

RESOLUTION NO. 199165

WHEREAS, LEO W. BATESON, Owner, "Applicant," filed an application for a variance under Zoning Administrator Case No. 9629 to maintain an existing 24' x 20' garage addition on a lot with a single-family dwelling. The garage observes a 1'10" setback on Petra Drive where a 10' setback has been established at 3451 Fir Street on the southwest corner of Fir Street and Petra Drive, more particularly described as Lot 104, Arnold Knolls Annex, Map No. 3305, on file in the office of the County Recorder, in the R-2 Zone; and

WHEREAS, the Zoning Administrator of The City of San Diego held a public hearing on Zoning Administrator Case No. 9629 pursuant to Section 101.0503 of the San Diego Municipal Code on December 12, 1969, and denied the request for said variance, which decision was filed in the office of the City Clerk on December 17, 1969; and

WHEREAS, Applicant appealed the decision of the Zoning Administrator to the Board of Zoning Appeals pursuant to Section 101.0507 of the San Diego Municipal Code; and

WHEREAS, the Board of Zoning Appeals on January 14, 1970, upheld the decision of the Zoning Administrator under case No. 9629, and denied the variance and filed the same in the office of the City Clerk on January 19, 1970; and

WHEREAS, pursuant to the provisions of Section 101.0507.1 of the San Diego Municipal Code, Applicant filed an appeal from the decision of the Board of Zoning Appeals to the City Council on January 29, 1970; and

WHEREAS, said appeal was set for public hearing and was heard on February 17, 1970, continued to February 24, 1970, testimony having been heard and evidence having been submitted and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego,  
as follows:

That all of the following facts exist with respect to the granting of a variance that allows Applicant to maintain an existing 24' x 20' garage addition on a lot with a single-family dwelling. The garage observes a 1'10" setback on Petra Drive where a 10' setback has been established at 3451 Fir Street on the southwest corner of Fir Street and Petra Drive, more particularly described as Lot 104, Arnold Knolls Annex, Map No. 3305, on file in the office of the County Recorder, in the R-2 Zone.

1. There are special circumstances and conditions applying to the land and buildings for which the adjustment is sought, which circumstances are peculiar to such land and buildings and do not apply generally to the land and buildings in the neighborhood.

2. The circumstances and conditions are such that the strict application of the provisions of the ordinance would deprive the owners of the reasonable use of the land and buildings and the granting of this adjustment is necessary for the reasonable use of the land and buildings and the adjustment as granted by the City Council is the minimum adjustment that will accomplish this purpose.

3. The granting of the variance will be in harmony with the general purpose and intent of the ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

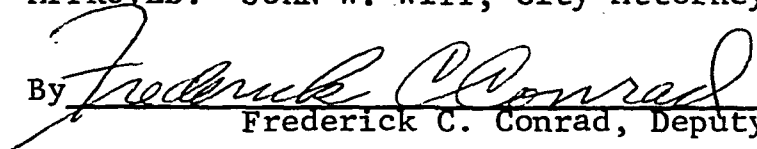
4. The granting of the variance will not adversely affect the Master Plan of the City.

The above findings are further supported by the minutes, tape of the proceedings, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the City Council does hereby grant the appeal of Leo W. Bateson from the decision of the Board of Zoning Appeals and does hereby grant to LEO W. BATESON a variance in the form and with the terms and conditions as set forth in the variance attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By

  
Frederick C. Conrad, Deputy

VARIANCE - CITY COUNCIL

This variance is granted by the Council of The City of San Diego to LEO W. BATESON, Owner, "Applicant," for the purposes and terms and on the conditions as set out herein pursuant to the authority contained in Section 101.0503 of the San Diego Municipal Code and related parts thereof and Resolution No. 199165, adopted February 24, 1970 by the City Council of The City of San Diego.

