes. Because the state statute is so similar to the Huntington Beach statute, those cases interpreting Government Code section 65906 are instructive in interpreting section 241.10 of the Zoning Code.

**“nonconformance of the structure itself as a special circumstance”, and that if the variance request was approved, then “most if not all nonconforming structures would qualify for approval of the same variance.” These conclusions were in error.**

**As the Zoning Administrator noted, section 236 of the Zoning Code establishes the conditions under which a person may remodel a building containing a structural nonconformity and still maintain the nonconformity. The City is allowed, however, to grant a variance from the requirements of section 236. (*Eskeland v. City of Del Mar* (2014) 224 Cal.App.4th 936, 943 [holding that as long as the requirements for a variance are met, a City is not precluded from approving a variance that will maintain or expand the degree of nonconformity of a nonconforming structure].)**

**While it is true that in order to qualify for the variance the Jacksons were required to show that there were special circumstances applicable to the Geneva lot, this is exactly what the Jackson demonstrated. While the Jackson lot is physically similar to those in the immediate vicinity, in the sense that it is a flat lot, a “physical” disparity is not a precondition for a variance. (*Craik v. County of Santa Cruz* (2000) 81 Cal.App.4th 880, 890.) All that is required is that a “disparity” exist between the property and the surrounding properties. (*Ibid.*)**

**One of the disparities that exists with respect to the Jackson lot is that it consists of three lots, one 30 feet wide, one 8 feet wide, and one 12 feet wide. There are no similar properties in the vicinity of the Jacksons’ property. As a result of this disparity, the original side yard setbacks were 3 feet. When the Jacksons requested a variance, the City asked the Jacksons, as a condition to granting the variance, and ultimately a building permit, to execute a letter agreeing that the lot would be considered 48 feet wide in perpetuity. The Zoning Administrator, without recognizing that the Jacksons had agreed to execute the letter as a condition to the grant of a variance, acted as though the Geneva property consisted of a single lot 48 feet in width, and then interpreted the zoning law to mean that the side yard setback was 4.8 feet. The Zoning Administrator put the cart before the horse. The fact that the**

Geneva property consists of three lots was a disparity, and a special circumstances applicable to the Jackson lot that should have been recognized by the Zoning Administrator.

Another special circumstance the Zoning Administrator should have recognized is that of the 13 lots located on Geneva between Indianapolis Avenue and Hill Street, the majority of them are 30 feet in width, and many of the structures located on the lots have been improved. These 30 foot lots all have 3 feet side yard setbacks, which means that when the owners of these lots sought to improve their properties they were not required to obtain variances in order to remodel the existing structures. Those who improved their properties were able to remodel homes located on the lots that are as large as, or even larger, than the home the Jacksons seek to remodel.

Clearly, the Jacksons identified special circumstances applicable to the Geneva property such that the strict application of the zoning ordinance could be found to deprive the subject property of privileges enjoyed by other nonconforming properties in the vicinity and under identical zoning classification. Accordingly, the Jacksons' request for a side yard setback variance should have been granted.

Contrary to what the Zoning Administrator found, the Jacksons did not rely on the "nonconformance of the structure itself as a special circumstance". They identified special circumstances applicable to their property, and demonstrated that a strict application of section 236 of the Zoning Code would deprive the property of privileges enjoyed by other properties in the vicinity under identical zoning classification.

**C. The Zoning Administrator Erred In Finding That The Jacksons Would Be Given A Special Privilege Should Their Variance Be Granted.**

The Zoning Administrator found that to permit the Jacksons to remodel the existing structure to add more than 50 percent of the existing square footage would "constitute a grant of special privilege inconsistent with limitations upon other nonconforming structures under an identical zone classification." The Zoning Adminis-

trator's finding was premised on his conclusion that the Jacksons had failed to identify a "special circumstance applicable to the subject property that does not exist in other nonconforming properties in an identical zone classification." The Zoning Administrator concluded that the approval of the Jacksons' variance request "without a special circumstance" would constitute a "grant of special privilege." These findings and conclusions are in error.

As noted above, the Jacksons identified special circumstances applicable to the Geneva property, including that the lot is unique in that it consists of three lots, one 30 feet in width, one 8 feet in width, and one 12 feet in width, and the only reason the City is able to claim that these three lots are in actuality one lot 48 feet in width is because the Jacksons have agreed as a condition to the grant of the variance, and ultimately the grant of a building permit, to execute a letter agreeing that the lot is to be considered one lot 48 feet in width. In addition, evidence was presented to the Zoning Administrator of the fact that the area in which the Jackson lot is located is a "mixed" area, with most of the lots consisting of 30 feet wide lots, with only a few lots larger than 40 feet. This disparity results in the owners of the smaller lots being able to dramatically remodel their homes without the necessity of a variance, and leaves the owners of the slightly larger lots being required to request a variance.

