

MEMORANDUM

TO: HONORABLE PLANNING COMMISSION
FROM: BUILDING OFFICIAL, SCOTT GEBHART
RE: ORDINANCE AMENDMENT - MINOR VARIANCES
DATE: August 9, 2020

RECOMMENDED ACTION:

Move to review “*AN ORDINANCE ADDING SECTION 8.050 MINOR VARIANCES TO THE CITY OF MANZANITA ZONING ORDINANCE NO. 95-4.*”, and ask the Planning Commission to approve said addition and forward to City Council for approval.

BACKGROUND INFORMATION

On July 22, 2020, I met with condominium owner and Manzanita full-time resident, Bryan Churchill, to explore the possibility of building a set of stairs from his back deck to accommodate a secondary egress. The house sits on a corner “through lot” as defined in the City of Manzanita Zoning Ordinance (“Ordinance”). The Ordinance requires that a “through lot” maintain front yard setbacks of 20 feet, side yard of 12 feet and rear yard of 20 feet. If this were not a “through lot,” a 10 foot rear yard setback is all that would be required. The Ordinance further requires that a staircase be minimum of 3 feet wide.

The subject back deck currently complies with the setback requirements of the Ordinance. To build a staircase, however, the structure would need to be limited to 2 foot wide to avoid encroachment. In other words, a staircase that is compliant with the city’s building code would violate the Ordinance’s required setback by a total of 12 inches. Permitting encroachment would not create any significant impact upon surrounding properties, nor cause significant issues related to access, trees, parking, drainage, traffic or noise. More importantly, permitting encroachment would not be materially detrimental to the purposes of the Ordinance, the Comprehensive Plan, or to property in the same zone or vicinity in which the subject property is located, or otherwise conflict with the objectives of any City policy.

Mr. Churchill inquired whether he would qualify for a variance under the circumstances. I explained that there has been only one (1) variance granted in over 20 years. We explored other options for building a compliant set of stairs, but the required setbacks on the side and rear provided no reasonable alternative.

On July 23, 2020, I contacted the Seaside Planning Department to research their variance application, review and approval process. He mentioned that the Planning Director is empowered to issue minor variances, referring me to a specific section of their ordinance and

advising that I conduct research in other jurisdictions. Thereafter, I discussed my findings with Mr. Churchill, who agreed to undertake the research and develop and draft a proposed amendment to our city's Ordinance in order to benefit all residents, as well as city staff. Mr. Churchill completed the necessary research and returned with the proposed Amendment entitled "Minor Variance." He also drafted a proposed application to be used by residents seeking such a variance.

Public policy is well-served by the adoption of this amendment. Permitting the approval of a Minor Variance at the staff level provides citizens with a reasonable, less time consuming process to explore the need for reasonable relief from the strict tenets of the Ordinance. There often arises circumstances where application of the Ordinance produces (as with Mr. Churchill) cases of minor variance which unnecessarily impact the preservation and enjoyment of property rights possessed by other properties in the same zone or vicinity, but are denied the property in question. A streamlined process for approval of such variances serves the community by providing residents a reasonable opportunity to have minor zoning issues reviewed and approved by city staff, saving a considerable amount time and resources by eliminating unnecessary research and documentation to present to the Planning Commission.

In drafting the proposed Ordinance, careful attention was taken to provide certain reasonable restrictions, specifically limiting minor variances to residential properties, and excluding parking, height, ocean front setbacks, signs, lot size requirements, and clear vision areas.