1. Permission is hereby granted to Applicant under Zoning Administrator Case No. 9629 to maintain an existing 24' x 20' garage addition on a lot with a single-family dwelling. The garage observes a 1'10" setback on Petra Drive where a 10' setback has been established at 3451 Fir Street on the southwest corner of Fir Street and Petra Drive, more particularly described as Lot 104, Arnold Knolls Annex, Map No. 3305, on file in the office of the County Recorder, in the R-2 Zone.

2. Applicant shall fully comply with all the provisions of the San Diego Building Code.

3. The wood and awning covered structure, approximately 4' x 30', located along the west side of the dwelling, shall be removed or made to comply with the 4' side yard requirement, and the existing depressed curb previously used as a driveway for access into the subject property from Fir Street shall be replaced according to City Engineer's specification.

4. The effectiveness of this variance is expressly conditioned upon and the same shall not become effective for any purpose unless and until the following events shall have occurred:

- a. Applicant shall have agreed to each and every condition hereof by having this variance signed within 90 days of the Council's decision.
- b. This variance, executed as indicated shall have been recorded in the office of the County Recorder.

5. This variance shall inure to the benefit of and shall constitute a covenant running with the land, and the terms, conditions and provisions hereof shall be binding upon Applicant and any successor or successors thereto and the interest of any such successor shall be subject to each and every condition herein set out.

6. This variance is not a permit or license, and any permit or license required by law must be obtained from the proper department.

7. In addition to any other remedy provided by law, any breach in any of the terms or conditions of this variance or any default on the part of Applicant or its successors in interest shall be deemed a material breach hereof and this variance may be cancelled or revoked. Cancellation or revocation may be instituted by City or Applicant. The Zoning Administrator shall set the matter for public hearing before the Board of Zoning Appeals giving it the same notice as provided in Section 101.0503 of the San Diego Municipal Code. An appeal from the decision of the Board of Zoning Appeals may be taken to the City Council by any interested person within ten days after the decision is filed with the City Clerk. The Clerk shall set the matter for public hearing before the City Council giving the same notice as provided in Section 101.0503.

8. Any zone variance granted by the City shall be null and void and shall be revoked automatically one year after its effective date unless the use or construction permitted, or both, is commenced before said time expires, in accordance with Municipal Code Section 101.0506.

Passed and adopted by the Council of The City of San Diego on February 24, 1970.

AUTHENTICATED BY:

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Mayor of The City of San Diego, California

City Clerk of The City of San Diego, California

STATE OF CALIFORNIA)  
COUNTY OF SAN DIEGO) ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 1970, before me the undersigned, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared FRANK CURRAN, known to me to be the Mayor, and JOHN LOCKWOOD, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, in the County of San Diego, State of California, the day and year in the certificate first above written.

(Notary Stamp)

Notary Public in and for the County  
of San Diego, State of California

The undersigned Permittee by execution hereof agrees to each and every condition of this variance and promises to perform each and every obligation of Permittee hereunder.

\_\_\_\_\_  
Leo W. Bateson

Acknowledgment

STATE OF CALIFORNIA)  
COUNTY OF SAN DIEGO) ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 1970, before me the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that \_\_\_\_\_ executed the within instrument.

WITNESS my hand and official seal.  
(Notary Stamp)

Notary Public in and for the County  
of San Diego, State of California

Passed and adopted by the Council of The City of San Diego on FEB 24 1970,  
 by the following vote:

| Councilmen         | Yeas                                | Nays                     | Excused                  | Absent                              |
|--------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Helen Cobb         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Sam T. Loftin      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Henry L. Landt     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Leon L. Williams   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Floyd L. Morrow    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Bob Martinet       | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Allen Hitch        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Mike Schaefer      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Mayor Frank Curran | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |

AUTHENTICATED BY:

FRANK CURRAN  
 Mayor of The City of San Diego, California.

JOHN LOCKWOOD  
 City Clerk of The City of San Diego, California.

(Seal)

By Erla J. Hanel, Deputy.

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| Office of the City Clerk, San Diego, California |  |
| Resolution Number                               | <u>199165</u> Adopted <u>FEB 24 1970</u> |

*[Handwritten mark]*