Moreover, the Jacksons presented evidence that in a similar "mixed" area the City granted a side yard setback variance to the owner of a lot more than 30 feet in width, but less than 50 feet in width. The variance in question was granted to a homeowner whose lot was located twelve blocks from the Jackson's property. That variance provided the structure to leave both non-conforming walls in place.

Clearly, evidence was presented to the Zoning Administrator showing that the Jacksons would not be granted a "special privilege" should their request for variance be granted.

**D. The Jacksons Met All Other Requirements Of Section 241.10 Of The Zoning Code.**

As set forth above, the Jacksons demonstrated that special circumstances existed applicable to their Geneva property such that they would not be granted a "special privilege" should their request for a variance be granted. In addition, they demonstrated that the variance requested was necessary to preserve their enjoyment of a substantial property right, to wit, the right to increase the value of their property by remodeling the existing structure.

Moreover, the Jacksons demonstrated that the granting of the variance would not be materially detrimental to the public welfare or injurious to property in the same zone classification and is consistent with the General Plan. The Jacksons produced evidence to show that the proposed work on the southwest wall would reduce glazing (windows) facing their neighbors, and would meet the fire rating per the applicable building codes — all of which would increase the safety of their neighbors.

As for the existing single car garage, it would remain intact, but be connected by doorway to the new two car garage. The only nonconforming wall would be the southwest wall, and it does not create any security or access issues that would create future problems. In fact, it shares the same setback measurements as most of the older and newly constructed garages along this segment of the alley.

In summary, all new construction areas would comply with current set back requirements with only the one southwest residence wall, and one southwest garage wall remaining at their current setback measurements. These walls have been in existence since 1929, and have not caused a problem for the southwest neighbor, the City or any other entity, and with the new construction being focused on the other side of the property, and all new construction being in conformance with current zoning ordinances, would not create future problems. All newly constructed walls would meet minimum setback requirements, and existing encroaching walls will not be extended.

The Jacksons would not be gaining any advantage over other homeowners, but would actually be improving the neighborhood by increasing the value of their home by completing the remodel/upgrade. The benefit would carry over to any other residence that anticipates a sale or a financing option.

The property rights of all the residents in the immediate vicinity of the Jacksons' property would be enhanced. When completed, the project will not be detrimental to the public welfare. There will be no obstacles that would hinder pedestrian or vehicular movement. In fact, with the addition of the off street parking in the garages, and the off alley parking spaces behind the two-car garage, there will be substantial improvement for local residents and their guests. There will be no increase for public safety resources as the structure will remain a single family residence. Public safety will be enhanced due to the required fire sprinkler system in the residence where none exists today. The physical improvements to the sidewalk will make it a safer and more enjoyable place to walk. There will be no new or additional street signage or lighting requirements as the existing ones cover the same area. The same holds true for other public services and park/open space facilities.

**D. The Findings Made By The Zoning Administrator Are Inadequate.**

Section 248.10 of the Zoning Code states: "After hearing the evidence, and considering the application, the reviewing body — i.e., the Zoning Administrator, Planning Commission, or City Council — shall make its decision. The decision shall be in the form of a written statement, minute order or resolution and shall be accompanied by reasons sufficient to inform as to the basis for the decision."

The Zoning Administrator's findings are conclusory, and do not show how the administrator reached his decision. Specifically, there is no reference to any of the evidence submitted by the Jacksons, including the various sizes of the lots located between Indianapolis Avenue and Hill Street; the fact that a similar variance was granted in connection with a lot on Main Street in an area containing the same type of "mixed" lots (many 30 feet in width, and some a little wider); and the fact that in 1929 when the Jackson home was built the land on which the home was constructed

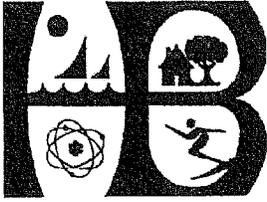
**consisted of three lots, one 30 feet wide, one 8 feet wide, and one 12 feet wide, and this configuration continues to exist today.**

**V. CONCLUSION**

**The Jacksons have met the requirements of section 241.10, subsection (B), and should, therefore, be granted a side yard setback variance.**

**Section 248.20, subsection (E) provides: "Decision on Appeal. The reviewing body may reverse or affirm in whole or in part, or may modify the order, requirement, decision, or determination that is being appealed."**

**Based on the evidence set forth above, the Jacksons ask that the denial of their request for variance be reversed, and that their request for Variance No 15-002 be granted.**



**OFFICE of the ZONING ADMINISTRATOR  
CITY OF HUNTINGTON BEACH • CALIFORNIA**

P.O. BOX 190

CALIFORNIA 92648

(714) 536-5271

**NOTICE OF ACTION**

June 4, 2015

Ron Wikstrom  
2027 Ross St  
Santa Ana, CA 92706

**SUBJECT:** VARIANCE NO. 15-002 (JACKSON RESIDENCE)

**APPLICANT:** Ron Wikstrom, 2027 Ross St., Santa Ana, CA 92706

**REQUEST:** To permit an approximately 2,211 sq. ft. first and second floor addition to an existing 912 sq. ft. non-conforming single family residence in lieu of the maximum increase of 456 sq. ft. (50% addition).

**PROPERTY OWNER:** Charles and Corrine Jackson, 6901 Lawn Haven Dr., Huntington Beach, CA 92648

**LOCATION:** 824 Geneva Avenue, 92648 (east side of Geneva Ave., between Indianapolis Ave. and Hill St.)

**CITY CONTACT:** Joanna Cortez, Assistant Planner

**DATE OF ACTION:** June 3, 2015

On Wednesday, June 3, 2015, the Huntington Beach Zoning Administrator took action on your application, and your application was **denied**. Attached to this letter are the findings for denial.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the Secretary of the Planning Commission within ten (10) calendar days of the date of the Zoning Administrator's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand Nine Hundred Seventeen (\$1917.00). In your case, the last day for filing an appeal and paying the filing fee is June 15, 2015, at 5:00 PM.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact Joanna Cortez, the project planner at (714) 374-1547 or via email at [Joanna.cortez@surfcity-hb.org](mailto:Joanna.cortez@surfcity-hb.org) or the Planning and Building Department Zoning Counter at (714) 536-5271.

Sincerely,



Ricky Ramos  
Zoning Administrator

RR:JC:jd  
Attachment

c: Honorable Mayor and City Council  
Chair and Planning Commission  
Fred A. Wilson, City Manager  
Ken Domer, Assistant City Manager  
Scott Hess, Director of Planning and Building  
Jane James, Planning Manager  
William H. Reardon, Division Chief/Fire Marshal  
Debbie DeBow, Civil Principal Engineer  
Mark Carnahan, Building Manager  
Jim Brown, Fire Protection Analyst  
Steve Eros, Fire Protection Analyst  
Charles and Corrine Jackson  
Project File

**ATTACHMENT NO. 1**  
**FINDINGS FOR DENIAL**  
**VARIANCE NO. 15-002**

**FINDINGS FOR DENIAL - VARIANCE NO. 15-002:**

1. No special circumstance that is applicable to the subject property has been identified such that the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other nonconforming properties in the vicinity and under identical zoning classification. Chapter 236 of the Huntington Beach Zoning and Subdivision Ordinance applies to nonconforming uses and structures. Relying on the nonconformance of the structure itself as a special circumstance in approving the variance request would mean that most, if not all, nonconforming structures would qualify for approval of the same variance. A variance is intended to be the exception and not the rule.
  
2. The granting of Variance No. 15-002 to permit an approximately 2,211 sq. ft. first and second floor addition to a nonconforming structure in lieu of the maximum allowed square footage of 456 sq. ft. (50% addition) will constitute a grant of special privilege inconsistent with limitations upon other nonconforming structures under an identical zone classification. No special circumstance applicable to the subject property that does not exist in other nonconforming properties in an identical zone classification has been identified to support the variance. Approval of a variance without a special circumstance constitutes a grant of special privilege.

## Zoning Conformance Table

<b>Development Standard</b>	<b>Required</b>	<b>Proposed</b>
Minimum Lot Area	2,500 sq. ft.	5,595 sq. ft.
Minimum Lot Width	25 ft.	46.65 ft.
Minimum Setbacks		
- Front	12 ft.	12 ft.
- Northeast Side	4.5 ft.	6 ft.
- Southwest Side	4.5 ft.	(N) 5.5 ft./ (E) 2.5-3 ft.*
- Rear	7.5 ft.	(N) 18 ft./ (E) 5 ft.
Maximum Height of Structures	35 ft.	28 ft. 3 in.
Minimum Site Landscaping	40% of front yard setback	91%
Off-Street Parking	2 enclosed, 2 open	3 enclosed, 2 open
Alley Dedication	2.5 ft.	2.5 ft.

\*existing nonconforming